

The London School of Economics and Political Science

Services Trade Integration in East Asia and Political
Economy Impediments in Domestic Decision-Making: A
Case Study of Japan-ASEAN Bilateral Free Trade
Agreements

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Abstract

In East Asia, services trade integration, both in market and policy, lags far behind goods trade integration. In spite of a proliferation of ASEAN plus one type FTAs in the Region since the early 2000s, policy-led services integration has not happened in East Asia. The aim of this research project is to investigate the reasons why the Japan-ASEAN bilateral FTAs, which were concluded in the 2000s, resulted in the shallow GATS-plus FTAs. Since barriers in services trade lie in domestic regulations, we examine how domestic determinants, namely interests and institutions in domestic decision-making, shaped the negotiating positions of Japan and ASEAN.

From our empirical work, we found the following: (i) The services trade policy-making structure, which involves a wide participation of domestic regulatory authorities in the decision-making process, constituted horizontal fragmentation of power. Because of horizontal fragmentation of power, the domestic regulatory authorities with strong regulatory autonomy and regulatory concerns were able to exercise a veto power against changes in the status-quo and pushed backward the lead ministry's negotiating positions. (ii) In terms of interests, no strong pro-liberalisation interests existed either on the policy demand or supply sides. On the policy demand side, while there existed very limited exporting interests, the import-competing services suppliers were afraid of the erosion of rents and adjustment costs caused by preferential market liberalisation. On the policy supply side, there was few incentives to lock in domestic services reforms by using the Japan-ASEAN bilateral FTAs. In addition, (a) pressure for speedy conclusion of an FTA to win the political competition of creating FTAs in the Region and (b) the strong economic and political motivation of FTAs to enhance regional supply chains in the manufacturing sector undermined the countries' negotiating positions on services trade.

From the findings above, we conclude that services trade integration in East Asia lags far behind goods trade because of the double layered political economy impediments. The first layer of impediment, which is the horizontally fragmented domestic decision-making structure, reflects the heterogeneity of services. The second layer of impediment, which is interests, mostly reflects the distinctive characteristics of East Asia.

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List of Abbreviations

ADB	Asian Development Bank
APEC	Asia-Pacific Economic Cooperation
AEC	ASEAN Economic Community
AFAS	ASEAN Framework Agreement on Services
AFTA	ASEAN Free Trade Area
ASEAN	Association of Southeast Asian Nations
BPO	Business Process Outsourcing
CGE	Computational General Equilibrium
CSI	Coalition of Services Industries
CSOs	Civil Society Organisations
DDA	Doha Development Agenda
DFA	Department of Foreign Affairs
DTI	Department of Trade and Investment
EPA	Economic Partnership Agreement
ERIA	Economic Research Institute for ASEAN and East Asia
ESF	European Services Forum
EU	European Union
FTAs	Free Trade Agreements
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GLCs	Government Linked Corporations
GNI	Gross National Income
GVCs	Global Value Chains
ICT	Information and Communications Technology
IDE	Institute of Developing Economies
ILO	International Labour Organization
IPE	International Political Economy
IPN	International Production Network
IT	Information Technology
ITC	International Trade Centre
IMF	International Monetary Fund
JETRO	Japan External Trade Organization

JSN	Japan Services Network
KADIN	In English, Indonesian Chamber of Commerce
LDCs	Least Developed Countries
MA	Market Access
MFN	Most-Favoured-Nation
MERCOSUR	In English, Southern Common Market
METI	Ministry of Economy, Trade and Investment
MIDA	Malaysian Investment Development Authority
MITI	Ministry of Trade and Industry
MNCs	Multinational Corporations
MOFA	Ministry of Foreign Affairs
MRAs	Mutual Recognition Agreements
NAFTA	North American Free Trade Agreement
NEDA	National Economic Development Authority, The Philippines
NGOs	Non-Governmental Organisations
NIES	Newly Industrializing Economies
NT	National Treatment
NTBs	Non-tariff barriers
OECD	Organisation for Economic Co-operation and Development
PECC	Pacific Economic Cooperation Council
PPP	Purchasing Power Parity
PRC	Professional Regulation Commission
R&D	Research and Development
RCEP	Regional Comprehensive Economic Partnership
RIETI	Research Institute of Economy, Trade and Industry
SMEs	Small and Medium-sized Enterprises
SOEs	State Owned Enterprises
SPS	Sanitary and Phytosanitary
TPP	Trans-Pacific Partnership
TPR	Trade Policy Review
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
US	United States
USTR	United States Trade Representative
WTO	World Trade Organisation

Chapter 1: Research Design

1.1 Introduction

This research project is about the political economy of services trade integration in East Asia. It examines how the domestic political economy factors in decision-making shaped the outcomes of the Free Trade Agreement (FTA) negotiations. This introductory chapter explains the research design of the project. We first explain background of research. Then we present the research questions, which drive this project, followed by hypotheses. After that, we review the existing scholarly literature and present the analytical framework. We also explain the methodology applied to this research project. Lastly, we summarise findings of this project.

1.2 Background of research -Introduction to the topic

For the purpose of this research project, the geographic coverage of East Asia is Association of Southeast Asian Nations (ASEAN) plus three, which includes the ASEAN Member countries (Brunei Darussalam, Cambodia, Lao People's Democratic Republic, Indonesia, Malaysia, Myanmar, The Philippines, Singapore, Thailand and Viet Nam), plus China, Japan and South Korea. Services trade integration in East Asia under this project is defined as a part of 'economic regionalism'¹ which takes place as a result of (i) state-led economic cooperation projects through FTAs and (ii) market-led regionalisation such as intensifying international trade and investment in the Region.²

A new wave of East Asian economic regionalism, which took the form of FTAs, emerged after the 1997-98 Asian financial crisis. To date, the number of existing FTAs in the Region, either bilateral agreements or 'ASEAN plus one' agreements, has reached 15. And five FTAs are currently under negotiation.³ Among the currently negotiated FTAs, there is a strong political motive to integrate

¹ See definition of 'economic regionalism' by Dent (2006), p83.

² See Chapter 3: 3.2

³ See Table 3-3.

economies by creating a consolidated ASEAN plus six type of FTA (RCEP: Regional Cooperative Economic Partnership).⁴

A proliferation of FTAs in East Asia and the way they evolved caught the attention of social scientists. There exists a wealth of literature on East-Asian FTAs by economists and International Political Economy (IPE) scholars from the early 2000s. In the realm of economics, the ‘de-facto’ economic integration aspects of East Asia (e.g. Kawai and Wignaraja 2010; Kimura and Ando (2005); Kimura 2008; Ozeki 2008; and Urata 2002) were highlighted. The literature characterised the Asian regional integration as ‘de-facto’ economic integration promoted by market-led integration, of which is intraregional production networks and supply chains through foreign direct investment (FDI) by global multinational corporations (MNCs) in the manufacturing sectors. Then the literature argued that institution-led regional economic integration in East Asia would become a driving force to achieve deep economic integration. And FTAs can be considered as the means to enhance further market integration and institutional integration towards deep integration.

What is missing from the contributions by economists is any analysis of services trade in spite of its growing economic importance in the region. For instance, services as a share of GDP of most of the East Asian countries account for more than half of GDP (e.g. Singapore: 75.0 %, Japan: 72.6 %, South Korea 59.4 %, The Philippines: 57.3 %, Thailand: 52.7 %, and Malaysia 51.2 %). Even the countries where outputs of the services sector have not yet reached a half of GDP (e.g. Cambodia, China, Indonesia and Viet Nam), the share of services has been rapidly increasing especially from the 2000s. The share of services in these countries accounts for more than 40 % of economy outputs. Albeit, services trade integration in East Asia lags far behind from goods trade integration both in terms of market and policy.⁵ Sally (2009) demonstrated the major shortfalls of ‘de-facto’ market-led integration in East Asia explained by economic literature. He explained the skewed nature of East Asian market integration that has been developed only in the processing trade of the manufacturing sector. He pointed out that agriculture, services and swathes of the manufacturing sector were highly fragmented mainly due to policy barriers. Yet there exists no economic scholarly work, which explains why services trade integration lags far behind goods trade integration in East Asia to the best of author’s knowledge.

In the realm of IPE, the literature perceived that FTA activity is forming a new wave of East Asian regionalism (Dent 2005, 2006 and 2008).⁶ Since the East Asian countries shifted their pivots of international economic policy to plurilateralism/bilateralism in the late 1990s and joined a

⁴ ‘ASEAN plus six’ geographically covers a wider region beyond East Asia. In addition to ASEAN plus three, Australia and New Zealand from Asia-pacific and India from South Asia are included. RCEP is currently under negotiations and is aimed at concluding its negotiations in 2017.

⁵ See Chapter 3.

⁶ Dent (2008a) defines regionalism as *the structures, processes and arrangements that are working towards greater coherence within a specific international region in terms of economic, political, security, socio-cultural and other kinds of linkages* (Dent 2008, p7).

bandwagon of FTA activities, IPE scholar's academic enthusiasm went mostly to attest (i) what the motivations behind FTA activity in East Asia are;⁷ (ii) how East Asian FTA activity is developing (e.g. a trade partner selection, bilateral or plurilateral) and likely to evolve in the future (e.g. convergence or divergence);⁸ and (iii) implications for the global trading system⁹.

On the other hand, there exists only a handful of contributions on the political economic factors which shape the contents of the East Asian FTAs.¹⁰ What is more, most of the literature explained the political economy of conventional trade barriers (i.e. tariff concessions combined with the Rules of Origins issues). Despite the fact that negotiations of 'beyond tariff' issues (e.g. investment, competition, services trade, and intellectual property rights) are becoming more and more important as applied tariffs continue to fall in the region, analysis of 'beyond tariff' chapters and provisions are totally underdeveloped. It is only Dent (2007a, 2010a and 2010b) who provided a broad picture of the scope and nature of existing East Asian FTAs and analysed the political economy of 'commercial regulation chapters and measures'.¹¹ Nevertheless, the literature still has to be further developed in two respects. First, the analysis of Dent (2007a, 2010a and 2010b) did not touch upon political economy of services trade. Second, arguments on domestic factors are largely missing even though the literature explained that outcomes of an agreement are a result of two-level games of domestic-international negotiations (Dent 2007a). As long as the domestic political economy is concerned, it is Solis (2010) who associated the quality of FTAs with domestic factors (interests and institution), and examined the empirical evidence of Japan to demonstrate how these factors affected the outcome of the FTAs. However, Solis (2010) argued only the conventional political economy of trade in goods vis-a-vis trade in agriculture and dismissed the 'commercial regulatory' aspects of the FTAs. To date, no IPE scholarly work, which comprehensively analyses the domestic political economy factors and services trade integration, exists.

Services trade integration lags far behind goods trade integration in East Asia. Namely from the policy-led perspective, East Asian FTAs concluded during the 2000s ended up all shallow-GATS-plus.¹² Therefore, this project tries to investigate the political economy reasons behind this. For this purpose, we illuminate interests and institutions in the domestic decision-making process, which formed the negotiating positions of a signatory country by providing an empirical study of Japan-ASEAN bilateral FTAs.

⁷ For example, Dent (2003); Dent (2006); Ravenhill (2003); Ravenhill (2010); Sally (2007); Solis, Stallings and Katada (2009); Urata (2009); Manger (2005); and Manger (2014).

⁸ For example, Dent (2006); Dent (2007a); Dent (2010); and Rajan (2005).

⁹ For example, Ravenhill (2003); Dent (2010a) and Sally (2005).

¹⁰ Sally (2006); Dent (2007a); Dent (2010a); Dent (2010b); Ravenhill (2008a); Solis (2010) and Solis (2013).

¹¹ 'Commercial regulation' is defined as *the rules and standards that determine the regulatory framework in which the trade and investment related activities of firms take place* (Dent 2010b, p51).

¹² See an overview of existing East Asian FTAs in Chapter 3.

1.3 Research Questions

Services trade integration in East Asia is underdeveloped both in terms of market and policy (Chapter 3). In particular, we draw attention to the fact that, in spite of a proliferation of the ASEAN plus one type of FTAs (including the bilateral FTAs) in the Region from the beginning of the 2000s, policy-led services integration does not take place in East Asia.¹³ This leads to the central question of this thesis: why did the Japan-ASEAN bilateral FTAs concluded in the 2000s result in the shallow GATS-plus FTAs in spite of increasing economic presence of services in each country?

This main question leads to two auxiliary research questions:

(1) How did the domestic political economy determinants in the form of interests and domestic decision-making structures, affect the negotiating positions of Japan and ASEAN for the Japan-ASEAN bilateral FTAs?

(2) Do the domestic political economy determinants reflect the heterogeneity of services or the distinctive characteristics of East Asia?

As for the first research question, this project highlights the political economy factors of the domestic decision-making. Why do the domestic factors matter for discussing the international political economy of services trade integration? There are two answers for this. The first is that the results of economic diplomacy are the aggregation of two negotiating stages: the domestic and international as demonstrated in two-level game approaches developed by Putnam (1988). The second reason is that it is not tariffs, but domestic regulations that function as protection measures, with or without a country's intentions in the case of services trade and investment. In this regard, the dynamics of political economy can be seen at the domestic decision-making level given that services trade negotiations rely heavily on the extension to which countries are able to tackle domestic regulations (Hoekman, Mattoo, Sapir 2007 and Francois and Hoekman 2010). How the complex domestic structure and policy bargaining among stakeholders shape countries' negotiating positions are the issue to be investigated. However, as yet there has not been any significant research of this in the context of services trade integration in East Asia.

¹³ Although this project is not the one to demonstrate a lack of market-led integration in terms of economy, in Chapter 2 and 3, we describe some economic features. We see some the distinctive characteristics of East Asia which include (i) East Asia exhibits diverse levels of economic development and (ii) most East Asian countries are not internationally competitive in services (Chapter 3: 3.3). Also we see economic the heterogeneity of services trade such as a strong public character (Chapter 2: 2.3). These economic features are reflected in our arguments about interests provided in Chapter 5 and 6.

Relating to the second research question, which is to identify whether the reasons (domestic political economy determinants) reflect the heterogeneity of services or the distinctive characteristics of East Asia, we underline the fact that ‘services’ are very different from ‘goods’ in terms of the market, policy and political economy (Chapter 2). At the same time, the distinctive characteristics of East Asia can be observed from the services market and policy of the countries concerned (Chapter 3). While the heterogeneous nature of services can apply to all regions and countries, the distinctive characteristics of East Asia are specific to the Region. Answers to this question would help a better understanding of the reasons for underdeveloped services trade integration in East Asia.

1.4 Hypothesis

We posit the political economy reasons for the shallow GATS-plus of the Japan-ASEAN bilateral FTAs as follows.

Hypothesis

The Japan-ASEAN bilateral FTAs concluded in the 2000s resulted in shallow GATS-plus FTAs because of political economy impediments in domestic decision-making: (i) limited pro-liberal interests, versus strong anti-liberal interests, both on the policy demand and supply sides and (ii) policy supply side constraints characterised as a horizontal fragmentation of power in combination with domestic regulatory authorities’ veto power against policy changes to the status-quo.

Interests

On the policy demand side (the private sector), generally there are few or weaker export interests in comparison with manufacturing since *services are more difficult to trade* (François and Hoekman 2010, p678). In addition, the services sector in East Asia was not globally competitive in the 2000s and the export oriented services sector was limited in most East Asian countries with the exception of Singapore. Hence, lobbying by the private sector to promote market liberalisation of the FTA partner was generally weak except for some specific modes (e.g. Mode 3: investment for Japan and Mode 4: movement of natural persons for ASEAN). On the other hand, the standard political economy factors (Hoekman, Mattoo, and Sapir 2007) prevails on the anti-liberal side.

Incumbents tried to protect their domestic market as they were afraid of the erosion of rents and adjustment costs caused by the preferential market liberalisation. On the policy supply side (Government), there existed little or no motivations to lock in the country to domestic services reforms using the FTAs because of the difficulty of using services trade agreements, either multilateral or plurilateral, as domestic policy reform anchors (Francois and Hoekman (2010)). In the case of East Asia, countries unilaterally liberalise services in accordance with their economic agenda. In addition, enhancing regional supply chains in the manufacturing sector (ADB 2008; Kimura 2006a; Kimura 2008; and Urata 2002) was set as the top negotiating-agenda. This undermined the lead negotiators' expectation to achieve a high-quality services trade agreement. Also, the speedy conclusion of an agreement was more important than achieving a high-quality services agreement since each government was afraid of being left out of political competition of creating FTAs in the Region. Thus, services trade negotiators could not spend sufficient time for sectoral negotiations.

Institutions (supply side condition)

According to Hoekman, Mattoo and Sapir (2007, p368), *services are different from goods because of the acuteness of regulatory concerns that cloud the standard domestic economic calculus of the gains from liberalization. These regulatory concerns in combination with the usual political-economy forces (e.g. adjustment costs and resistance by incumbents to erosion of rents) have frustrated multilateral services negotiations because it is providing hard to design international rules and commitments that sift protectionist from legitimate policies.* In this regard, we assume that the fundamental problem of regulatory concerns would be reflected in the domestic decision-making structure for FTA services trade negotiations.

Since services trade negotiation covers a wide range of sectors, most of the domestic regulatory authorities get involved in the policy making process (horizontal fragmentation of government), which will be explained as the heterogeneity of services in Chapter 2. The lead ministry,¹⁴ which generally tries to achieve a GATS-plus FTA, would face institutional difficulties in coordinating the different positions among domestic regulatory authorities. It would also suffer a lack of political power to compel these ministries to make concessions for negotiations with its FTA counterpart. Since the domestic regulatory authorities exercise regulatory power and do not want to lose their vested interests, they strongly prefer the status-quo. The domestic regulatory authorities act as veto players against a change in the status-quo through the decision-making

¹⁴ A ministry which represents a country (see Chapter 4: 4.2.1).

process. This horizontal fragmentation of the decision-making process yields limited concessions in terms of liberalisation offers.

1.5 Literature Review

To date, very limited IPE studies have attempted to explore the political economy of services trade. Since this research project is about the domestic political economy of FTA services trade negotiations in East Asia, we try to fill the gap between the current state of the art in the field of IPE scholarly work of East Asian FTAs in the following manner. We first review the FTA motivation arguments, since motivations for creating FTAs directly or indirectly influence a signatory country's negotiating positions for FTA services trade negotiations. Next, we review the literature, which analyses the domestic political economy of FTA policy strategy-making. Last is an overview of the past IPE literature that includes FTA content evaluation and analysis of political economy factors, which affect outcomes.

Explanations of motivations to negotiate FTAs

There exists a wealth of IPE literature, which explains the East Asian new economic regionalism. Rationales behind proliferation of FTAs in the Region have been much debated in order to establish why there has been a rise of plurilateralism/bilateralism in East Asia from the late 1990s (Manger 2005; Manger 2014; Ravenhill 2010; Solis, Stallings and Katada 2009; Solis and Urata 2007; and Terada 2009). Many IPE scholars underlined the political motivations and some emphasise the economic motivations. Relating to this, there is a debate over whether the main driving force behind the East Asian FTAs has been government (Aggarwal and Koo 2005; Bowles 2002; and Ravenhill 2010) or the private sector (Katzenstein 2006; Manger 2014; Munakata 2006; Postigo 2016; Solis 2010; and Solis 2013). In reality, it cannot be shown that either of them plays a role alone. However, my interest does not lie there. Rather, my interest is to know how general incentives of starting the FTA activity affect an FTA signatory country's negotiating positions for the services trade agreement once an FTA negotiation takes place. Keeping this in mind, we review how the existing IPE literature explained the general motivations behind East Asian FTAs.

A. Political motivations

The past literature which explained the political motivations of the East Asian FTAs includes: strengthening diplomatic relations (Dent 2006; Dent 2010a; Mansfield and Reinhardt 2003;

Ravenhill 2003; Sally 2006; Webber 2001; and Yoshimatsu 2008); FTA catch-up incentives (Dent 2010; Ravenhill 2003; and Ravenhill 2010); competitive regionalism (Dent 2010; Katada, Solis and Stallings 2009; Ravenhill 2003; Ravenhill 2010; and Terada 2009;); and locking-in domestic reforms (Dent 2003; and Solis and Urata 2007).

Diplomatic incentives

A generic explanation in the IPE literature is that strong diplomatic incentives to strengthen political alliances as well as economic relations with key economic partners became a driving force behind East Asian plurilateralism (Dent 2006; Dent 2010a; and Sally 2006). There were some international systemic factors which became the impetus of changing the government's economic diplomacy towards plurilateralism. Firstly, the Asian financial crisis 1997-98 triggered regionalism since the crisis made East Asian countries realise the intensified economic interdependence in the Region and a lack of institutional interstate cooperative mechanisms (Dent 2010a; Sally 2006; and Yoshimatsu 2008). In addition to the Asian financial crisis 1997-98, a series of institutional failures further pushed East Asian countries towards plurilateralism (Dent 2003). Amongst these, the catastrophe of the WTO Seattle Ministerial 1999 and the deadlock of the WTO Doha Development Agenda shifted governments' strategic diplomacy from multilateralism to plurilateralism (Dent 2003; Dent 2010a and Sally 2006). Furthermore, some literature underlined the weakness of APEC and AFTA that was exposed after the Asian financial crisis (Ravenhill 2002; Sally 2006; and Webber 2001). Originally, frustration with APEC was mounting among the member countries. For developed countries, they became unsatisfied with APEC as a forum to promote market liberalisation and rule-making. For developing countries, the political pressure of market liberalisation and rule-making from developed countries was too demanding. On top of that, the Asian financial crisis disappointed APEC supporting countries since the forum failed to take collective regional actions to overcome the crisis. For the ASEAN countries, extending membership to Cambodia, Laos and Myanmar ironically limited the level of economic integration such as tariff-cutting obligation under AFTA (ASEAN Free Trade Area). Accordingly, pro-liberal countries such as Singapore and Thailand were motivated to promote FTAs with non-ASEAN members.

From FTA catch-up incentives to competitive bilateralism

There was also a fear of being left-behind in FTA activities at the global level in Japan, Singapore, South Korea and Thailand (Dent 2010 and Sally 2006). FTA catch-up incentives were triggered by

a series of institutional failures including the declining WTO system. Once some East Asian countries such as Singapore, Thailand and Japan launched their bilateralism, political competition in creating FTAs, or competitive bilateralism in other words, took place in East Asia (Dent 2010; Terada 2009; Solis, Stallings and Katada 2009; Ravenhill 2003; and Ravenhill 2010). Competitive bilateralism encompasses not only economic rivalry but also international political rivalry arising from security and the race to shape international trade rules (Solis, Stallings and Katada 2009). For instance, after Singapore strategically shifted to bilateralism and started negotiating FTAs with the US and Japan in the early 2000s, competitive pressures amounted in other ASEAN countries. For China and Japan, there has been political rivalry in developing their FTA network in East Asia. Competitive bilateralism could well explain the diffusion dynamics of proliferation of bilateral FTAs and FTA policy strategy including partner selection and the timing of negotiations in East Asia during the 2000s.

Few incentives to lock in domestic reforms

Locking in domestic reforms is cited as an important element of FTA motives in general (Ethier 1998). However, there is a doubt about its application to FTAs in East Asia. In East Asian FTAs, governments were motivated to lock in domestic reforms by FTAs and rhetorically attempted to do it, yet no substantial evidence of reforms in the actual reality were observed (Dent 2003). In the case of Japan, pro-reform minded policy makers were motivated to use FTAs to tackle structural reforms in the areas of agriculture, fishery, and some services (e.g. the medical and educational sectors) to stimulate the Japanese economy (Solis and Urata 2007). Solis and Urata concluded that the motives were undermined by domestic politics in the policy-making process including (i) opposition from vested interests and politicisation of policy-making; (ii) bureaucratic sectionalism; and (iii) weak executive leadership (Solis and Urata 2007, p227).

B. Economic motivations

The current explanation of economic motivations of East Asian FTAs can be broadly categorised into defensive economic interests (Manger 2005; and Manger 2014); strengthening regional production and distribution networks (Solis and Urata 2007; Urata 2009; Dent 2008; and Manger 2014); boosting trade and FDI (Hicks and Kim 2012 and Manger 2014); and concerns about the rise of China and India (Yoshimatsu 1999; Yoshimatsu 2008; and Ravenhill 2008b).

Defensive economic interests

The domino theory of Baldwin (1993) explains that exporters of non-FTA signatory countries are motivated to ensure an equal footing for business opportunities with the existing FTA signatory countries in order to recoup trade diversion caused by the existing FTA. The economic interests of exporters lead governments to join the existing FTA. This enlargement further causes the second round effects of enlargement of the block. In this way, the FTA spreads like a domino. In the case of East Asia, application of domino theory has not yet been confirmed due to a lack of empirical evidence of trade distortion (Manger 2014, p155). At the time of Japan-Mexico FTA, Japan had a strong motivation to countervail the discriminatory effects of NAFTA (North American Free Trade Agreement). However, when it comes to the Japan's bilateral FTAs with ASEAN, defensive economic interests are not observed (Manger 2005, p822).

Strengthening regional production and distribution networks

Rather, Japan's FTAs policy strategy for East Asia was driven by a pro-active economic motive (Solis and Urata 2007, p231). Japan's core economic motivation for East Asian FTAs lay in strengthening regional production and distribution networks in East Asia (Solis and Urata 2007; and Urata 2009). Since the 1990s, vertical economic integration, particularly in machinery industries, was accelerated through FDI in East Asia (Fukao, Ishido, and Ito 2003) and developed regional production and distribution networks that entailed cross-border production sharing and fragmentation, disintegration of production activities, and the formation of industrial agglomeration in the Region (Kimura 2006a, p326). The Japanese business sector lobbied government to strengthen its intra-industry trade and FDI in Asia (Manger 2014).

Attracting more FDI and boosting trade

From the developing countries' perspective, there was an economic motive to attract more FDI and boost trade. FTAs were considered as a policy device to establish export platforms through FDI and gain access to big markets (Ethier 1998). FTAs also worked as a signal of strong commitments towards trade liberalisation (Hicks and Kim 2012). Especially for ASEAN, attracting FDI was a core economic motive of FTA policy strategy when they negotiate an FTA with developed countries (Manger 2005, p809). By showing assurance of commitments to investors, ASEAN expected to receive more FDI from Japan and South Korea. As for the FTA with China, economies of scale were a great economic advantage for ASEAN countries to boost trade. For China,

ensuring secure access to raw materials was a strong economic incentive for the China-ASEAN FTA (Ravenhill 2008a, p136).

Concerns about the rise of China and India

Lastly, the rapid economic growth of China and India, and a decline of relative economic advantage in world economy as a consequence, also motivated ASEAN to promote plurilateralism, in particular, ASEAN market integration (Yoshimatsu 2008; Ravenhill 2006; and Ravenhill 2008b). For example, China was a threat for the ASEAN countries since FDI into China has been rising and became a major FDI destination at the global level.¹⁵ ASEAN anticipated that more FDI would be diverted towards China bypassing ASEAN. India was increasing its economic competitiveness in the business services sector and became an important destination of business process outsourcing from the late 1990s.¹⁶ To respond to the challenge of two emerging neighbouring countries, ASEAN member countries agreed to establish a single market: the ASEAN Economic Community (AEC) which aims at a free flow of goods, services, investment, capital and skilled labour in 2003 (Ravenhill 2008b, p471).

Summing up, there is an intense focus of IPE scholarly work on FTA motives of East Asia. Albeit, there is a scarcity of literature which debates how original motivations actually affected designing an agreement including the contents of rules and the level of liberalisation. More than a decade has passed since the East Asian countries started to accelerate their FTA activity. It is time to make one step further from the FTA motive debate. That is to analyse how motivations for creating an FTA influence the domestic decision-making process for thematic contents of the FTA. In this regard, this research project attempts to analyse how general motivations of creating an FTA affected a country's negotiating positions for the services trade part of the FTA.

The current explanation on FTA motives above leads to some questions relating to this research project. Firstly, did strong diplomatic motivations which arose from the international systemic factors influence thematic services negotiating positions of a signatory country once the actual FTA negotiations started? This is a notably important question for the ASEAN countries with the exception of Singapore. Because many South-East Asian countries had been promoting unilateral

¹⁵ China was globally ranked at the 12th of FDI recipients while Singapore was ranked at 18th and Thailand at 32nd in 2007. See 'FDI stock, by host region and economy 1980-2007', UNCTAD, available at http://www.google.co.jp/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiXtoHK5ePMAhUEAsAKHdJIDLSQFggmMAA&url=http%3A%2F%2Functad.org%2Fsections%2Fdite_dir%2Fdocs%2Fwir2008_instock_en.xls&u sg=AFQjCNG7FfifnpQ-DbnBiBJH72d52lyWjA&bvm=bv.122448493,d.ZGg

¹⁶ Average growth of business services exports of India between 1995 and 2005 accounts for 25.4% (Hoekman and Mattoo 2008).

trade liberalisation until the Asian financial crisis 1997-98 took place, however, they shifted to trade-light FTA policy after the Asian financial crisis (Sally 2006). Secondly, did political competition of creating FTAs affect the FTA services trade negotiations? In fact, each government was under pressure of having too many bilateral FTA negotiations at the same time and a speedy conclusion to compete with neighbouring countries in the Region. Third, did political actors, either policy makers or the business sector have any motives for locking in domestic services reforms at the time of FTA negotiations? If so, how were the motives channelled through domestic politics? Fourth, did the economic motives for (i) strengthening regional production and distribution networks in East Asia and (ii) attracting more FDI and boosting trade, affect a country's negotiating positions for services trade? These are the issues to be investigated in our empirical case study (Chapter 5 and 6).

Explanations of domestic political economy factors and East Asian FTA policy strategy

There exists some IPE literature on the domestic politics of East Asian FTAs which explain how domestic political economy factors influence a country's FTA policy strategy. Yet no previous IPE scholarly work has accounted for domestic political economy in the decision-making process and its effects on thematic content of an FTA, including services in detail, to the best of the author's knowledge.

From a theoretical point of view, Aggawal and Lee (2011), who illuminated domestic political economy factors in shaping FTA policy strategy (e.g. number of agreements; sequencing; actors; geography; size of partners; and nature and scope) of the Asia-Pacific, can be considered as the basis of arguments. They posited that external shocks drive a change from the existing trade strategy in the first place, and 'new trade strategy' (FTA policy strategy) is shaped through the domestic policy-making process. Then they introduced a framework to analyse interactions between three key determinant factors in the domestic policy-making process: ideas, interests and domestic institutions as explanatory variables affecting outcomes of an FTA policy strategy. According to them, interactions between the three domestic factors through the policy-making process determine a country's FTA policy strategy in Asia-Pacific.

The work of some IPE scholars provide empirical studies of the impacts of domestic interests and institutions on FTA policy strategy in East Asia (Jiang 2010; Mulgan 2008; Sally 2007; Solis 2010; Solis 2013; and Yoshimatsu 2010). In terms of interests, the main argument in the existing literature is protectionist forces versus liberal forces. In the case of China, Japan, and South Korea, liberal forces of manufacturing versus protectionist forces of agriculture has been stylised as major domestic interests which affected FTA policy strategy (Mulgan 2008; Solis 2010; and Yoshimatsu

2010). As for institutions, a top-down style of domestic political institutions in the case of Thailand (Sally 2007) and China (Yoshimatsu 2010); a lack of hierarchy and a weak political power of the legislative branch vs. the executive branch in Japan (Manger 2008; and Solis 2010); fragmentation of bureaucracy in China (Jiang 2010); and the existence of many veto players in Japan (Yoshimatsu 2010) were investigated. Among these studies, the following three works are in particular noteworthy in relation with this research project.

First, Jiang (2010)¹⁷ captured more than a conventional domestic conflict between anti-liberal agriculture and pro-liberal manufacturers. China's policy-making process for an FTA with developed countries such as Australia are getting complicated since more concessions which would threaten import-competing industries are required. On the policy demand side, there is a conflict between anti-liberal forces of agricultural producers as well as strong resistance of State Owned Enterprises (SOEs) in the services sector to protect monopoly rents, versus the pro-liberal forces of labour-intensive manufacturing industries. This indicates that once a developing country starts negotiation with a developed country with a comparative advantage in services, potential anti-liberal forces in the services sector wake up. Also, the finding about institutions needs attention. In contrast with the existing literature, which considered China as a strategic unitary actor,¹⁸ China's FTA policy-making faces a coordination problem in the bureaucracy. The Ministry of Commerce, which is a lead ministry of FTA policy-making, is pro-liberal without authorisation power. Thus, it can hardly overcome protectionist forces arising from every part of bureaucracy both at the national and provincial levels.

Second, a study by Mulgan (2008) showed the importance of policy-making institutions in pursuing FTA market liberalisation by applying the supply and demand side analysis. The study asserted that Japan's FTA activity caused demand and supply side dynamics of domestic interests towards agricultural liberalisation as predicted by public choice theory. On the demand side, FTA lobbying by the business sector became intensified against agriculture protection. On the supply side, the FTA activity has involved political-leaders who are more in favour of the wider economic and diplomatic state strategies. The changes of interests on the demand and supply sides would enable liberalisation of agriculture according to public choice theory. However, this did not happen in the case of Japan because of institutional obstacles in the policy-making process such as anti-liberal sectoral sub-governments and a lack of top-down authority of the prime ministerial executive to pursue a pro-liberal agricultural policy. Mulgan's empirical evidence of Japan's FTA agricultural policy indicates that even the interests of both the demand and supply sides change

¹⁷ It examined how domestic preferences and decision-making institution influenced the China's FTA policy-making and concluded that China is not a unitary actor in FTA policy-making.

¹⁸ See Jiang (2010), pp 240-241.

towards pro-market liberals, no domestic reforms can be expected if a country cannot overcome obstacles in the domestic policy-making institutions.

A study by Solis (2010)¹⁹ cultivated a new field of the literature on East Asian FTAs since it attempted to evaluate Japan's FTA policy strategy in terms of partner selection, scope of an agreement and sectoral coverage, to demonstrate how domestic political determinants influenced the policy strategy. According to the literature, Japan has not achieved high-quality FTAs, which satisfy three conditions: selection of large trading partners, encompassing substantial market access concessions and WTO-plus sectoral coverage. The core argument of Solis (2010) explains how domestic political factors led Japan's agriculture defensive FTA policy strategy. To demonstrate the defensiveness in agriculture, the study selected two independent domestic factors: preferences of domestic actors and political institutions. The finding is that (i) in terms of preferences of domestic actors, pro-liberalisation forces of business interests were too weak to mitigate rent-seeking interests of the agricultural sector and (ii) in terms of institutions, a lack of centralisation and hierarchy in the party bureaucracy decision-making process could not bring about pro-reform initiatives in agriculture. With regard to institutions, it investigated delegation and control problems between the executive and legislative branches by applying a principal-agent model. By doing so, the work could demonstrate the importance of institutional design as an instrument to channel domestic preferences. While the literature successfully showed how domestic preferences and political institutions shaped Japan's agricultural defensive FTA policy strategy (i.e. partner selection and market access concession of agriculture products), it completely failed to capture pro-active domestic factors, and thus a wider scope of FTAs to encompass commercial regulatory chapters and provisions. Since Solis (2010)'s evaluation of commercial regulatory issues is technically too weak, it could not capture an evolution feature of commercial regulatory chapters and provisions as assessed by Dent (2010a and 2010b) for example.

From the IPE empirical studies about the impacts of domestic political economy factors on East Asian FTA policy strategy explained above, we learned that attention was mainly given to the political economy of conventional merchandise trade but not to the political economy of commercial regulatory chapters including services trade. Nevertheless, the previous work implies some key issues which should be considered when we discuss the influence of domestic political economy factors on FTA services trade negotiations. First, empirical studies of the domestic political economy of East Asian FTAs demonstrate that not only domestic interests but also policy-making institutions, which channel interests, are important determinants which affect a country's FTA policy strategy. This suggests that not only interests but also institutions should be carefully examined to attest a country's negotiating position-making in services. Second, to capture the

¹⁹ It should be noted that country coverage of Solis (2010) is not FTAs in East Asia but FTAs which Japan has concluded so far. Technical weakness in the evaluation of the existing FTAs is also observed.

dynamics of domestic interests, both policy supply side and policy demand side should be examined. Third is about institutions. The literature suggests that there must be certain institutional problems in the domestic decision-making for services such as a coordination problem in the bureaucracy (Jiang 2010), anti-liberal sectoral sub-governments (Mulgan 2008) and delegation and control problems between the executive and legislative branches (Solis 2010). We can develop the debates on institutional problems on our thematic FTA contents by focusing on services trade negotiations.

Explanations of FTA contents and political economic factors

With regard to FTA contents, some scholars have explained political economic factors which shape outcomes, however, the observations form only a part of study which evaluates existing FTAs and its political economic impacts. To date, no comprehensive study with empirical evidence in any depth exists to the best of author's knowledge. The past literature found that contents of existing FTAs in East Asia are substantially different from each other (Asian Development Bank 2008; Dent 2010a; Rajan 2005; and Ravenhill 2008a). Its diversity is expressed, for example, as 'substance variance' which reflects political and economic objectives of FTAs (Ravenhill 2008a) and *the bespoke outcomes of politico-economic interactions between negotiating parties* (Dent 2010a p221). Also, the existing literature found that scope and coverage of FTAs are widening and beyond-tariff regulatory chapters are becoming prominent in East Asian FTAs.

Although FTAs in the Asia Pacific Rim is comprehensive in coverage, the substance rarely goes beyond the WTO with the exception of the widely covered and high-quality FTAs which the US concluded (Ravenhill 2008). As a part of his argument, some political economic factors, which reflect the scope of FTAs, such as a signatory country's respective bargaining leverage; the level of development and negotiating capacity; a strong preference for other policy mechanisms (e.g. duty-drawback arrangements and free trade zones); a variety of objectives that FTAs serve; and extensive unilateral trade liberalisation, are listed up. Since the purpose of the literature was to assess the political economic impact of the FTAs in Asia-Pacific, no empirical evidence was provided to support the political economic reasons mentioned above.

In Dent (2010a), a more detailed analysis on political economic factors which influence the outcomes of an FTA was provided, although the analysis formed a part of the study which predicted a future development of FTAs in the Asia-Pacific by assessing the past. To analyse the bespoke nature of existing FTAs, he categorized the FTA formation into at three levels: (i) ideational conception of FTAs, (ii) broad chapter-level structure and (iii) article-level structure and

content. As for the first level of ideational conception of FTAs, the literature found that FTAs usually reflect a dominant partner's FTA model such as the US market liberalism model and Japanese developmentalism. Secondly, as for a broad chapter level structure, the literature confirmed a growing importance of 'commercial regulation chapters and measures' (Dent 2010a, p220) such as competition policy, intellectual property rights, investments, government procurement, rules of origin and services trade. He found that these 'commercial regulation chapters and measures' reflected the private sector's interests in more developed economies in the Region. Thirdly, 'article-level structure and content' reflects domestic constraints from the domestic constituents (e.g. the private sector, farmers, labour and civil society organisations) during the domestic decision-making process and *politico-economic interactions between negotiating parties* (Dent 2010a p221).

Dent (2010a) provides a foundation to study 'commercial regulatory issues' of East Asian FTAs. What should be underlined from the argument in Dent (2010a), in relation to this research project, is the influence of the private sector's interests and domestic constraints on the decision-making process of the 'commercial regulation chapters and measures', as well as 'article-level structure and content'. Given the fact that the existing IPE literature on East Asian FTAs, except Dent (2010a and 2010b), stayed at the level of political economy arguments of conventional trade barriers (i.e. concessions of tariff reductions with a combination of Rules of Origins at most), empirical study about the decision-making process on 'commercial regulatory issues' (Dent 2010a) has to be further developed.

1.6 Significance of research

What is missing in the contribution of IPE scholarly work in general? What can be a valuable contribution to develop the IPE arguments about the East Asian FTA activity? The significance of this research project is twofold.

In the first instance, we answer the former question, which is to apply the IPE analytical framework to the academic work on services trade liberalisation which has been largely ignored by IPE scholars. As reviewed in the economic literature, a lack of international services data to provide quantitative analysis is hindering academic contribution by economists. Although intensive efforts have been made in attesting non-tariff issues, such as quantifying regulatory barriers, the basic problem of economic arguments of regulatory issues is the limitation of quantification itself. In contrast to the economic analysis, IPE analysis better reflects the complex political, societal and international phenomena by embodying an inter-disciplinary approach of economics, politics and international relations. In this regard, IPE would be the best academic

discipline to explain the mechanism of services trade integration which involves commercial regulatory issues.

The second is an answer to the latter question, which is to develop arguments on the domestic political economy determinants which led to outcomes of an agreement. One of the standard features of international economic relations is intensifying interaction of international and domestic pressures since the 1990s because international trade issues expanded to the area of services trade, intellectual property, investment, environment and energy policy (Bayne and Woolcock 2011). This is also happening in the realm of East Asian FTA activity as expressed as ‘commercial regulatory provisions’ by Dent (2010b). Amongst the ‘commercial regulatory provisions’, services trade is the crucial subject which involves intricate political economy since many state-actors at the state and sub-state level as well as non-state actors are involved in the decision-making. As we previously reviewed, the existing literature examined the domestic policy-making factors which shape the country’s FTA policy strategy. Notably the absence in the existing literature is investigation on the domestic decision-making factors which shape a signatory country’s thematic negotiating positions once the substantive negotiations of drafting trade agreements, as well as liberalisation commitments, start. The distinction between FTA policy-making processes prior to substantive negotiations and decision-making processes during substantive negotiations is crucial to discuss outcomes of services trade chapters and their commitments. This is because original motivations would be suppressed through the domestic decision-making processes or a specific original motivation might negatively affect the negotiating positions for services trade. How did the original motivations of creating FTAs affect the interests of governments and the private sector during the decision-making process of FTA negotiations? How did specific interests in services trade shape a country’s negotiating position? And how did institutions formulate domestic interests in the case of services trade negotiations? These are the issues to be investigated to further develop the existing literature on East Asian FTAs. This research project develops an area of novelty in the IPE scholarly work on economic regionalism in East Asia.

1.7 Analytical framework

1.7.1 Explanatory variables

This research project highlights domestic political economy factors to elucidate the shallow-GATS-plus FTAs in East Asia. Interests and domestic decision-making structures (institutions) are selected as two explanatory variables. Why do we select interests and institutions as explanatory factors? The first reason is that *politics is partly about the pursuit of interests* (Kopstein and

Lichbach 2005, p22). The second reason is that institutions are where politics take place to form a country's negotiating positions. Since interests are channelled through decision-making institutions, including institutional factors into an argument makes the analysis more persuasive.

We define interests and institutions as follows. The first is about interests. We define interests as being composed of the government's interests and the private sector's interests. We also understand ideas as a constituent of interests. This is because the interests of the stakeholders, such as the policy-makers and business society, are shaped by their ideas and social values.²⁰ The second is about institutions. Institutions are defined as a Government's decision-making structure for services trade negotiations. Our focus is on the policy-coordination process of the executive branch since domestic decision-making for FTA services trade negotiations is conducted by bureaucrats (Chapter 4), and a dynamic political economy is expressed.

Here we specifically emphasise the role of the private sector as the actor of the domestic decision-making of services trade negotiations. Neo-liberalist IPE scholars have been aware of an increasing role of non-state actors such as the private sector (firms) and Civil Society Organisations (CSOs) in shaping domestic trade policy formulation in addition to governments. Among non-state actors, the private sector is identified as an essential player because the market is an endogenous factor of the world economy (Odell 2000). Namely in the domain of international trade policy formulation, the importance of inputs from the private sector is increasing because *most governments lack the internal research capacity and commercial intelligence that is crucial for the identification of negotiating positions for trade agreements and they are dependent on the private sector for information on barriers to trade and investment posed by trade measures, systems of regulation, standards, public procurement policies and so on. Hence, governments are compelled to engage directly with business actors through a broad range of formal and informal consultative mechanisms aimed at eliciting this information.* (Capling and Low 2010, p5). Services trade negotiations are about regulatory barriers, however, as technological innovations are rapidly taking place in business practices, governments cannot form its negotiating positions without inputs from the private sector.

1.7.2 Application of the policy demand and supply model

Next, we describe an analytical framework to elucidate the political economy of domestic decision-making for FTA services trade negotiations. We apply the rationalist and institutionalist approach in explaining interests and services trade decision-making structure. This project

²⁰ *Interests, when defined as ideas about how to meet needs are actually constituted by ideas* (Nabers 2003, p132)

modifies the policy demand and supply model of regional integration developed by Mattli (1999a) to analyse the domestic interests and institutions of FTA services trade negotiations.

Let us briefly review the policy demand and supply model by Mattli (1999a) first. According to Mattli (1999a), there are two levels of demand force for regional integration: demand for institutional change; and demand for integration. Demand for institutional change was described thus: *as new technologies increase the scope of markets beyond the boundaries of a single state, actors who stand to gain from wider markets will seek to change an existing governance structure in order to realize these gains to the fullest extent* (Mattli 1999a: p 10). Demand for integration forms impetus (i) to ensure gains for wider market (i.e. achieving economies of scale, exploiting comparative advantage, and expanding production abroad through FDI) and (ii) to minimize international trade and investment transaction costs that arise from trade and investment related policy barriers. Mattli (1999a) explained that institutional change and deeper integration do not take place if supply conditions are not met. Supply conditions are defined as *the conditions under which political leaders are willing and able to accommodate demands for functional integration* (Mattli 1999a: p12). Then the literature applied the prisoners' dilemma and coordination games theory to explain supply conditions.

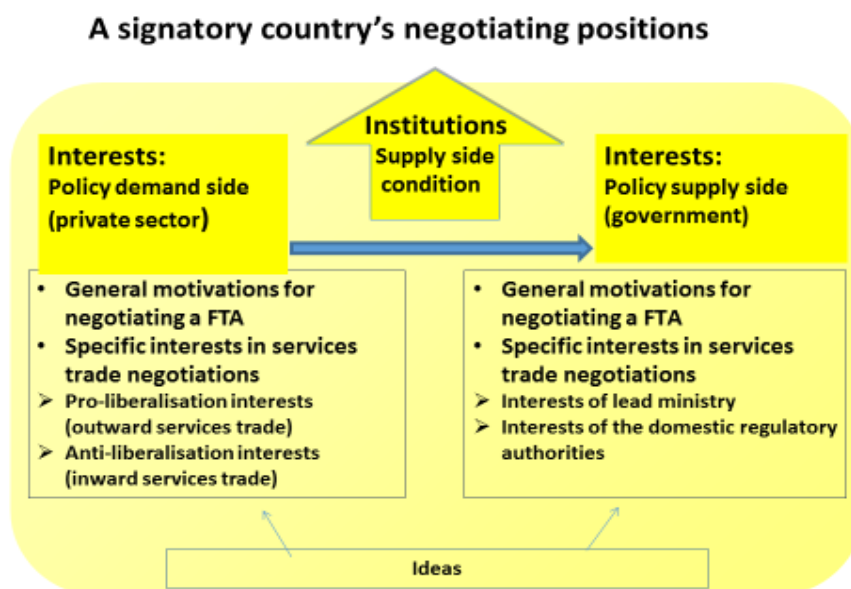
Next, we explain how we modify the demand and supply model of Mattli (1999a) for our research project. While the demand and supply model provides fundamental insights to analyse how interests and institutions play a role in regional integration outcomes, it still needs some modifications to apply FTA services trade negotiations in East Asia. First, the model explains motives for regional integration on the demand side but did not take into account motives for regional integration on the supply side, since Mattli emphasised 'bottom-up pressure' (Mattli 1999a: p9), which is a pressure from the market players (the demand side). As for the East Asian FTA activity, we cannot ignore the interests of government as a driving force of plurilateralism/bilateralism as the existing literature demonstrated. Thus, we add the policy supply side interests into our analytical framework. We understand that a signatory country's negotiating positions are constituted from both demand interests and supply interests. Second, Mattli (1999a) did not take into account a role that ideas can play. As Ravenhill (2007) verified, the ascendancy of neo-liberal ideas is one of two crucial factors of the new regionalism which began in the 1990s (Ravenhill 2007: 186).²¹ Thus the role of ideas on FTA services trade negotiations would not be negligible. Third, Mattli (1999a) defined supply side conditions as acts of political leaders who are concerned about re-election. When it comes to chapter level negotiations such as services trade agreement, the domestic decision-making process is totally dominated by bureaucrats in spite of the different political systems (e.g. the parliamentary system, presidential system and

²¹ In Ravenhill (2007), the end of the Cold War was identified as another factor of the new regionalism.

constitutional monarchy) in the Region. Therefore, this research project focuses on inter-governmental coordination at the executive branch level.

Figure 1-1 shows the reframed supply and demand model to contemplate domestic political economy of FTA services trade negotiations in East Asia. The policy demand side is specified as the private sector (services suppliers) which are directly affected by the FTA ruling and therefore expected to show pro-liberal interests from the outward perspective or anti-liberal interests from the inward perspective. The private sector includes horizontal business confederations, sector associations (sectoral associations and professional associations), services coalitions, and individual firms. As for the supply side, we focus on the executive branch. Interests of the lead ministry which represents a country and domestic regulatory authorities which participate inter-governmental coordination process are examined. Ideas embedded in societies in the form of the policy demand and supply sides are acknowledged as a source of interest formation. The supply side condition means the political economy of the domestic decision-making structure through which interests are coordinated. We highlight horizontal fragmentation of power of the inter-governmental coordination process at the executive branch level as described later (see B. Modelling institutions).

Figure 1-1: A supply and demand model of domestic decision-making of FTA services trade negotiations



A. Modelling interests

a. Policy demand side interests

Policy demand side interests are categorized into (i) general motivations for asking government to negotiate an FTA; and (ii) specific interests in services trade negotiations. First, general motivations of the policy demand side include economic motives for FTAs such as strengthening regional production and distribution networks in East Asia in the case of Japan and attracting FDI from a signatory country in the case of developing countries. Second, we model specific interests in services trade negotiations. The fundamental understanding of the political economy of policy demand side is that the private sector can be divided into a pro-liberalisation group and an anti-liberalisation group. Since Adam Smith's "Wealth of Nations" (1776), political scientists have been developing the pressure group model that delineates how preferences of domestic groups favouring or resisting trade liberalisation influence the state's trade policy position. In the context of regional integration, Mattli (1999a) provided a useful framework using institutional theories (e.g. property rights theory, economic history and new institutional economics) to account for the demand side motives.²²

Table 1-1 further elaborates Mattli (1999a) to illustrate specific lobbying interests in services trade and expected actions during trade policy-making process in the context of FTAs services negotiations. On the demand side, there are two types of actors: export oriented services suppliers which favour preferential services liberalisation and import competing services suppliers (including monopolists and oligopolists) which favour protection. As for export-oriented services suppliers, they try to attain preferential market access to achieve economies of scale through trade (Mode 1, 2, 3 and 4) and to exploit their comparative advantage. Services sectors may also have interests in preferential access of specific services which support FDI in manufacturing companies. This type of services are called 'manufacturing-related investment', such as providing legal services, financial services and logistic services to support goods-related trade and investment. Furthermore, firms have strong incentives to reduce transaction costs caused by host country's regulatory barriers and different standards. In terms of policy, export-oriented services suppliers try to recoup the loss caused by preferential discriminatory arrangements in the existing FTAs. Accordingly, they require the level playing field of the existing FTAs. Also, export-oriented services suppliers require commitments at the autonomous liberalisation level to ensure legal certainty. If not, they try to attain preferential treatments at the GATS-plus level.

²² See Mattli (1999a), p7-8.

Table 1-1: Policy demand side: Specific interests in services trade negotiations

Actors	Interests
Export oriented services suppliers	<ul style="list-style-type: none"> • Economic interests: <ul style="list-style-type: none"> (i) Attain economies of scale through trade and investment, (ii) Exploit comparative advantage, (iii) Expand trade-related investment such as supply chains in manufacturing sectors. and (iv) Reduce transaction costs • Policy interests: <ul style="list-style-type: none"> (i) Require a level playing field in terms of a partner country's existing FTAs, (ii) Require binding autonomous liberalisation, and (iii) Strengthen preferential treatments (GATS plus) vis-à-vis external regions
Import competing services suppliers (including monopolists and oligopolists)	<ul style="list-style-type: none"> • Economic interests: Erosion of rents and adjustment costs in domestic market • Policy interests: Against any preferential arrangements which offer more than GATS commitments.

Box 1-1 lists types of preferential treatment in services trade. Unlike the preferential tariffs in the manufacturing sector, preferential treatment in the services sector is all about regulations, such as reducing/diminishing quantitative restrictions on services output, reducing/diminishing the quantitative restrictions on numbers of services providers or providing a large proportion of the quota to FTA partners, reducing/ diminishing limitations on foreign ownership. Furthermore, to provide regulatory preferences to FTA partners, standards and MRAs (Mutual Recognition Agreements) play an important role in integrating markets. Export oriented services suppliers would lobby government to get these preferential arrangements in their sector in a specific or on a horizontal basis to attain their economic supremacy. On the other hand, import competing services suppliers or incumbents in imperfect competition would try to protect the domestic market from erosion of rents and adjustment costs. To that end, they are likely to resist making any further commitments beyond what they made under the GATS.

Box 1-1: Types of preferential treatment in services trade

- Reduce/diminish quantitative restrictions on services output in horizontal/sectoral commitments(e.g. freight and passenger quotas in air, land and maritime transport services, airtime allocated to foreign broad casts in audiovisual services)
- Reduce/diminish quantitative restrictions on the number of services providers or provide a larger proportion of the quota to FTA partners (e.g. the number of telecommunications operators, banks, and insurance services providers)
- Reduce/diminish limitations on foreign ownership (e.g. legal entity, branch rights)
- Provide preferential treatment in taxes and subsidies
- Provide regulatory preferences to FTA partners in technical regulations, licensing and qualification requirements on foreign providers (e.g. professional services and financial services)

Source (A Handbook of International Trade in Services, p226)

How do these market actors lobby governments? Export-oriented services suppliers would input their basic positions and their specific liberalisation requests to the lead ministry either directly or through a business organisation/sectoral organisation. In parallel, they directly consult with the domestic regulatory authorities which administer them to ensure solid support. Import-competing services suppliers may take a slightly different lobbying approach from that of export-oriented services suppliers. They may clearly reveal their negative positions at formal occasions such as the meetings organised by business confederations. If they assume that they cannot be influential in making general business positions, they may not reveal positions at formal occasions. In both cases, import-competing services suppliers may prefer to lobby directly to their domestic regulatory authorities to properly secure their positions.

b. Policy supply side interests

Policy supply side interests are categorized as (i) general motivations to start negotiating an FTA; and (ii) specific interests in services trade negotiations. First, general motivations are further classified into political motivations and economic motivations. Political motivations comprise diplomatic incentives, FTA catch-up incentives/competitive bilateralism, and incentives to lock-in domestic reforms. Economic motivations comprise incentives to mitigate negative impacts caused by the existing FTAs, pro-active economic motives (i.e. strengthening regional production and distribution networks) and boosting trade and investment. General motivations constitute a foundation of the negotiating country's basic positions during FTA negotiations as a whole. Accordingly, it is expected that general motivations would affect a position for services trade negotiations.

Second, we further analyse specific interests in services trade negotiations on the policy supply side (Table 1-2). All policy makers take actions based on specific economic and policy interests in services. In the case of the lead ministry, policy incentives tend to be more important than economic incentives, as it endeavours to maintain the multilateral trading system as a WTO Member. This means that it aims at satisfying the requirements provided in the GATS Article V (services integration). Therefore, the lead ministry tries to achieve a GATS-plus FTA both in terms of agreements and the level of commitments. Also, if an FTA partner country already belongs to any FTAs, the lead ministry tries to mitigate negative effects caused by the existing FTAs and strengthen preferential treatments. In terms of economic interests, the lead ministry would try to reflect the export interests of the domestic services suppliers.

As for the domestic regulatory authorities administering the services sector, we can classify interests into two types: (i) domestic regulatory authorities which represent export-oriented

services suppliers and (ii) domestic regulatory authorities which represent import-competing services suppliers. In reality, it is often the case that one ministry may hold both offensive and defensive interests since an authority administers many services sectors as well as sub-sectors.

- (i) For the domestic regulatory authorities which represent the negotiating positions of export oriented services suppliers, eliminating discriminatory treatments caused by a partner country's FTAs would be the highest priority. Thus they try to attain a level playing field of the highest commitments made by a partner country's existing FTAs as well as MFN treatments for future FTAs. They would further try to strengthen the preferential treatments vis-à-vis external regions. However, they are reluctant to commit any regulatory reforms or changes of the domestic markets which might threaten their regulatory concerns. Given the specific liberalisation requests from export oriented services suppliers, they can support the lead ministry to make a GATS-plus FTA in terms of making requests, while showing risk-averse positions in terms of making offers.
- (ii) The second category is the domestic regulatory authorities which represent the import competing services sector. In terms of policy interests, their incentives to protect their regulatory autonomy and pursue its regulatory objectives might be stronger than those of the domestic authorities which represent export oriented services suppliers. In terms of economic interests, the agents would strongly prefer to maintain the commitments already made under the GATS or the level of commitments made for the existing FTA of which the country had already joined. If import competing sectors are not competitive enough to export their services, the regulatory authorities would be reticent to make any requests of market liberalisation to an FTA partner. Also, they would resist making higher quality provisions than those in the GATS.

What should be noted here is that, in the both cases, the domestic regulatory authorities are interested in protecting their regulatory autonomy and pursuing their regulatory objectives.

Table 1-2: Policy supply side: Specific interests in services trade negotiations

Actors	Interests
Lead ministry e.g. Foreign Ministry and Ministry of International Trade	<ul style="list-style-type: none"> •Policy interests: (i) Eliminate negative effects caused by existing FTAs, (ii) Strengthen preferential treatments (minimum GATS plus) vis-à-vis external regions, (iii) Achieve the GATS Art. V compatible FTAs •Economic interests: reflecting the export oriented services suppliers
Domestic regulatory authorities representing export oriented services suppliers	<ul style="list-style-type: none"> •Policy interests (i) Protect its regulatory autonomy, (ii) Pursue its regulatory objectives, (iii) Eliminate negative effects caused by existing FTAs, (ii) Strengthen preferential treatments (minimum GATS plus) vis-à-vis external regions •Economic interests Promote vested interests of the export oriented services suppliers
Domestic regulatory authorities representing import competing services suppliers	<ul style="list-style-type: none"> •Policy interests: (i) Protect its regulatory autonomy, (ii) Pursue its regulatory objectives •Economic interests: Protect vested interests as regulatory agency (against any preferential arrangements which offer more than GATS commitments)

c. Ideas

When it comes to ideas, we have to note that constructivist analysis involves complexity in differentiating interests and ideas as Hiscox (2007) explained that *[The] relationship between ideas and interests is still very murky, and will remain so until we have a better understanding of where new ideas about policy come from, and what explains which ideas catch on and spread.* (Hiscox 2007; 121).²³ Acknowledging the complexity of constructivist approach, this research project takes into account the role of ideas by defining it as a constituent of interests. We focus on ideas that directly affect services trade negotiations. In other words, ideas that are embedded both in the policy demand and supply sides, when they make negotiating positions for services trade negotiations, are underlined.

According to the existing literature on East Asian FTAs, underlying ideologies and norms of East Asian regionalism are: developmentalism (Dent 2007a; Dent 2008a; and Dent 2008b);²⁴ strong sovereignty/non-interference in ASEAN (Aggarwal and Chow 2010; Besso 1999, Narine 2006), incrementalism/gradualism in ASEAN (Aggarwal and Chow 2010) and nationalism in ASEAN (Narine 2006). Through qualitative interviews with policy-making actors, we will investigate whether these ideologies and norms constituted a foundation of interests for FTA services trade

²³ For example, Aggarwal and Lee (2011: 19) categorised what were generally considered as diplomatic incentives/interests to create FTAs in the existing literature (see 1.5 Literature Review, A. Political motivations) as ideas.

²⁴ Dent (2007a) highlighted East Asia's developmentalism versus 'market liberal' capitalism (Dent 2007a: 465).

negotiations. At the same time, we would not preclude any other ideas that might be discovered through qualitative interviews with policy actors.

B. Modelling institutions (supply side condition)

How are interests of policy supply side and policy demand side channelled through the decision-making process? We highlight the logic of inter-governmental coordination of the executive branch of Government because horizontal fragmentation of power in the decision-making of the executive branch reflects the heterogeneous characteristic of services trade (see Chapter 2). Although the lead ministry possesses higher ambitions from the foreign diplomacy perspective, the political power relating to domestic economic reforms is very limited in comparison with the domestic regulatory authorities which administer the services sector. In other words, what the lead ministry can do is no more than policy coordination. On the policy supply side, it is the domestic regulatory authorities which exercise political power during the services decision-making process. And domestic regulatory authorities can be characterised as actors of strong preference of status-quo (Hoekman, Mattoo, Sapir (2007)). From the inward perspective, these ministries have no incentives to lock in services trade agreements as domestic policy reform anchors (Hoekman, Mattoo, and Sapir 2007; and Francois and Hoekman 2010). From the outward perspective, the domestic regulatory authorities tend to have weak bargaining incentives for services trade negotiations (Hoekman, Mattoo, and Sapir 2007; and Francois and Hoekman 2010).

What does strong preference for the status-quo of domestic regulatory authorities indicate in terms of political institutions? Through the veto power model (Tsebelis 2002), we will assert how a strong preference for the status-quo of domestic regulatory authorities blocks making concessions and becomes an impediment to policy change. Implications of the veto power model for preference of status-quo by domestic regulatory authorities are described as follows:

- Definition: The agenda setter is the lead ministry. Veto players²⁵ are domestic regulatory authorities.
- We assume that the preference of a domestic regulatory authority is status-quo. Thus, a regulatory authority is considered as an individual veto player.
- Participation of the services-related domestic regulatory authorities into inter-governmental coordination (horizontal fragmentation of power) creates veto power.

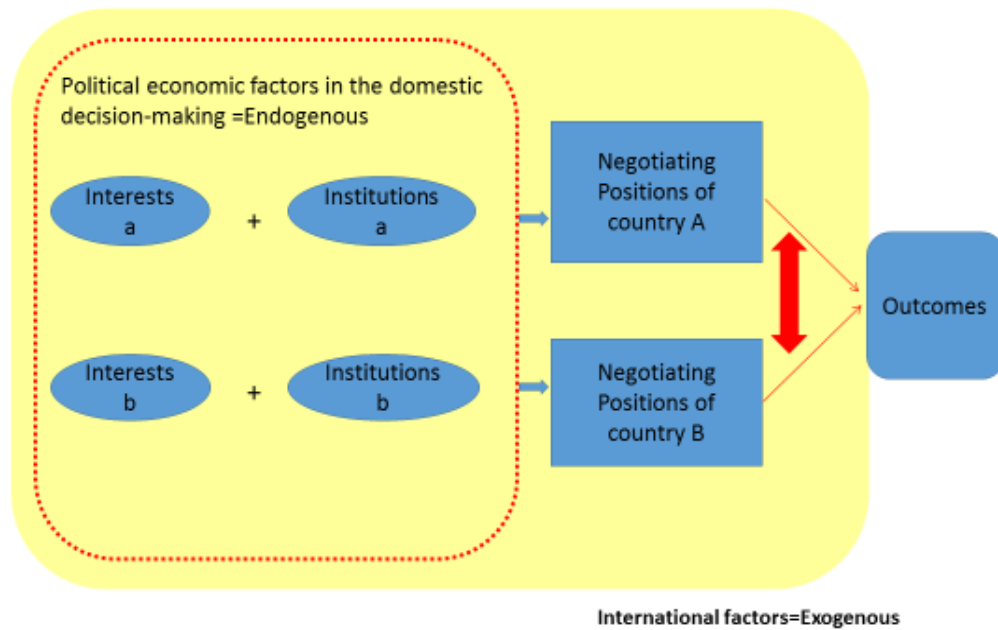
²⁵ Veto players are actors whose agreement is necessary for a change in the status quo (Tsebelis 2002, p37).

- All domestic regulatory authorities act as veto players because of a strong preference for status-quo.
- Mechanism of status-quo preference of domestic regulatory authorities: Regulatory autonomy; pursuit of regulatory objectives (or regulatory concerns) under sectoral segmentation; and ‘clientelistic’ relations with professional and sectoral organisations constitute status-quo preference.
- *The agenda setter has a significant advantage. However, this advantage diminishes as the number of veto players and the distances among them increase* (Tsebelis 2002, p19).

1.7.3 Approach for the research

In order to accurately explain influence of political economic determinants in the decision-making process on outcomes of bilateral FTA services trade negotiations, this project refines the approach taken in Solis (2010). According to Solis (2010), Japan’s domestic political factors are direct determinants of the quality of Japan’s FTAs. This approach significantly lacks accuracy when one argues outcomes of an FTA. We have to make clear that domestic factors form the negotiating positions of a country, but they cannot directly determine the negotiating outcomes of an FTA. As the two-level game metaphor of Putnam (1988) stylised, outcomes of negotiations are the result of economic diplomacy through the domestic and international level and interactions between them. This indicates that there are indirect correlations but no direct correlations between domestic factors and outcomes (quality) of the negotiations. To elaborate these arguments, for instance, one would need to take into account the domestic factors of all the signatory countries as these mutually affect outcomes of the FTA negotiations. Since a dependent variable of this research project is the shallow GATS-plus agreements of bilateral FTAs in East Asia, we examine domestic political factors of two signatory countries (see Figure 1-2). Provided that there is a bilateral FTA between Country A and Country B, we understand that interests of Country A and institutions of Country A shape the negotiating positions of Country A. Likewise, interests of Country B and institutions of Country B shape negotiating positions of Country B. The outcomes of the bilateral FTA between Country A and Country B are the result of the two-level game. By analysing domestic political factors of two signatory countries, we can more accurately explain correlation between domestic factors and outcomes of an FTA. Also, this approach helps identify the distinctive characteristics of East Asia and the heterogeneity of services as we examine domestic political economy of two signatory countries.

Figure 1-2: Approach for the research



1.7.4 Selection of case studies

This project applies interpretative case studies in order to generate hypotheses about the influence of the domestic factors (interests and institutions) on outcomes of services trade agreements under the East Asian FTAs. To date, there are 15 FTAs concluded inside East Asia up to 2016 and 14 FTAs entered into force during the 2000s (see Table 3-3). Amongst the existing FTAs concluded inside the region, we highlight the ASEAN-Japan relationship. This means that we select the bilateral FTAs concluded between Japan and ASEAN in the 2000s. These are: the Japan-Singapore FTA entered into force in 2002, the Japan-Malaysian FTA entered into force in 2006, the Japan-Thailand FTA entered into force in 2007, the Japan-Indonesian FTA entered into force in 2008, the Japan- Philippines FTA entered into force in 2008, and the Japan-Viet Nam FTA entered into force in 2009.²⁶ Then we examine the domestic political economy factors from the Japan’s perspective (Chapter 5: Case study 1) and the other from the ASEAN’s perspective (Chapter 6: Case study 2) by applying the approach explained in the previous section (1.7.3).

We selected the Japan–ASEAN relation in the Region for three reasons. The first is the geo-political reason. ASEAN became the hub of East Asian FTA activity by concluding FTAs with China, Japan and South Korea from the early 2000s. All the existing FTAs took the form of either plurilateral ASEAN plus one (China/Japan/South Korea) FTA or bilateral FTAs between an

²⁶ We do not examine the ASEAN plus Japan FTA which entered into force in 2008, since it does not cover services.

individual ASEAN member and China/Japan/South Korea. In this regard, one cannot ignore the presence of ASEAN.

The second reason is that among the three Far-East Asian countries (China, Japan and South Korea), Japan became a locomotive of creating FTAs with ASEAN. From the early 2000s, Japan concluded seven bilateral FTAs in addition to the ASEAN plus Japan FTA. In comparison, China concluded only two bilateral FTAs in addition to ASEAN plus China. And South Korea concluded only one bilateral FTA in addition to ASEAN plus in the 2000s.

The third reason is that the case study of the Japan-ASEAN FTAs can cover a wide range of services markets in East Asia. In other words, the selection of countries is well explained from the economic perspective. We categorise services markets in East Asia into five types (see Chapter 3: 3.3.4). These are: (a) a liberalised and competitive market (Singapore), (b) high income OECD countries with relatively liberalised services markets where competitiveness lags behind the manufacturing sector (Japan and South Korea), (c) a developing economy with a growing services sector and some uncompetitive sectors remaining in place (Malaysia and The Philippines), (d) developing economies with strong government intervention and imperfect competition (China, Indonesia, and Thailand), and (e) LDCs with a small-sized and under-developed services sector (e.g. Cambodia). Since no LDCs of ASEAN concluded bilateral FTAs, the last category is out of scope for our examination. In short, the case study of the Japan-ASEAN relation can cover a whole range of services markets in East Asia in terms of existing FTAs.

Lastly, we confirm that although China and South Korea are not included in the empirical studies, since we apply the interpretative case study, the analysis provided in Chapter 3 and 4 cover China and South Korea to understand the strong characteristics of East Asia and decision-making for services trade negotiations in practice.

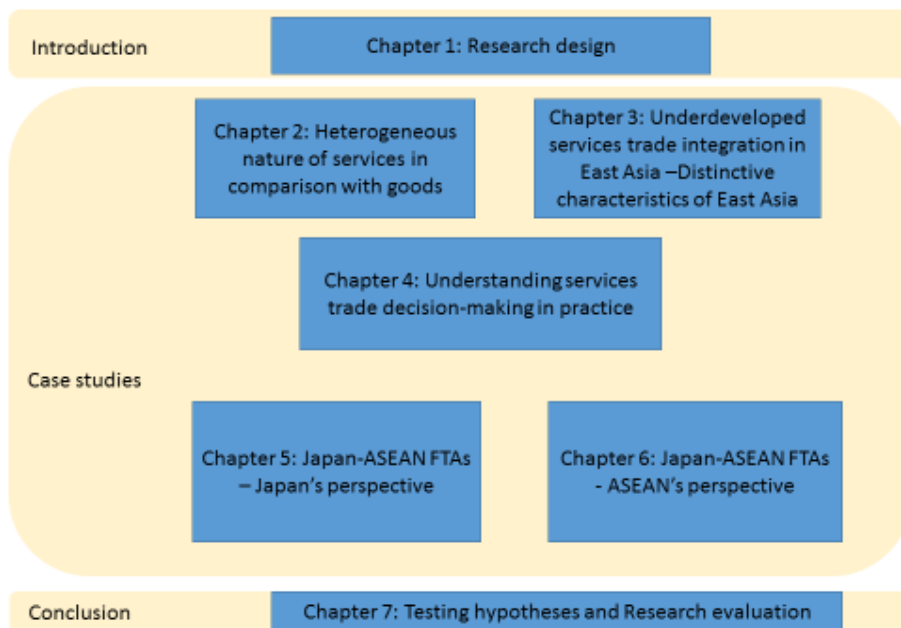
1.8 Structure of the thesis and methodology

1.8.1 Structure of the thesis

The thesis consists of seven chapters (see Figure 1-3). Chapter 2 conceptualises services trade to differentiate it from goods trade in terms of market, policy and political economy so that we can demonstrate the heterogeneity of services. Chapter 3 provides a background analysis which gives an overview of the level of services trade integration in East Asia from the market and policy aspects. It demonstrates the mal-integration of services trade in the Region. Chapter 4 serves to understand services trade policy-making in practice. The focus is on the actors and the domestic policy-making institutions so that one can link in the case studies. Chapters 5 and 6 are about a

case study of the Japan-ASEAN bilateral FTAs, one from Japan’s perspective (Chapter 5) and the other from the ASEAN’s perspective (Chapter 6). These chapters provide the empirical evidence on how interests and institutions in the domestic policy-making influenced the outcomes of the negotiations. Chapter 7 concludes this research project by testing hypotheses, referring to analytical challenges and areas of future research.

Figure 1-3: Structure of the thesis



1.8.2 Methodology

This research project applies qualitative methods. These include the background analysis, such as assessing the policy integration of services trade in East Asia, examining the legal nature of Japan-ASEAN FTAs, explaining the actors and institutions of decision-making process of services trade negotiations, and examining the domestic factors of Japan and the ASEAN countries to test hypotheses. To support the qualitative methods, data analysis is used, whenever applicable, in terms of the availability of data.

A. Data collection and analysis

Primary sources of data and information are: documentary research, including academic journals, reports and research papers of the international organisations (e.g. Asian Development Bank, ERIA: Economic Research Institute for ASEAN and East Asia, OECD, UNCTAD, World Bank, and WTO), government publications including the government related research institutes (e.g. RIETI: Research Institute of Economy, Trade and Industry of Japan), industry position papers, and the market surveys done by the private sector (e.g. JETRO: Japan External Trade Organization). Other supporting information are economic data and regulatory databases of the international organisations (e.g. Asian Development Bank, OECD, UNCTAD, World Bank, and WTO) and media reports. Given that the mother tongue of the author is Japanese, the project makes full use of Japanese written materials.²⁷ The following explains the data collection and analysis of each chapter.

Chapter 2: As this chapter contributes to conceptualising services trade, to differentiate it from goods trade, from the market, policy, and political economic dimensions, scholarly work in economics, political economy and law as well as the studies and technical papers of the international organisations are the main source of analysis.

Chapter 3: To provide evidence of underdeveloped services trade integration in East Asia, the chapter relies heavily on economic data, as well as the regulatory databases of the international organisations (World Bank, OECD and WTO). These include analysis of (i) markets (e.g. the level of services trade integration in East Asia, trends of industrialisation of each country) and (ii) regulatory environments (e.g. the level of commitments made under the East Asian FTAs and de-facto restrictiveness).

With regard to the services trade data, it should be noted that this project faces a technical obstacle since there are no comprehensive internationally comparable statistics which reflect the structure of the GATS such as modes of supply (cross-border supply, consumption abroad, commercial presence and presence of natural persons) and classification of sectors.²⁸ Also, data of the bilateral services trade relations is very limited. Given the situation, this project examines currently available international data (e.g. Balance of Payment (BOP) statistics and Foreign Affiliates Trade in Services (FATS) statistics), and uses them to review the current level of services market

²⁷ The information in English is very limited on the Japanese government websites as well as on the Japanese private sector's websites. For examples, more detailed policy proposals are available only in Japanese at the Keidanren's website.

²⁸ The international organisations have further developed the international statistics for services trade. See Manual on the Statistics of International Trade in Services 2010 which supersedes the 2002 version. (<http://unstats.un.org/unsd/tradeserv/TFSITS/MSITS/MSITS2010%20for%20the%20SC%202010%20at%202.22.2010.pdf>.)

integration in East Asia. Furthermore, we have to note that the international data of services trade is currently available only to 2011.²⁹

Chapter 4: Since this chapter serves to understand actors and the domestic decision-making structure for services, the main source of information are qualitative interviews with the government officials and individuals of the private sector supplemented by information of government websites as well as private sector websites. Academic work and the secretariat's reports under the WTO Trade Policy Review (TPR) are also used as secondary sources.

Case studies (Chapter 5 and 6): For the empirical study, which traces back the domestic policy-making process of each agreement, we heavily rely on qualitative interviews with government officials as well as individuals of the private sector. To supplement the qualitative interviews, the minutes of the negotiations released by the Japanese government (which exist only in Japanese), the policy proposals made by the business organisations and the IPE scholarly literature are used. As for analysing market and policy developments in the 2000s, we mainly use the WTO secretariat reports, as well as governments' reports under the WTO Trade Policy Review (TPR) of each country which substantially cover the period. The other resources are: periodical policy and economic reviews done by the international organisations (e.g. OECD, UNCTAD and World Bank), annual trade and investment reports of JETRO³⁰; annual white papers of the Ministry of Economy, Trade and Investment of Japan³¹; and the annual "National Trade Estimate Report on Foreign Trade Barriers" of the USTR.

B. Qualitative interviews

There are three objectives of conducting qualitative interviews under this project. The first is to trace the domestic decision-making negotiations which actually took place for the Japan-ASEAN bilateral FTAs as a source of analysis for the Case study 1 (Chapter 5) and the Case study 2 (Chapter 6). This includes (i) gathering facts (interests and institutions), and (ii) learning about interpretations of the cases by the policy makers and the business lobbyists to understand the ideas behind them. The second is to collect information and facts about actors and the domestic decision-making structure of services trade in East Asia for Chapter 4. The third is to extract market and policy trends in the 2000s and to elicit stories (Chapter 5 and 6), in addition to literature and data analysis.

²⁹ The reasons are explained in Chapter 3: 3.1.

³⁰ "Boueki Tousei Houkokusho" in Japanese.

³¹ "Hukousei Boueki Houkokusho" in Japanese, [Report on Compliance by Major Trading Partners with Trade Agreements - WTO, EPA/FTA and IIA].

For the first objective, the research embodied process tracing analysis together with the ‘attributed influence’ method.³² Evidence was collected through a combination of the semi-structured interviews and in-depth interviews. A series of interviews were organised through two field studies (Tokyo and Geneva) as well as video interviews in 2015. The interviewees were: (a) government officials who negotiated the FTAs under the subject and (b) lobbyists of the private sector who were involved in the domestic decision-making process for the FTAs under the subject (See Appendix 1: the list of interviewees for the case studies). For the field study in Tokyo, which took place in April 2015, the researcher’s network established during the previous position as a trade policy analyst at the Keidanren was used to access policy makers at the Japanese government and lobbyists from the Japanese private sector. Prior to the in-depth interviews, two questionnaires, one for the Japanese government and the other for the private sector, were sent to interviewees (see Appendix 3 and 4). The field study in Geneva, which took place in July 2015, as well as the video interviews during 2015, were organised for the case study 2: Japan-ASEAN FTAs –The ASEAN countries’ perspective (Appendix 1 to see the list of interviewees). The questionnaires (Appendix 5) were sent to all interviewees prior to the interviews as in the case of interviews with the Japanese government and individuals of the private sector.

As for the second objective, the first field study took place in April 2013 in Geneva. Semi-structured interviews with the services trade negotiators to the WTO who represented ASEAN, China, Japan and South Korea were conducted (See Appendix 1: the list of interviewees). Access was facilitated by the Japanese delegation to the WTO in Geneva as the researcher previously worked as services trade negotiator to the WTO representing Japan. The length of the interviews was 1.5 to 2.5 hours each. The interviews were held in accordance with the questionnaire (Appendix 2: the questionnaire for the field trip in Geneva in 2013) sent to the interviewees in advance. To identify the level of participation of the private sector in these countries, questions included the private sector’s role in trade policy-making in these countries.

With regard to the third objective, semi-structured interviews were conducted with international trade policy experts and scholars/researchers during the fieldwork in Geneva (April 2013 and July 2015) and Tokyo (April 2015). The list of interviewees is attached in Appendix 1. Similar to the interviews with government and the private sector, questionnaires were sent to the interviewees prior to the meetings (Appendices 6.1 and 6.2).

³² See Dur (2008a). The ‘attributed influence’ is based on a survey asking for a self-assessment of the lobbyists influence or a peer assessment of the influence of other groups. This research does not apply the ‘assessing the degree of preference attainment’ (Dur 2008a, p566).

1.9 A summary of findings

This is a summary of findings from this research project. It attests why the Japan-ASEAN bilateral FTAs concluded in the 2000s resulted in the shallow GATS-plus FTAs. For this purpose, we examine how domestic political determinants, which are interests and institutions, shaped the negotiating positions of Japan and ASEAN for the Japan-ASEAN bilateral FTAs. Our argument in the following chapters confirms that our hypothesis played a significant role in explaining political economy of services trade integration in East Asia.

First, in terms of institutions, a wide participation of domestic regulatory authorities into the decision-making process of FTA services trade negotiations constituted a fundamental blockage to liberalisation. The domestic regulatory authorities, which preferred the status-quo in order to maintain their regulatory autonomy and to pursue regulatory objectives, exercised a veto power against any policy changes. As a consequence, the lead ministry's negotiating positions were pushed backward and any concessions of commitment offers which sufficiently go beyond GATS-plus were hardly made.

Second, in terms of interests, there were no strong pro-liberalisation forces both on the policy demand side and the policy supply side. On the policy demand side, exporting interests were very limited. In the case of Japan, interests in FTA services trade liberalisation was nebulous. In the case of ASEAN, export interests were limited to some professional services (Mode 4). On the other hand, import-competing services suppliers and incumbents were afraid of the erosion of rents and adjustment costs. In the case of Japan, professional services suppliers were strongly against allowing in medical-related professionals. In the case of ASEAN, SOEs (State Owned Enterprises) and SMEs (Small and Medium-sized Enterprises) and sectoral organisations were afraid of making GATS-plus commitments. On the policy supply side, there were three negative factors. First, there was no incentive to lock in domestic services reforms by using the Japan-ASEAN bilateral FTAs. For Japan, Mode 4 liberalisation did not fit bilateral FTA negotiations. For ASEAN, since the countries were unilaterally liberalising services in accordance with their economic development agenda from the 1990s, FTA negotiations were not considered as a policy device to promote services liberalisation. What is more, many ASEAN countries even hesitated to commit the level of autonomous liberalisation so as to maintain its policy space. Second, strengthening regional supply chains in the manufacturing sector was highlighted during the negotiations, which consequently levelled down the ambitions of achieving a high-quality services agreement. Third, a speedy conclusion of FTA was prioritised under a huge pressure of policy competition of creating FTAs inside East Asia. Thus, services trade negotiators were prompted by the top-negotiators to make a deal instead of making time to achieve high-quality services agreements and commitments. We also found the ideas, which shaped interests of both policy demand and supply sides (i.e.

‘manufacturalism’ in the case of Japan; and gradualism, and developmentalism with notions of strong sovereignty in the case of ASEAN), undermined motivations for the services trade negotiations.

From the above, our conclusions from the empirical study of Japan and ASEAN can be summarised as follows. Services trade integration in East Asia lags far behind goods trade because the horizontally fragmented domestic-decision-making structure, which reflects the heterogeneity of services, constituted the first layer of political-economy impediment. And interests, which mostly reflect the distinctive characteristics of East Asia,³³ constituted the second layer of political economy impediment. Because of the double layered political economy impediments, the East Asian FTAs concluded in the 2000s resulted in the shallow GATS-plus FTAs.

³³ A lack of international competitiveness in the services sector as well as restrictive services policies are identified as the distinctive characteristics of East Asia (see chapter 3)

Chapter 2: The Heterogeneous Nature of Services in Comparison with Goods

2.1 Introduction

Classic international trade discussions have invariably lumped together trade in goods and services. In other words, the literature associates trade only with goods and minor attention was given to services sector. The classical approach is commonly observed when it comes to the literature on regional trade integration. Although economic integration cannot be attained without services trade integration, the primary focus is given to tariff reductions to examine the level of market integration and the level of trade agreements. The purpose of this chapter is to conceptualise services trade by focusing on the heterogeneity of trade in services in comparison with trade in goods in order to see its implication for the international political economy of services trade integration in East Asia, which will be examined in Chapter 4, 5 and 6.

The arguments of this chapter take the following procedure. First, the conceptual exercise of services trade in the existing literature is seen. Then the heterogeneity on the market dimension in terms of the services market structure and global services trade is examined. Next, an observation on policy dimension, which highlights (i) the heterogeneity of protective instruments as well as services trade barriers and (ii) preferential trade agreements as a tool to promote institutional integration, is followed. After looking at the heterogeneity of services trade at market and policy dimensions, we observe the heterogeneity of services trade from the political economy perspective. We underline incentives to promote plurilateral liberalisation in services and trade policy-making institutions.

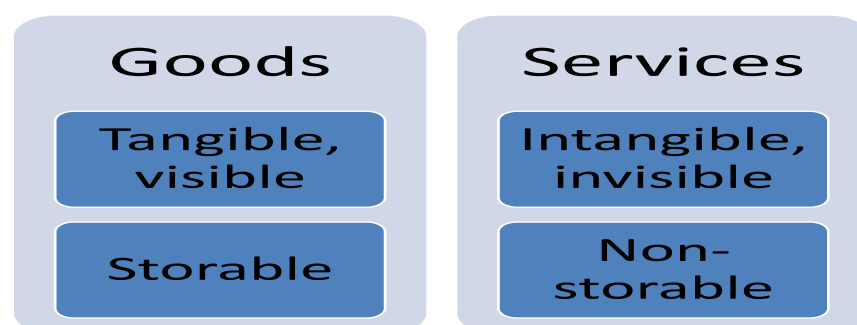
2.2 Conceptualising services trade

The nature of services

First of all, we clarify the nature of services in comparison with goods. According to Hill (1977, p.317), goods are defined as *a physical object which is appropriable and, therefore, transferable*

between economic unit whereas services are defined as a change in the condition of a person, or a good belonging to some economic unit, which is brought about as a result of the activity of some other economic unit, which is the prior agreement of the former person or economic unit. It is recognised that there are two distinct differences between goods and services (see for example, Copeland and Mattoo 2008). Whereas goods are: (i) tangible, visible, and (ii) storable; services are: (i) intangible, invisible and (ii) non-storable although some exceptions exist (see Figure 2-1). The intangible nature of services requires strong government involvement due to asymmetry of information.³⁴ The non-storable nature requires simultaneous production and consumption (Copeland and Mattoo 2008, p85), that implies that not all services can be tradable. These distinct differences by nature are considered as the basis of a conceptual exercise of services trade as they may cause important implications for the state of art in the domestic and international political economy.

Figure 2-1: Basic difference between goods and services



Definition and scope of services trade

How does the nature of services matter when it comes to trade? Conceptual analysis of services trade was first developed in the realm of economics, in works such as Hill (1977); and Sapir and Lutz (1981). Outside the realm of economics, the concept of services trade was intensively argued to design the international legal framework before and during the Uruguay Round, which was the first multilateral negotiations on services. For example, the study by Feketekuty (1988) shows the early stage of conceptual observations on services trade in the policy community and how the debate was developed as a preparatory exercise for the Uruguay Round. According to him, trade in services is that which is *linked to an international movement of people, information, money, or*

³⁴ This directly relates to our arguments in the case study (Chapter 5 and 6) about the strong regulatory concerns of the domestic regulatory authorities and its relation with market failures.

goods. He also conceptualised it by framing it in terms of an application of “value-enhancing services” to goods, people, money or information in the exporting country and a transfer of the enhanced goods, people, money, or information to the importing country with the help of internationally traded support services. (Feketekuty 1988, p28).

As a result of the Uruguay Round, the definition and scope of trade in services was further developed and incorporated into the General Agreements of Trade in Services (GATS) which entered into force in 1995. Since then, the definition provided under the GATS has been widely used for policy discussions as well as academic research. According to Article I of the GATS, the transactions are categorised into four types and defined as services trade as follows:

- Cross-border supply (mode 1): services are supplied from country A into country B.
- Consumption abroad (mode 2): consumer of country B moves for consumption to the country A of supplier.
- Commercial presence (mode 3): Services of country A are supplied through a commercial entity in country B (Foreign Direct Investment: FDI).
- Movement of natural persons (mode 4): natural persons of country A move to country B to supply services.

The GATS also classifies services trade into 12 sectors:

1. Business services
2. Communication services
3. Construction services
4. Distribution services
5. Educational services
6. Environmental services
7. Financial services
8. Health-related and social services
9. Tourism and travel-related services
10. Recreational, cultural and sporting services
11. Transport services
12. Other services not elsewhere included

Heterogeneity of services trade

When we compare trade in services with trade in goods, three stylised characteristics of services trade can be identified in the existing literature (François and Wooton 2001; Copeland and Mattoo 2008; and François and Hoekman 2010).³⁵

A. Tradability³⁶ -more complex than goods trade

Figure 2-2 illustrates tradability of goods and services for a comparison. In the case of trade in goods, a product is simply shipped from one country to another. In other words, international exchange takes place only through cross border trade. In comparison, services are basically non-storable. Thus proximity between the supplier and the consumer is required for its international exchange as mentioned earlier. This implies that international exchange takes place in the way a factor moves: either consumers cross a border (mode 2) or suppliers (either commercial entities or natural persons) have to cross a border (mode 3³⁷ and mode 4). In services trade, cross-border trade (mode 1), where service information crosses borders, is not a major way of international transactions (Copeland and Mattoo 2008) because of their heterogeneity. Jensen (2011) developed the concept of ‘tradability’ by classifying services into ‘tradable services’ and ‘non-tradable services’. He accounts for ‘tradable services’ as services which it is technologically possible to deliver at a distance inside a domestic market, which are, at least in principle, internationally tradable.

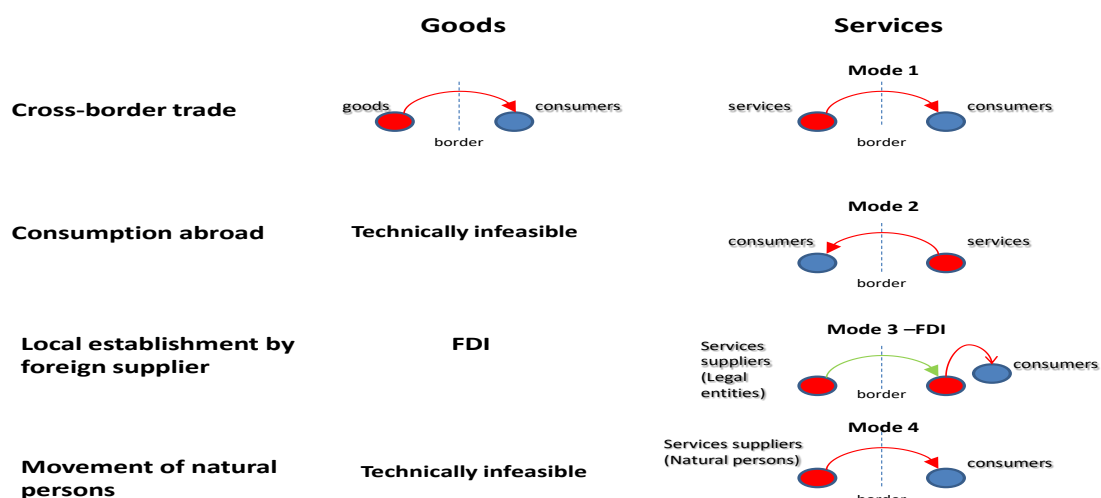
Due to complex tradability, the GATS became complicated to understand. For instance, one is required technical knowledge to negotiate services trade. This relates to negotiating capacity of developing countries, especially participation of the private sector in the domestic decision-making process (see Chapter 4).

³⁵Our arguments in the case study (Chapter 5 and 6) will show how three distinct characteristics of services trade: tradability, strong influence of domestic regulation, and direct effects of technological change affect the negotiating positions of Japan and ASEAN for the Japan-ASEAN bilateral FTAs.

³⁶The scope of transactions in services trade is defined wider than for goods trade in the policy community. While the scope of trade in goods includes only cross-border supply (mode 1), GATS covers FDI (mode 3) which is not the case for the GATT where trade and trade related investment are separately considered.

³⁷In most case, FDI in the case of manufacturing sector (goods) takes place as production nodes or plants while Mode 3 (FDI) of services takes place as transit points for sale of home production to foreign markets (François and Hoekman 2010).

Figure 2-2: A comparison of tradability of goods and services



B. Type of restrictions to trade – stronger influence of domestic regulation than for goods trade

The restrictions of goods trade normally take the form of border controls such as high tariffs. In contrast to goods trade, the scope of border restrictions of services trade is very limited. Instead, behind-border restrictions, specifically domestic regulations in this case, have a stronger influence. According to Copeland and Mattoo (2008, p84), domestic regulations which *often serve the dual purpose of responding to market failures and protecting local suppliers from foreign competition* give rise to trade barriers.³⁸

From the political economy perspective, as we explained in Chapter 1, the strong influence of domestic regulation is the reason why this research focuses on domestic political economy factors to attest our hypotheses.

C. More direct effects of technological change than in goods trade

Unlike goods trade, the modes of supply tend to be more directly affected by technological change because of the unique tradability of services trade (Melvin 1989). In fact, due to technological progress (e.g. electronic means of delivery) and diffusion of ICT (information and communications technology)³⁹, proximity between production and consumption is becoming unnecessary for some services (Mattoo et al. 2012a). The evolution of ICT-enabled services to be transformed into digital format and/or simply transferred through satellite and telecom networks. Services providers and

³⁸ Chapter 6 will demonstrate this is the case of ASEAN.

³⁹ Technological advancement includes falling travel costs and costs of ICT (e.g. IT hardware, interconnectedness of the hardware via the internet, and telecommunications costs).

consumers do not necessarily have to be at the same location at the time of production and consumption. This means that services which used to be non-tradable are becoming tradable. One example is that falling travel costs facilitate trade through mode 2 (the consumer moves for services supply) and mode 4 (the supplier moves for services supply). An empirical study on services trade of the US by Jensen (2011), which uses the developed concept of ‘tradable services’ and ‘non-tradable services’, shows that technological progress and diffusion of ICT change tradability of services.⁴⁰

Copeland and Mattoo (2008) also point out that technological progress and diffusion of ICT can also affect the relations of modes of supply in services. In many cases, modes of supply are complementary, but in some cases can be a substitute.⁴¹ For example, that legal services used to be provided only by mode 4 (lawyers move cross-border to provide legal services) have now become also available via internet (mode 1 or mode 2).⁴²

From the political economy perspective, the relation between technological change and modes of supply would influence the policy demand and supply sides’ interests. For example, the Japanese ICT sector is not interested in the GATS type services trade negotiations since they thought that the GATS does not reflect technological progress of the ICT sector and is technically outdated (See Chapter 5: 5.5).

Economic rationale for services trade – applicability of comparative advantage theory

Why would a country like to export services? What are the economic rationales behind exporting? A theoretical perspective of services trade has been analysed by economists from the 1960s. They examined whether trade theory, which typically explains goods trade can be also applicable for services trade (see Melvin 1989). Among these, the validity of comparative advantage theory and the Heckscher and Ohlin approach to services trade have been conceptually and empirically examined to see whether these theories are robust to demonstrate economic rationale for services trade.

To begin with, we briefly review what comparative theory is and how it was developed. The aim of the theory of comparative advantage is to understand what kind of forces drive trade between countries and how trade contributes to economic gains. Comparative advantage underlines the

⁴⁰ Technological development and exporting ability of developing countries will be discussed later.

⁴¹ They point out that substitutability of modes is affected not only by technological progress, but by consumer preferences, and the regulatory environment.

⁴² The relation between supplementary modes of supply and firms’ decision are discussed in Francois and Hoekman 2010. If firms are free to choose their modes of supply, they would choose the most cost-effective mix.

trade relations of countries by explaining that countries which have a relative advantage in producing goods will export goods to other countries.⁴³ Later, the H-O approach⁴⁴ extended the theory by focusing on the aspects of factor intensities and factor abundances. It explains that countries trade products which have different input intensities and relative abundance of factors (e.g. labor, capital, and land)⁴⁵. It is widely acknowledged that comparative advantage theory is a useful tool to analyse the economic rationale for services trade despite the differences from goods.

Among the literature on conceptual analysis, Hindley and Smith (1984) provided the application of comparative advantage theory to services trade by distinguishing the positive component and the normative component of the comparative advantage theory.⁴⁶ As for the observation on the positive component of the theory, Hindley and Smith hypothesised that countries with a relatively highly-skilled labour as well as substantial capital had a comparative advantage in the production of services, which they suggested to be normally the case of developed countries.⁴⁷ Hindley and Smith also predicted that technological advances would increase comparative advantage of developing countries in the future. The argument of the normative component of the theory is that it can be logically applicable to services trade as the comparative theory does not *ipso facto exclude international transaction involving services from its scope* (Hindley and Smith 1984, p374). As a result of the examination, they could conclude that the normative component of the comparative theory is applicable to services trade by remarking that *services are different from goods in ways that are significant and that deserve careful attention*⁴⁸, *but the powerful logic of the theory of comparative advantage transcends these differences*. (Hindley and Smith 1984, p389). The recent study of Copeland and Mattoo (2008) was a fine-tuned summary which took into account the relation between the economic theory of comparative advantage and four modes of services supplies. They stressed that comparative advantage theory is applicable to services trade and that the theory applies not only to cross-border trade (mode 1 and 2) but also commercial presence (mode 3) and movement of natural persons (mode 4).

Some economists have tried to demonstrate empirically the applicability of comparative advantage and the H-O approach to services trade in spite of the lack of data in services trade. The early stage

⁴³ See Ricardo (1821), Principles of Political Economy and Taxation.

⁴⁴ See Heckscher (1919) The Effects of Foreign Trade on the Distribution of Income. And Ohlin, B. (1933). Interregional and International Trade.

⁴⁵ It should be noted that H-O theory simply provides a two-factor (capital and labor) model. Later, economists have been extending theory using more factors, such as national resources, human capital, technology, the scale of economy, and market-imperfection.

⁴⁶ Positive theory (descriptive theory) explains the pattern of production and specialisation. Normative theory (or prescriptive theory) explains whether trade derived by comparative advantage can generate economic gains and investigates the optimal government policies (Hindley and Smith p370).

⁴⁷ Hindley and Smith acknowledged their hypotheses need further empirical analysis. In their study, an empirical study done by Sapir and Luts (1981) was used to support their hypotheses.

⁴⁸ The study raised three cases that reflect the characteristics of services sector: (i) regulation and licensing, (ii) investment and (iii) infant-industry protection for further careful analysis.

of empirical analysis was done by Sapir and Luts (1981). They empirically tested the determinants of comparative advantage in the freight services, passenger services, and insurance services. They found that the comparative advantage theory is empirically applicable and that the countries which are abundant in physical and human capital have a comparative advantage in services. In addition, location and economies of scale are critical factors in some cases. Li, Moshirian and Sim (2005) analysed the intra-industry trade in financial services. Their results suggest that relative abundance of human capital and physical capital are major factors of comparative advantage. They also found that mean per capita income, economies of scale, trade intensity, and the degree of market openness are important factors.

Further, recent empirical studies show strong evidence of the validity of comparative advantage theories to services. Nyahoho (2010) expanded the categories of services⁴⁹ using updated data, and tested the variables: physical capital, human capital, per capita GDP, economies of scale, and research and development. The result suggests that H-O theory is a useful tool to account for services trade, although he assessed that further improvement of the model is necessary. His findings also indicate that the significance of explanatory variables differs among ten categories of services. For example, human capital is the most significant determinant of the computer and information services, while R&D shows positive link in several categories of services. A recent study done by Jensen (2011) proved by strong empirical evidence that comparative advantage and H-O approach can be applied to the US services trade which has comparative advantage in skill-intensive and high-wage business service industries. He found that the workers engaged in the ‘tradable services’⁵⁰ have higher education and earnings in the US. And he concluded that the results demonstrate that ‘tradable services’ are exported to the rest of the world in consistency with comparative advantage. In other words, the US has comparative advantage in ‘tradable services’ industries and occupations. The findings of an empirical study done by Mattoo et al. (2012a) are also noteworthy. They found that in addition to two major important determinants of service exports: human capital and electronic infrastructure, they identified that the quality of institutions⁵¹ also shows a strong positive relation with services exports.

From the above, we can summarise as follows. In spite of the heterogeneity of services trade, the economic rationale for trade can be explained by using comparative advantage and the H-O approach just as for goods trade. The major determinants of exporting services trade include:

⁴⁹ These are passenger transport, freight, travel, communications services, construction services, insurance, financial services, computer and information services, royalties and licence fees, and personal, cultural and recreational services.

⁵⁰ As noted earlier, he classified services industries and occupations by tradability and categorised into two groups: tradable services and the non-tradable services.

⁵¹ In Mattoo et al. (p7, 2012a), the quality of institutions includes the degree of corruption, complexity of export procedures, and rigidity in employment law. We have to recognise the definition of ‘institution’ in terms of international political economy is much wider than their narrow definition.

human capital, physical capital and the electronic infrastructure.⁵² Other factors, such as institutions, per capita GDP, research and development, location, economies of scale, trade intensity and degree of market openness also show positive relations, though the degree of intensity differs by services sectors.

2.3 The Market dimension – market structure and global services trade

The assessment of market structure should not be ignored when one analyses the market integration of the services sectors as the market structure strongly affects market access and the degree of integration inside a region (see for example François and Wooton 2001). This section aims to provide a theoretical analysis of the services sector in two dimensions: (i) market structure and (ii) global trade in services, in order to facilitate the empirical analysis of the services sector in East Asia (Chapter 3: 3.2). By examining the domestic market structure, one can identify the characteristics of the services firms as actors of domestic political economy in trade. By looking at the structure of global trade, one can understand the economic power balance of the services sector, namely in the relation between developed and developing countries.

Characteristics of services market structure

According to the literature (François and Wooton 2001; Copeland and Mattoo 2008; Hoekman and Mattoo 2008; and François and Hoekman 2010), the services market structure has three strong characteristics. These comprise: (a) public character, (b) natural monopoly and imperfect competition, and (c) division of labour in production.

(a) Public character

We can see a strong public character in the services sector. Many services sectors are traditionally publicly owned or services are provided under regulated monopolistic conditions. Some services such as educational, health, water supply, postal services are illustrated as examples of public oriented services sectors. Other sectors such as communications, transportation, and financial sectors used to be publicly owned. Then privatisation took place during the late 1980s and 1990s in many countries followed by introduction of competition.⁵³ However, strong restrictions to protect incumbents still tend to remain especially in developing countries.

(b) Natural monopoly and imperfect competition

Because the service sectors cover from the upstream market to the downstream market, economic

⁵² According to economic analysis of three major determinants, the ASEAN government's positions to focus on human capital, physical capital and the electronic infrastructure to develop its domestic services sector rather than services trade liberalisation (Chapter 6) is rational.

⁵³ See Hoekman and Mattoo (2008).

agents tend to gain and exercise market power. In the network industries (e.g. telecommunications, electricity, gas, postal, water and transport), which are vertically integrated and require economies of scale for their operation, natural monopolies tend to arise. Even if not at the point of natural monopoly, traditionally services sectors are intensively regulated due to asymmetry of information and suchlike. The result is a low degree of competition, as with professional services.⁵⁴

(c) Division of labour in production

The services sector can be sub-divided into smaller segments of services in relation to the production process. Hindley and Smith (1984) express a prominent role of services as ‘an intermediate good’. François and Hoekman (2010) observe that “*services serve a coordination role and make possible a further subdivision of tasks and wholesale reorganisation of production*” (François and Hoekman, 2010, p651).

Characteristics of global trade in services

(a) Developed countries as major exporters in global trade in services

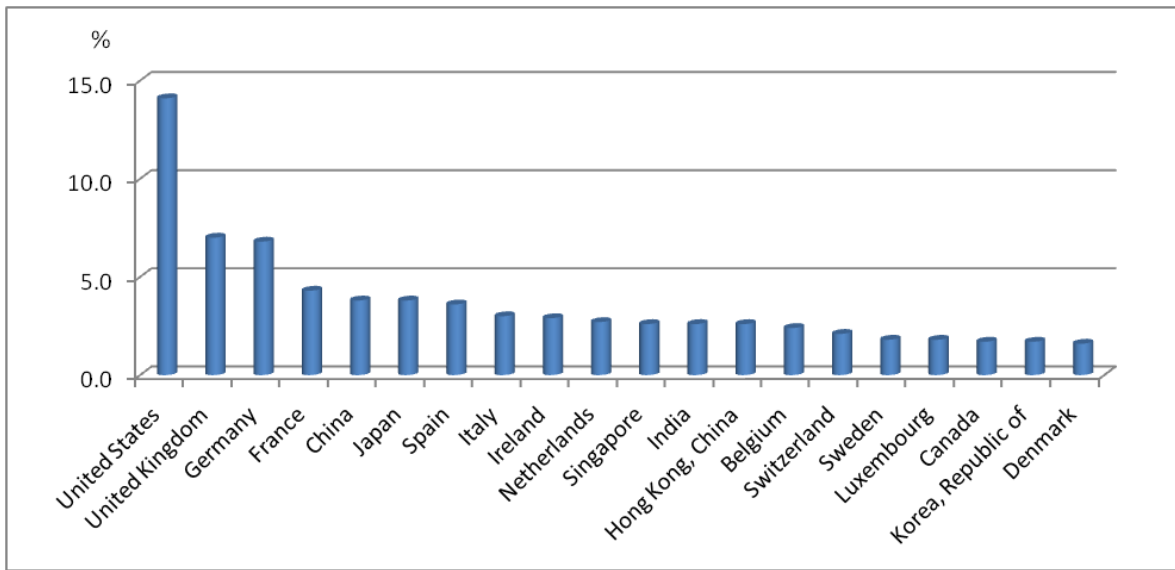
Mode 1 and Mode 2: Developed countries retain their place as major suppliers of global trade in services in terms of Mode 1 and Mode 2.⁵⁵ As can be seen from Figure 2-3, the United States accounts for almost 15 per cent of world trade in services. Other OECD countries, such as the EU member countries, other European countries and Japan are listed in the top 20. One reason is that *services industries engaging in international transactions tend to be organised around information and its exploitation* (Hindley and Smith 1984, p386). As comparative advantage suggests, it is developed countries which have a relatively large skilled labour force and substantial capital export services. The other reason is that the services intensity of economies increases as per capita income increases (see Hoekman and Mattoo 2008).⁵⁶ This implies that developed countries are potential providers in global services markets.

⁵⁴ See Rincon-Aznar et al. (2010).

⁵⁵ Services trade data provided by the international organisations (e.g. the World Bank and the WTO) covers trade flows in Mode 1 and Mode 2 but not Mode 3. See the World Bank Trade in Services Database (<http://data.worldbank.org/data-catalog/trade-in-services>).

⁵⁶ Hoekman and Mattoo (2008) provides several demand-and supply-side reasons for this, such as high income elasticities of demand for services (which is higher than 1), labour productivity improvements in providing consumer services, demand for intermediate services and demand for outsourcing by firms and government in accordance with economic and social structural change through development.

Figure 2-3: Leading exporters in world trade in services, 2010



Source: WTO International Trade Statistics 2011

Mode 3 (FDI): Mode 3 (FDI) plays a significant role in services trade among the four modes of supply, accounting for 55-60 per cent of world services trade.⁵⁷ However, due to a deficiency of publicly available data on services investment (Mode 3),⁵⁸ economic researchers in the area have been unable to provide a comprehensive analysis of world trends. Currently researchers are developing new micro-level data on services investment (Mode 3) to improve the situation. According to Kirkegaard (2012), who introduced a new micro-level of data sources⁵⁹ to provide a detailed sector-specific analysis of services investment in ADB regional members in Asia,⁶⁰ OECD countries dominated almost three-quarters of inward transactional FDI (mode 3) in services to ADB regional member countries between 1988-2011.⁶¹ As can be seen from the Figure 2-4, among East Asian countries, Japan, Singapore, Hong Kong China, China, and Malaysia were in the top-ten source economies of FDI (mode 3) in services to ADB regional member countries.⁶² However, the size of FDI (Mode 3) from the U.S. is remarkably large in comparison with that of others.

⁵⁷ From the World Bank website (https://www.wto.org/english/res_e/statis_e/data_day15_e/jose_guilherme_reis.pdf).

⁵⁸ The traditional data used for analysis of FDI trends is the data collected in accordance with IMF Balance of Payments Manual Fifth Revision. Since many developing countries face a lack of capacity to collect data, the traditional data is not comprehensive in terms of coverage, periodicity, timeliness, quality and integrity (Kirkegaard 2012, p3).

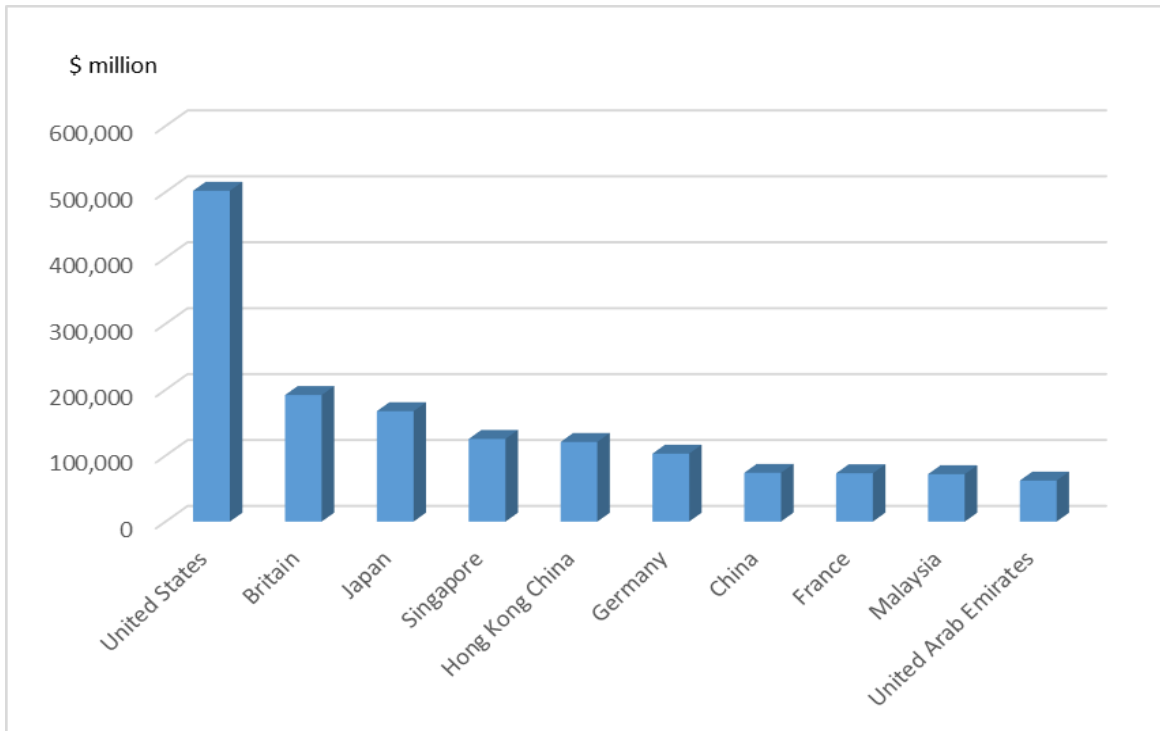
⁵⁹ See Kirkegaard 2012, p6.

⁶⁰ There are 48 ADB regional members within Asia and the Pacific (<https://www.adb.org>).

⁶¹ Kirkegaard 2012, p14

⁶² One should note that the data is inward FDI to ADB regional member countries, instead of global level.

Figure 2-4: Inward Transactional FDI in services (Mode 3), Source Country, 1988-2011



Source: kirkegaard (2012), p14

(b) Global value chains (GVCs) and potential for developing countries

The classic trade relationship, which is developed countries as exporters of services trade and developing countries as importers, is changing (Ghani, Grover, Kharas 2011; and Mattoo et al. 2012). Thanks to advances in ICT, non-tradable services are becoming tradable (e.g. mode 1 trade in IT sector increased). Further, as international air flights become cheap, mode 4 is becoming a major source of supply for developing countries (e.g. nurses, IT service providers and infrastructure services providers). This provides great opportunities for developing countries to export services.

In addition, it should be noted that developing countries are participating in global value chains (GVCs). GVCs is a term explaining *the possibility of slicing up and optimising value chain activities among multiple companies and various geographical locations* (WTO and IDE/JETRO 2011h, p10). Thanks to technological advances and the reduction of transport costs, a vertical production process is becoming more fragmented into tasks which can be internationally traded. In fact, recent trends show that division of labour expands to the global level. It is well understood that GVCs have been expanding in the manufacturing sector and that the services sector plays an important role in supporting division of labour in the manufacturing sector. In other words, “a

chain or network of services” (Maurer and Tschang 2011) enables effective GVCs in the manufacturing sector. An empirical study done by WTO and IDE/JETRO (2011h) shows that services trade is now becoming an important segment of growing GVCs.

According to the WTO and IDE/JETRO empirical analysis, a value chain takes place not only in the manufacturing sector but also the services sector, such as ‘business process outsourcing (BPO)’ or ‘information technology-enabled services’ (ITES)⁶³, and distribution and retail sales in East Asia. Developing countries in East Asia are increasingly benefitting from emerging GVCs relating to the services sector. Maurer and Tschang (2011) explain the new trend that GVCs exist in the services sector itself, not only in the manufacturing sector or to facilitate the GVCs in the manufacturing sector. Global services supply chains can be seen in sectors such as telecommunications; computer and IT services; banking services; education services; research and development services; legal, accountancy and management services; and architecture and engineering services (Maurer and Tschang 2011; and PECC and ADB Institute 2011).

What should be noted here is that analysis of GVCs and global services supply chains became available from late 2000s to early 2010s (Box 2-1). Both the private sector and government were now aware of an increasing role of GVCs and global services supply chains at the time of services trade negotiations for the Japan-ASEAN bilateral FTAs (see Chapter 5 and 6).

⁶³ BPR and ITES includes the services such as R&D, data processing, call centres, virtual assistance, legal support, medical support, finance and accounting, software and applications development (see WTO and JETRO 2011, p24)

Box 2-1: Trade Development in East Asia –From the flying geese model to IPNs, then to GVCs?

The ‘flying geese’ model developed by Akamatsu (1935) has been often cited to explain the pattern of trade and development in East Asia. Akamatsu (1935) discovered a pattern of trade related to the pattern of development of Japanese industry. Starting from the textiles in the 1930, Japan went through the sequential stages of trade development: importing a new product, localisation of producing the new product, exporting the new product, catching-up by Newly Industrializing Economies (NIES), shifting to other production. And NIES experienced the same sequential stages followed by ASEAN. In this way, industrialisation in East Asia took place led by technology transfer and comparative advantage. Since the pattern of development appeared on a time-series-graph forms ‘V’ shape and looks like ‘flying geese’, it was named ‘flying geese’ model.

From the 1990s to the 2000s, literature on East Asian economic integration (Kimura and Ando 2005; Kawai 2007; Ando 2006; and Kimura 2006a)) underlined that economic integration in East Asia was led-by international production networks (IPNs) namely driven by the Japanese manufacturing sector. IPNs were defined as vertical production networks of intra-firm and inter-firm linkages which were extended across the countries in the region. What should be noted here is that role of services trade was neglected in the literature since economic literature on IPNs used the traditional statistical measurement of trade which include the full export value of ‘embodied services’ (services input during the manufacturing production process) into manufacturing exports.

The statistical measurement for GVCs derived from Input-Output Tables paved a way to identify the emerging ‘embodied services’ in international trade. The issue of GVCs and the roles of services trade is attracting the attention of economists (Gareffi and Sturgeon 2009; Maurer and Tschang 2011; Drake-Brockman and Stephenson 2012; and Stephenson 2013). However, there exist several statistical limitations and the economic study on services trade dimension of GVCs in East Asia is still at the initial stage.

2.4. The Policy dimension

2.4.1 Instruments of protection and impediments to services trade integration

The market is integrated when the free movement of goods or services is attained. However, the market would hardly be integrated when impediments restrict free movement. In terms of political economy, it is crucial to identify how governments intervene in the market to protect their domestic market and what kind of government interventions are likely to become impediments to foreign services suppliers. Based on that, one should clarify how government intervention for trade in services differs from trade in goods. We differentiate here between two types of trade barriers. One consists of measures which governments intentionally introduce to protect the domestic services sector. The other is government interventions in the market which are introduced without intention of restricting trade which, however, become de-facto impediments⁶⁴ to foreign services suppliers. In practice, differentiation between the two is not easy, because *at the domestic level, in almost all economies, the services sector is the target of government intervention and regulation of a nature and degree which is different from the intervention to which non-service activities are subject.* (Hindley and Smith 1984, p377)

Instruments of protection

The significant difference in comparison with trade in goods is that barriers to trade in services are more complicated. Copeland and Mattoo (2008) provided three reasons for this. First, whereas trade in goods physically crosses the border and is subject to tariffs as well as customs procedures, trade in services is intangibly delivered from supplier to consumer. Therefore, applying tax is technically infeasible. Second, the modes of supply for services are more complicated than for goods. Lastly, many services are highly regulated or are provided by the public sector.

Table 2-1 shows a comparison of protection measures between goods trade and services trade. While tariffs are a common way to protect the domestic market in the case of goods trade, services trade policies tend to take the form of non-tariff barriers (NTBs), such as prohibitions, quotas, qualification and licensing (see Box 2-2). As is the case with goods, NTBs are not transparent and are difficult to measure. The significant difference is that the institutions and domestic regulations are more complicated than for goods as many regulatory agencies are involved in protection

⁶⁴ De-facto impediments can be explained in economics as the measures which unintentionally make foreign suppliers' operation relatively more costly (Copeland and Mattoo 2008).

measures.

Table 2-1: Characteristics of protection measures – a comparison between goods trade and services trade

	Goods trade	Services trade
Tariffs	<ul style="list-style-type: none"> • Common device of protection • Easy to measure • Negotiation focal point is clear 	<ul style="list-style-type: none"> • Technically infeasible
Non-tariff barriers	<ul style="list-style-type: none"> • As tariff goes down or are eliminated, NTBs are highlighted for further liberalisation. • Difficult to measure, not transparent. • Negotiation focal point is not clear 	<ul style="list-style-type: none"> • Barriers take the form of NTBs • Difficult to measure, not transparent. • Complicated institutions (e.g. many regulatory agents are involved) • Negotiation focal points are not clear • Pervasiveness of NTBs makes services liberalisation difficult

Box 2-2: Examples of government protection measures

- Control of the rates charged by utilities
- Control of entry into and of rates charged in various modes of transport
- Control by licensing and/or numerical restriction of entry into many services such as the law, accountancy, medicine, hairdressing and taxi driving,
- Government ownership or control of telecommunication, broadcasting, cable television and other media,
- Detailed supervision of the structure and practices of banks, insurance companies, security traders and other financial companies.

(in Hindley and Smith 1984, p378)

Restrictions relating to Mode 3

- Application of some form of screening or registration process which causes unnecessary burden for the foreign investors
- Restrictions on the level or share of foreign ownership (often relating to privatisations)
- Case-by-case assessments based on vague national interest criteria
- Restrictions on ownership and control (e.g. the share of board membership)
- Performance requirements or input controls

(in Findlay and Warren 2000, p53)

Impediments of services trade integration - Domestic Regulations

Whether governments have an intention to protect the market or not, domestic regulations can be impediments to services trade. Economists observe that the services sector is more highly

regulated than other sectors due to market failures.⁶⁵ Types of market failures include:

- (i) Market power: To prevent firms from exercising market power (natural monopoly or oligopoly), government introduce pro-competitive regulations.
- (ii) Imperfect and asymmetric information: To keep quality of services and protect consumers from imperfect information, regulations such as licensing, technical standards, qualification requirements, prudential regulations are introduced.
- (iii) Externalities: (e.g. universal service obligations (= equity) in a network sector)
- (iv) Public goods: Governments have to consider non-economic objectives as public policy objectives such as protecting health, safety and the environment.

When governments react to resolve market failures, it is considered as legitimate.⁶⁶ Box 2-2 shows some examples of domestic regulations in the banking and financial sector and telecommunications sector. In the case of the financial sector, major objectives of regulations are: (i) to constrain the use of market power, (ii) to protect smaller and less informed clients against failure or adverse behaviour of financial institutions, and (iii) to ensure systemic stability. Although governments pursue legitimate objectives, the regulations can still be considered as de-facto trade barriers for foreign services suppliers. In practice, the regulations can be also become a tool to protect local service suppliers from foreign services suppliers.⁶⁷ Hindley and Smith (1984) point out that once the service supplier fulfils the regulatory requirement, the regulatory agency “*is in imminent danger of ‘capture’ by the industry, of being more concerned with protecting the interests of suppliers than those of consumers*” (Hindley and Smith 1984, p380).⁶⁸

⁶⁵ See Hindlay and Smith (1984), Copeland and Mattoo (2008) and others.

⁶⁶ We will argue the issue of market failures in the context of the status quo of domestic regulatory authorities by using veto power model in Chapter 5 and 6.

⁶⁷ In economic terms, regulation is justified: if market failures are overcome; the least-cost form of regulation is opted for; and the net benefit is positive.

⁶⁸ This relates to our arguments of interests of domestic regulatory agencies in Chapter 5 and 6.

Box 2-3: Types of domestic regulations of services

Example 1. Banking and financial sector:

(a) restrictions which limit competition: licensing restrictions on the entry of new domestic or foreign banks, equity limits that prescribe minimum domestic or government involvement and operating restrictions limiting the nature and scope of bank operations

(b) Restrictions which meet legitimate objectives: For prudential purposes, minimum capital requirements, capital adequacy ratios, liquidity reserve ratios, possible coverage by an insolvency guarantee or deposit insurance scheme, and transparency measures.

Example 2. Telecommunications:

(a) Restrictions which limit competition: limited or heavily prescriptive licences, equity limits, and failure to adopt a pro-competitive regulatory regime.

(b) Restrictions which meet legitimate objectives: regulations to meet universal services obligations

(in Dee 2010a)

2.4.2 Preferential services liberalisation

From the theoretical point of view, promoting services trade liberalisation by international agreements, either multilateral or plurilateral, is very difficult in comparison with goods due to the heterogeneity of services (Hoekman, Mattoo and Sapir (2007); and François and Hoekman (2010)). The policy options to promote services trade are: reciprocal liberalisation through the multilateral system under the GATS, preferential liberalisation or unilateral liberalisation. Preferential services liberalisation is a political economic strategy to promote regional economic integration by improving market access among the member countries of the agreements. However, the level of liberalisation is not as clear as is the case for goods trade and attaining substantive liberalisation is more difficult than for goods. We highlight three major differences in comparison with goods.

First is that the GATS has a more flexible structure than in the case for goods trade under GATT. For example, the GATS takes a liberalisation approach which is called the ‘positive list approach’. This means that only the sectors for which commitments are made become subject to liberalisation undertakings. Another example is that whereas GATT in principle prohibits quantitative restrictions or denial of national treatment, GATS prohibits them only where commitments are made. François and Hoekman (2010) raised a concern on effectiveness of the GATS in terms of liberalisation by explaining that *how much discipline the agreements impose, whether in terms of required policy changes on paper or in terms of actual implementation, is not known*. (François

and Hoekman 2010, p678). Since most of FTAs take the GATS style⁶⁹, the rules governing services trade liberalisation within the region and the type of commitments they make is mostly the same as in the GATS. This implies that services liberalisation in an FTA itself cannot become a strong promoter of services trade integration in comparison with preferential liberalisation in goods.

Second, services liberalisation is more complicated than in the case of goods. In other words, the policy targets of services trade liberalisation or liberalisation criteria, are not clear as is the case of goods. As pointed out earlier, tariffs are major barriers in the case of goods trade. Thus, governments can reduce or eliminate tariffs as the first policy priority for liberalisation. The private sector can also easily request tariff reduction or elimination of the sectors of their concerns. Given that regulations themselves are barriers in the case of services, simple tariff reduction as such cannot be the option. Thus, regulatory reforms become necessary. Furthermore, as pointed out by Copeland and Mattoo (2008), services trade liberalisation cannot be achieved without subsequent domestic regulatory reform. Dee (2010a) suggested that for substantive market integration in services, governments should focus on (i) first restrictions that explicitly limit competition, (ii) then, the domestic regulations that are intended to meet legitimate objectives but are more burdensome than necessary. On the other hand, Dee admits the fact that judging whether regulations are more burdensome than necessary is not easy because of the different level of development among members of a preferential trade area. The complexity of services liberalisation and of the way to achieve substantive market integration may also diminish the private sector's incentive to promote services liberalisation through FTAs as they do not know how to set up their policy targets.

Third, domestic politics matters more than in goods trade liberalisation as many regulatory agencies are involved through the process of domestic reform. Mattoo and Amin (2006) pointed out that impediments to services trade integration are not necessarily limited to regulations alone. They emphasise a role of governance institutions⁷⁰ especially in developing countries. They explain that services sectors are more institutionally dependent than other sectors because services need a more complicated web of transactions and rely more on regulations to redress asymmetry of information.

⁶⁹ Some PTAs introduce the 'negative list approach', the so-called NAFTA approach, where liberalisation applies to all sectors unless a country specifies exemptions.

⁷⁰ In Mattoo and Amin (2006), governance institutions mean institutions relating to regulatory and contract enforcement.

2.5 The Political economy dimension

From the political economy dimension, how are services trade negotiations different from goods trade negotiations? Here we highlight (i) incentives to promote services trade negotiations, (ii) trade policy-making institutions by reviewing the existing literature and (iii) impediments to the WTO services trade negotiation.⁷¹ The case study (Chapter 5 and 6), which apply our policy demand and supply side model modified from Mattli (1999a), will reflect the theoretical arguments below.

2.5.1 Incentives to promote services trade negotiations

François and Hoekman (2010) diagnose incentives to promote services trade negotiations by focusing on two explanations: (a) Incentives to use trade agreements as domestic policy reform anchors, and (b) bargaining incentives. According to the literature, incentives for services trade negotiations are weaker than that of goods trade.

- (a) Weak incentives to use trade agreements as domestic policy reform anchors: To promote trade agreements for the purpose of using them as an anchor of domestic reforms of trade partners, the pressure of the domestic private sector for market access has to be strong enough. In the case of services, *export interests are weaker than in manufacturing sector because services are more difficult to trade* (François and Hoekman, 2010, p678). As a result, the vested interests of import-competing sectors to resist opening the domestic market overcome the interests of export-oriented services pushing for liberalisation of foreign markets. Even if the interests of export-oriented services sectors overcome the pressure from import-competing services sectors, reducing trade barriers through trade negotiations is difficult in practice. This observation by François and Hoekman implies that the ineffectiveness of services trade agreements diminishes the willingness of export-oriented services sectors to push governments promoting liberalisation through FTAs. François and Hoekman also observe that achieving domestic reform of the services sector through trade agreements is difficult by illustrating the experiences of the EU internal market for services.⁷² They also point out that if the size of the markets of negotiating partners is small, the incentive to promote domestic reform is diminished.

⁷¹ IPE literature on services trade policy and FTAs in general is scarce. Research on services trade has been mostly initiated by international organisations (e.g. World Bank, WTO, and OECD).

⁷² Chapter IV of this project will observe in detail.

- (b) Weak bargaining incentives: François and Hoekman (2010) point out a lack of bargaining incentives in services trade. In their analysis, incentives of the potential direct investors to use the GATS negotiation process as well as reciprocity mechanisms including regional agreements are very weak. They also observe that bargaining incentives of governments are weak because the *adjustment costs associated with service-sector liberalisation may be lower than in the case of goods* (François and Hoekman 2010, p679).

2.5.2 Trade policy-making institutions

VanGrasstek (2011) underlined the political economy of services in regional trade agreements. Although a policy working paper by the OECD secretariat is not a contribution by an IPE scholar, it gives an important insight to differentiate services trade negotiations from goods trade negotiations. For example, he identifies two differences in domestic politics between trade in services and trade in goods in terms of institutions.

- (a) Complicated “division of labour among domestic governmental institutions” of services: There are many regulatory agencies policing services-related domestic regulations, and in some countries several layers of governance (e.g. states, provinces, and cantons) exist inside a country. The regulatory agencies concerned exercise “exclusive” or “shared” regulatory power which make it difficult to promote negotiations.
- (b) Lack of awareness of services sectors as an actor of trade policy formulation: Producers in some services sectors are less aware of themselves as producers and more likely not aware that they are potential exporters. Thus, services sectors are less likely to participate actively in trade policy formulation.

As for the first point, there are two distinct institutional characteristics of government as an actor of services trade diplomacy. One is horizontal fragmentation. Many ministries are involved in services trade policy especially during the domestic policy-making process and sometimes even the international negotiation process. The services cover a wide range of industries which are divided into eleven categories such as transport, communication, construction, distribution, educational, environmental, financial, health-related and social services, tourism, business, and cultural and sporting.⁷³ These services sectors are all supervised by a certain ministry or regulatory agency. Hence, when it comes to services trade negotiations, whether multilateral or plurilateral, all of these regulatory ministries or agencies become potential actors to reflect their offensive or defensive interests. The second institutional characteristic is vertical fragmentation. The situation

⁷³ See the GATS classification described in Chapter 2: 2.2.

becomes more complicated in federal states as provincial governments administer the services-related regulations (e.g. licensing and qualification of professional services, health related services, educational services and water or energy related services) at the sub-national level. In this case, a provincial government may possibly exercise regulatory power through the domestic decision process.

2.5.3 Impediments to the WTO services trade integration

Hoekman, Mattoo and Sapir (2007) analysed why the WTO services trade negotiation lacks dynamism by examining six hypotheses: (i) due to technological advances, more and more services are becoming available through cross-border trade without being affected by policy, (ii) many countries unilaterally liberalised markets expecting that liberalisation increases competition in the services industry and brings about economic efficiency, (iii) there are perceptions to advance preferential trade agreements as a substitute for the WTO, (iv) resistance to further liberalisation due to adjustment costs and vested interests of incumbents exist in the domestic politics, (v) governments concern that the ability of regulators might be limited by multilateral rules and disciplines, (vi) the domestic regulatory structures of sharing/overlapping regulatory competencies between national and provincial governments makes international negotiations more complicated.⁷⁴ They argued that all factors play an important role in explaining the little progress made in the WTO services trade negotiations. And among these factors, regulatory constraints, which are characterized as one of the most unique features of services trade in comparison with goods trade, are highlighted as a critical factor to explain the political economy of services trade. The literature provides basic political economic insights of services trade liberalisation under the multilateral system which can be also applied to plurilateral negotiations.

2.6 Conclusion

This chapter captured the heterogeneity of services trade by distinguishing it from trade in goods to see the implications for our political economy arguments on services trade integration in East Asia. The following is a summary of the key findings:

⁷⁴ The literature solely relied on a quantitative analysis (e.g. a regression model) to prove the causality between a dependent variable and six independent variables. The analysis lacks empirical evidence which is supported by the sectoral, mode-based or country case studies.

From the conceptualisation of services trade (2.2), we can see that the intangible and non-storable characteristics of services by nature generate the heterogeneity of services trade such as more complicated modes of supply, stronger effects of domestic regulations, and more direct effects of technology advancement on tradability in comparison with goods trade. In spite of the differences, comparative advantage can be applied as a framework to examine the economic rationale for services trade.

Observing services trade from the market dimension (2.3), we also found strong characteristics. First, the services market structure exhibits heterogeneity such as (i) strong public character, (ii) natural monopoly and imperfect competition, and (iii) division of labour in production. In terms of global trade in services, it is observed that developed countries are major exporters. At the same time, developing countries have a huge potential for exporting services. Thanks to technology advancement and reduced costs of international transportation, formerly untradeable services are becoming more tradable. As a consequence, the scope for developing countries to participate as part of emerging global services supply chains is increasing.

Next, this paper looked at the policy dimension (2.4) by highlighting (i) instruments of protection and impediments to services trade integration, and (ii) preferential trade agreements as a tool to promote institutional integration. The instruments of protection are more complicated than those for goods trade because protection measures take the form of NTBs. Because the services sector is more highly regulated than the manufacturing sector due to market failures, domestic regulations tend to become de-facto impediments to services trade integration whether governments have an intention to protect the market or not. As for the second point, it is clear that achieving liberalisation through FTAs is more difficult than in the case of goods trade, because GATS-type agreements cannot be the powerful tool to implement liberalisation. Moreover, liberalisation criteria are not clear due to the fact that domestic regulations become the barriers for services trade.

Lastly, we analysed the political economy dimension by spotlighting (i) incentives to promote services trade agreements through FTAs and (ii) trade-policy institutions. From the existing literature, we found that incentives to promote services trade agreements are weaker than those of goods trade. We also found that the trade policy-making institutions of services trade are more complicated than that for goods trade.

Chapter 3: Underdeveloped Services Trade Integration in East Asia –The Distinctive Characteristics

3.1 Introduction

In the existing economic literature, East Asia is featured as ‘market-driven (de facto)’ integration.⁷⁵ This seems an extreme characterisation highlighting only the manufacturing sector while ignoring the services sector which is as important a segment of economies. In fact, services trade integration is underdeveloped in East Asia in spite of its growing importance. The objective of this chapter is to demonstrate underdeveloped services trade integration in East Asia in terms of market dimension as well as policy dimension, since this can be featured as the distinctive characteristics of East Asia. We discuss this in the following order. We first conceptualise services trade integration. As for the market dimension, we observe the level of development of the countries concerned and the size of the services sector. Then we examine the competitiveness of East Asian countries in global services trade. Based on these, the level of services trade integration in the region is assessed. As for the policy dimension, the level of restrictiveness of the actual policies and regulations of each country is analysed. Then we focus on the level of existing FTAs in the region to assess the level of policy-led integration. Lastly, a conclusion is given.

We have to note that the economic data used in this chapter is drawn from around 2010.⁷⁶ The first reason is to show the economic status of each country as well as trade relations of the East Asian countries after the first wave of bilateral FTA policy initiative took place in East Asia in the 2000s.

3.2 Defining services trade integration

This project modifies the concept used in Urata (2002) and Gasiorek and Holmes (2008) to define services trade integration. Urata (2002) uses the terminology of ‘market-led’ integration and ‘institution-led’ integration in explaining the regional economic integration in East Asia. He

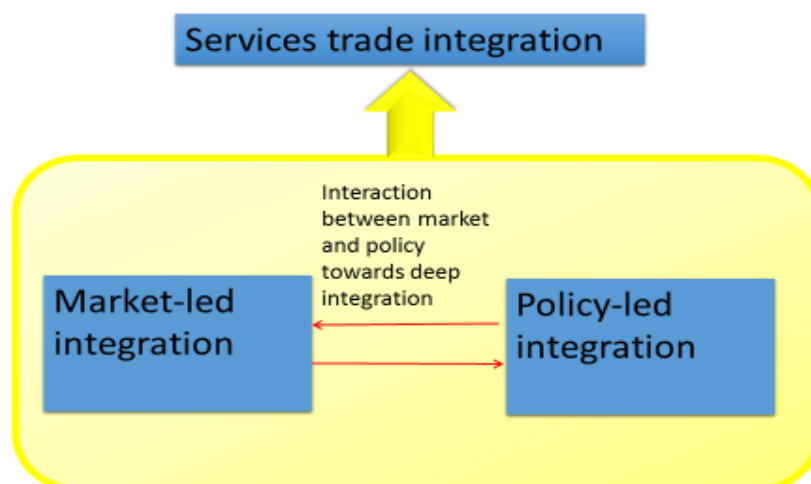
⁷⁵ See Chapter 1: 1.2.1.

⁷⁶ We should also note that the international data of services trade is currently available up to 2011. The World Bank explained that collecting services data is difficult due to *intangible nature of services* as well as *the high capacity needed to record such data* (<http://data.worldbank.org/data-catalog/trade-in-services>). Checking existing services data of East Asian countries, the author of this research selected the data with a wider coverage of the countries in the Region. Consequently, data used in this chapter is mostly from the year 2010 and 2011.

examines the foreign trade and FDI patterns of East Asia and characterises the pattern of integration as a ‘market-led’ integration. Then he judges that East Asia is currently shifting from ‘market-led’ to ‘institutional-led’ economic integration.⁷⁷ Gasiorek and Holmes (2008) conceptualise market integration and institutional integration in the context of the globalised world economy. Market integration refers to the economic dimension of integration such as the private sector’s trade and investment. Institutional integration refers to policy actions. They argue that the deep integration⁷⁸ taking place in the world economy can be defined as a market-led and institutional-led process towards integration. Their hypothesis is that ‘*deep institutional integration is likely to lead to deep market integration, but that deep market integration is also creating a demand for further institutional integration*’ (Gasiorek and Holmes 2008, p3).

Given the conceptualising exercises above, the term ‘services trade integration’ is conceptualised along two dimensions: (a) ‘market-led services trade integration’ which means the economic dimension of integration and (b) ‘policy-led services trade integration’ which means the political and institutional dimension of integration (see Figure 3-1). To analyse the political economy of services trade in East Asia, this project defines ‘policy-led services trade integration’ as the services trade segment of the FTA activity in East Asia.

Figure 3-1: Definition of Services Trade Integration



⁷⁷ In comparison with East Asia, Urata (2002) analyses that economic integration took place in Western Europe early post WWII was institution-led type, and economic integration in North America was developed by market-led integration supplemented by institution-led integration.

⁷⁸ Gasiorek and Holmes (2008) developed further the term ‘deep integration’ firstly developed by Lawrence (1996). According to Lawrence (1996), whereas ‘shallow integration’ means the elimination of border measure such as tariffs and quotas, ‘deep integration’ is defined as a process whereby behind the border measures such as domestic regulatory measures, are eliminated.

3.3 An Overview of the Services market

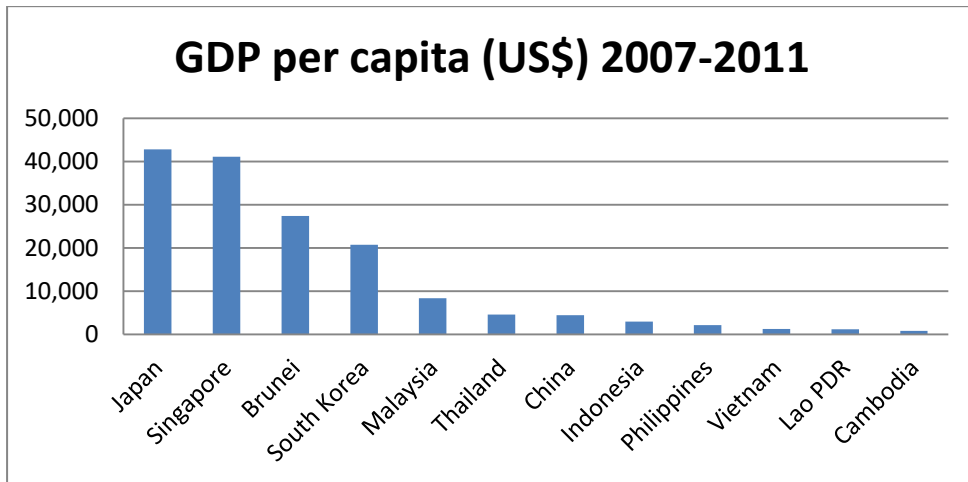
3.3.1 East Asian countries and services sector

East Asia - the region of diversified economies

Before taking a closer look at the services market, one has to understand the background of the region. East Asia covers countries with diversified levels of development in terms of economy and socio-economy. As can be seen from the GDP per capita (Figure 3-2), Japan and Singapore are high income economies with more than 40,000 US dollars, followed by middle income countries: Brunei and South Korea, of between 26,000 and 20,000 US dollars. Other countries: Malaysia, Thailand, China, Indonesia and The Philippines, Viet Nam, Laos and Cambodia, still belong to lower middle income or low income economies with GDP per capita under 10,000 US dollars. Figure 3-3 presents the level of development and its relation with market demand. Singapore and Brunei show high PPP GNI⁷⁹, followed by Japan, South Korea and Malaysia. PPP GNI of the rest of the East Asian countries accounts for still less than 10,000 US dollars, which means that market demand is not so powerful. The exception is China which can exploit the economies of scale. Taking into account the socio-economic factors (see Table 3-1: international human development indicators, world ranking), the top-ranked countries are Japan (rank: 12), South Korea (rank: 15), Singapore (rank: 26) and Brunei (rank: 33). At the middle level, Malaysia is ranked 61. The other countries are ranked lower than 100. In short, from GDP per capita, PPP GNI and human development indicators, the East Asian countries can be classified into three groups. One comprises the wealthy economies such as Japan, Singapore, Brunei and South Korea. Second is the middle class industrialised economy such as Malaysia. And the rest are developing economies.

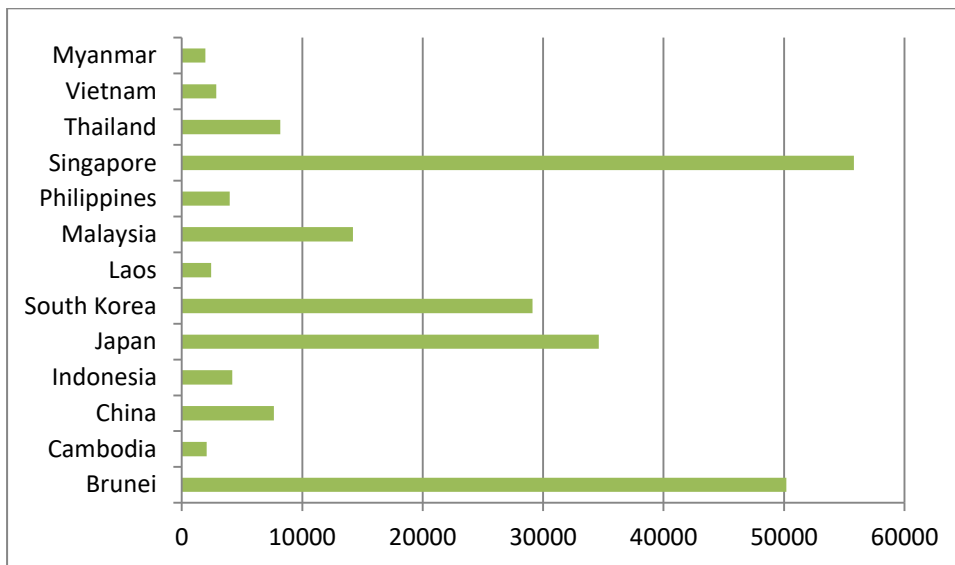
⁷⁹ PPP GNI: GNI per capita: GNI per capita based on purchasing power parity (PPP) is gross national income (GNI) converted to international dollars using purchasing power parity rates.

Figure 3-2: GDP per capita, East Asian countries



Note: The data for Brunei is 2002-2006. No data for Myanmar are available.
 Source: World Bank, World Development Indicators

Figure 3-3: GNI per capita based on purchasing power parity of East Asian Countries: 2010



Source: World Bank, World Development Indicators

Table 3-1: International Human Development Indicators, World Ranking, 2011

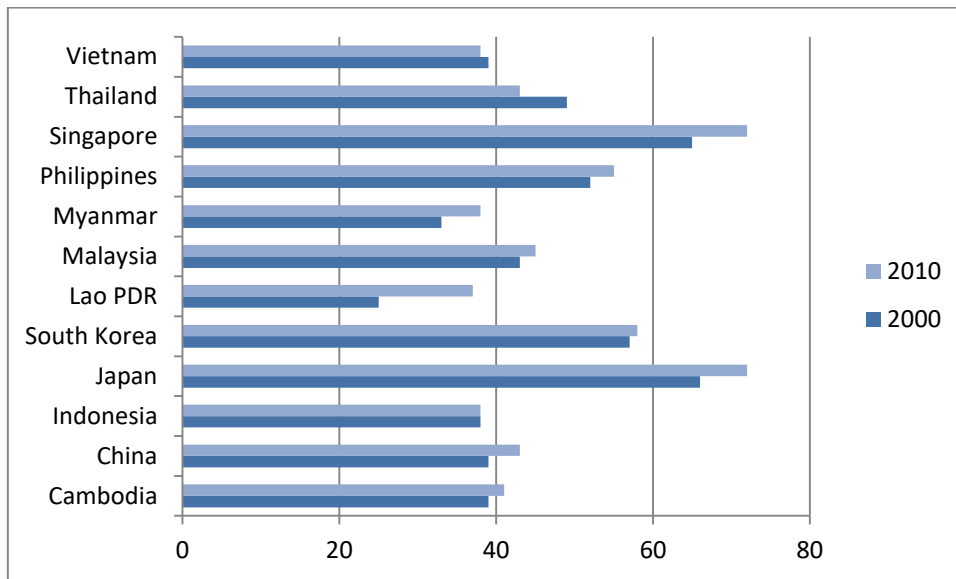
Country	Rank
Brunei	33
Cambodia	139
China	101
Indonesia	124
Japan	12
Lao People's Democratic Republic	138
Malaysia	61
Myanmar	149
Singapore	26
South Korea	15
The Philippines	112
Thailand	103
Viet Nam	128

Source: UNDP International Human Development Index, World Ranking, 2011

Growing services sector in economies

The shares of economic outputs in the services sector increase in accordance with economic development, while the outputs of the agriculture and manufacturing sectors fall (see Findlay and Warren 2000 and François and Hoekman 2010). In other words, as explained in Chapter 2, the size of the services sector in developing countries is smaller than in developed countries. This characterisation applies to East Asia (see Figure 3-4). The services sectors of Japan and Singapore accounted for more than 70 % of GDP in the 2010, which is significantly higher than those of the East Asian developing countries. Looking at the dynamic trend, services as a share GDP in The Philippines, Singapore, Malaysia, South Korea, Japan and China increased from 2000 to 2010. On the other hand, some of the ASEAN countries, such as Viet Nam and Thailand, experienced slight declines over the period. The latter two have growing export-oriented manufacturing industries which play a role as a part of regional supply chains in East Asia. Thus, the growth of the manufacturing sector overcame that of the services sector during the period.

Figure 3-4: Services as a share of GDP - comparison between 2000 and 2010



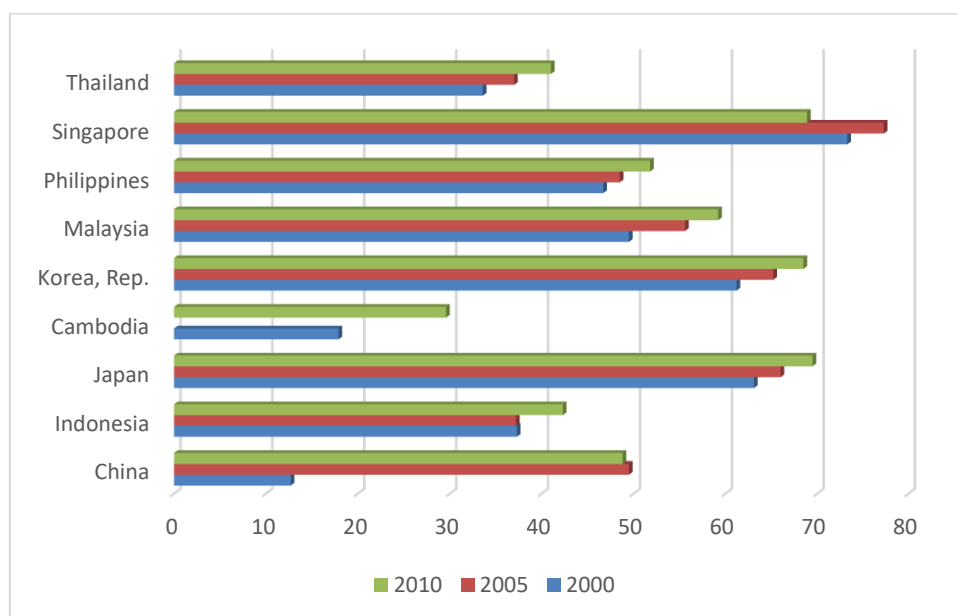
Note: No data for Brunei are available

Source: World Bank World Development Indicators 2012

The share of services employment in total employment also reflects the level of economic development (see Figure 3-5). While the services sector in some countries such as Singapore, Japan, and Korea is a major source of employment accounting for almost 70 % (2010), the services employment in developing countries such as China, Indonesia and Thailand shows between 40 and 50 % (2010). The figure also illustrates that the share of services employment in most East Asian countries (except China and Singapore) grew between 2000 and 2010. This indicates that the services sector in the East Asian countries is growing.⁸⁰

⁸⁰ China's growth in services fluctuated in the late 2000s. In the case of Singapore, the capital intensive services sector (e.g. financial sector and R&D) is growing.

Figure 3-5: Share of services employment in total employment (2000, 2005, and 2010)



Note: No data for Brunei, Lao PDR, Myanmar, and Viet Nam are available. Since a date for Singapore in 2010 are not available, the data in 2011 are used.

Source: World Bank, <http://data.worldbank.org/indicator/SL.SRV.EMPL.ZS>

Services Trade balance

Table 3- 2 presents the services trade balance in value. In East Asia, most countries show a negative balance in services trade. Only Singapore and The Philippines can be characterised as a services exporting countries, as the balance is significantly positive. Malaysia, Laos, and Cambodia also show positive balance, although the level is not remarkable. In fact, far-East Asian countries (China, Japan and South Korea) are actively engaged in exports, but the volume of imports offsets the volume of their exports. China and Japan especially have large import markets followed by South Korea and Singapore. By comparison, the size of import markets of some ASEAN countries, including Brunei, Cambodia, Laos and Myanmar, are rather small.

Table 3-2: Services trade balance in value, East Asia

Country	Balance in value, US Dollars thousand	Exported value, US Dollars thousand	Imported value, US Dollars thousand
Brunei	-519279	914911	1434190
Cambodia	775534	2255612	1480078
China	-54983040	182712096	237695136
Indonesia	-9323500	16765800	26089300
Japan	-16113024	141282912	157395936
South Korea	-4579704	94769696	99349400
Laos	247870	510990	263120
Malaysia	543800	32760100	32216300
Myanmar	-430440	366620	797060
The Philippines	3260716	15515736	12255020
Singapore	15845104	112308000	96462896
Thailand	-10549000	34298400	44847400
Viet Nam	-823000	3972400	4795400

Source: ITC (International Trade Centre) trade database available at

http://www.trademap.org/index.aspx?ReturnUrl=%2fService_SelService_TS.aspx

Note: Cambodia, China, South Korea, The Philippines: 2011, Indonesia, Japan, Laos, Malaysia, Myanmar, Singapore, Thailand: 2010, Brunei: 2009, Viet Nam: 2004

In summary, the importance of the services sector in the economy differs across the countries in the region, reflecting the level of development. Whereas the services sector in high income countries such as Japan, Singapore and South Korea shows a high share in their economic outputs, the size of the services sector in developing countries in East Asia is much smaller. The dynamic trend tells us that while the services sector in some countries in East Asia (e.g. China, Japan, Malaysia, Singapore, South Korea, and The Philippines) is growing fast, the services sector in some ASEAN countries (e.g. Viet Nam, Thailand and Indonesia) is experiencing a little growth. In the context of trade, most East Asian countries are services importing countries, except Singapore and The Philippines. The volume of exports of China and Japan are more than that of Singapore, however, the size of their imports render the balances negative.

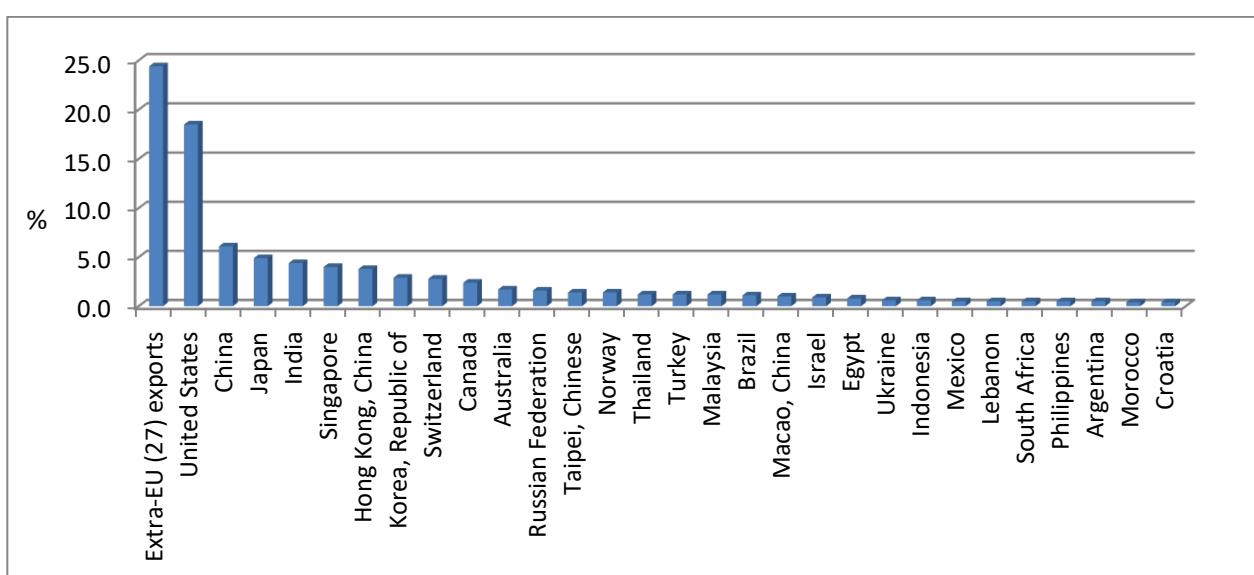
3.3.2 Export competitiveness

Status of East Asian countries in global services trade

What is the status of the East Asian countries in global services trade? As Figure 3-6 shows, the EU and the US are dominant services exporters of world trade (Extra-EU 24.4%, US 18.5%). Among the East Asian countries, China (6.1%), Japan (4.9%) and Singapore (4.0%) are ranked top ten although the amount of exports is less than one third of that of US. South Korea (2.9%), Thailand (1.2%), Malaysia (1.2%), Indonesia (0.6%), and The Philippines (0.5%) are ranked

among the top 30 world trade exporters, although the share is quite small. The situation is almost the same in terms of imports (see Table 2 of Appendix 7). The major importers are Extra-EU (21.9%) and US (13.3%). Although China (7.1%), Japan (5.8%), Singapore (3.6%) and South Korea (3.4%) are ranked in the top ten, the market size is significantly smaller than those of the EU and the US. As can be seen, most East Asian countries are not major services exporters in world trade likewise for services imports. In global services trade, the US and the EU are dominant players both in terms of exports and imports.

Figure 3-6: Top 30 World services trade exporters, 2010



Source: Data in the WTO World Trade Developments 2011, p27

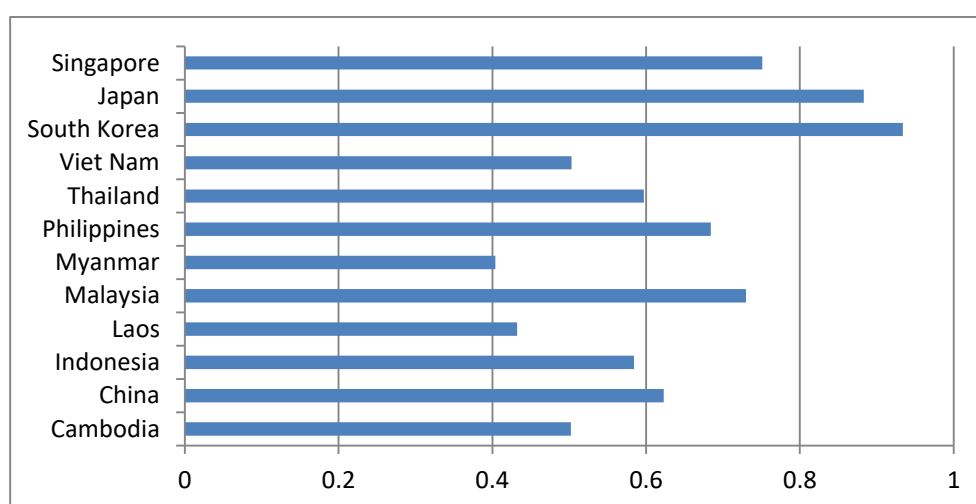
Observing major determinants of services exports

Next, we investigate whether the East Asian countries have a comparative advantage in services. As discussed in Chapter 2, economists use the theory of comparative advantage to examine a country's competitiveness in services trade and examine the determinants of services exports. According to the empirical study done by Mattoo *et al.* (2012a), (a) human capital, (b) electronic infrastructure and (c) the quality of institutions show strong correlation with services exports. Given that no existing empirical studies highlighting the East Asian countries exist, this project applies the results of Mattoo *et al.* (2012a) and assesses three major indicators of the East Asian countries to determine the level of competitiveness in services exports.

(a) Human capital⁸¹

The level of human capital of developed countries is generally much higher than developing countries. The top 10 of the education index are EU member countries, New Zealand, Australia, US and Canada. (e.g. Australia: 0.981, US: 0.939, and Germany: 0.928). As can be seen in Figure 3-7, South Korea (0.934), Japan (0.883) and Singapore (0.751) have relatively high human capital in East Asia. Some developing countries in East Asia, such as Malaysia (0.73), The Philippines (0.684), and China (0.623), perform relatively well, however there is a significant gap from the scores of high income countries (Japan, South Korea and Singapore) in the region.

Figure 3-7: Education Index, 2011



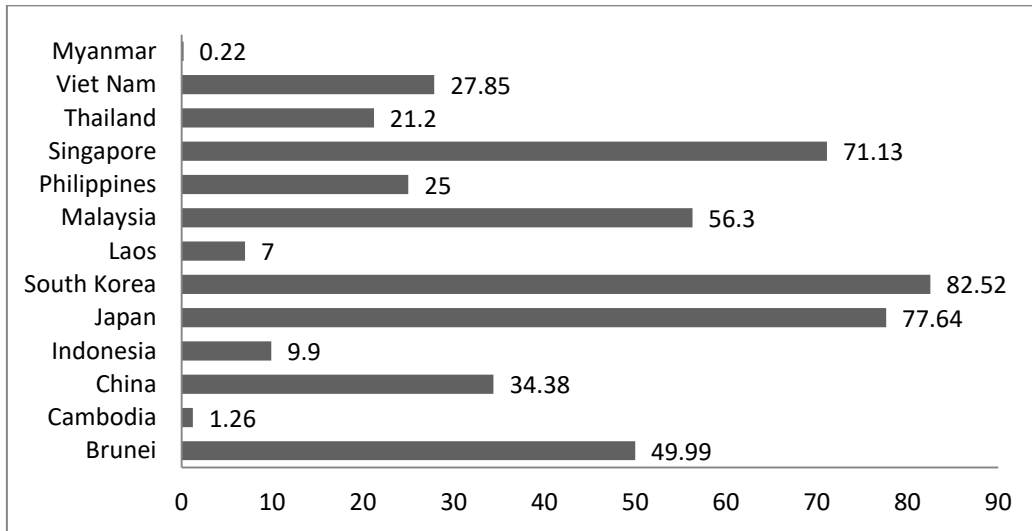
Source: UNDP International Human Development Index
Note: the Index of Brunei does not exist.

(b) Electronic infrastructure

Electronic infrastructure is the backbone of economic activities. As Jensen (2011) observed, better technological environments enable several ways of delivering of services and bring dynamic to the services sector. Here, we use internet penetration as the indicator, as was done in Mattoo *et al.* (2012a). As Figure 3-8 shows, high penetration can be seen in South Korea (85.52%), Japan (77.64%) and Singapore (71.13%), which is comparable to the OECD average (74.77%). Malaysia (56.3%) and Brunei (49.99%) are in the second group and show around 50 % penetration. Other countries still remain at a low penetration rate.

⁸¹ In the study of Mattoo *et al.* (2012a), the indicator of the tertiary schooling enrolment from the World Development Indicators database of the World Bank was used for human capital. We selected an “education index” which is the sub-index of the “UNDP international human development index” as it is a more comprehensive index based on mean years of schooling (of adults) and expected years of schooling (of children).

Figure 3-8: Internet penetration⁸², 2010

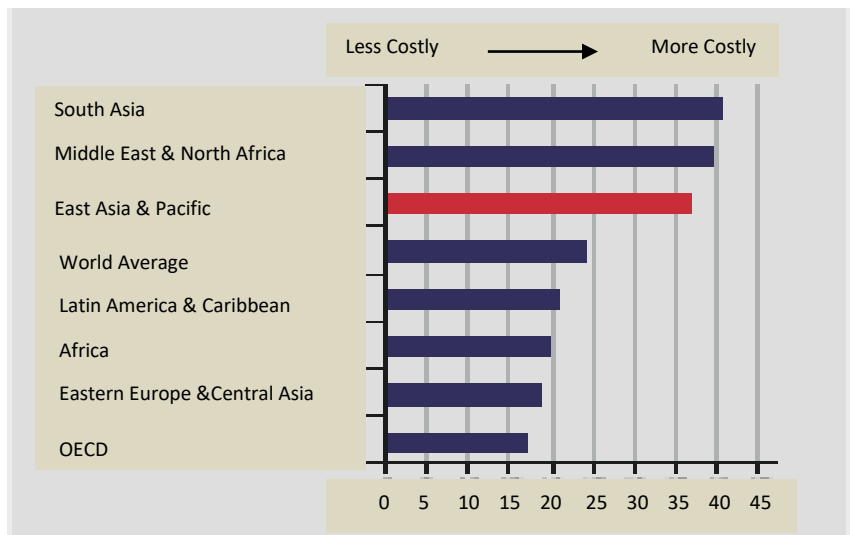


Source: World Bank, World Development Indicators database

(c) The quality of institutions

The policy aspects of services trade are explained in detail in the section 3.4. Here we look at an international comparison of costliness of policies affecting services trade (Figure 3-9) to assess the competitiveness in East Asia. According to PECC and ADB (2011), East Asia and the Pacific are more restrictively regulated and more costly to do business than the world average. Restrictive policies negatively affect competitiveness in these countries.

Figure 3-9: Costliness of Policies Affecting Services Trade



Source: PECC and ADBI (2011), p21

⁸² Internet penetration stands for internet users (people with access to the internet) per 100 people.

Summing up, the major determinants of service exports in East Asia vary reflecting the level of development. It can be seen that Japan, Singapore and South Korea, which are in fact ranked in the top 10 of world exports, satisfy the basic condition to be relatively competitive in global services trade whereas the developing countries in the region reveal relatively weak competitiveness.

Sectoral competitiveness in services

What are the major services exports of each East Asian country? In other words, which sectors are competitive enough to export? Using the currently available data obtained from the ITC trade database,⁸³ some strong characteristics on sectoral competitiveness in services were found such as:

- Countries showing strength in the capital and/or skill-intensive sectors: Japan, Singapore and South Korea. They mainly export infrastructure-related services which support merchandise trade such as transport services, construction services and financial services.
- The Philippines and Indonesia show strength in exporting workers.
- Travel services dominate services exports for many ASEAN countries such as Thailand, Cambodia, Viet Nam and Laos.
- Telecommunication and financial sectors are not the major exporting sectors in East Asia, except for Singapore.

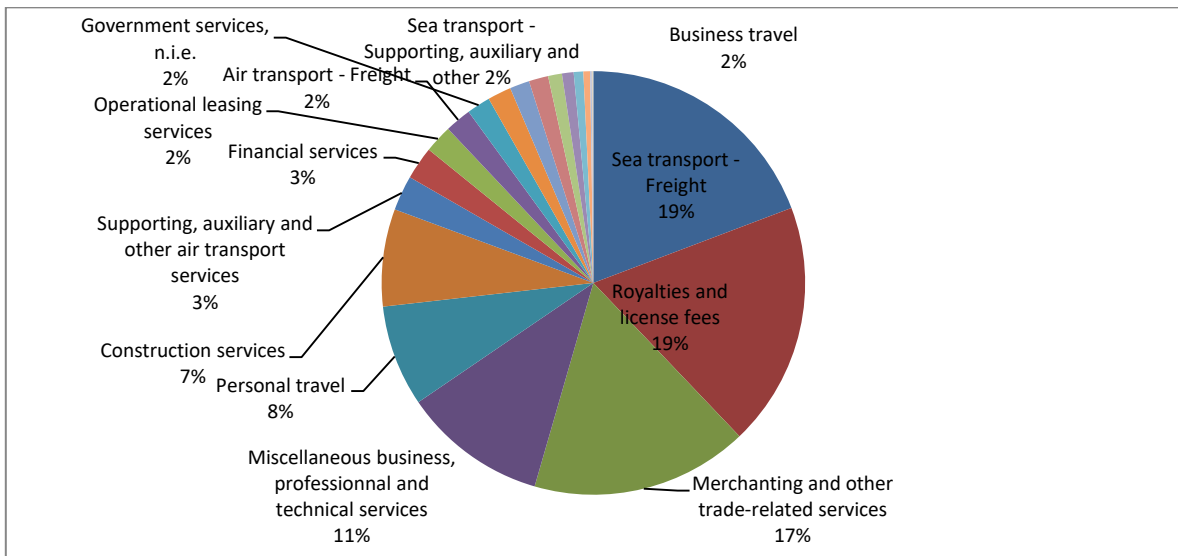
The country-level analysis⁸⁴ is as follow.

Japan (Figure 3-10) has its comparative advantage in capital and skill-intensive sectors. The major exports of Japan are transport services (26 % in total for sea transport and related services and air transport and related services), royalties and licence fees (19%), merchanting and other trade-related services (17%), and miscellaneous business, professional and technical services (11%).

⁸³ It should be noted that the countries use their own classification of services which does not correspond to the WTO services classification list (WTO, MTN.GNS/W/120). Hence, sometimes the classification itself is not clear from the research perspective. However, the data are sufficiently enough to provide information on the sectoral competitiveness of each country. The data of Myanmar are not available.

⁸⁴ The country-level analysis here helps assess the offensive sectors of lobbying the Government for the services trade negotiations in each country, the arguments of which are given in Chapter 5 and 6.

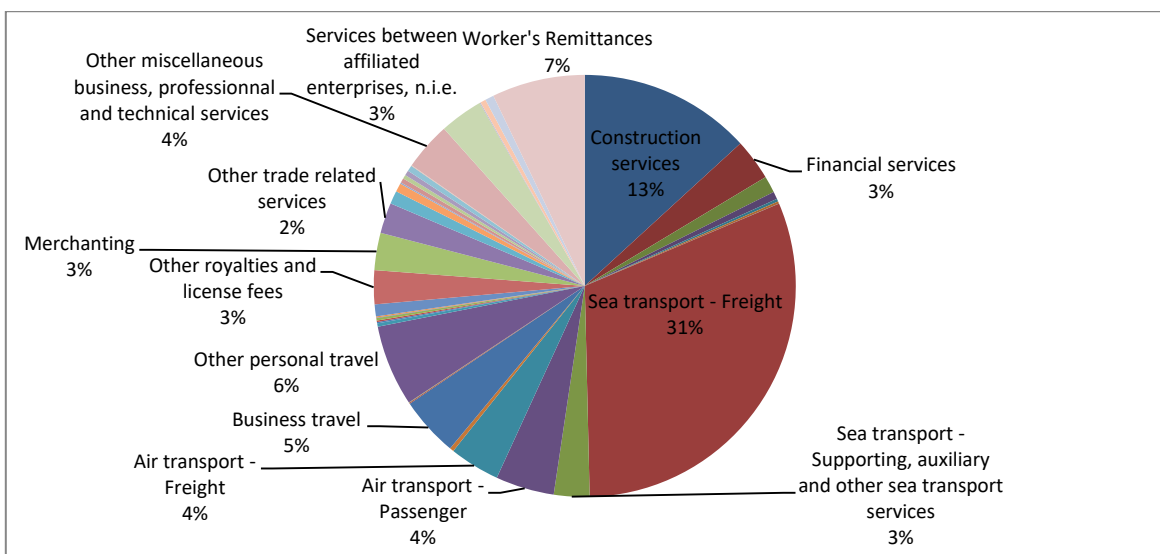
Figure 3-10: Japan services exports to the world 2010



Source: ITC trade database, ITC calculations based on International Monetary Fund, Organisation for Economic Co-operation and Development (OECD) statistics

South Korea (Figure 3-11) shows strength in capital-intensive sectors like for Japan. Nearly half of its exports are transport services (42% in total for sea transport freight, sea transport supporting services, air transport passenger, and air transport freight). The construction services are also strong (13%).

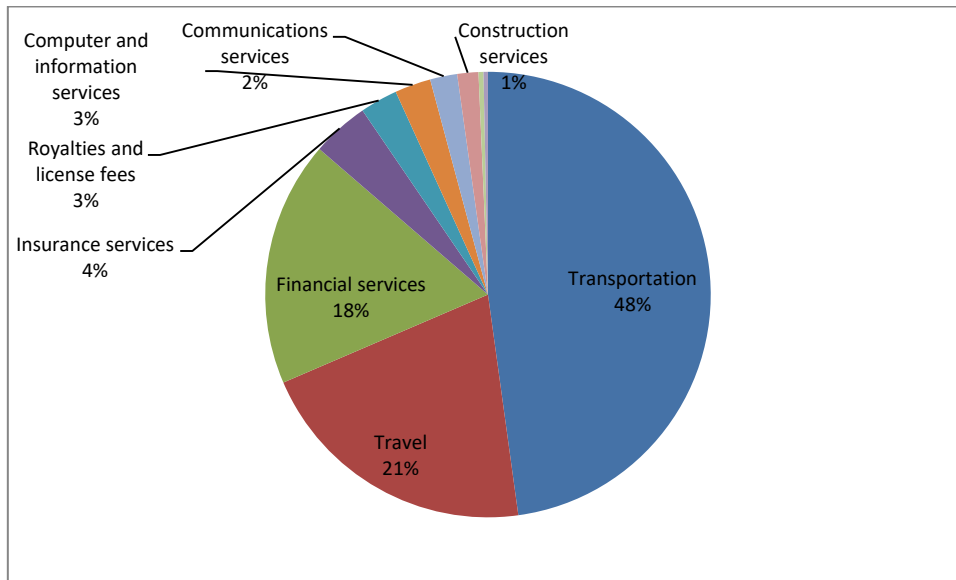
Figure 3-11: South Korea services exports to the world 2010



Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation and International Monetary Fund statistics

Singapore (Figure 3-12) depends on exporting transportation (48%) more heavily than South Korea does. Travel (23%) and financial services (18%) follow transportation.

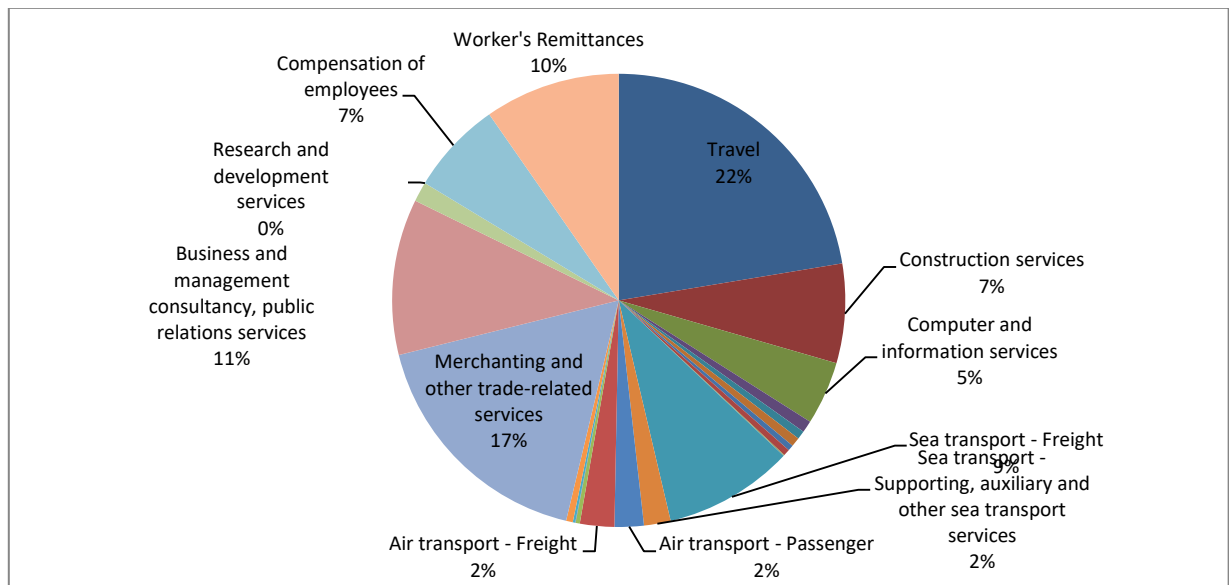
Figure 3-12: Singapore services exports to the world 2010



Source: ITC trade database, ITC calculations based on United Nations Statistics Division and International Monetary Fund statistics.

China (Figure 3-13) is more diversified in exporting services. Travel services (27%) are at the top, then merchandising and other trade-related services (17%), transport services (15% in total for sea transport –freight, sea transport supporting, air transport passenger and air transport freight).

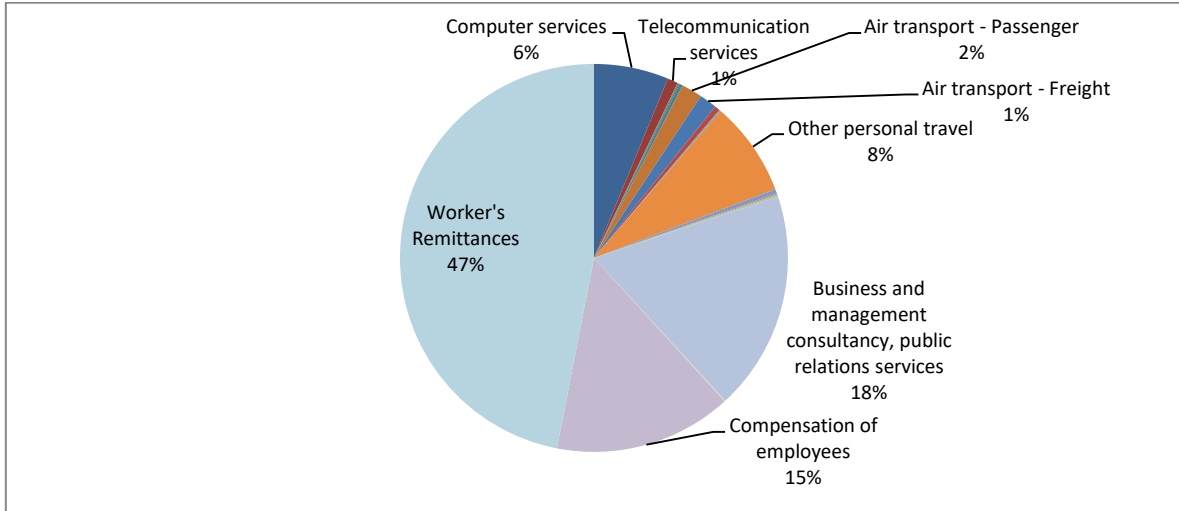
Figure 3-13: China services exports to the world 2010



Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation and International Monetary Fund statistics.

The Philippines (Figure 3-14) overwhelmingly relies on workers' remittances which account for almost half (47%) of its total exports. In other words, comparative advantage lies on movement of workers (mode 4). Business and management consultancy and public relations services (18%) form the second largest sector.

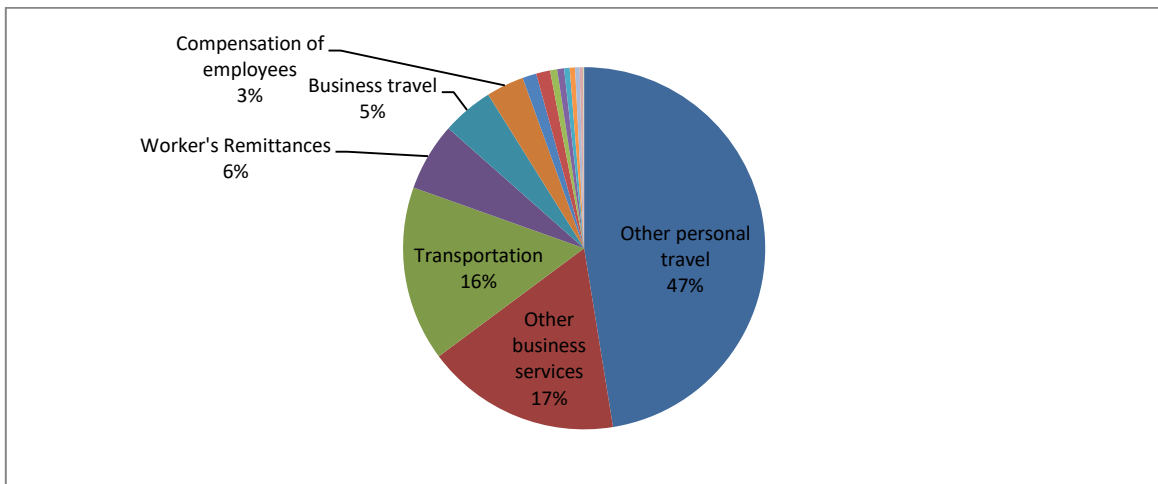
Figure 3-14: The Philippines services exports to the world 2010



Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation and International Monetary Fund statistics.

Thailand (Figure 3-15) has its competitiveness in travel services which account for 47% of its total services exports.⁸⁵ Other business services (17%) and transportation (16%) follow.

Figure 3-15: Thailand services exports to the world 2010

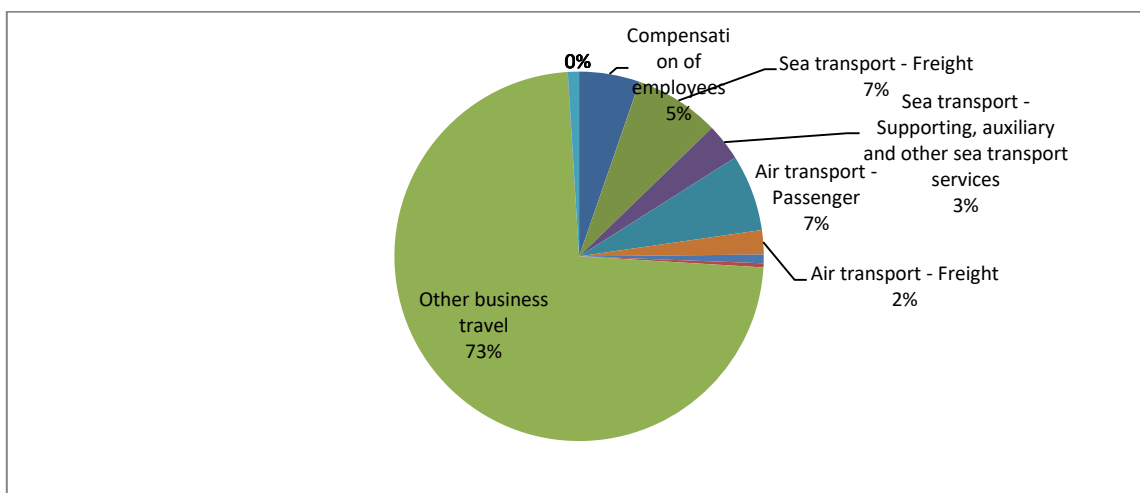


Source: ITC trade database, ITC calculations based on International Monetary Fund statistics

⁸⁵ The category of "Other personal travel" does not exist in the WTO classification.

Malaysia (Figure 3-16) also shows its strengths in the travel sector. Other business travel⁸⁶ (73%) overwhelmingly dominates its services exports. Transport services (19% in total for sea transport freight, air transport passenger, sea transport supporting and air transport freight) follows other business travel.

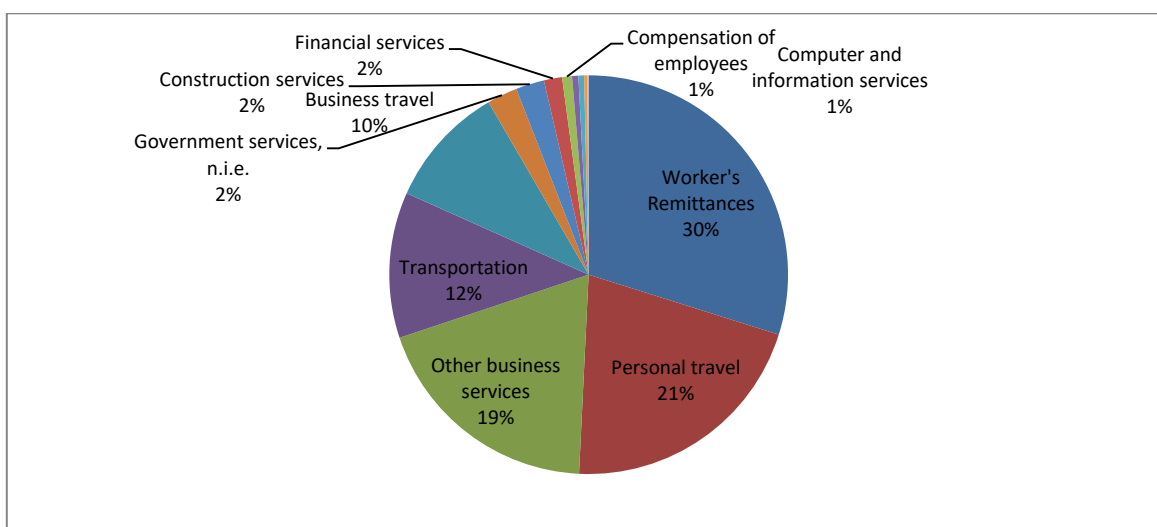
Figure 3-16: Malaysia services exports to the world 2010



Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation and International Monetary Fund statistics.

Indonesia (Figure 3-17), similarly to The Philippines, relies heavily on workers' remittances (30%). Personal travel (23%) and other business services (19%) are also major exports, like for Thailand.

Figure 3-17: Indonesia services exports to the world 2010



Source: ITC trade database, ITC calculations based on International Monetary Fund statistics

⁸⁶ The category of 'Other business travel' does not exist in the WTO classification.

Other ASEAN countries: Brunei's major exports are transportation (49%) and travel (28%). For Cambodia, Viet Nam and Laos, travel (the tourism sector) is the largest export, accounting for about 60 % of its total services exports.⁸⁷

Competitiveness in financial sector and telecommunication services

It became clear from the country-level analysis that the financial services and telecommunication services are generally not major export sectors of the East Asian countries. Then, what is the status of the East Asian countries in the global financial and telecommunication trade? Looking at global financial services trade, it is clear that the EU and the US are major players both in terms of exports and imports. Looking at the share of top 15 financial exporters of world, exports of the extra-EU accounts for 25.6 % and that of the US accounts for 21.1 % in 2008 (see Annex III Table 16).⁸⁸ Whereas Singapore, Japan and South Korea are ranked in the world top 10, their share is very limited (2.3%, 1.9% and 1.3% respectively). Global telecommunication services trade also reveals the strong competitiveness of the EU and the US (see Annex Table 17). Both in terms of exports and imports, the EU and US are dominant players. For example, the share of the extra-EU is 20.3 % and that of the US is 14.7 % in terms of exports.⁸⁹ An interesting point is that Malaysia (ranked 9, 1.0%), South Korea (ranked 11, 0.9%) and The Philippines (ranked 15, 0.7%) are ranked above the 15 exporters of telecommunications. Malaysia (ranked 5, 1.6%) and South Korea (ranked 6, 1.6%) also show their presence in terms of imports.

3.3.3 Level of services market integration in East Asia

To what extent does intra-services trade exist in East Asia? To evaluate the level of market integration, one can theoretically examine the bilateral trade relations in the region. However, given the fact that the data for bilateral services trade relations are scarce,⁹⁰ the existing data cannot fully cover the countries in the region. The project uses the WTO data on services exports by destination and services imports by origin from which the data of China, Japan, Singapore and

⁸⁷ See Appendix 6, Figure 1 to 5, from ITC trade database, ITC calculations based on International Monetary Fund statistics.

⁸⁸ Note: the figures do not represent the share of total world export value but the share of the top 15 economies in exports of financial services.

⁸⁹ Note: The figures of telecommunication services also represent the share in top 15 economies in exporting telecommunication services.

⁹⁰ According to the WTO secretariat, only limited OECD countries release the data on origins and destinations of services trade.

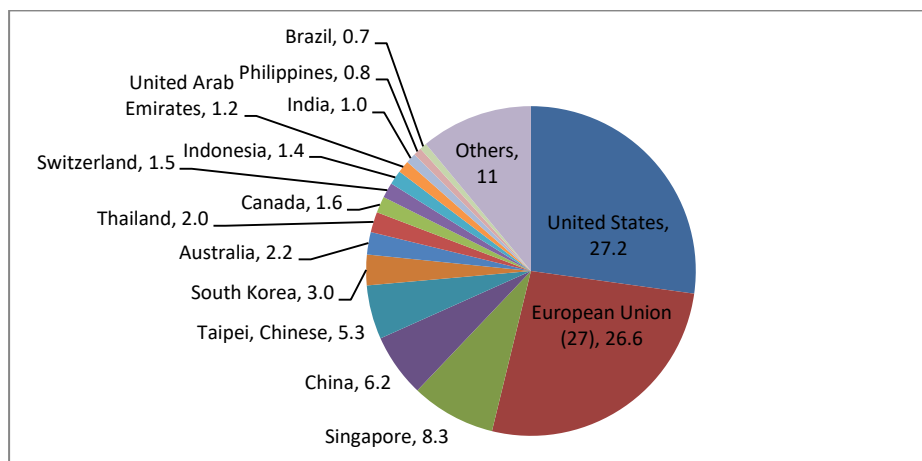
South Korea are available. Although the existing services trade data are underdeveloped and cannot sufficiently cover the market analysis of the region,⁹¹ the following can be observed.

(i) The US and the EU are major partners of services trade

For Japan, Singapore, and South Korea, most services trade flows take place with the US and EU. A certain degree of intra-services trade can be seen among Far-East Asian countries (China, Japan and South Korea) plus Singapore. However, the shares are limited in comparison with trade with the US and the EU.

(ii) Japan (Figures 3-18, 19): The US and the EU are major services trade partners. More than one half of exports are directed to the US (27.2%) and the EU (26.6%). The total share of exports to the East Asian partners accounts for 21.7 % (Singapore: 8.3%, China: 6.2%, South Korea: 3.0%, Thailand 2.0%, Indonesia: 1.4% and The Philippines: 0.8%). Imports are also dominated by the US (28.3%) and the EU (23.5%). The total share of imports by East Asian partners is 18.8 % (China: 5.9%, Singapore: 4.9%, South Korea: 4.0%, Thailand 2.0%, Indonesia: 1.2%, The Philippines: 1.0%).

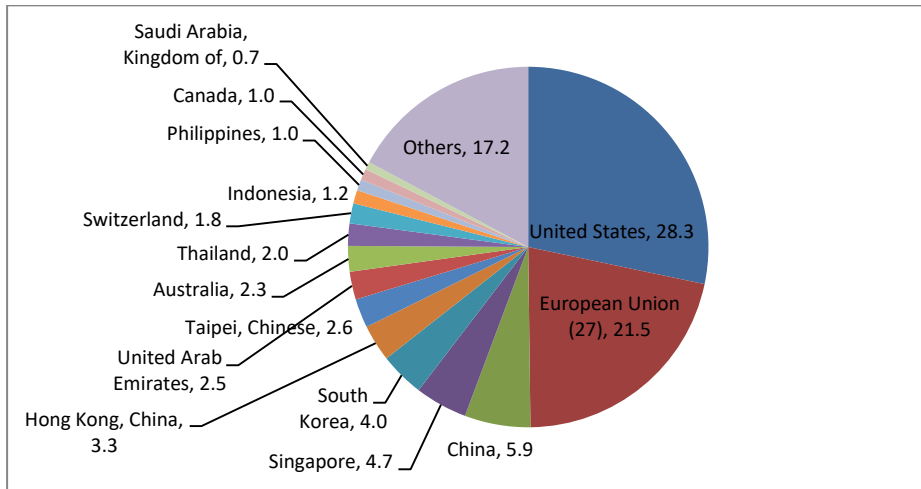
Figure 3-18: Services Exports by destination –Japan 2009



Source: WTO, International Trade Statistics 2010

⁹¹ For example, Malaysia and Philippines have export competitiveness in a certain sector. However, their export destinations are not clear, due to a lack of bilateral data. The analysis here could be improved if more data became available.

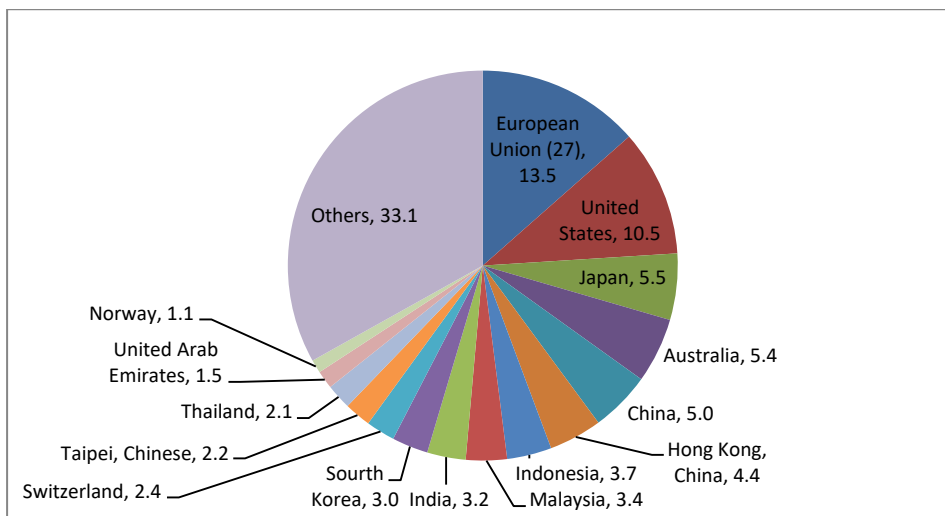
Figure 3-19: Services Imports by origin –Japan 2009



Source: WTO International Trade Statistics 2011

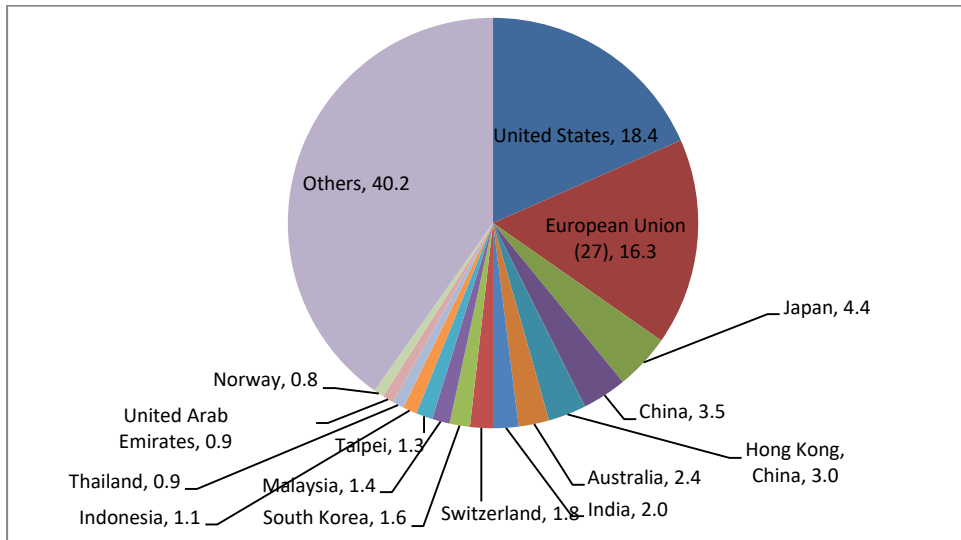
(iii) Singapore (Figures 3-20, 21): Like in the case of Japan, the US and the EU are major trade partners. The EU (13.55%) and the US (10.5%) are major export destinations of Singapore. Major export destinations inside East Asia are Japan (5.5%) and China (5.0%) although these accounts for only half size of the exports to the EU and the US. The exports to intra-East Asia accounts for 22.7 % (Japan: 5.5%, China 5.0%, Indonesia: 3.7%, Malaysia: 3.4%, South Korea: 3.0%, Thailand: 2.1%). Imports are also dominated by the US (18.4%) and the EU (16.3%). Services imports from other East Asian countries accounts for only 12.9 % (Japan: 4.4%, China: 3.5%, South Korea: 1.6%, Malaysia: 1.4 %, Indonesia: 1.1%, and Thailand: 0.9%).

Figure 3-20: Services Exports by destination –Singapore 2009



Source: WTO International Trade Statistics 2011

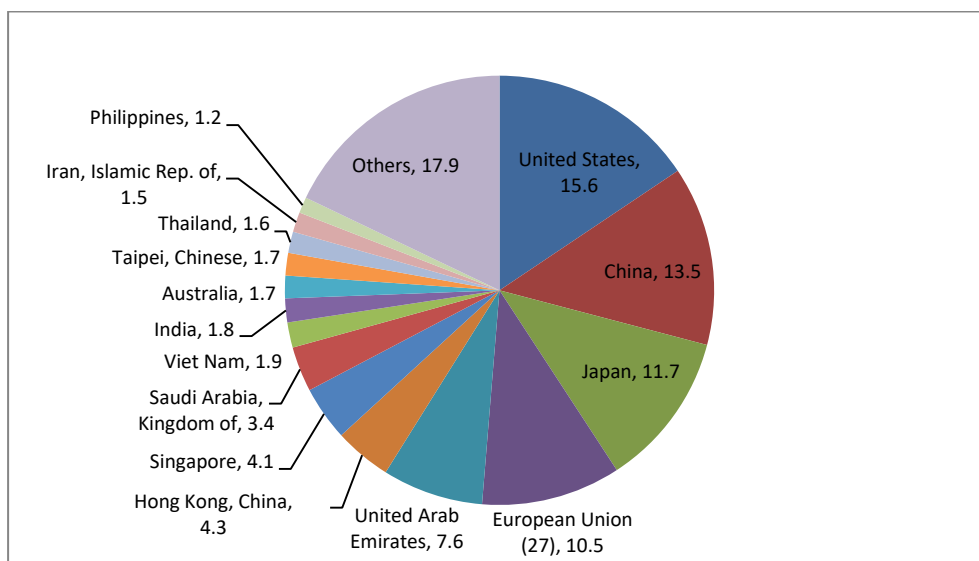
Figure 3-21: Services Imports by origin –Singapore 2009



Source: WTO International Trade Statistics 2011

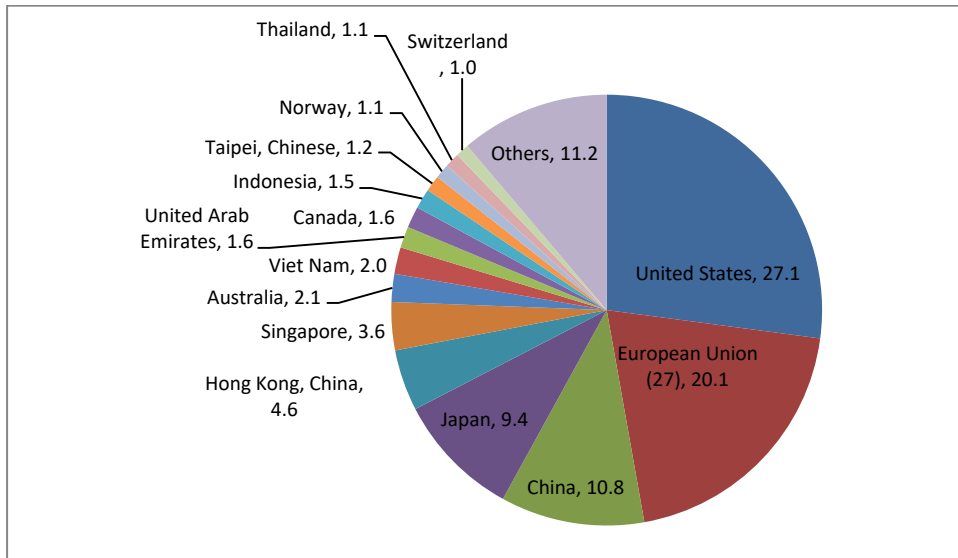
(iv) South Korea (Figures 3-22, 23): For South Korea, the US, EU, Japan and China are major services trade partners. For exports, the US (15.6%) is the largest destination followed by China (13.5%), Japan (11.7%) and the EU (10.5%). The intra-East Asia exports in total are 34 % (China: 13.5%, Japan: 11.7%, Singapore: 4.1%, Viet Nam: 1.9%, Thailand: 1.6%, The Philippines: 1.2%), which is a much higher figure than for China, Japan and Singapore. On the other hand, almost half of imports are from the US (27.1%) and the EU (20.1%). The total amount of imports from the East Asia trade partners accounts for 28.4 % (China: 10.8%, Japan: 9.4%, Singapore: 3.6%, Viet Nam: 2.0%, Indonesia: 1.5%, and Thailand: 1.1%).

Figure 3-22: Services Exports by destination –South Korea 2009



Source: WTO International Trade Statistics 2011

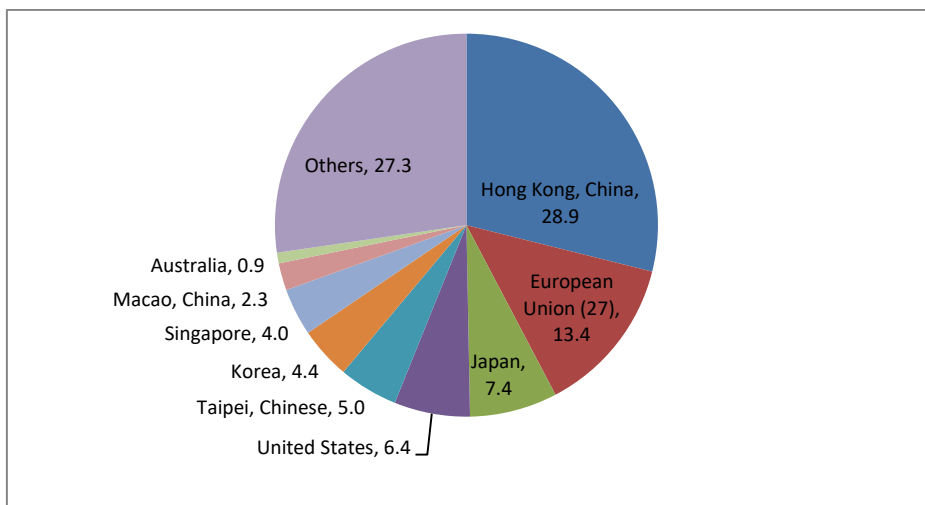
Figure 3-23: Services Imports by origin –South Korea 2009



Source: WTO International Trade Statistics 2011

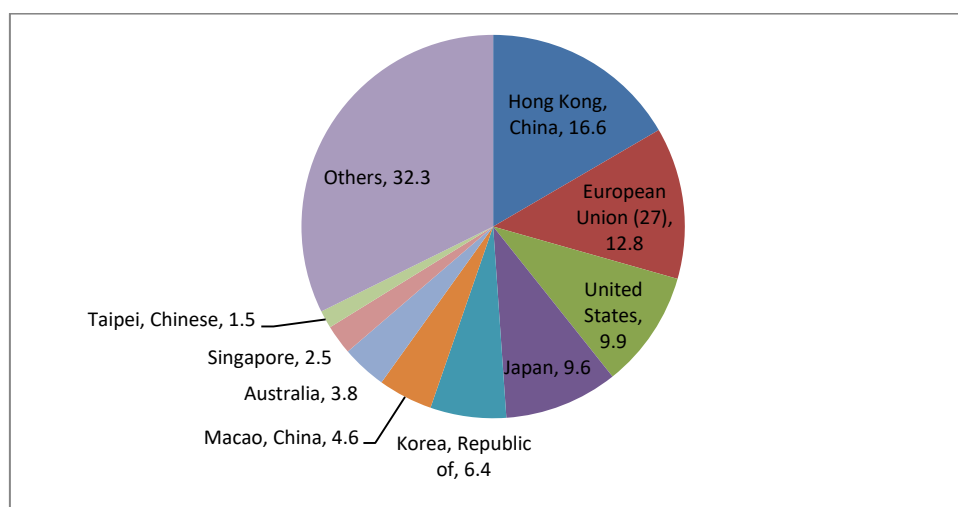
- (v) China (Figures 3-24, 25): Unlike others, China greatly depends on Hong Kong, China both in terms of both exports and imports. The major export destinations are Hong Kong, China (28.9%), the EU (13.4%) followed by Japan (7.4%) and the US (6.4%). The intra-East Asia exports amount to only 15.8 % (Japan: 7.4%, South Korea: 4.4%, and Singapore: 4.0%). For imports, Hong Kong, China (16.6%) and the EU (12.8%) are major origins followed by the US (9.9%) and Japan (9.6%). The intra-East Asia imports account for 18.5 % (Japan: 9.6%, South Korea: 6.4%, and Singapore: 2.5%).

Figure 3-24: Services Exports by destination –China 2009



Source: WTO International Trade Statistics 2011

Figure 3-25: Services Imports by origin –China 2009



Source: WTO International Trade Statistics 2011

In short, the data illustrate that there is a certain level of intra-services trade among Far-East Asian countries (China, Japan and South Korea) plus Singapore although the trade relations with the US and the EU are much stronger for these countries. The presence of the ASEAN countries, except Singapore, is very limited both in terms of exports and imports in East Asia as far as can be seen from the total share of the volume of trade.

3.3.4 Economic features of the services market

Understanding the economic features of the services market (e.g. public character and condition of competition) helps clarify the economic reasons behind a lack of competitiveness in global services trade, as well as the scant level of intra-services trade in East Asia. The services markets in East Asia can be categorised into five types. The extreme is the most competitive and liberalised services market of Singapore. The second group comprises relatively open markets such as Japan and South Korea, where competitiveness lags behind their manufacturing sector. The third is formed by the markets of developing countries where some growing service sectors can be seen, while an uncompetitive market character remains (e.g. Malaysia and The Philippines). The fourth involves countries which can be characterised as featuring a strong public character (e.g. state-owned enterprises) and imperfect competition such as China, Indonesia, Thailand and Viet Nam. The last group is where the services sector markets are of limited size and still underdeveloped, which can be seen in the ASEAN LDCs (Laos, Cambodia and Myanmar).

(a) Liberalised and competitive market

Singapore: Unlike other ASEAN countries, the economy of Singapore largely depends on the services sector, which accounts for more than 70 % of GDP in 2010. It retains internationally competitive services such as its financial sector. The competition authority and competition law came into force between 2004 and 2007. Since then, competition was introduced to the sectors where public monopolies used to exist (e.g. telecommunication, electricity, gas and media services).⁹² Among these, the telecommunications sector enjoys full competition in combination with the market liberalisation.

(b) High income OECD countries with relatively liberalised services markets where competitiveness lags behind the manufacturing sector

Japan: The Japanese services sector has not been as competitive as its manufacturing sector. For example, labour productivity growth in the services sector in 2007 was 1.61 % in comparison with that of manufacturing (5.55%). The reason for its weakness is that the Japanese services sector is shielded from competition both internally and internationally, inter alia, compared with the Japanese manufacturing sector. According to the WTO report, *the import penetration rate for services and the share of foreign affiliates in total services turnover was among the lowest in the OECD*⁹³ due to its domestic restrictive regulations and lacklustre business environment which require domestic reform. The Japanese financial sector has been opened up under the GATS commitments; however, the share of foreign business is limited.⁹⁴ Likewise, the Japanese telecommunications sector is open to foreign companies with some exceptions. However, the market is largely occupied by NTT (Nippon Telegraph and Telephone), 33.7 % of the shares of which is owned by the Government.

South Korea: In comparison with Japan, the Korean services sector is less open and still has strong government intervention in the financial, telecommunications, energy and transportation services. Labour productivity of the Korean services sector ranks 18th among 19 OECD countries. And the labour productivity of the services sector is just over half that of the manufacturing sector.⁹⁵ Within the services sector, it can be observed that the financial sector is gaining in competitiveness after a series of reforms and restructuring since the financial crisis in 1997 and on-

⁹² However, it should be noted that these sectors are subject to the sector-specific legislation on competition. Some network industries such as electricity, gas and water supply are still under privatisation and regulatory reform. See WTO (2008a), pp.64 -92.

⁹³ See WTO (2011b), p3.

⁹⁴ One example is the banking sector, where the total assets of 62 foreign banks accounts for 36.2 trillion Yen which is only 11% of the total assets (426.5 trillion Yen) owned by the Japanese five city banks.

⁹⁵ See WTO (2008c), p110.

going privatisation.⁹⁶ In the telecommunications sector, Korean Telecom is the dominant player (94% of the local market and 80% of long-distance in 2008).⁹⁷

(c) Developing economies with a growing services sector and some uncompetitive sectors remaining in place

Malaysia⁹⁸: Given that the Malaysian services sector has been growing rapidly and become a driving force of its economic growth since the 2000s, the government started to focus on developing the services sector, inter alia, ICT services, logistics, distribution, construction, education and training, healthcare, and tourism services. The government launched reforms and liberalisation of the market in several sectors from the mid-2000s. However, GLCs (government-linked companies) are still in transition to privatisation and retain their market power in major sectors such as the financial, telecommunications, and transport sectors.

The Philippines: Whereas The Philippines' major export has been movement of workers, the business process outsourcing service has been gaining competitiveness from the mid-2000s.⁹⁹ On the other hand, the tourism sector, which is one of the priorities of The Philippines' development policy, is underperforming due to the infrastructure weakness.¹⁰⁰ Although the services sector is privatised, imperfect competition can be seen in some sectors, such as telecommunications where the fixed-line market is dominated by one company. Given that no general competition law exists in The Philippines, competition policy is still under-developed.

(d) Developing economies of strong government intervention and imperfect competition

China: For historic reasons, the services market in the Chinese economy is still characterised by state-owned enterprises with monopoly status and imperfect competition. The share of assets owned by SOEs in China amounts to 43.8 % of the total industrial and services sector's assets in 2008. In the Chinese services sector such as telecommunication services, financial services, transport services and energy services, the existing state-owned enterprises are exercising their market power. For example, about a half of the total assets of financial institutions are dominated

⁹⁶ See WTO (2008c), p11.

⁹⁷ See WTO (2008c), p119.

⁹⁸ See WTO (2009a).

⁹⁹ See Yi (2012).

¹⁰⁰ See WTO (2012a).

by the five largest state-owned commercial banks.¹⁰¹ In the telecommunication sector, the three majority state-owned companies¹⁰² dominate the market.

Indonesia: Government intervention in the services sector still remains strong in Indonesia. The financial sector is underdeveloped in comparison with other ASEAN countries of the same economic development level, such as Thailand and Malaysia. For example, the banking sector is featured with a strong government control of 38 % of national banking assets and a highly concentrated market dominated by the state-owned commercial banks.¹⁰³ In contrast, the telecommunication sector has successfully gone through a series of privatisation processes and introduction of competition from the early 2000s.¹⁰⁴

Thailand: The growth of the services sector in Thailand in general is slower than other sectors. The exception is the financial sector which showed the highest growth rate (6.4% in annual) among other economic sectors in late 2000s. The services sector in Thailand remains restrictive and sealed off from international competition. For example, the financial sector is still public oriented with strong government intervention through equity holdings and through specialised financial institutions. In the telecommunications sector, two state-owned companies dominate the market and exercise their market power in fixed-line services whereas competition in some sub-markets (e.g. the mobile-phone market) is becoming intense following a series of regulatory reforms.¹⁰⁵

(e) LDCs with a small sized and under-developed services sector

Cambodia: Cambodia is seriously developing its services sector which accounts for 40% of its economy.¹⁰⁶ However, the services markets are still underdeveloped in general and need a series of reforms. For instance, the banking sector was dominated by six banks and highly concentrated (75 % of all assets in 2010).

3.4 An Overview of Policy of the Services Sector

What is the situation of the services trade policies and regulations in East Asia? Are existing FTAs in East Asia playing a role of liberalising services markets towards regional integration? There are two ways to answer these questions. One is to analyse the level of restrictiveness of the actual

¹⁰¹ See WTO (2012d), p122.

¹⁰² These are: China Telecom, China Unicom and China Mobile. The regulations rule that at least 50% has to be state-owned for the basic telecommunication (WTO 2012d, p141).

¹⁰³ WTO (2007d), p88.

¹⁰⁴ WTO (2007d), p91.

¹⁰⁵ WTO (2011e).

¹⁰⁶ WTO (2011d).

policies and regulations in the services sector. The other is to analyse the preferential commitments made under the existing FTAs in the region.

3.4.1 Restrictiveness

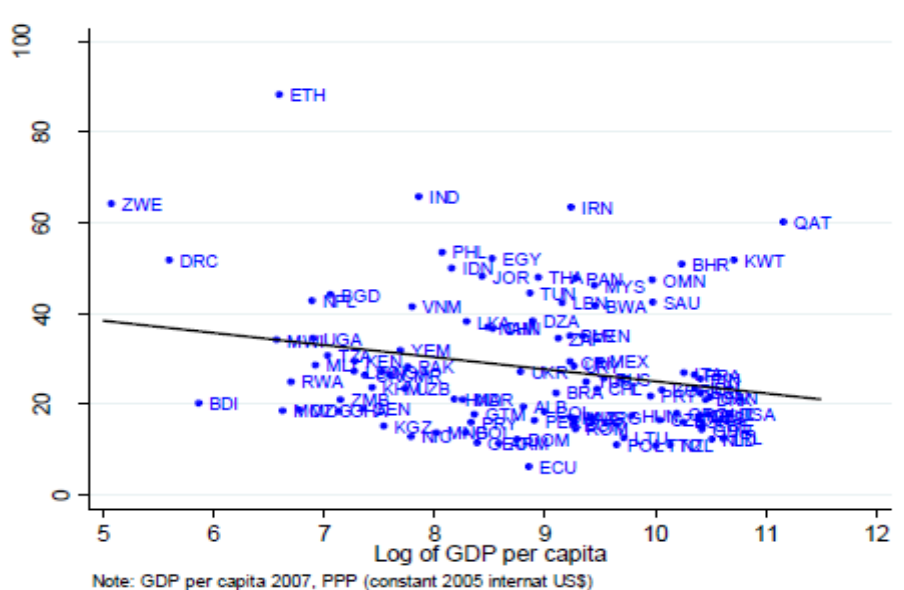
To examine the restrictiveness of the services policies and regulations in East Asia, this project uses the “services trade restrictions database” of the World Bank,¹⁰⁷ the objective of which is to identify the service sector policies affecting services trade. By using this database, one can examine the trade restrictiveness of the actual policies which are applied under the Most-Favoured Nation (MFN) principle instead of the commitments made under the GATS. The database covers five major services sectors: financial services (banking and insurance), telecommunications, retail distribution, transportation and professional services and disaggregated into subsectors and modes of supply relevant to them. Then it scores the listed policies into five categories: open without restrictions (scale 0), virtually open (scale 25), existence of major/non-trivial restrictions (scale 50), virtually closed (scale 75), and completely closed (scale 100).

Mattoo *et al.* (2012c) made interesting findings on the regional and country level comparison from the World Bank database.¹⁰⁸ First they showed that the level of openness increases as per capita income increases (see Figure 3-26), where most OECD countries retain generally open markets. It also pointed out that high restrictiveness is identified in some growing economies in East Asia such as China, Indonesia, Malaysia, The Philippines and Thailand whereas Latin America, and Eastern Europe are relatively liberal. The high income Gulf Cooperation Council countries are the most restrictive region in the world. In their cross-country sectoral analysis, it is identified that the pattern of relative restrictiveness across five sectors is similar in all countries. Professional services are the most restrictive followed by transportation services. On average, telecommunications and financial sectors are still not completely open. Retail distribution is the most open among five sectors.

¹⁰⁷ The trade restrictions database of the World Bank (<http://iresearch.worldbank.org/service/trade/home.htm>) is the only database specifying the services trade related policies and regulations encompassing 103 countries. The data is based on the questionnaires over the period 2008-2010 with some updated information on the recent policy changes. See Mattoo *et al.* (2012b).

¹⁰⁸ See Mattoo *et al.* (2012c), p21-24.

Figure 3-26: Country-level services trade restrictions index (STRI) plotted against the per capita income of the country



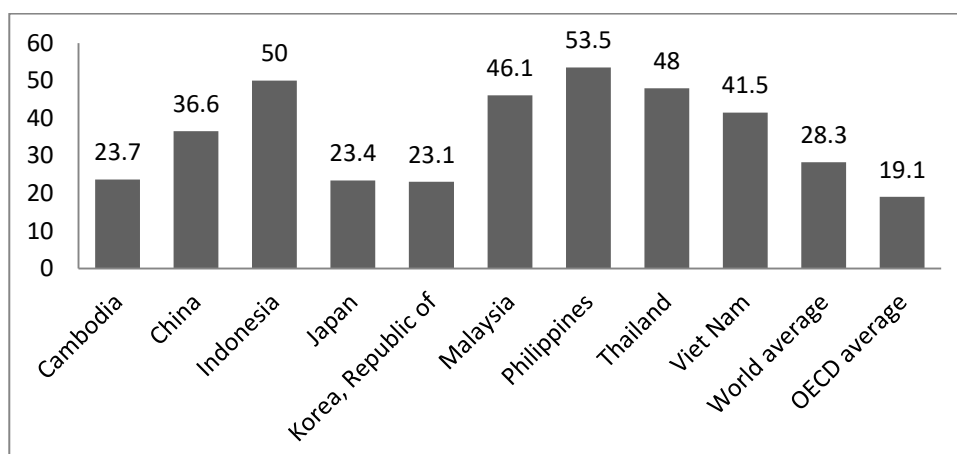
Note: Banking (2 subsectors; mode 1 and 3), insurance (3 subsectors; mode 1 and 3), telecommunications (2 subsectors; mode 3), retailing (mode 3), transportation (maritime and air: mode 1 and 3; maritime auxiliary services, rail and road: mode 3), and professional services (4 subsectors; mode 1, 3 and 4).

Source: Mattoo *et al.* (2012c), p21

As for the services trade restrictive index (STRI) in East Asia,¹⁰⁹ the following are found to be strong characteristics of East Asia. Looking at the average of all sectors (Figure 3-27), the restrictiveness is much higher in most East Asian countries than the world average, except Cambodia, Japan and South Korea. As pointed out by Mattoo *et al.* (2012c), The Philippines, Indonesia, Thailand, Malaysia, Viet Nam and China are the countries which retain high restrictiveness in international comparison. Even for Japan and South Korea, the STRI is higher than the OECD average. One exception is Cambodia, the restrictiveness of which is much lower than the world average and almost the same as that of Japan and South Korea. Overall, it can be summarised that the East Asian services markets are restrictive.

¹⁰⁹ It should be noted that the trade restrictions database of the World Bank (<http://iresearch.worldbank.org/service/trade/home.htm>) does not cover the data of Brunei Darussalam, Laos, Myanmar and Singapore in East Asia.

Figure 3-27: Services Trade Restrictions Index (STRI), East Asia

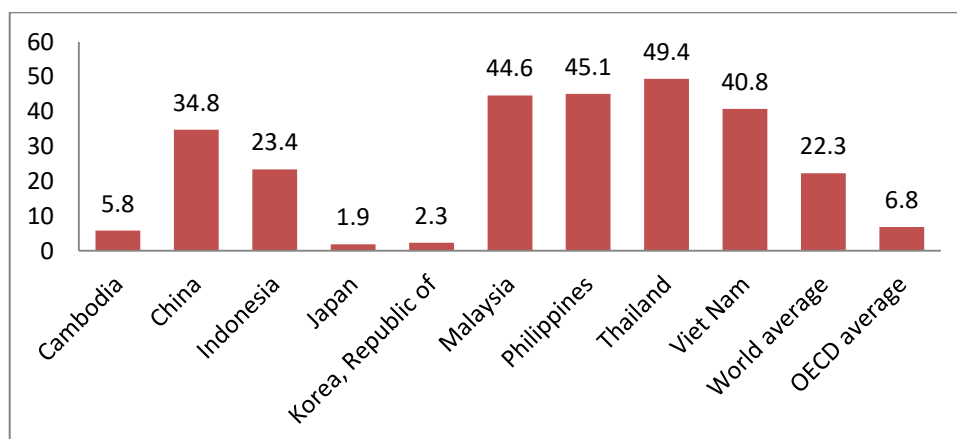


Source: World Bank trade restrictions database

Note: The data of Brunei Darussalam, Laos, Myanmar and Singapore do not exist

Next, we look at the sectoral policy patterns of the region. The restrictiveness of the financial sector¹¹⁰ is extremely high in Thailand, The Philippines, Malaysia, Viet Nam and China (see Figure 3-28). In contrast, the markets of Japan and South Korea are quite open, showing much lower restrictiveness than the OECD average. Indonesia is more or less at the world average. An interesting case is Cambodia, which also shows lower restrictiveness than the OECD average.

Figure 3-28: Services Trade Restrictions Index (STRI) of the financial sector, East Asia



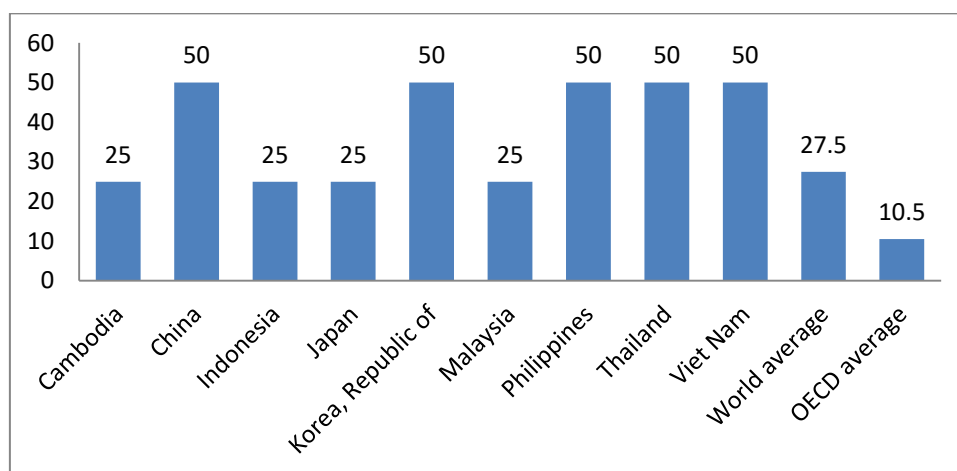
Source: World Bank trade restrictions database

Note: The data of Brunei Darussalam, Laos, Myanmar and Singapore do not exist

¹¹⁰ The data covers the banking sector (bank lending deposit acceptance) and insurance sectors (automobile insurance, life insurance and reinsurance). The modes of supply cover Mode 1 and Mode 3 (see Mattoo *et al.* 2012c).

The restrictiveness of the telecommunications sector¹¹¹ in East Asia is relatively higher than that of the financial sector (see Figure 3-29). Most of the countries in the region (e.g. China, South Korea, The Philippines, Thailand and Viet Nam) score 50, which means that the relatively high restrictive policies and regulations are retained in the sector. The restrictiveness of Cambodia, Indonesia, Japan and Malaysia (25) is slightly less than the world average (27.5). One thing that should be noted here is that even the restrictiveness of Japan and South Korea is much higher than the OECD average (10.5).

Figure 3-29: Services Trade Restrictions Index (STRI) of the telecommunications sector, East Asia



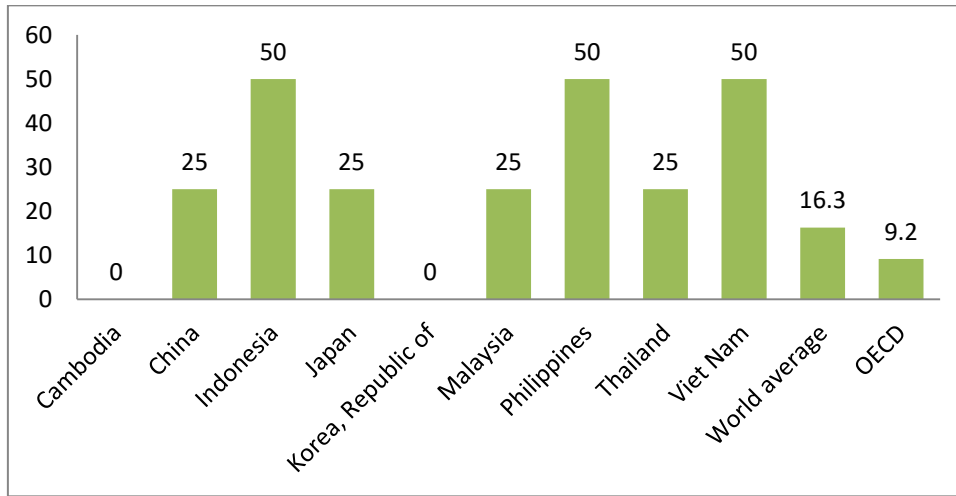
Source: World Bank trade restrictions database

Note: The data of Brunei Darussalam, Laos, Myanmar and Singapore do not exist

Figure 3-30 presents the STRI of the retail distribution. The retail distribution sector in East Asia is also restrictive except in Cambodia and South Korea, the indicators of which show complete openness. The countries which maintain the most restrictive policies are: Indonesia, The Philippines, and Viet Nam with an STRI score of 50. The restrictiveness of China, Japan, Malaysia and Thailand (scored 25) are also higher than the world average (16.3).

¹¹¹ The data encompasses the policies and regulations in the fixed-line and mobile sub-sectors. The modes of supply covers mode 3 (see Mattoo *et al.* 2012c).

Figure 3-30: Services Trade Restrictions Index (STRI) of the retail distribution sector, East Asia

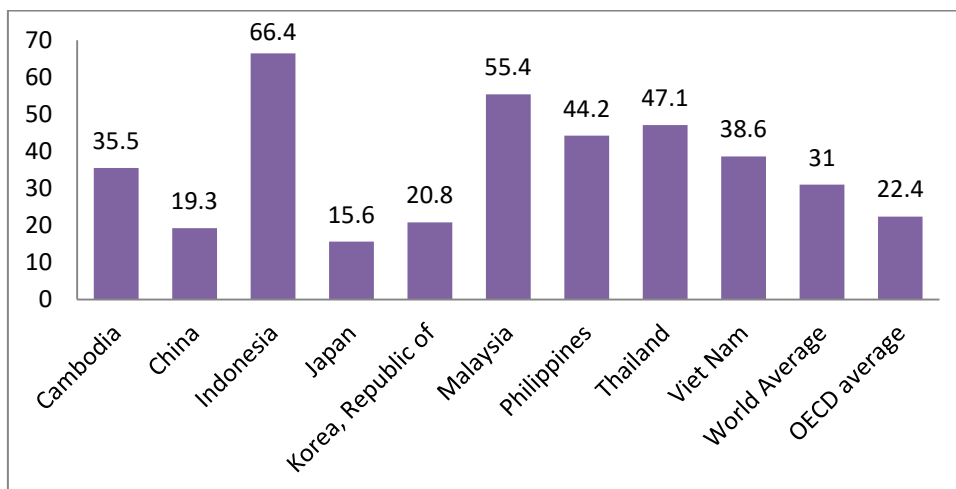


Source: World Bank trade restrictions database

Note: There are no data for Brunei Darussalam, Laos, Myanmar and Singapore.

The restrictiveness of the transportation sector in East Asia varies across the countries (Figure 3-31). The ASEAN countries (Indonesia, Malaysia, Thailand, The Philippines, Viet Nam, and Cambodia) show a more restrictive pattern than the world average. Among these, the Indonesian market is the most restrictive one with a score of 66.4, which means almost closed in practice. The transportation markets of three Far East Asian countries (China, Japan and South Korea) are relatively open showing the lower restrictiveness than OECD average (22.4).

Figure 3-31: Services Trade Restrictions Index (STRI) of the transportation sector, East Asia

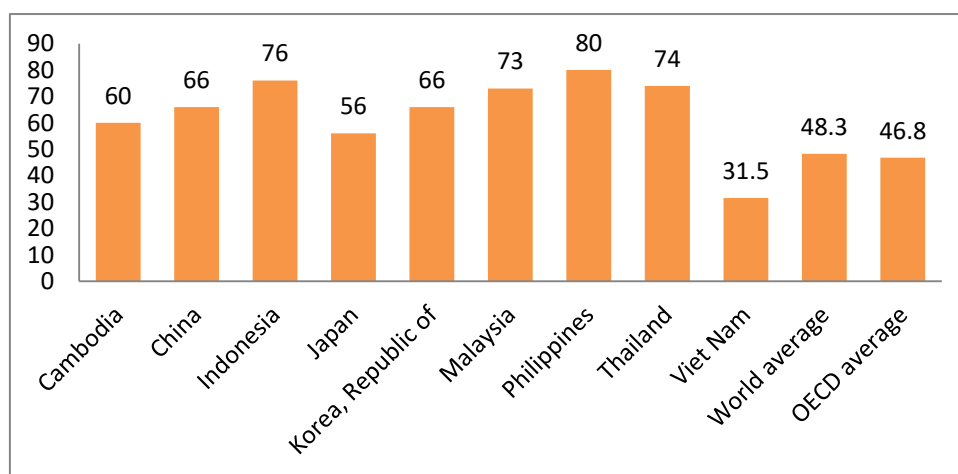


Source: World Bank trade restrictions database

Note: There are no data for Brunei Darussalam, Laos, Myanmar and Singapore.

Lastly, Figure 3-32 presents STRI of professional services. Even OECD countries maintain restrictive policies for this sector (46.8) which shows little difference from the world average (48.3). What should be noted here is that almost all East Asian countries except Viet Nam are much more restrictive than the world average. Among these, the professional services in The Philippines, Indonesia, Thailand and Malaysia are notably highly protected, all of which scored above 70.

Figure 3-32: Services Trade Restrictions Index (STRI) of the professional services sector, East Asia



Source: World Bank trade restrictions database

Note: There are no data for Brunei Darussalam, Laos, Myanmar and Singapore.

In summing up, we confirmed from the figures above that the ASEAN countries and China maintain more restrictive policies than the world average except in a few cases. Hoekman and Mattoo (2008, p28) explain the situation by noting that *many developing countries have moved away from public monopolies in sectors such as communications, financial, and transport services, but still restrict new foreign entry. Asian countries are unwilling to allow foreigners to acquire a majority share of ownership and full control of firms in these sectors.* Japan and South Korea retain restrictive policies and regulations in specific sectors (e.g. the telecommunication sector) while they are almost completely open in other sectors (e.g. the financial sector). As a consequence, their scales of cross-sector average are higher than the OECD average. The results indicate that penetrating the services markets and doing business in East Asia is not easy in general regardless of the origins of services suppliers.

3.4.2 Free Trade Agreements in services

As previously described, the manufacturing trade integration is market-driven in East Asia and institutional integration has taken place to support or reinforce further market integration. As a comparison, services trade integration in terms of market does not take place in East Asia. Then, the question is, to what extent did governments in East Asia institutionally integrate the services markets? In other words, to what extent did the East Asian countries preferentially open the market inside East Asia? Is the policy initiative of institutional integration strong enough to encourage services trade inside East Asia and promote services trade integration? In order to evaluate the level of preferential liberalisation in the services sector, this project assesses the key architectural elements of the agreements, then compares the commitments made under the existing FTAs in the region with their commitments made under the GATS.

Proliferation of FTAs in East Asia and underlying motivations

To begin with, we first review a proliferation of FTAs in the region since 2000s. Inside East Asia, there are three types of FTAs (See Table 3-3). The first is ASEAN which was originally formed in 1967. Another is the bilateral FTAs between an ASEAN member country and either of China, Japan or South Korea. The third is the ‘ASEAN plus one (China, Japan or South Korea)’ type. The bilateral type and ASEAN plus one type started to be created in the early 2000s. To date, the total number of the FTAs in the region is 15 among which 14 FTAs include services provisions.

Table 3-3: FTAs in East Asia

Existing FTAs	Prospective FTAs
Korea-Viet Nam FTA, 2015	[Under negotiation]
Singapore-China FTA, 2009	China-Korea (signed 2015, not yet in effect)
Viet Nam-Japan FTA, 2009	RCEP: Regional Comprehensive Economic Partnership (2013-)
ASEAN-Japan, FTA, 2008 (Japan, Singapore, Laos, Viet Nam, Myanmar, Thailand, Malaysia and Brunei implemented)	China-Japan-South Korean FTA (2012-)
Indonesia-Japan FTA, 2008	Korea-Indonesian FTA (2012-)
The Philippines-Japan FTA, 2008	Korea-Japan FTA (negotiation suspended since 2003, under consultation for restarting negotiation)
Brunei-Japan FTA, 2008	[Under consultation/study]
Thailand-Japan, FTA, 2007	Malaysia-Korean FTA (2005-)
ASEAN-Korean FTA 2007	Thailand-Korean FTA (2003-)
Malaysia-Japan FTA, 2006	
Singapore-Korean FTA, 2006	
Thailand-China, FTA, 2006	
ASEAN-Chinan FTA, 2005	
Singapore- Japan, FTA, 2002	
ASEAN Framework Agreement on Services , 1995	
Total 15	Total 7

Note: Services trade agreements of ASEAN-Japan FTA are under negotiation

This dynamic trend of creating FTAs in East Asia during the period of the 2000s is leading the governments in the Region towards a consolidated ASEAN++ type of FTA in the future.¹¹² The currently negotiated ASEAN plus, which is called RCEP, is one of the political initiatives. The RCEP negotiations are due to be concluded in 2017. The other possibility is forming an ASEAN plus three. However, the prospect of creating an ASEAN plus three FTA is unforeseeable at this stage owing to some political complications in the region, such as the political rivalry between China and Japan.¹¹³

¹¹² See Kawai and Wignaraja (2007) and Kawai and Wingnaraja (2010) for example.

¹¹³ See Dent (2010a).

Quality of East Asian FTAs in services

Next, we assess the level of coverage and commitments in East Asian FTAs. Among the existing 14 FTAs in the region, only the plurilateral ASEAN-Japan FTA does not include services components. As of September 2016, the services provisions of the ASEAN-Japan FTA are not yet concluded. On the other hand, there are bilateral FTAs between Japan and seven ASEAN countries (Singapore, Malaysia, Thailand, Brunei, The Philippines, Indonesia and Viet Nam) which include services components. Because Cambodia, Laos and Myanmar do not have a bilateral FTA with Japan, they are not covered under the preferential liberalisation framework in services trade with Japan.¹¹⁴ The evaluation in this section covers, therefore, 13 East Asian FTAs in services. There are several studies which have analysed the quality of some FTAs in services.

(a) Key architectural elements

Mattoo and Sauve (2010) used qualitative analysis to evaluate the structure and disciplines of the 76 FTAs around the world, among which nine FTAs in East Asia¹¹⁵ are relevant to this research (see Table 3-4).¹¹⁶ As for the scope and coverage, the East Asian FTAs are universal within the concept of the GATS.¹¹⁷ Except for Korea-Singapore, FTAs in East Asia apply a “positive list approach” where commitments are made for a sector (or a sub-sector) which is committed to liberalise. Where the commitments are made, a negative list of limitations is provided under market access and national treatment disciplines. Japan- The Philippines includes a ratchet mechanism although it takes the positive list approach. Korea-Singapore stepped further liberalisation. It applies a ‘negative list approach (NAFTA type approach)’ where all sectors and non-conforming measures are to be liberalised unless otherwise listed as reservations in the reservation list of a specific sector. While no guarantees of locking-in are given under the “positive list approach”, the regulatory status can be locked in under the ‘negative list approach’.¹¹⁸ The provisions of investment in services (mode 3) are more than the GATS provisions except for China-ASEAN and China-Singapore. For example, Japanese bilateral FTAs with each ASEAN country provide a detailed investment chapter in addition to mode 3 covered in the services chapter. Korea-Singapore treats investment in a completely separate chapter in which more

¹¹⁴ It should be noted that Laos and Myanmar are member of Japan-ASEAN FTA while Cambodia has not yet joined the agreement.

¹¹⁵ These are: ASEAN framework Agreement on services, China-ASEAN, China-Singapore, Japan-Indonesia, Japan-Malaysia, Japan-The Philippines, Japan-Singapore, Japan-Thailand and Korea-Singapore. Thailand-China, Viet Nam-Japan, Brunei-Japan and ASEAN-Korea are not included in Mattoo and Sauve (2010).

¹¹⁶ There are also other studies which applied the qualitative analysis such as Roy, Marchetti, and Lim (2007), Fink and Molinuevo (2008a), and Fink and Molinuevo (2008b). We use Mattoo and Sauve (2010) as a basis for observations here because it widely covers the PTAs in East Asia.

¹¹⁷ Exclusions are air transport and certain cases of cabotage in maritime services.

¹¹⁸ Mattoo and Sauve (2010, p46) compares two approaches in detail.

detailed rules than the GATS are provided. The ASEAN Framework Agreement on Services also includes a separate investment chapter in addition to mode 3 coverage in the services provisions.

Table 3-4: Key architectural elements of the FTAs in East Asia

Agreements	Scope/Coverage	Negotiation modality	Treatment of investment in services
ASEAN Framework Agreement on Services	universal	positive list approach	covered as "commercial presence" and under a separate investment chapter
China-ASEAN	universal	positive list approach	covered as "commercial presence"
China-Singapore	universal	positive list approach	covered as "commercial presence"
Japan-Indonesia	universal	positive list approach	covered as "commercial presence" and under a separate investment chapter
Japan-Malaysia	universal	positive list approach	covered as "commercial presence" and under a separate investment chapter
Japan-Philippines	universal	positive list approach	covered as "commercial presence" and under a separate investment chapter
Japan-Singapore	universal	positive list approach	covered as "commercial presence" and under a separate investment chapter
Japan-Thailand	universal	positive list approach	covered as "commercial presence"
Korea-Singapore	universal	negative list approach	Separate chapter

Source: Mattoo and Sauve (2010)

Note: 'Universal' means that the agreement universally covers services, except air transport and cabotage in maritime services in certain cases.

(b) Key disciplines

The key disciplines are also important elements to examine the quality of agreements. Table 3-5 summarises the key disciplines in some East Asian FTAs. With regard to Most-Favoured-Nation (MFN) treatment and National Treatment, all FTAs basically apply the GATS definitions. Among the key disciplines, MFN treatment stand still and transparency are crucial elements since they directly affect the quality of commitments. First, MFN treatment under FTAs means that each signatory shall immediately accord no less favourable treatment than it accords to like services and service suppliers of the third countries to services and service suppliers of any other FTA signatories. Under the Japan-The Philippines FTA and the Japan-Brunei FTA, MFN shall be provided to each other (exceptions are provided in the exception lists). This means, for example, if Japan offers higher commitments in the FTA with Switzerland than Japan offered in Japan-The Philippines, Japan shall immediately accord no less favourable treatment to The Philippines. Under the Japan-Singapore FTA and the Japan-Thailand FTA, MFN treatment is weaker than that of the

Japan-The Philippines FTA. If one signatory concludes an FTA with any other country with a higher level of commitments, the other signatory can request MFN extension. Then the signatory which concludes the new FTA shall consider the requests. The MFN treatment provisions in the Japan-Malaysian FTA and the Japan-Indonesian FTA are more complicated. MFN is committed in the agreement, however, the list of exceptions covers almost all sectors except for the financial services and construction services. In the Japan-Viet Nam FTA, MFN is an exception in accordance with the GATS,¹¹⁹ however, a signatory of the FTA can ask consultations for MFN extension to the other signatory.

Secondly, the standstill provision works as a ratchet mechanism. FTA signatories cannot impose any new or more restrictive measures after the conclusion of the FTA. The Japan-The Philippines FTA is the most liberal in terms of standstill. The reason is that The Philippines offered the standstill of the laws and regulations over the 65 sub-sectors. Under the FTAs of Japan-Malaysia, Japan-Thailand, Japan-Indonesia, the discipline of standstill applies only to the NT (National Treatment) commitments where the 'SS' is marked (measures listed incompatible with NT). In fact, the commitments with 'SS' mark is very limited in these FTAs. Singapore, Brunei and Viet Nam do not include standstill provisions.

Third, some FTAs provide GATS-plus transparency provisions. In the case of the Japan-The Philippines FTA and the Japan-Thailand FTA, whether specific commitments are undertaken or not, services trade related measures which are incompatible with NT and MA (Market Access) disciplines have to be listed.

¹¹⁹ The GATS stipulates that Regional Trade Agreements can be listed in a MFN exemption list.

Table 3-5: Key disciplines in FTAs, East Asia

Agreements	MFN treatment	National Treatment	Market Access	Domestic regulation: Transparency	Stand Still (SS)
AFAS	Not specified	Not specified	Yes	Not specified	Not specified
China-ASEAN	Not specified	Yes	Yes	Yes	Not specified
China-Singapore	Not specified	Yes	Yes	Yes	Not specified
Japan-Indonesia	Yes with some conditions	Yes	Yes	Yes	Only for the NT commitments where "SS" is provided
Japan-Malaysia	Yes with some conditions	Yes	Yes	Yes	Only for the NT commitments where "SS" is provided
Japan-Philippines	Yes with some conditions	Yes	Yes	Yes	Yes
Japan-Singapore	Yes with some condition	Yes	Yes	Yes	Not specified
Japan-Thailand	Yes with some conditions	Yes	Yes	Yes	Only for the NT commitments where "SS" is provided
Japan-Viet Nam	No but exception possible	Yes	Yes	Yes	Not specified
Korea-Singapore	Not specified	Yes	Yes	Yes	Yes

Source: Ministry of Economy, Trade and Investment of Japan (2014). Hukousei boueki houkokusho (Report on Unfair Trade Practice), Tokyo: METI.

*SS means standstill.

From the key architectural elements (Table 3-4) and the key disciplines (Table 3-5), the motivations of the countries can be observed. Singapore and South Korea aim at practically higher liberalisation scheme than the GATS. Japan focuses on promoting investment in services through preferential bilateral agreements. Also, Japan underlines improving legal transparency and predictability for the Japanese services suppliers. In contrast, China is reluctant to make high standard agreements in services. Singapore makes high standard FTAs in general, however, it flexibly changes its approach in accordance with an FTA partner, whereas other ASEAN countries generally prefer not to go beyond the architecture and disciplines of the GATS. Despite that, ASEAN officially schedules to achieve “one single market” where free movement of services is accordingly applied by 2017 (extended from the original goal of 2015). The GATS level structure and discipline of the ASEAN Framework Agreement on Services (AFAS) seems legally unlikely to achieve the political goal.

(c) The level of liberalisation commitments in comparison with the GATS commitments

To assess the level of commitments under FTAs, the recent studies done by Miroudot *et al.* (2010), Roy *et al.* (2007) and Roy (2011) applied the quantitative approach. They quantified the bounded

FTA commitments made under the ‘market access (MA)’ and ‘national treatment (NT)’ discipline columns in the schedule of the commitments.¹²⁰ Among these, this project uses the dataset used in Roy (2011) which is called “the dataset of the commitments in regional trade agreements” of the WTO¹²¹ because it is the most comprehensive data. According to Roy (2011), the objective of this dataset is to evaluate the level of improvement of the existing FTAs commitments as well as the GATS offers submitted for the WTO Doha Round from the GATS commitments.¹²² The data set covers 12 FTAs in East Asia except China-Thailand which has not been notified to the WTO.

Figure 3-33 and 3-34 present the level of commitments in the East Asian FTAs in comparison with the GATS commitments.¹²³ What has to be noted here is that the current GATS commitments had little additional market opening, but do function as a lock-in for unilateral liberalisation (Hoekman, 1996). In other words, the level of the GATS commitments, which are the results of the Uruguay Round concluded in 1993, is far behind the actual liberalisation under unilateral policy. Therefore, even if the level of commitments in FTAs are slightly GATS-plus, they are still much below the actual liberalisation level. Bearing this point in mind, the major features are summarised as follows.

- All of the East Asian countries made higher levels of commitments in the East Asian FTAs in comparison with the GATS commitments. However, the margins of preferential treatment are limited in most FTAs. Some cases, such as Singapore’s offers against South Korea and against JAPAN and the ASEAN 7th package¹²⁴ under the ASEAN framework on services, show wide margins of preference.
- All East Asian countries change the level of preferential liberalisation in accordance with the FTA partners.
- As far as both the multilateral and preferential liberalisations are concerned, Japan holds the highest level of commitments among East Asian countries, followed by South Korea, Singapore and China. Interestingly, Viet Nam is more liberal than other ASEAN countries such as The Philippines, Malaysia, Thailand, Brunei and Indonesia.
- While Singapore gives priority to bilateral FTA with China, Japan and South Korea, other ASEAN countries prioritise the ASEAN partners with providing higher level of commitments in the ASEAN 7th package.

¹²⁰ The methodology applied differs depending on the objective of the research.

¹²¹ Available at http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm

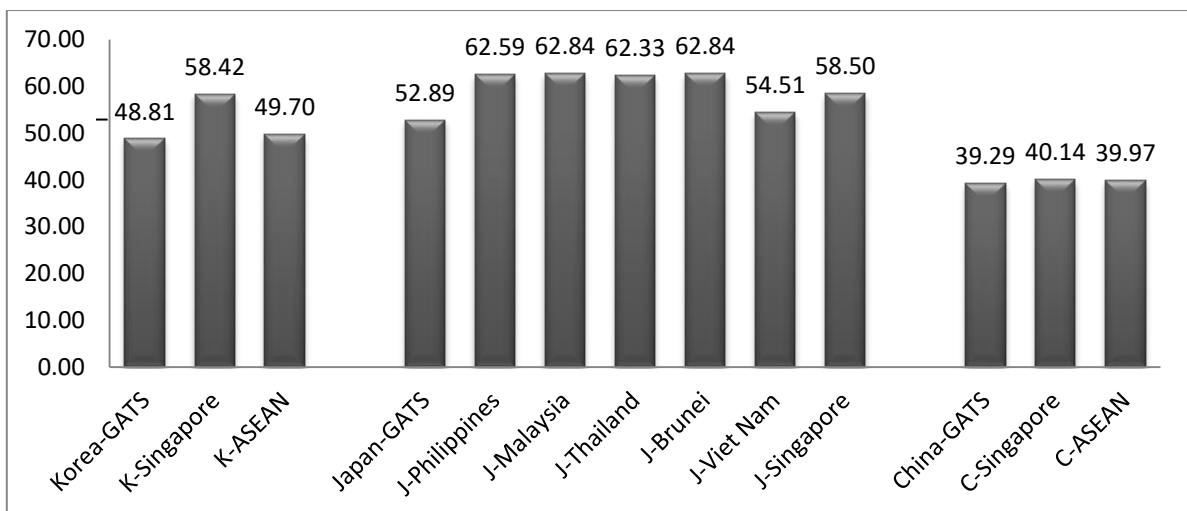
¹²² The dataset assessed only mode 1 and mode 3 which in fact can capture the overwhelming share of services trade. The index scoring reflects the level of improvement in a Member’s partial commitments.

¹²³ The level of the DDA offers of each member country is not available from the dataset although some results are illustrated in Roy (2011). Also see Table 18 in Appendix 7.

¹²⁴ AFAS 7th (2009) was the first liberalisation package which achieved substantial GATS-plus commitments as described in “Limited services integration under AFAS” in Chapter 6: 6.2.

- The level of commitments in the ASEAN 7th package seems far behind its political commitment of achieving free movement of services by 2017 inside ASEAN.
- South Korea: Whereas South Korea made higher a level of commitments (58.42) in comparison with the GATS commitments (48.81) in the Korea-Singapore FTA, it provided little preferential treatment to other ASEAN members in the Korea-ASEAN FTA (49.7).
- Japan: Japan's level of GATS commitments (52.89) is the highest among the East Asian countries. It gave more or less the same level of preferential treatment to each ASEAN countries under the bilateral FTAs, ranging between 54.51 (to Viet Nam) and 62.84 (to Malaysia). The margins of preferential treatment are moderate (1.5-10).
- China: China provided little preferential treatment in its East Asian FTAs, despite the fact that its level of GATS commitments accounts for only 32.29. Even though China has a separate bilateral FTA with Singapore, the level of commitments of the China-Singapore FTA (40.14) is almost same as the China-ASEAN FTA (39.97).

Figure 3-33: The level of commitments in FTAs offered by South Korea, Japan and China



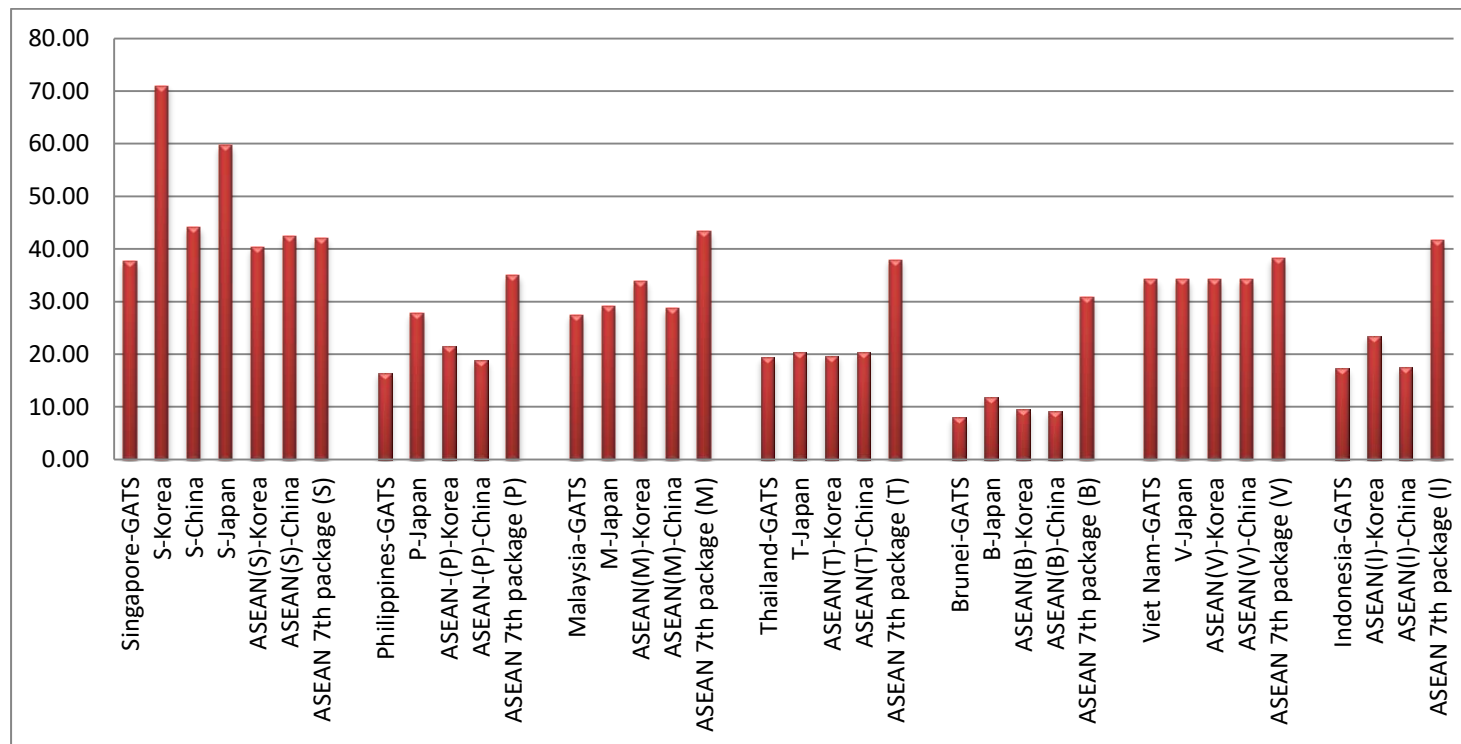
Source: The index is from the “dataset of the commitments in regional trade agreements” of the WTO (available at http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm).

Note: The index is brought onto a 0-100 scale: 100 (full-commitments in all sub-sectors and relevant modes). GATS stands for the GATS commitments. K stands for Korea, J: Japan, C: China. For example, K-Singapore is the commitment offered by Korea under Korea-Singapore FTA. Japan-Indonesia EPA is not included here because index is not available from the dataset.

- Singapore: Singapore's level of GATS commitments is only 37.59. On the other hand, Singapore seems more seriously committed to bilateral FTAs as the preferential margins of Singaporean bilateral FTAs on average are higher than those of the other East Asian countries. For example, it provided the highest level of commitments (70.98) in the Singapore-Korean FTA. Even under the ASEAN services framework, Singapore's level of commitments (42.03) is lower than its bilateral commitments with South Korea, Japan (59.62) and China (44.07).
- The Philippines: The level of GATS commitments of The Philippines are relatively low (16.41). For The Philippines, it seems that ASEAN services integration is a priority (34.95). The commitments made in the bilateral FTA with Japan (27.68) are higher than those in ASEAN-China (18.75) and ASEAN-Korea (21.47).
- Malaysia: ASEAN services integration seems a top priority for Malaysia as the margin is relatively large between its ASEAN 7th commitments (43.39) and GATS commitments (27.47). On the other hand, it provided little preferential treatment to China (28.66), Japan (29.08) and South-Korea (33.89).
- Thailand: Thailand significantly prioritises ASEAN. The level of its ASEAN 7th commitments accounts for 37.86 while the commitments with Japan (20.37), South Korea (19.69) and China (20.32) show little difference from its GATS commitments (19.39).
- Brunei: More than Malaysia and Thailand, Brunei gives a high priority to ASEAN. It provided the much higher level of commitments under the ASEAN 7th package (30.78) than its GATS commitments (7.99) which are lowest among the East Asian countries.
- Viet Nam: Although Viet Nam is still an LDC, its GATS commitment is relatively high (34.18). Interestingly, it gave no preferential treatment to PTAs with China, Japan and South-Korea. Even under the ASEAN 7th package, the level of commitments (38.27) is not much higher than the GATS commitments.
- Indonesia: Indonesia also prioritises ASEAN. The level of the ASEAN 7th package shows 41.58 while the level of its GATS commitments is only 17.26. It also differentiates the level of preferential treatment according to the partner in an FTA (e.g. South-Korea: 23.43 and China: 17.52).¹²⁵

¹²⁵ We cannot include the Japan-Indonesian FTA as the level of commitment is not contained in the dataset.

Figure 3-34: The level of commitments in FTAs offered by ASEAN member countries



Source: The index is from the “dataset of the commitments in regional trade agreements” of the WTO (available at http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm).

Note: The index is brought onto a 0-100 scale: 100 (full-commitments in all sub-sectors and relevant modes). GATS stands for the GATS commitments. K stands for Korea, J: Japan, C: China. For example, K-Singapore is the commitment offered by Korea under Korea-Singapore FTA. Japan-Indonesian FTAA is not included here because index is not available from the dataset

In short, the level of services commitments in the East Asian FTAs does not reflect the strong diplomatic motivations of East Asian integration. First, they are not significantly liberalised in comparison with the GATS commitments which was made more than 19 years ago. This means that the level of liberalisation is much less than the actual liberalisation under unilateral policy. Second, a high degree of consistency within the agreements cannot be seen in the region, reflecting the varying levels of economies and different political and economic strategies of each country.

Box 3-1: An overview of liberalisation commitments made under the bilateral FTAs between Japan and the ASEAN countries

Below, we highlight the commitments of Japan and the ASEAN countries as a basis of our argument in the case study (Chapter 5 and 6).

Commitments made by Japan: Four strong features can be found from the commitments made by Japan. First, the level of Japan's commitments can be evaluated as GATS-plus in most of the cases, but the commitments were made under the level of respective domestic regime. Second, in comparison with the commitments Japan made for the FTAs with Mexico, Chile and Switzerland which took the negative list approach, the level of commitments made for the East Asian countries seems less ambitious. Third, the level of commitments reflects the economic development or liberalisation level of the partner countries. For example, the commitments made for the Japan-Singapore FTA are the most liberalised ones reflecting the level of market openness of Singapore. On the other hand, the commitments made for the Japan-Viet Nam FTA are mostly limited. Fourth, movement of natural persons is highlighted since specific commitments are separated from the main body of services commitments in most of the FTAs (e.g. Thailand, The Philippines, Indonesia and Viet Nam). The commitments include improved market access to certain categories of professional services which do not exist in the GATS commitments. However, the new commitments were made without any legislative and regulatory changes.

Commitments made by the ASEAN countries: Three strong features can be found from commitments made by the ASEAN countries. One is that six countries (Singapore, Malaysia, Thailand, Indonesia, and the Philippine) with the exception of Viet-Nam made GATS-plus commitments within the existing regulatory regime. However, a range of improvement varies depending on the countries. Second, the level of commitments of all FTA partners is far less than their commitments in the ASEAN services trade agreements (ASEAN 7th package). Third, the type of improvements reflect the major requests from Japan. These were: (i) relaxing or eliminating restrictions on Mode 3, and (ii) relaxing or eliminating restrictions in the services sectors such as after sales services and distribution services in order to improve the business environment of the Japanese manufacturing sector and (ii) relaxing or eliminating restrictions in the services sector which can contribute to support for the supply chains in East Asia (e.g. financial sector, maritime sector and telecommunication sector).

3.5 Conclusion

Services trade integration in East Asia is underdeveloped both in terms of market and policy. This is a distinctive characteristic of East Asia.

Section 3.3 demonstrated the economic features of services markets and trade in East Asia. First, most of the East Asian countries (except Singapore and The Philippines) are services importing countries instead of exporting countries. Second, East Asian countries are not competitive in global services trade. In global services trade, the US and the EU are dominant players both in terms of imports and exports. Some East Asian countries such as China, Japan and Singapore are ranked within the top ten in world services trade exports; however, the volume of exports is very limited, which is only one third of that of the US. Third, services market integration is underdeveloped in East Asia. A certain level of intra-services trade takes place between China, Japan, South Korea and Singapore; however, their major trade partners are the US and the EU. Fourth, the economic features of services markets indicate a lack of global competitiveness as well as underdeveloped services market integration in the region. In East Asia, whereas Singapore can be characterised as a country of a liberal and competitive services market, the other countries are not. For example, the competitiveness of the services sector in Japan and South Korea still lags behind the manufacturing sector. Some ASEAN countries such as The Philippines and Malaysia are gaining competitiveness in some services sectors, however, some uncompetitive sectors are remaining in place. Strong government intervention and imperfect competition are also observed in other ASEAN countries (e.g. Indonesia and Thailand) and China. As for LDCs (Cambodia, Laos and Myanmar), which are undergoing democratic and decentralisation processes, the services sector is still small and underdeveloped at the domestic level. In short, the observations could demonstrate a lack of competitiveness in global services markets and underdeveloped services trade integration in the region.

Section 3.4 investigated the policy feature of services trade integration. First we found that the restrictiveness of the actual policies is much higher than the world average in most East Asian developing countries except Cambodia. Notably, The Philippines, Indonesia, Thailand, Malaysia, Viet Nam and China are the countries which retain high restrictiveness. Even Japan and South Korea retain higher restrictiveness than the OECD average. The results imply that unilateral services trade policies in East Asia are not providing sufficiently good conditions for services suppliers to do business in the region. Second, in spite of an upsurge of bilateral FTAs in East Asia since the 2000s, the margins of preferential treatment are limited in most of FTAs in comparison with the GATS commitments. This means that the level of liberalisation is much less than the actual liberalisation under unilateral liberalisation. Third, a lack of consistency within the existing agreements in the region may become a deadlock on the creation of a consolidated FTA in the

region. In conclusion, the policy analysis identified that institutional integration of services trade in East Asia is too weak to motivate services suppliers to promote services trade in the region.

Chapter 4: Understanding Services Trade Decision-making in Practice

4.1 Introduction

The aim of this project is to figure out how interests and institutions in domestic decision-making affected the formulation of negotiating positions of Japan and ASEAN for the Japan-ASEAN bilateral FTAs. For this purpose, it is important to understand how services trade negotiating positions are formulated in practice at the domestic level. This chapter first identifies the nature of services trade decision-making in comparison with goods trade decision-making. Then we observe services trade decision-making in East Asia by underlining: (i) major actors (policy supply side and policy demand side); (ii) interactions between governments and the private sector; and (iii) internal coordination of government. We provide general observation of services trade policy-making as well as observation of East Asia. To explain (ii) and (iii), we provide some examples of the countries covered by the Japan-ASEAN bilateral FTAs in order to help understand how services trade decision-making in practice takes place in these countries prior to the following case study (Chapter 5 and 6). Since Japan's services trade decision-making is the most developed in East Asia, a more detailed explanation is given in comparison with the explanation about ASEAN developing countries.

4.2 Complex decision-making in comparison with goods trade

Before explaining services trade decision-making in practice, we describe the nature of services trade decision-making in comparison with goods trade decision-making. There are two differences between the decision-making for services trade and that for goods trade. First, inter-governmental coordination is more complex, due to the horizontal fragmentation and vertical fragmentation of government institutions. For services trade decision-making, more coordination is required in comparison with goods trade decision-making process. With regard to horizontal fragmentation, many ministries are involved in services trade policy, especially during the domestic policy-making process and sometimes even the international negotiation process. As explained in Chapter 2, services covers a wide range of industries which are divided into eleven categories: transport, communication, construction, distribution, educational, environmental, financial, health-related

and social services, tourism, business, and cultural and sporting services.¹²⁶ These services sectors are all supervised by certain regulatory authorities. Hence, whether for multilateral or plurilateral trade negotiations, all of these domestic regulatory authorities play a role as policy-making actors and deliver their offensive or defensive interests. In addition to horizontal fragmentation, federal states have to suffer vertical fragmentation. Since provincial governments administer the services related regulations (e.g. licensing and qualification of professional services, health related services, educational services and water or energy related services) at the sub-national level, the sub-national level regulatory authorities get involved in decision-making. In this case, a provincial government may possibly exercise regulatory power during the domestic decision process. Second, client relationships between domestic regulatory authorities and domestic services suppliers are much stronger in comparison with goods. There are two reasons for this. The first reason is the stronger influence of domestic regulation than goods trade.¹²⁷ The domestic regulatory authorities, who are authorised to provide licenses and qualifications, can exercise strong regulatory power to services providers. Professional services in Japan and ASEAN are one of the examples where the strong client relationship can be observed from this perspective.¹²⁸ The second reason lies in the more direct effects of technological change than in goods trade.¹²⁹ The competent authorities have to rely on sectoral information, which is associated with technological changes, to establish their negotiating positions. For example, the movement of natural persons (Mode 4), such as the IT engineers, was replaced by cross-border supply (Mode 1) in the business outsourcing services in The Philippines thanks to TC innovation in the early 2000s.¹³⁰

4.3. Identifying actors

4.3.1 Policy supply side (government)

Lead ministry¹³¹

In many countries either the Ministry of Foreign Affairs or the International Trade Ministry plays a role as a lead ministry for international trade negotiations and its trade policy-making process. This is also the case of services trade negotiations. The central duty of the lead ministry is to coordinate the inter-government decision-making process and create a country's unified negotiating positions including requests/offers of commitments. Hence, the lead ministry sets up a services trade

¹²⁶ See the GATS classification explained in Chapter 2: 2.2.

¹²⁷ See Chapter 2: 2.2.B.

¹²⁸ See Chapter 5 and 6.

¹²⁹ See Chapter 2: 2.2.C.

¹³⁰ See Chapter 6.

¹³¹ The Observation is derived from the interviews with the East Asian government officials in April 2013 (See Appendix 1).

negotiation committee inside the government and invites all relevant ministries and regulatory authorities relating to the services sector. In terms of consultations with the services sector, the lead ministry would set up consultation meetings with the non-government sectors including the business sector. It would also try to keep a good connection with business confederations to grasp the general negotiating positions of the market players. While the domestic regulatory authorities which supervise sectoral services are possessed of sectoral expertise and information, the lead ministry is not, since it does not generally administer any services sector. Therefore, the lead ministry has to rely on the expertise of the domestic regulatory authorities. In general, the lead ministry's negotiating power is very limited due to a lack of authorisation power.

As Table 4-1 shows, in Malaysia and Singapore, it is the Ministry of Trade and Industry which leads international trade policy making including services trade, and trade diplomats act as professional negotiators. In Indonesia, the Ministry of Trade is the major actor responsible for international trade negotiations with support from the Ministry of Foreign Affairs. For services trade negotiations, the Ministry of Trade acts as a lead ministry. In Thailand, the Ministry of Commerce leads international trade negotiations including services. However, the Ministry of Foreign Affairs is sometimes designated as a lead ministry such as is the case of FTA negotiations with Japan. In The Philippines, the Department of Foreign Affairs represents the country for the WTO services trade negotiations while NEDA (National Economic Development Authority) leads the services trade negotiations for FTA services trade negotiations. In Japan, the Ministry of Foreign Affairs (MOFA) officially represents the country for international trade negotiations including services. However, the Ministry of Economy, Trade and Industry (METI), which possesses more expertise on services trade as an economic agency, plays a role as a de-facto lead ministry together with the MOFA.

Table 4-1: A list of lead ministries in East Asia

Country	Lead Ministry
China	Ministry of Commerce
Indonesia	Ministry of Trade (with support from Ministry of Foreign Affairs)
Japan	Ministry of Foreign Affairs (with support from Ministry of Economy, Trade and Industry)
Malaysia	Ministry of International Trade and Industry
Singapore	Ministry of Trade and Industry
South Korea	Ministry of foreign affairs and trade
Thailand	Ministry of Commerce
The Philippines	National Economic Development Agency
Viet Nam	Ministry of Industry and Trade

Source: the interviews with the East Asian government officials in April 2013 (See Appendix 1)

Box 4-1: A sequence of the domestic trade policy-making process

To understand the domestic policy-making process in general, the 'standard domestic sequence' of economic diplomacy introduced by Bayne (2011) is useful. He divided the process of economic diplomacy into seven stages: (1) Identifying the lead department/ministry, (2) External consultation, (3) Internal coordination, (4) Political authority, (5) Democratic legitimisation, (6) International negotiation, and (7) Ratification of agreement. He explains that the process is deliberately simplified to seven stages and that some stages may take place simultaneously and/or be repeated as negotiations develop (Bayne 2011, p.44).

The seven stages are as follows. The first stage is to identify which department/ministry of government represents the international negotiations. At the second and third stages, the lead ministry proceeds to external consultation (stage 2) in parallel with internal coordination (stage 3). At external consultation, the lead ministry as well as the home ministries/agencies responsible for the negotiation issues, consults with non-government actors such as the private sector, NGOs and academics to establish their positions. Internal coordination is the process through which the lead ministry consults on the issues with other government ministries/agencies to reach the official level consensus. There are two major steps for the lead ministry during the internal coordination. The first step is to *decide its own negotiating objectives and tactics and resolve any internal difference* (Bayne, 2011, p46). In the case of trade negotiations, the typical domestic tension is between the lead ministry, which aims at liberalising the domestic markets, and home ministries/agencies which would like to protect the sectors under their supervision. Sometimes, home ministries/agencies of sub-national level are involved in the negotiations. The second step is to reconcile the interests of other ministries/agencies concerned and adopt a common national position where all ministries/ agencies concerned more or less compromise on their positions to reach unified national interests. At the fourth stage, ministers become involved in the decision process and a political decision is made. The Stage 5 moves to the democratic legitimisation through the parliament. During the international negotiation (stage 6), steps 1 to 5 of the domestic policy-making process are iterated. As international negotiations proceed, each stage of internal coordination process becomes more vibrant. The final stage (stage 7) is the ratification of the agreement. The 'standard domestic sequence' of trade policy-making processes can be applied to the domestic decision-making process for the FTA services trade negotiations.

Domestic regulatory authorities¹³²

Given the wide coverage of services trade, the ministries which administer a specific sector are asked to input their expertise into services trade policy-making. As a consequence, almost all domestic regulatory ministries are involved in services trade policy-making at the domestic level. As can be seen from Table 4-2, almost all ministries are involved in services trade negotiations in East Asia, although the level of interests differs across ministries. In the case of Japan, some domestic regulatory ministries which have strong interests (both in terms of offensive and defensive) even participate in the international negotiation process as watchdog of the lead ministry (Ministry of Foreign Affairs).

The degree of involvement in services trade decision-making may differ across agencies depending on the type of negotiations or the coverage of negotiating issues. Taking the WTO services trade negotiations as an example, the lead ministry (e.g. foreign ministry or ministry of international trade) was the main actor in the negotiations for drawing up the architecture of the GATS during the Uruguay Round and the GATS review process between 1998 and 2000 because the negotiation requires broad international political and economic views, as well as expertise in international law. During the sectoral negotiations of the financial sector (1995-1997) and the basic telecom sector (1994-1997), the regulatory agencies played a crucial role in domestic policy making processes. They even directly presented themselves to the international negotiation process at the WTO to stress their interests. Likewise, once the sectoral negotiations started at the Doha Development Agenda (DDA) services negotiations, domestic regulatory authorities showed more interest in directly inputting their offensive or defensive interests to the request and offer process.

The history of the WTO services trade negotiations described above indicates that the more specific negotiations become, the more likely the degree of involvement of domestic regulatory ministries goes up. This can apply to FTA services trade negotiations. Unlike the case of the WTO negotiations, where 157 WTO Member countries participate, FTA services trade negotiations, where a limited number of countries participate, become more specific. Thus FTA services trade negotiations would give domestic regulatory authorities more incentives to become involved in the domestic decision-making process. Accordingly domestic regulatory authorities of the offensive sectors would become actively involved in the request making process. Likewise, the domestic regulatory authorities of the defensive sectors would actively become involved in the offer making process to downgrade the quality of offers.

¹³² The observation is derived from the interviews with the East Asian government officials in April 2013 (See Appendix 1).

Negotiation capacities of domestic regulatory authorities also affect the degree of involvement in services trade negotiations. If regulatory ministries are totally occupied with domestic matters and no negotiation capacities are left to deal with the international economic matters, services trade negotiations are likely to be ignored. Also, the absence of technical knowledge of services negotiations would easily induce a backward looking tendency. A lack of negotiation capacities of developing countries in comparison with those of developed countries is often pointed out by negotiators from developing countries at the WTO services trade negotiations. This can also apply to FTA services trade negotiations. For example, while Japan had sufficient negotiation capacities for the FTA services trade negotiations in East Asia, ASEAN developing countries suffered from limited negotiating capacities.

Table 4-2: A list of the domestic regulatory authorities which participate in services trade policy-making in some East Asian countries

Source: the interviews with the East Asian government officials in April 2013 (See Appendix 1)

	China	Indonesia	Japan	Malaysia	Singapore	Thailand	The Philippines
Names of domestic regulatory authorities	<ul style="list-style-type: none"> • Ministry of Finance • Ministry of Environmental Protection • Ministry of Industry and Information Technology • Ministry of Land and Resources • Ministry of Transportation • Ministry of Education • Ministry of Culture • Ministry of Environmental Protection • Ministry of Foreign Affairs • Ministry of Human Resources and Social Security • Ministry of Justice • Ministry of Land and Resources • Ministry of Transport • Ministry of Water Resources 	<ul style="list-style-type: none"> • Coordinating Ministry for Economy • Ministry of Finance • the National Development Planning Board • Ministry of Labour • Ministry of Communications? • Ministry of National Education? • Ministry of Health? • Ministry of Information? • Ministry of Mines and Energy? • Ministry of Tourism, Art and Culture 	<ul style="list-style-type: none"> • Ministry of Economy, Trade and Industry • Ministry of Education, Culture, Sports, Science & Technology • Ministry of Environment • Ministry of Finance • Ministry of Health, Labour & Welfare • Ministry of Justice • Ministry of Land, Infrastructure, Transport & Tourism • Ministry of Internal Affairs and Communications 	<ul style="list-style-type: none"> • MITI related agencies (Malaysian Investment Development Authorities, Malaysian External Trade Development Corporation, SME corporation, Malaysia Productivity Corporation) • Ministry of Finance related agencies (Kazanah Nasional, Employees Provident Fund) • Ministry of Domestic Trade, Co-operatives and Consumerism • Ministry of Works • Ministry of Foreign Affairs • Ministry of High Education • Ministry of Energy, Green Technology and Water • Ministry of Information, Communication and Culture, • SME Corporation Malaysia 	<ul style="list-style-type: none"> • Ministry of Foreign Affairs • Ministry of Information, Communication and the Arts • Ministry of Culture Community and Youth • Ministry of Education • Ministry of Finance • Ministry of Health • Ministry of Home Affairs • Ministry of Law • Ministry of Manpower • Ministry of the Environment and Water resources • Ministry of Transport 	<ul style="list-style-type: none"> • Ministry of Foreign Affairs • Ministry of Finance • Ministry of Tourism and Sports • Ministry of Transport • Ministry of Natural Resources and Environment • Ministry of Information Technology and Communication • Ministry of Energy • Ministry of Justice • Ministry of Labour • Ministry of Culture • Ministry of Education • Ministry of Public Health • Ministry of Industry 	<ul style="list-style-type: none"> • Department of Trade and Industry • Department of Finance • Department of Foreign Affairs • Department of Tourism • Philippines Professional Regulation Commission • Central Bank of The Philippines • Department of Education • Department of Energy • Department of Environment and Natural Resources • Department of Health • Department of Labour and Employment • Department of Justice • Department of Tourism • Department of Transportation and Communications

4.3.2 Policy demand side

On the policy demand side, two types of non-state actors, business actors and civil society organisations (CSOs), participate in services trade decision-making in practice. Although the participation of civil society organisations in trade negotiations has been increasingly becoming active over decades, business actors still are privileged in reflecting their interests during Government's consultation processes in many countries (Capling and Low 2010), which is also the case for services trade negotiations. Although the business sector was a major actor on the policy demand side for FTA services trade negotiations inside East Asia in the 2000s, this section provides general observations about services trade decision-making in practice.

A. Business actors

As for the business sector, business confederations, sector associations (sectoral associations and professional associations), and individual firms are identified as major actors of the policy demand side in international trade diplomacy.¹³³ In addition to these, one cannot ignore the emerging role of services coalitions in services trade diplomacy in the case of developed countries. Although the existing type of associations and the degree of involvement in international trade diplomacy vary across countries, the strong feature is that roles of the private sector in services trade policy-making, especially in the area of regulatory lobbying, in the EU and the US are far ahead from those in the East Asian countries.¹³⁴ Thus we include an explanation of the major policy making actors for services trade negotiations in the EU and the US by way of comparison.

(i) Business confederations

Business confederations generally represent a broad cross-sectoral position. They can represent the national business positions on services trade in general; however, they normally do not act for a specific services sector as they have to generalise their negotiating positions taking into account its horizontally wide memberships. In developed countries, we can see influential business confederations such as the Japan Business Federations (Keidanren) in Japan, Business Europe (the former Union of European Industry and Employers' Confederations - UNICE) based in Brussels, US Council for International Business in the US, Confederation of British Industry (CBI) in the UK and Bundersverband der Deutschen Industrie (BDI) in Germany. They are major actors in international economic diplomacy including FTAs. In contrast, negotiating capacities for FTA

¹³³ See Macdonald and Woolcock (2007).

¹³⁴ From the interviews with the business lobbyists between 2013 and 2015 (Appendix 1).

negotiations of the business confederations in developing countries are inferior to the ones of developed countries due to their limited human resources and funding. Chambers of Commerce and Industries can represent the voices of SMEs, unlike business confederations representing the larger companies. However, the degree of their involvement in FTA policy-making seems limited in comparison with the business confederations. One of reasons is that SMEs, especially the local SMEs in developing countries, cannot link their business activities with international trade negotiations due to their domestically rooted business activities, as well as unawareness of their potential as exporters.

(ii) Sector associations (sectoral associations and professional associations)

Sector associations can act more specifically to reflect their offensive or defensive positions than business confederations where cross-sectoral interests have to be marginalised. In the services sector, there are two types of sectoral association. One is sector association: such as a banking association, insurance association, construction industry association, communication industry association and tourism industry association. Taking the example of the WTO services trade negotiations, the American and European financial sectors were the major actors promoting financial services liberalisation during the Uruguay Round and the sectoral negotiations on financial sector following the Uruguay Round.

The coverage and size of existing sector associations varies across the East Asian countries. In general, sector associations in the East Asian countries focus more on domestic economic issues than trade issues. For example, even in Japan, which is a country where the sector associations cover most of the domestic services sectors, the institutional capacities of sector associations to participate the decision-making process are limited to specific organisations such as banking and insurance associations. In ASEAN countries, there are associations representing the major service sectors such as construction, transportation and financial services. But the level of interests in the services trade negotiations and institutional capacities to participate in the policy-making process of sector associations were still very limited in the 2000s.

The other type is the associations which represent professionals such as an architect association, nurse association, medical doctor association, engineer association, lawyer association and accountant association. Given that these professional associations directly relate to movement of natural persons (mode 4) under the GATS, they have been powerful lobbying sources at the WTO services trade negotiations ever since the GATS was introduced. One specific example of the involvement of professional associations in services trade negotiations was accountants. At the multilateral level, the American and European accountant firms and associations actively lobbied

their governments to liberalize the accountant markets during and after the Uruguay Round. As a result, the Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector were adopted in May 1997.¹³⁵ In ASEAN countries, FTA negotiations attract export interests of some professional associations such as nurses and care workers.

(iii) Services coalitions

One of the strong features in services trade diplomacy is the emerging role of services coalitions at the global level.¹³⁶ The first such coalition was the Liberalisation of Trade in Services (LOTIS) committee formed in 1981 by British Invisibles. In the US, the American services firms organised the “Coalition of Services Industries (CSI)”¹³⁷ in 1982 to promote services trade liberalisation through the WTO and FTAs and enhance global competitiveness of the American services industries. CSI is the largest services coalitions across the world in terms of membership, activities and structure. It broadly represents the American services firms and associations including the financial services, telecommunication services, express delivery services, information and technology services, professional services, audiovisual services and distributions/retail services. Activities vary from trade policy formulation (e.g. advising the USTR and the Departments of Treasury and Commerce, and educating members of the US Congress and staff), providing data and analysis of services to advocating services liberalisation at the global level, such as organizing the global services summits.

Following in the footpath of the US, the European Services Forum (ESF) was established in 1998 to form a consolidated voice of the European services firms and present their interests for the services trade negotiations in the WTO and FTA negotiations¹³⁸. The membership of the ESF covers more than 20 services sectors including audiovisual services, business services, distribution/retail services, environmental services, financial services, professional services, shipping services, telecommunication services and tourism, the coverage of which is apparently wider than that of the CSI. In comparison with CSI, ESF concentrates its activities on policy making. For example, it publishes substantial numbers of position papers on the WTO and FTA negotiations in services which require expertise.¹³⁹ ESF maintains close contact with the European

¹³⁵ See the negotiation background at the WTO website: http://www.wto.org/english/tratop_e/serv_e/accountancy_e/accountancy_e.htm.

¹³⁶ In addition to the EU, US and East Asia, there are similar types of services coalitions in Chile, Barbados, Canada, Australia, Ireland, New Zealand, Argentine, and Trinidad and Tobago. The scale of institution and institutional function vary among countries.

¹³⁷ See the website of CSI: <http://uscsi.org/>

¹³⁸ The FTA negotiations were incorporated into the mandate after the failure of the fifth WTO Ministerial Conference in 2003. See the website of ESF: <http://www.esf.be/>

¹³⁹ For example, ESF published twelve position papers in 2011 (e.g. the EU-Indian FTA, EU investment policy towards China, EU-Mercosur FTA, EU-Malaysia trade negotiations and financial services liberalisation).

Commission and other EU institutions so that the business interests of the European services industries are effectively reflected in WTO and FTA negotiations.

By comparison with active involvement of services coalitions in the US and the EU, the presence of services coalitions in East Asia is not strong with the exception of Hong Kong.¹⁴⁰ In fact, a similar type of forum exists in Japan, Malaysia and Indonesia, however, the scale, scope of activities and institutional independency of these forums are incomparably weaker than those of the US and the EU. In the case of Japan, responding to strong requests from the CSI (US) to form a counterpart organisation in Japan, the Japan Business Federation (Keidanren) decided to host the Japan Services Network (JSN) in 1999 to promote information exchange among the Japanese services firms and develop cooperation with the services coalitions in other countries. Unlike CSI (US) and ESF which accommodate their own secretariats to engage actively in multilateral and plurilateral negotiations, JSN is only an umbrella committee which belongs to the International Trade and Investment Committee of the Keidanren. Members are some of the Keidanren member companies which show interest in international services trade negotiation.¹⁴¹ Over a decade after its establishment, JSN only joined the international communiqués of the Global Services Network, such as the successful WTO services trade negotiations. In fact, it is not JSN but the International Trade and Investment Committee of Keidanren which has been a major focal point of services trade negotiations at the domestic trade-policy formulation process. In the case of Malaysia, the situation is similar to Japan. The Coalition of Services Industries Malaysia,¹⁴² established in 2007 and hosted by the Malaysian International Chambers and Commerce and Industries, also actively joins the international communiqué as member of the Global Services Network, however its own activities in terms of informational and financial resources are not clear. In Indonesia, Indonesia Services Dialogue¹⁴³ started its activities as an ad-hoc forum in 2010 and became a legal entity in January 2015. As described above, services coalitions did not participate in FTA services trade negotiations in the 2000s in the case of East Asia.

(iv) Individual firms

Individual firms in the services sector can directly express their positions and lobby governments to attain their interests, as firms in the manufacturing sector do. In the case of the services sector, American and European multinational companies, which achieve strong export competitiveness, have been active through WTO services trade negotiations, especially in the area of rule-making.

¹⁴⁰ There are also Hong Kong Coalition of Services Industries and Taiwan Coalition of Services Industries in East Asia. But these countries are not covered under this research project.

¹⁴¹ Membership of JSN is not disclosed to public.

¹⁴² See the website of CSI Malaysia at <http://csim.com.my/index.html>.

¹⁴³ See the website of Indonesia Services Dialogue at <http://isd-indonesia.org/>.

In the case of East Asia, there is little active involvement of individual firms as promoters of services liberalisation on the offensive side. Rather, defensive lobbying takes place behind the scene. Namely China and the ASEAN countries, SOEs/GLCs which try to retain their dominant position in the markets act informally to protect their interests. On the whole, lobbying activities of individual firms tend to be invisible and difficult to capture by researchers in comparison with business organisations or coalitions which make their positions and statements publicly available.

B. Civil society organisations (CSOs)

The presence of CSOs as actors of trade policy-making is broadly identified among scholars and practitioners.¹⁴⁴ CSOs started to show their interests in international trade negotiations, such as NAFTA and Uruguay Round of the General Agreement on Tariffs and Trade, from the mid-1980s.¹⁴⁵ Then the WTO trade negotiations and plurilateral/bilateral trade negotiations which spread across the globe from the late 1990s further attracted CSOs' attention to trade policy-making. The CSOs' interests in trade negotiations can be categorised into three types: (i) strong ideological interests which arise from divergent social norms and ideology; (ii) substantial concerns about specific negotiation issues such as trade agreements' impacts on domestic policies, culture and the global environment; and (iii) discontent at a lack of transparency in decision-making processes and strong demands for CSOs' participation in negotiation processes.¹⁴⁶

With regard to services trade negotiations specifically, the GATS started to receive major criticisms from CSOs since the WTO was established in 1995. There are two reasons why services trade negotiations tend to draw CSOs' attention. Firstly, services trade negotiations deal with behind the border issues which directly relate to domestic regulations. Secondly, given the wide sectoral coverage of the GATS, negotiations include public-related sectors such as public health, education, environment and cultural sector (e.g. audio-visual). At the multilateral level, since a new round of services trade negotiations started in 2000,¹⁴⁷ CSOs started to show substantial concerns about the GATS. These include investment related commitments and their effect on development; legal obligations of national treatment and market access; privatisation and liberalisation of public services (e.g. implication of the GATS negotiations over public water distribution); and a country's right to regulate.¹⁴⁸ Furthermore, CSOs are strongly sceptical about

¹⁴⁴ See Capling and Low (2010), Halle and Wolfe (2007), Hanegraaff, Beyers and Braun (2011), and Hocking, B. (2004) for example.

¹⁴⁵ The WTO website: https://www.wto.org/english/forums_e/ngo_e/intro_e.htm

¹⁴⁶ Capling and Low (2010). p6.

¹⁴⁷ See the Article XIX: Negotiation of Specific Commitments of the GATS.

¹⁴⁸ See "GATS -Fact and Fiction" from the WTO website: https://www.wto.org/english/tratop_e/serv_e/gatsfacts1004_e.pdf.

the on-going TISA (Trade in Services Agreement) negotiations,¹⁴⁹ which aim at improving the GATS rules and liberalising services markets.¹⁵⁰ Likewise, the plurilateral/bilateral services trade negotiations under FTAs receive the similar type of substantial criticisms from the CSOs. Because a services agreement under FTAs generally aims at a higher level of liberalisation and stronger rules than those under the GATS, CSOs worry that services trade provisions might undermine public interests, such as consumer safety, environmental protection, human rights and development policy.¹⁵¹

In East Asia, CSOs are not involved in the decision-making process for services trade in comparison with the EU and the US for two reasons. First, the CSOs' access to services trade decision-making process is not institutionalised in comparison with the US and the EU. The second reason is a lack of capacity. CSOs' financial and human capacities to engage in trade policy debates, especially in East Asian developing countries, are still very limited in comparison with those of developed countries.

It is true that CSOs' interests in services trade negotiations have been gradually growing over decades, both at the multilateral and plurilateral levels in East Asia. However, ideological interests against services liberalism are expressed much more strongly than substantial concerns about services trade agreements, especially in the ASEAN countries. For instance, in Indonesia, while some business organisations such as KADIN (Indonesian Chambers of Commerce and Industry) and the Indonesian Entrepreneurs Association are privileged to take in part the formal consultation process and provide substantial inputs to the government, CSOs' participation to trade policy debates is almost absent. Instead of providing policy inputs, Indonesian CSOs focus their activities on advocating anti-liberal ideology.¹⁵² In the area of services, only a few CSOs, which are funded by international donors, show policy interests such as services trade liberalisation and its relation with energy policy¹⁵³ and labour mobility.¹⁵⁴ In Thailand, the CSOs' access to trade policy consultation was still limited in the 1990s. However, the CSOs in Thailand started to demonstrate much stronger resistance to neoliberal economic development under the WTO system and accelerated their resistance against '*Thaksin's CEO-style management over Thai FTAs*'¹⁵⁵ from the early 2000s. The most powerful anti-liberal advocator among Thai CSOs was 'FTA Watch', the

Since many of concerns expressed by CSOs are caused by a misunderstanding of the GATS, the WTO Secretariat has been trying to disseminate basic understanding of the GATS among civil society.

¹⁴⁹ 23 WTO Members join the negotiations. See <http://ec.europa.eu/trade/policy/in-focus/tisa/>

¹⁵⁰ See, for example, the article about TISA on the website, Bilaterals.org: <http://www.bilaterals.org/?trade-in-services-agreement-30471>

¹⁵¹ See, for example, CSO' concerns about Central American Free Trade Agreements and NAFTA. Exchange, G. (2004, 05). CAFTA rhymes with NAFTA. *Industrial Worker* Retrieved from <https://search.proquest.com/docview/195442104?accountid=9630>

¹⁵² Chandra and Hanim (2010), p139.

¹⁵³ See Chandra and Hanim (2010), p145 and the website of Institute for Essential Service Reform (<https://humanrightsinasean.info/content/institute-essential-service-reform-iesr.html>).

¹⁵⁴ See Chandra and Hanim (2010), p147 as well as the website of Migrant Care (<http://migrantcare.net/>).

¹⁵⁵ Pongsudhirak (2010), p170.

CSO coalition which was established to protest against Thaksin's trade policy initiatives.¹⁵⁶ FTA Watch strongly requested CSOs' participation into the FTA negotiation process to the Thaksin government. In terms of substance, FTA Watch was interested in a broad range of negotiating issues, including services trade (i.e. public health and consumer protection and investment related clauses) and protested against liberalisation. Interestingly, Thai CSOs are generally less critical about ASEAN economic integration and intra-Asian FTAs¹⁵⁷ than the bilateral FTA negotiations which require higher level of liberalisation and wider substantial coverage, such as the Thai-US FTA negotiations.¹⁵⁸ In South Korea, the CSOs started to protest against neoliberal economic development through the Uruguay Round negotiations and the establishment of the WTO. In the area of services, the financial services sectoral negotiations which were concluded in 1997 drew attention of the South Korean CSOs.¹⁵⁹ Since the South Korean government accelerated bilateral trade negotiations from the early 2000s, the South Korean CSOs' frustrations about a lack of transparency in decision-making process were escalated. Notably, at the time of the bilateral FTA negotiation with the US, the South Korean CSOs organised a series of protests which covered the services trade agreement, such as privatisation and liberalisation of the energy and transport sectors; and liberalisation of the Korean audio-visual sector (i.e. the reduction of screen quotas for the Korean audio-visual industry).¹⁶⁰ Since the FTA negotiations with the ASEAN countries did not require a higher level of services liberalisation to South Korea, CSOs did not pay particular attention to the services negotiations.¹⁶¹

In short, the CSOs' participation in the services trade policy-making process in practice can be summarised as follows.¹⁶²

- CSOs' participation in the policy-making process differs among countries. While some countries institutionalise the CSO's participation, others rely on informal dialogues. If not, CSOs simply resort to street protests. The business sector is institutionally more integrated into policy consultation process in comparison with CSOs.
- In comparison with CSOs in developed countries, CSOs in developing countries suffer from a lack of financial and human resources. Thus, their capacities to conduct general research and technical knowledge in the GATS are still limited. The CSOs' participation in policy-making in developing countries lags behind that of CSOs' in developed countries.

¹⁵⁶ See the website of FTA Watch (<http://www.ftawatch.org/>).

¹⁵⁷ Pongsudhirak (2010), p183.

¹⁵⁸ Pongsudhirak(2010), p172-173.

¹⁵⁹ See "The Struggle against neoliberalism in South Korea; History and Lessons" by Korea Alliance against the Korea-US FTA, the website: <http://www.bilaterals.org/?the-struggle-against-neoliberalism>.

¹⁶⁰ See "The Struggle against neoliberalism in South Korea; History and Lessons" by Korea Alliance against the Korea-US FTA, the website: <http://www.bilaterals.org/?the-struggle-against-neoliberalism>.

¹⁶¹ From the interview with a South Korean government official. See Appendix 1.

¹⁶² Observations about CSOs' participation in trade policy-making from the existing literature is summarised in Capling and Low (2010), p8.

- Organised opposition of CSOs to services trade provisions was developed prior to the WTO in the countries where deep regional integration took place, such as the EU internal market for services¹⁶³ and NAFTA¹⁶⁴.
- The oppositions of CSOs against FTAs intensify when a country negotiates comprehensive and higher level of bilateral trade agreements with a stronger partner such as the U.S.

4.4 Interactions between governments and the private sector

4.4.1 General observation¹⁶⁵

Next, we explain how the private sector delivers its positions to government. In the case of services trade decision-making, the private sector has started to be involved in economic diplomacy from the WTO Uruguay Round where services trade were included as a part of multilateral trade system. However, strong demand could be seen only in Canada, the EU and the US at the time of Uruguay Round. The private sector in East Asia were still not well aware of service trade negotiations. A series of services negotiations and policy discussions which took place under the WTO forum after the Uruguay Round globally boosted the private sector's involvement. From the late 1990s, the private sector in East Asia started to participate in WTO services trade negotiations. Then, the rise of a global trend of plurilateralism after the failure of the WTO Cancun Ministerial accelerated the private sector's involvement in the FTA services trade negotiations. One reason is that the private sector expected FTAs to become an engine of market liberalisation and rule-making, which could hardly be expected from the WTO services negotiations. Another reason is that governments needed very specific information from the private sector, such as existing regulatory barriers of an FTA partner country, as well as technical sectoral information to design rules.¹⁶⁶

During the negotiations, the lead ministry proceeds with external consultation with the private sector in parallel with internal consultation with other government agents. In general, interaction between government and the private sector takes place both in a formal and an informal manner. The typical formal procedure of the external consultation process for FTA services trade negotiations takes place as follows. First, to form the position of the lead ministry, the lead ministry reports the status of the up-coming agenda of an FTA to the private sector counterparts

¹⁶³ Johansson and Lee (2014).

¹⁶⁴ From the website, Citizens Trade Campaign: <http://www.citizenstrade.org/ctc/blog/2017/01/18/5442/>

¹⁶⁵ The observation of this section is derived from a series of interviews: the interviews with a senior official of METI and MOFA, Japan in Tokyo (April 2015); the interviews with counsellors of the Services Trade and Investment Division and Trade Policy Division of the WTO secretariat (April 2013 and July 2015); and the interviews with the senior officials of ASEAN, China, Japan and South Korea (April 2013 and July 2015).

¹⁶⁶ See Capling and Low (2010).

(e.g. business federations and coalitions of services). Responding to the prospects of upcoming negotiations of an FTA, the private sector counterparts establish a relevant forum (e.g. a specific working group consists of the companies with strong interests in the issue) to gather views and information from individual companies. Through the forum, the private sector counterparts form their basic positions including the area of interests, rule-making issues and technical issues to be delivered to government. Once the plurilateral negotiations start, the lead ministry updates the on-going negotiations and informs the private sector counterpart about the positions of FTA partners.

In parallel with the formal external consultation procedure led by the lead ministry, the domestic regulatory authorities in charge of the services sector independently liaise with their business sector counterparts such as the sector organisations, professional organisations and individual companies to form their own positions. These individual consultations become a core part of the negotiating positions of the domestic regulatory authorities during the internal coordination process. The informal part of these interactions, which is usually the main means of lobbying in developing countries, is generally difficult for outsiders, including researchers to capture.

Despite the generalisations provided above, the way external consultation proceeds and the level of commitment of the private sector varies across the countries. Consultation processes between government and the private sector are generally well established in developed countries such as Australia, Canada, the EU, New Zealand and the US in comparison with ones in developing countries. For example, the access to information (e.g. pre-consultation of the negotiations, updating the on-going negotiations status and policy transparency) of government is well institutionalised in the EU and the US. The business sector in the EU and the US is also well-organized to effectively communicate their interests in rule-making areas, specific offensive interests at the sub-sectoral level, and substantive technical information.

4.4.2 Observation of East Asia¹⁶⁷

Next, we describe interactions between government and the private sector for services trade negotiations. We thus explain how an external consultation system has been developed and identify major pro-liberal and anti-liberal forces. In terms of institutions, external consultation systems for services trade negotiations in East Asian countries were gradually established through

¹⁶⁷ The observation of this section is derived from a series of interviews: the interviews with a senior official of METI and MOFA, Japan in Tokyo (April 2015); the interviews with counsellors of the Services Trade and Investment Division and Trade Policy Division of the WTO secretariat in Geneva (April 2013 and July 2015); the interviews with the senior officials of ASEAN, China, Japan and South Korea in Geneva (April 2013 and July 2015) and the interviews with senior lobbyists of the private sector (From 2013-2015).

¹⁶⁷ See Capling and Low (2010).

the WTO services trade negotiations after the Uruguay Round (e.g. financial negotiations and DDA) as well as through the FTA activity in East Asia. Governments consult the private sector to formulate a country's negotiating positions which include making requests and offers and responding to requests and offers from their negotiating partner countries although the level of intimacy between government and the private sector varies depending on the country. In terms of lobbying interests, while the American and European private sector has been intensively lobbying Governments to liberalise services markets and develop multilateral/plurilateral rules in services, the private sector in East Asia has been playing a passive role. From the outward perspective, there have been insufficient offensive interests. The first reason is that services suppliers have not been globally competitive and have little interest in increasing business chances outside of the domestic markets. The second reason is that the private sector in East Asia has not been sufficiently aware of potential services exports. The third reason is that they (especially the private sector in developing countries) could technically associate their business in practice with the services trade agreements. From the inward perspective, the persistent defensive interests of protecting domestic markets have been much stronger than offensive interests. These anti-liberal interests have been efficiently lobbying government agencies and successfully capture them.

Amongst East Asian countries, Japan's external consultation process for services trade negotiations is the most institutionalised. In the case of FTA services trade negotiations, the private sector participates in negotiations from the pre-negotiation process to the early stage of international negotiations. The general formal procedure can be described as follows. At the pre-negotiation stage, the private sector is invited to become a part of the pre-negotiation feasibility study group which is organised by the Japanese government to formulate Japan's basic positions. At the early negotiation stage, the private sector inputs their positions as well as technical issues to the government using both the formal and informal routes. Normally, business confederations set out their positions to the MOFA and the METI while sectoral associations and professional associations input their positions to the supervising regulatory authorities. Once plurilateral negotiations on requests and offers start at the international level, the private sector is formally shut out from the process.

While Japan's external consultation for services trade negotiations is institutionalised, there has been a lack of strong interest in comparison with interest in goods trade. During the external consultations both at the formal and informal levels, the Japanese government has been facing difficulty in finding strong pro-liberal interests in services from the private sector. Although the private sector is involved in the domestic policy making process from the preparatory study phases, few services providers, with some exceptions (e.g. financial sector and IT sector), have been motivated to associate their business activities in practice with the services trade agreements. At the informal level, some professional services (e.g. nurses and medical doctors) always deliver

their strong defensive interests directly to their domestic regulatory authorities by maximising client relationships.

In comparison with Japan, the external consultation process of developing countries in East Asia is still underdeveloped. For example, it was after the Japan-ASEAN bilateral FTAs were concluded that the ASEAN countries established the formal external consultation process for services trade negotiations. In the case of Malaysia, the Malaysian government changed its policy to activate the private sector's participation in the policy-making process in the late 2000s. Accordingly the government established the Malaysia Services Development Council to efficiently collect inputs from the private sector. Before establishment of the Malaysia Services Development Council, the Ministry of Trade and Industry (MITI) had difficulty in obtaining information from the sectoral associations as well as professional associations, because these associations had direct access to the domestic regulatory ministries behind the scenes. When Malaysia started the FTA activity in East Asia in the early 2000s, participation of the private sector to services trade policy-making was only on an informal basis. Therefore, input from the private sector was very limited. Only the defensive lobbying, such as GLCs which generally obtain strong political power and ethnic chambers of commerce, captured the domestic regulatory ministries. As export capacities of the private sector increased from the late 2000s, the private sector's inputs gradually became offensive, and pro-liberal lobbying started to take place during the external consultation process both at the formal and informal levels.

In The Philippines, Thailand, Indonesia and Viet Nam, the formal external consultation process for international trade negotiations was opened to selected business confederations which did not cover services sector's interests. In the area of services, interactions between government and the private sector gradually became active by going through their FTA activities in the 2000s. However, it was only after conclusion of the bilateral FTAs with Japan that these countries established the formal consultation process for services trade negotiations with the private sector. At the time of FTA negotiations with Japan, interactions between the private sector and government took place at the informal basis. In terms of interests, defensive lobbying has been very active in these countries while offensive lobbying has been very limited, especially in Thailand and Indonesia. Amongst, SOEs, sectoral associations and the professional associations, which own strong client relations with the domestic regulatory authorities, actively lobby their defensive positions behind the scenes.

4.5 Internal coordination of government

4.5.1 General observation

How does the internal coordination of government for services trade negotiations take place in practice? We provide general observations on the procedural aspects. The government's objective of internal coordination of government is to get a consensus on the negotiating positions at the official level. As described before, services trade negotiations involve many government ministries and regulatory authorities as the coverage of the services sector is wide. Hence, horizontal bargaining becomes a crucial part of negotiations in formulating a country's negotiating positions. At the first stage of internal coordination, the lead ministry of services trade has to decide negotiation objectives and form its negotiation tactics and positions. At the second stage, the lead ministry has to receive inputs from the domestic regulatory ministries. At the third stage, the lead ministry has to reconcile the internal differences of position among the domestic regulatory authorities, and then adopt a unified national negotiating position.¹⁶⁸

The lead ministry follows the general domestic procedure for the FTA services trade policy-making. At the first stage of internal coordination process, the lead ministry identifies its institutional and economic interests (see Table 1-2). For example, an institutional interest of services trade negotiations in FTAs would be to achieve a GATS Article V compatible FTA. To identify outward economic and inward economic interests, the lead ministry conducts a formal consultation together with informal consultations with the private sector. Then the lead ministry forms the basic negotiating positions. Before it starts internal coordination with domestic regulatory authorities, the lead ministry also devises a strategy to tackle defensive pressures.

The second and third stage of the internal coordination process involves what we call horizontal fragmentation of power of services trade policy-making (vertical fragmentation of power is added under a federal system). At the first round of internal negotiations, the lead ministry has to explain its negotiating objectives, tactics and basic positions to the domestic regulatory authorities and convince them. For example if the lead ministry is in a position to use a negative list approach to achieve a high-level agreement, it has to obtain approvals from the domestic regulatory authorities.¹⁶⁹ In parallel, it starts collecting all information and requests from the domestic regulatory authorities to form basic requests to an FTA partner. These include (i) improving the FTA partner's horizontal commitments and sector and sub-sector commitments by deleting the

¹⁶⁸ See Bayne (2011) about trade policy-making process in general and VanGasstek (2011) about services trade policy-making.

¹⁶⁹ In general, when a country tries to introduce a negative list approach for the first time, the lead ministry faces strong resistance from the domestic regulatory authorities since they get terrified by its technical nature, which is binding the status-quo liberalisation with a list of exceptions. In the case of Japan, the lead ministry had to make enormous amount of effort to convince the regulatory authorities when Japan introduced the negative list approach at the time of Japan-Mexico FTA (from the interviews which took place in Tokyo, April 2015).

provisions of “unbound” or specific limitations; and (ii) increasing the number of sub-sectors with “no limitations”. The lead ministry puts all the information together and reframes it in accordance with its negotiation strategy and tactics. Once the lead ministry receives the requests from an FTA partner, the second round of internal coordination, that is making offers, starts. At the second round, the lead ministry has to reconcile conflicts to find out the best balanced package of requests and offers which is in line with the country’s negotiating objectives. During the internal coordination process, horizontal fragmentation of power gives rise to the use of veto power by domestic regulatory authorities with a strong preference of the status-quo.

4.5.2 Observation of East Asia

Internal coordination of government for FTA services trade negotiations in East Asia follows the general practice explained above. To demonstrate an explicit picture, including pro-liberal and anti-liberal forces of inter-governmental coordination, we provide the case of Japan as a developed country as well as the cases of ASEAN developing countries (The Philippines and Thailand).

Japan¹⁷⁰

The process of inter-government policy coordination of Japan can be summarised as follows. Once FTA negotiations start, the negotiation working groups are established at the negotiation topic level (e.g. trade in goods, trade in services, agriculture, and TRIPs). The MOFA is responsible for a working party on trade in services. The Trade in Services Unit of the MOFA makes the basic negotiating positions and consults with the METI and Financial Services Agency. Although the METI is not a coordinator, it plays an important role in making negotiating positions. Then the MOFA arranges a series of meetings with the domestic regulatory authorities to explain its basic negotiating positions and receive inputs from them. More precisely, it played a role as “Madoguchi” in Japanese which means a ‘coordinator’ in English. In other words, the level of the MOFA’s political power cannot be more than that of a ‘coordinator’.

Reconciling different positions among the domestic regulatory authorities concerned is complicated in the case of Japan. Competitiveness of the services sector lags behind its manufacturing sector in Japan due to restrictive regulations, the level of which is higher than the OECD average.¹⁷¹ While a few strong offensive ministries persist in opening the services markets of FTA partner countries from the outward perspective, most of the domestic regulatory authorities

¹⁷⁰ The observation about Japan is mostly derived from the interviews with the senior officials of the MOFA, Japan (April 2013) and METI, Japan (April 2015); and from WTO (2004), WTO (2007a), and WTO (2011b).

¹⁷¹ See Figure 3-26.

are strongly afraid of losing regulatory autonomy from the inward perspective. The lead ministry has to reconcile the mixed offensive and defensive interests of the domestic regulatory authorities.

In Japan, most of the domestic regulatory authorities involved in services trade negotiations remain generally uninterested in multilateral/plurilateral services trade negotiations with the exception of the Financial Services Agency which administers one of the most liberalised financial markets among OECD countries. The MOFA tries to materialise the high level of commitments as well as the quality of agreements. The METI is more demanding in this perspective. However, when it comes to the sector specific issues, the METI faces some difficulties as it prefers to retain its regulatory autonomy or protect the interests of domestic industries, inter alia, energy related services (electricity, gas and water). The ministries which retain a defensive position in general are: the Ministry of Health, Labour and Welfare; the Ministry of Justice; the Ministry of Education; and Ministry of Culture, Sports, Science and Technology. For example, the Ministry of Health, Labour and Welfare shows concerns about liberalisation of the movement of natural persons (e.g. licences and qualifications for the medical professionals, such as medical doctors and nurses) with the justification that an in-coming labour force has a negative impact on the Japanese labour market, including working wages and quality of services. The Ministry of Justice protects the Japanese legal service providers and also possesses a defensive position against the Mode 4 from the immigration perspective.¹⁷² Other ministries such as the Ministry of Internal Affairs and Communications in charge of the telecommunication sector and the Ministry of Transport and Tourism tend to remain passive because of conflicting offensive and defensive factors inside the ministry. Given the diverse positions of the domestic regulatory authorities explained above, the reconciliation of different positions inside government is challenging for the lead ministry.

The Philippines¹⁷³

Internal coordination of government in The Philippines also shows a typical horizontal fragmentation of power. The Philippines' strong feature is that while the country has become a net exporter of services since 2006, and some services sector show growing competitiveness,¹⁷⁴ de-facto restrictiveness of the services sector is the highest, and the level of the GATS commitments is the second lowest in East Asia.¹⁷⁵ When the lead ministry makes the basic negotiating positions

¹⁷² The Immigration Bureau of Ministry of Justice administers immigration affairs.

¹⁷³ The observation is mostly derived from the interviews with the senior officials of The Philippines (April 2013 and July 2015) and from WTO (2005a), WTO (2005b), WTO (2012a), and WTO (2012b).

¹⁷⁴ Other business services (e.g. professional and technical services, and other miscellaneous business) accounted for more than half of exports. The business process outsourcing service and IT services sector are also growing fast. See Chapter 3: Figure 3-13 and WTO (2012a).

¹⁷⁵ See Figure 3-26.

at the first stage of internal coordination, it has to consider a right balance between growing export interests and the restrictive domestic markets.

At the second stage of internal negotiations, the lead ministry faces strong defensive inputs from domestic regulatory ministries. In the case of The Philippines, Neither the ministries which administer uncompetitive sectors (e.g. distribution services) or sectors under imperfect competition (e.g. telecommunications), nor domestic regulatory ministries of growing export competitiveness can be totally offensive since they have to protect local services suppliers. Let's consider the defensive position of Philippines Professional Regulation Commission (PRC) which is in charge of regulating and licensing 46 professions.¹⁷⁶ Whereas The Philippines takes offensive positions on promoting professional services exports to other East Asian countries, de-facto restrictiveness of the professional services sector of The Philippines itself is the highest in East Asia.¹⁷⁷ This reflects the strong defensive power of PRC. Another example is the Department of Tourism which protects domestic tourism services suppliers. Despite the fact that the tourism sector is a major services exporters (5.8% to GDP and 10.3 % to employment in 2010) of The Philippines, various restrictions in the GATS commitments (e.g. limitation of foreign equity to 40% for the accommodation facilities, limitations on the employment of foreigners) still exist. This is because the Department of Tourism is afraid that foreign capital would take over local services suppliers. Facing resistance of these domestic regulatory authorities, the lead ministry (Department of Foreign Affairs for the WTO services negotiations and NEDA for the FTA services trade negotiations) tends to yield to domestic concerns rather than strongly pushing its export interests.

Thailand¹⁷⁸

Just as with the previous cases, we can observe horizontal fragmentation of power during inter-governmental coordination. At the first stage of internal government coordination, the lead ministry (Ministry of Commerce), which is a pro-liberal ministry, faces a difficulty in forming the negotiating positions since economic interests in exporting services trade is very limited. At the second stage of internal coordination process, the lead ministry has to face strong defensive interests of the domestic regulatory authorities. In particular, the domestic regulatory authorities are totally against investment related liberalisation (Mode 3). One example is the financial sector, the restrictiveness of which is the highest in East Asia.¹⁷⁹ There are eight “specialized financial

¹⁷⁶ See WTO (2012a), P96

¹⁷⁷ See Figure 3-31. Also, The Philippines does not commit the professional services under the GATS. Under the FTAs with Japan and South Korea, a wide range of limitations remains in its commitments of the professional services.

¹⁷⁸ The observation is derived from the interviews with the Thai officials (April 2013 and July 2015) and from WTO (2007g), WTO (2007h), WTO (2011e), and WTO (2011f).

¹⁷⁹ See Figure 3-27.

institutions” (SFIs) controlled by the Government which retain power in the banking sector.¹⁸⁰ In the insurance sector, the top three companies dominate with a 53% market share.¹⁸¹ The Ministry of Finance, which represents vested interests of these financial institutions and companies, does not allow new offers to be made in the financial sector. The other example is telecommunications, regulated by the Ministry of Information, Technology and Communication. Two state-owned telecom companies (TOT Public Company Limited and CAT Telecom Public Company Limited), which monopolise the telecom market,¹⁸² resist opening markets and introducing competition. Therefore, the Ministry of Information, Technology and Communication persistently resists further liberalisation. Due to limited export interests in some professional services, the lead ministry has to follow the domestic regulatory authorities’ defensive negotiating positions.

4.5 Conclusion

The objective of this chapter was to understand decision-making for services trade negotiations in practice. We first identified the strong nature of domestic decision-making for services trade negotiations. Then we explained the domestic decision-making process by highlighting these three issues: (i) the major actors of Government and the private sector; (ii) interactions between Government and the private sector; and (iii) internal coordination of government. We provided general observations to understand how services trade decision-making develops through multilateral/plurilateral services trade negotiations, followed by observations of East Asia in more detail. From these observations, the following features are identified.

First, domestic decision-making for services trade is more complicated than for goods trade due to horizontal and vertical fragmentation of government institutions and strong client relationship between domestic regulatory authorities and domestic services suppliers. Second, as for the interaction between Government and the private sector, the consultation system between Government and the private sector in developed countries is more institutionalised than in developing countries. Because of the lack of an institutionalised consultation system, informal lobbying making use of client relationships with their regulatory authority tends to be a major method of delivering business interests in developing countries. Also, the European and American private sectors have been taking an active role in services policy-making since the GATT Uruguay Round, and the private sector in East Asia started to participate in the international services trade negotiations after the WTO was established. Since East Asian countries joined FTA activity, the private sector in East Asia has started to participate more actively in the domestic decision-making

¹⁸⁰ See WTO (2011e), P117.

¹⁸¹ See WTO (2011e), P121.

¹⁸² See WTO (2011e), P127.

process. Lastly, inter-governmental coordination can be characterised as horizontal fragmentation of power. There is always a conflict between the lead ministry, the position of which is basically pro-liberal, and the domestic regulatory authorities, which has a strong preference for the status-quo.

Chapter 5: A Case Study of the Japan-ASEAN Bilateral FTAs – Japan’s Perspective

5.1 Introduction

Why did the services agreements of the Japan-ASEAN bilateral FTAs (Japan-Singapore, Japan-Malaysia, Japan-Thailand, Japan-The Philippines, Japan-Indonesia and Japan-Viet Nam), which were concluded during the 2000s, come to an end with the shallow GATS-plus? In this chapter, we analyse how domestic political economy factors influenced the outcomes of services agreements of these FTAs. Before arguing the political economy factors in domestic decision-making, we will overview the market and policy environments of Japan in the 2000s as the basis of argument. Then we will move our arguments on interests and institutions by applying the analytical framework which modified the Mattli’s policy demand and supply side model. First, we will analyse interests of the policy demand and supply sides in the Japan-ASEAN bilateral FTAs. Then, we will examine the supply side condition, which is the decision-making process inside government, for these bilateral FTAs. We will trace how the domestic regulatory authorities, which preferred the status-quo, exercised veto powers through a logic of the veto player model. The analysis of interests and institutions is mainly supported by a series of interviews with the Japanese government officials, private-sector lobbyists and Japanese trade policy researchers. Lastly, we will summarise our findings from the empirical evidence.

5.2 An overview of market and policy environments of Japan in the 2000s

5.2.1 Market environments

A liberalised domestic services market with lower productivity than that of the manufacturing sector

The services sector was a major industry in Japan and was continuously growing (see Figure 3-4 and 3-5 in Chapter 3) through the period of 2000s. It accounted for more than 65 per cent of GDP in 2000 and almost 70 per cent of the employment in 2007. However, Total Factor Productivity

(TFP) of the services sector has been lower than that of the manufacturing sector and has stagnated since the late 2000s.¹⁸³ We overview some major services sectors of Japan in the 2000s from the WTO Trade Policy Review of Japan as follows.¹⁸⁴ In general, the trade regime of the services sector in Japan was already liberalised in the 2000s except for certain professional services (Mode 4).

- Financial sector: Although the market was quite liberalised, high concentration and limited foreign capital penetration can be observed in some sub-sectors. For instance, the market share of the top 3 in the sub-sectors accounted for: banks: 40.7%, life insurance: 55.6%, non-life insurance: 65.6%.¹⁸⁵ While mutual funds, securities companies and credit rating agencies were fully internationalised, the penetration of foreign capital in the banking sector was negligible where only one majority foreign owned bank existed. The situation of life-insurance was more internationalised as 15 companies were majority foreign owned and domestication of foreign insurance companies was taking place. Japan furthermore held the largest bank in the world, which was the fully state-owned Japan Post Bank.
- Telecommunication sector: From the 1980s, Japan launched deregulation and introduced competition to the telecommunication sector. Once competition was introduced, the Japanese government launched a series of pro-competitive policy reforms in the 1990s. In the late 2000s, the market was opened to competition where 330 registered carriers and 15,482 notified carriers (up to January 2012) existed.¹⁸⁶ In the mobile services, there were three major players: NTT Docomo (45.3%), KDDI (26.4%) and Soft Bank Mobile (21.8%). In the area of internet access, non-NTT group and vendor groups penetrated the market (31.7% and 26.0% in 2012 respectively). However, NTT which was 33 per cent state-owned by law, remained a major player in the fixed telecom services (79.2% in 2012 as a total of NTT West and NTT East, both of which are designated as universal service providers). Foreign ownership of NTT was 24.2% (2012).
- Distribution sector: The distribution sector played an important role in the Japanese economy. The share in GDP accounted for 13.4 per cent (wholesale: 5.9%, retail: 7.5%) and the share in total employment accounted for 17.3 per cent (wholesale: 5.8%, retail: 11.5%). No concentration existed in the market. Modern retail chains (e.g. supermarkets and convenience

¹⁸³ The Japanese government document, “service sangyo no seisensei” (Productivity of the Services Sector of Japan), http://www5.cao.go.jp/keizai-shimon/kaigi/special/future/wg1/0418/shiryu_01.pdf

¹⁸⁴ Information is basically from WTO, TPR Japan 2011 (WTO 2011b, p86-p110) and TPR Japan 2013 (WTO 2013a) which cover the data of services sector in the 2000s.

¹⁸⁵ See WTO (2013a), p86.

¹⁸⁶ A registered carrier is one whose activities go beyond one prefecture. Notified carriers is one whose activities are within one prefecture.

stores) were taking over from traditional individually owned retail shops, the market share of which being 93.3 per cent and 6.7 per cent respectively. At the same time, the trade regime for distribution services in Japan was liberalised.¹⁸⁷ While there were major foreign distributors in the market, most investors were from the EU and the U.S such as Wal-Mart (U.S), Metro (Germany), H&M (Sweden), and IKEA (Sweden).

- Construction sector: The share in GDP (5.5% in 2010) as well as the share in total employment (8.1% in 2010) was shrinking as a part of the structural change of the Japanese economy. On the other hand, the large Japanese construction firms were becoming active overseas.¹⁸⁸ There were 119 foreign affiliates (more than 50% foreign owned). Although the markets were opened under the GATS commitments, complex domestic licensing and qualification regimes were considered as potential de-facto barriers.

Limited role of services trade in economy

The role of services trade in economy of Japan was very limited in spite of its significant presence in the domestic economy. The share of exports of goods and services in GDP was gradually increasing in the 2000s from 10.4 per cent to 17.7 albeit with some fluctuation. The share of imports of goods and services in GDP was also increasing with some fluctuation from 9.4 per cent and 17.5 per cent during the period.¹⁸⁹ While merchandise trade was playing an important role in the Japanese economy with Japan remaining the fourth largest exporter and importer of goods in world trade, services trade continued to play a limited role. For example, services trade accounted for only 5.3 per cent whereas merchandise trade accounted for 24.3 per cent in 2005.¹⁹⁰ What is more, Japan was constantly experiencing deficits in services trade, with deficits in the following major sectors transportation; tourism; insurance; information; culture and entertainment; and communication.¹⁹¹

It is also very interesting to note that the smaller the size of the enterprise, the less important the foreign markets are. According to the Bank of Japan,¹⁹² whereas large enterprises earned 20-30 per cent of total sales from exports between 2000 and 2010, medium sized enterprises and small

¹⁸⁷ WTO (2013a), p108.

¹⁸⁸ 48 members of the Overseas Construction Association of Japan. However, the association does not cover all construction firms.

¹⁸⁹ Both exports and imports in GDP have been further growing up in the 2010s. They accounted for 16.2 per cent for exports and 19 per cent for imports in 2014.

¹⁹⁰ See the World Bank indicator available from the website: <http://data.worldbank.org/indicator>

¹⁹¹ See JETRO (2014), p14.

¹⁹² See economic data of the Bank of Japan, Percentage of Export Value to Sales, in "Tankan" (Short-term Economic Survey of Enterprises in Japan). Large enterprise: Capital of 100 million yen to less than 1 billion yen, Medium-sized enterprise: Capital of 100 million yen to less than 1 billion yen, Small enterprise: Capital of 20 million yen to less than 100 million yen.

enterprises earned only around 10 per cent and five per cent respectively. Because more than 90 per cent of the total business establishment is composed of SMEs in Japan, and almost 80 per cent of them belong to the services sector, it is observed that economic activities of the services sector are rooted in the Japanese domestic markets.

Regional supply chains in East Asia and the Japanese services suppliers

Market integration has taken place in the area of manufacturing sector in the case of East Asia.¹⁹³ Appreciation of the Japanese Yen as a result of the Plaza Code in 1985 accelerated foreign direct investment by the major Japanese manufacturers in the ASEAN countries, Taiwan and China. Following the major manufacturing companies, Japanese intermediate product manufacturers invested in the Region. In this way, chains of production of intermediate products and assembling them within the Region to export to the major global market such as the EU, Japan and the US were gradually established (Fukao, Ishido, and Ito 2003).

In comparison, the integration process of services trade is far behind trade in goods.¹⁹⁴ It is observed that the major type of trade and investment in East Asia from the 1990s to the late 2000s was “manufacturing-related services” to supplement the regional supply chains established by the Japanese manufacturing companies in East Asia.¹⁹⁵ To support the Japanese manufacturers’ business in East Asia, some large Japanese services enterprises such as financial services, transport services, logistic services and business related services started business in the Region. This means that most of the Japanese services suppliers were conducting ‘Business to Business (B to B)’ type of business, targeting Japanese manufacturing companies as clients. In the case of the general insurance sector,¹⁹⁶ it started business to support the major Japanese manufacturing companies invested in East Asia from the late 1980s. However, financial regulatory reforms in Japan from the late 1990s to the early 2000s accelerated competition in the Japanese financial markets, which made the major general insurance companies more inward-looking to retain shares in the domestic market. The Asian financial crisis in 1998 further accelerated these inward-looking attitudes. As a result of the domestic regulatory reforms and the Asian financial crisis, the Japanese general insurance companies started to retreat from the foreign markets including East Asia during the 2000s. The situation was similar for other ‘manufacturing-related services’ suppliers. ‘B to B’ in East Asia was stagnating during the 2000s when the Japan-ASEAN bilateral FTAs negotiations were taking place.

¹⁹³ See description of development of regional supply chains in East Asia in Chapter 3.

¹⁹⁴ See Chapter 3.

¹⁹⁵ The observation is based on the interviews with the Japanese private sector and the Japanese government officials which took place during the fieldwork in Tokyo in April 2015.

¹⁹⁶ From the interview with the General Insurance Association of Japan, which took place in April, 2015.

Apart from the manufacturing related services, some Japanese services sectors, such as the distribution services (e.g. wholesale services and retail services), construction services, education services and restaurant services started to target the domestic markets of some East Asian countries in the early 2000s.¹⁹⁷ The major destinations were China, followed by Hong Kong, Singapore, Taiwan, Thailand, South Korea and Viet Nam. This ‘Business to Consumer (B to C)’ type of business, which provided services to end-users, was gradually increasing from the late 2000s. Especially with reference to SMEs, one survey¹⁹⁸ shows that ‘B to C’ type of companies such as Japanese restaurants, educational services, and beauty salons started to expand their business in Asian markets from the late 2000s. It was the early to middle of 2010s when many of these ‘B to C’ type of companies shifted from the initial stage to the expansion stage of investment.

As can be seen from the above, the outward business incentive of the Japanese services sector from the 1990s was mainly ‘B to B’ to serve the Japanese manufacturing companies invested in East Asia. However, their outward business incentive was chilled in the early 2000s. The reasons can be explained from the domestic and international perspectives. From the domestic perspective, domestic regulatory reforms which took place in the 1990s were the major factor. Incumbents, the major Japanese services suppliers, had been enjoying economies of scale and the well-matured services markets in Japan. However, the regulatory reforms during the 1990s allowed market penetration by new players and accelerated competition inside Japan. Accordingly, both the incumbents and new players had to focus on domestic markets. From the international perspective, the services markets in East Asia were still not fully developed to attract investment, and economies of scale were not sufficient to make a profit (except in China). Additionally, the Asian financial crisis in 1998 further reduced the ASEAN markets and made them less attractive.

However the trend is changing in the 2010s. From the late 2000s, the major Japanese services suppliers started to revise their business strategies and to become outward-looking for two reasons: (i) The markets in the ASEAN countries are growing due to further economic development and (ii) the Japanese markets are shrinking due to low fertility rates and accelerated ageing in society.¹⁹⁹ What is critical here is that this dynamic change of markets had not yet taken place at the time when the Japan-ASEAN bilateral FTAs were negotiated from the beginning to middle of the 2000s.

In short, the market environment of Japan in the 2000s can be summarised as follows. First, the role of the services sector in the Japanese economy was constantly increasing over the 2000s while

¹⁹⁷ See JETRO (2011) and JETRO (2013).

¹⁹⁸ See Chuushokigyō Kibanseibikō (2014), Chūshō service sangyō niokeru kaigaitenkai no jittai to kadai (Foreign business strategy of the Japanese SMEs), from http://www.smrj.go.jp/keiei/dbps_data/_material/_b_0_keiei/chosa/pdf/h25serviceboueki.pdf

¹⁹⁹ See the survey in JETRO (2011) and JETRO (2013).

services sector's productivity was lower than that of the manufacturing sector. Second, services markets in Japan were liberalised in terms of trade policy regimes, except for some professional services. Third, Japanese services suppliers, which had expanded 'B to B' type of business in East Asia in the late 1990s, were stagnating during the 2000s due to an increase in domestic market competition, as well as the effects of the Asian financial crisis. In our analysis of interests in the section 5.3, we will see that specific interests of services trade negotiations for Japan-ASEAN FTAs reflect the market environment in the 2000s.

5.2.2 Policy environments

Japan, as a locomotive of bilateral FTAs

Now, we overview policy environments in Japan. Japan became aware of using FTAs as economic diplomacy from the late 1990s and shifted its orbit of economic policy from multilateralism to plurilateralism from the beginning of the 2000s (Table 5-1). During the 2000s, Japan focused on creating bilateral FTAs with the ASEAN countries one by one. Japan concluded seven bilateral FTAs with Singapore (2002), Malaysia (2006), Thailand (2007), Brunei (2007), Indonesia (2008), The Philippines (2008) and Viet Nam (2009) all of which include trade in services chapter.²⁰⁰

The background of negotiations can be summarised as follows. The Japan-Singapore FTA was the first FTA for Japan in its history. In 1999, Japan accepted the proposal by Prime Minister Goh Chok Tong to start initial consultations for the Japan-Singapore FTA. The feasibility study by the private sector, government and academic to start negotiations²⁰¹ was completed in 2000 and the bilateral negotiations started in 2001.²⁰² Straight after concluding the FTA with Singapore, Japan started bilateral talks with Thailand, The Philippines and Malaysia as they showed positive interest in a bilateral comprehensive FTA like the one Singapore had concluded with Japan.²⁰³ Initial consultations and feasibility studies started in May 2002 with Thailand, in August 2002 with The Philippines and in May 2003 with Malaysia. The bilateral negotiations started from January 2004 with Malaysia and February 2004 with Thailand and The Philippines. The agreements were signed first with Malaysia in December 2005 followed by The Philippines in September 2006 and Thailand in April 2007. It took some time for Indonesia to launch its FTA activity. In 2003, President Megawati of Indonesia and Prime Minister Koizumi of Japan agreed to start initial talks on the possibility of a bilateral FTA between Japan and Indonesia. The bilateral feasibility study group started in January 2005 and published its report in May 2005. The two countries launched

²⁰⁰ In addition to the bilateral FTAs in East Asia, Japan concluded the FTAs with Mexico (2005), Chile (2007), and Switzerland (2009).

²⁰¹ See Governments of Japan and Singapore (2000).

²⁰² See Oike (2007).

²⁰³ See Oike (2007).

bilateral negotiations in July 2005. In the case of Viet Nam, Japan was waiting for Viet Nam's accession to the WTO. Once Viet Nam had become a WTO member in November 2006, the two countries immediately started negotiations (January 2007).

In parallel with the bilateral approach, Japan also took the plurilateral (which is called ASEAN plus one) approach of creating the ASEAN-Japan FTA, which covered the LDCs in the region such as Lao PDR, Myanmar and Cambodia. The ASEAN-Japan FTA entered into force between 2008 and 2010 without the trade in services and investment chapters.²⁰⁴ The negotiations of the Japan-South Korean FTA which had started in 2003 were suspended for a bilateral political reason and no progress has been made since then. The China-Japan-South Korean FTA was not yet negotiated in the 2000s. It was November 2012 when Japan launched negotiations with China and South Korea for the FTA.

Table 5-1: Japan's FTAs concluded in the 2000s in East Asia

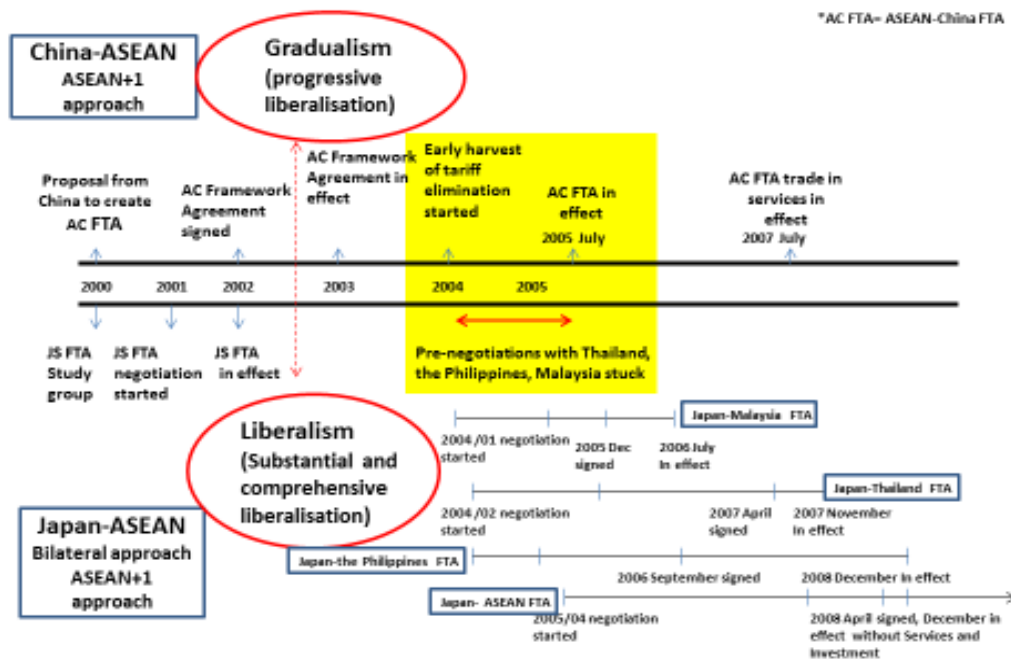
Japan-Singapore FTA	Negotiations started in 2001 Signed in January 2001 In effect in November 2002
Japan-Malaysian FTA	Negotiations started in January 2004 Initial agreement in May 2005 Signed in December 2005 In effect in July 2006
Japan-Thailand FTA	Negotiations started in February 2004 Initial agreement in September 2005 Signed in April 2007 In effect in November 2007
Japan-Brunei FTA	In effect in July 2008
Japan-Indonesian FTA	Negotiations started in July 2005 Initial agreement in November 2006 Signed in August 2007 In effect in July 2008
Japan-The Philippines FTA	Negotiations started in February 2004 Initial agreement in November 2004 Signed in September 2006 In effect in December 2008
Japan-ASEAN *No trade in services agreements	Lao PDR, Myanmar, Singapore, and Viet Nam: Dec 2008 Brunei: January 2009 Malaysia: February 2009 Thailand: June 2009 Cambodia: December 2009 The Philippines: July 2010
Japan-Viet Nam	Negotiations started in January 2007 Signed in December 2008 In effect in October 2009

²⁰⁴ The negotiations of services trade and investment to be incorporated into the ASEAN-Japan FTA was reached in the basic agreement in 2014, however, they are not yet signed in 2015.

Regional hegemonic rivalry between China and Japan – Gradualism vs. Liberalism

As a part of the dynamic trend of FTAs, the regional hegemonic rivalry of China and Japan in creating FTAs inside East Asia from the early to middle of 2000s (see Figure 5-1) should be described. The reason is that it was understood that regional hegemonic rivalry between China and Japan indirectly affected the quality of services trade agreements of the Japan-ASEAN FTAs from a series of interviews with Japanese government officials²⁰⁵ as well as Oike²⁰⁶ (2007). Since this research focuses on analysing political economy factors in the decision-making which formed the negotiating positions, we explain this international factor as the policy environment of Japan.

Figure 5-1: Regional hegemonic rivalry – China versus Japan creating FTAs with ASEAN in the 2000s



During the early negotiation stage in the 2000s, Japan originally envisaged using FTAs in East Asia as a driving force of domestic reforms of the negotiating partners. In other words, the basic negotiating position of Japan was creating high-quality FTAs with a comprehensive coverage and high level of commitments based on liberalism in trade and investment.²⁰⁷ The idea could be somewhat materialised in Japan's first FTA with Singapore (2002) given that Singapore was a

²⁰⁵ The meetings taken place in Tokyo in April 2015

²⁰⁶ Ambassador Oike was in charge of FTA negotiations from 2001 to 2007 for six years at the MOFA, Japan.

²⁰⁷ Except for the agricultural liberalisation of Japan as pointed out in Mulgan (2008) and Solis (2010).

totally open and liberal economy. Accordingly, the Japanese government considered the Japan-Singapore bilateral FTA as a Japanese model of FTA to be widely applied in East Asia. After concluding the FTA with Singapore, the Japanese government started domestic strategic discussions to decide a way to create further FTAs with other ASEAN countries. Then it entered bilateral negotiations with Malaysia, The Philippines and Thailand in the beginning of 2004. The negotiations of the Japan-ASEAN FTA were started in April 2005.

While Japan created its first FTA with Singapore and embarked on the pre-negotiations with three countries (Malaysia, The Philippines and Thailand) for bilateral FTAs in conjunction with the Japan-ASEAN FTA, China approached the ASEAN to create the China-ASEAN FTA. In 2000, the Chinese Prime Minister proposed the China-ASEAN FTA to ASEAN. In contrast to the Japanese “liberalism” approach, the Chinese approach was “gradualism” which strongly reflected the progressive economic development aspect by focusing solely on goods trade. China’s idea was that the agreement starts from the Early Harvest (elimination/reduction of tariffs) of goods trade with exclusion of other issues including services and investment. The ASEAN countries welcomed China’s proposal as ASEAN itself was applying progressive liberalisation to the ASEAN economic integration based on the ideology of “gradualism”. In this regard, China and ASEAN could smoothly reach an agreement. The framework of the China-ASEAN FTA which covered solely trade in goods was signed in 2002 and entered into force in 2003.

China’s approach to ASEAN for the China-ASEAN FTA dramatically changed the negotiating positions of the ASEAN countries toward the Japan-ASEAN FTAs. The FTA negotiations between ASEAN and Japan were totally stuck from 2004 to early 2005 for more than one year because the ASEAN countries strongly resisted the Japanese approach of comprehensive and high quality FTA based on “liberalism”. According to Oike (2007), the trade negotiators of the ASEAN countries expressed the situation as “generous China versus selfish Japan”. In fact, the Japanese negotiators were criticised by the ASEAN negotiators so that Japan was in danger of losing a strong tie between ASEAN and Japan which had been growing through the Japan-ASEAN foreign diplomacy of over a half century.

Summing up, the Japanese government originally aimed at achieving substantial and comprehensive liberalisation through the Japan-ASEAN bilateral FTAs as well as the Japan-ASEAN plurilateral FTA based on the ideas of liberalism. However, due to regional hegemonic rivalry between China versus Japan in creating FTAs in East Asia from the early to middle part of the 2000s, Japan was persuaded to yield and accept the second best option of gradualism. The decision accordingly affected the services trade negotiations of these agreements. We have to

understand that, in addition to domestic factors, there was an external factor at the international level which affected the outcomes of services trade agreements.²⁰⁸

5.3 Interests

Based on an overview of economic and policy environments, we now move to analyse the political economy factors which formed Japan's negotiating positions for the bilateral Japan-ASEAN FTAs. As we explained in Chapter 1, we apply the policy demand and supply model, which was reframed from Mattli (1999a), to examine interests and institutions. The first is about interests of policy demand and supply sides. Interests are categorised into general motivations and specific interests in services trade.

5.3.1 Policy demand side interests

A. General motivations²⁰⁹

Dispelling competitive disadvantage at the global markets

The original incentives which drove the Japanese business sector towards FTAs were negative effects caused by NAFTA (1994), MERCOSUR (1995) and EU enlargement (1995). The Japanese companies were either facing discriminative treatments or lost out business opportunities under these existing plurilateral regimes. In the late 1990s, the Japanese private sector was dissatisfied with Japan's economic diplomacy since the Government relied solely on the WTO system without any FTA strategies. The Keidanren emphasised that since *North American and European countries were pursuing FTAs more aggressively, the Japanese government needs to dispel the competitive disadvantage being suffered by Japanese companies.*²¹⁰ For the Japanese business sector, promoting institutional integration through FTAs was necessary in order to compete with American and European companies in global markets. And expectations in terms of content were to achieve high-quality NAFTA-type FTAs, which would go beyond the WTO in terms of coverage, as well as the level of commitments, in order to dispel competitive disadvantage.

When the Japanese government finally launched informal negotiations for the Japan-Singapore bilateral FTA in 2000, anxiety about losing international competitiveness was mounting among

²⁰⁸ We will further explain this point in 5.5.3 as well as Chapter 7: 7.3 which explains analytical constraints of this research.

²⁰⁹ From the interviews with the private sector lobbyists which took place in Tokyo in April 2015. And from Keidanren (2000a).

²¹⁰ Keidanren (2000a).

Japanese companies. The weakness of APEC as an institution for promoting liberalisation, as well as for rule-making also frustrated them and strengthened their desire to conclude the first FTA negotiation as early as possible. Since Asia as a region of top priority from the Japanese business strategy point of view, the Keidanren urged the Japanese government to start other FTA negotiations with any Asian countries following Singapore. Speedy conclusion of FTAs was now a high priority for the Japanese business sector in order to compete with American and European companies in Asia.

Strengthening regional production and distribution networks in ASEAN

In the case of NAFTA, the Japanese companies, which already invested in Mexico, were discriminated against in terms of access to the US and Canadian markets in goods trade. To counteract these discriminatory effects, the Japanese business sector strongly urged the Japanese government to start FTA negotiations with Mexico.²¹¹ In comparison with the defensive economic motives behind the Japan-Mexico FTA, the Japanese private sector was driven by pro-active economic motives towards the FTAs with ASEAN.²¹² As described before, vertically specialized intra-industry trade was already established through FDI by the Japanese firms in East Asia (Fukao, Ishido and Ito 2003; and Kimura 2006a). Although ASEAN governments, namely Malaysia, Thailand and The Philippines, were attracting Japanese manufacturing companies' investments, from the industrial and development policy perspectives, further liberalisation in some protected sectors (e.g. high import tariffs of inter-mediate electronic products and automobile products, and local content requirement) were needed to enhance business activities. Also, legal commitments of autonomous liberalisation were expected to increase legal predictability and stabilise business activities. Furthermore, WTO-plus rule-making which includes investment, intellectual properties, government procurement, standards and competition, was necessary to improve the business environment of the Japanese manufacturing sector. For the reasons above, the Japanese manufacturing sector strongly requested institutional integration, which supports existing regional supply chains.

²¹¹ Keidanren (1999).

²¹² See Sollis and Urata (2007).

B. Specific interests in services trade

Next, we describe the major actors' specific interests in services trade negotiations for the FTAs with ASEAN and their institutional characteristics (Table 5-2).²¹³ The major actors include business confederations, sectoral associations, professional associations and individual firms.

a. Business confederations

Keidanren²¹⁴: The Keidanren (Japan Business Federation) is the largest and the most powerful business organisation in Japan with a membership consisting of 1309 individual companies, 112 sector base associations and 47 regional economic associations.²¹⁵ The organisation was the initial promoter of Japan's FTA activity and was playing a major role in inputting the private sector's positions covering a whole range of negotiation issues during the decision-making process for the FTAs with ASEAN. As a part of its activity, it represented business interests for services trade negotiations. Three features can be identified from its in-house services trade policy-making. One is that the Keidanren established a position for Japanese business society which took into account the long-term economic prosperity of Japan. The Keidanren secretariat drafted proposals based on institutional and economic rationales that even member companies were unaware of. In the case of services trade negotiations, it was the Keidanren secretariat which advocated the importance of services trade agreements. Second, the manufacturing sector had been historically playing a central role in domestic and international policy-making within the organisation while the services sector was playing a modest role. As a result, the interests of most vocal Japanese manufacturing firms which established regional supply chains in the East Asian countries were strongly reflected in FTA policy-making. Third, the position did not reflect interests of a specific sector in detail. This also reflected little input per se, to open markets of the FTA partner countries from each services sector, and its passive engagement in services policy-making activity within the house in the Keidanren.

As for specific interests in services trade negotiations with ASEAN, The Keidanren secretariat initiated policy interests. These included: (i) achieving high-quality GATS-plus agreements and (ii) eliminating the negative effects caused by existing FTAs and attaining a level playing field vis a vis FTA partner countries' existing trade and investment agreements.²¹⁶ For example, at the time of negotiations for the Japan-Thailand bilateral FTA, the Keidanren requested the level playing

²¹³ The observation is based on a series of interviews with the Japanese private sector individuals, the researchers of the Japanese think-tanks, and the Japanese government officials which took place in April 2015. See Appendix 1.

²¹⁴ The observation is based on the interviews with a senior secretariat member of the Keidanren (April 2015). See Appendix 1.

²¹⁵ See Keidanren's website: <http://www.keidanren.or.jp/profile/pro001.html>

²¹⁶ See Keidanren (2000a), Keidanren (2000b), and Keidanren (2002a).

field of national treatment which Thailand had accorded to American companies under the US-Thailand bilateral economic treaty.²¹⁷

With regard to the major economic interests, two characteristics can be identified. The first is that economic interests lay in Mode 3 (investment). Eliminating restrictive requirements of Mode 3 such as restrictions of foreign ownership (e.g. legal entity and branch rights) and nationality requirements were especially highlighted. The second is that sectoral interests were related to services sectors which assisted regional supply chains established by the Japanese manufacturing sector. One example is realising open and competitive markets in order to support post-investment business activities in distribution, financial and infrastructure-related sectors. Another example is improving the business environment of a whole logistic process to back up intra-company trade.

Interestingly, the Keidanren has been in favour of opening the Japanese market of professionals and highly skilled personnel because the Japanese companies suffered labour supply shortages as a result of the shrinking Japanese population. The Keidanren was also in a position to make use of FTAs to solve the ageing society problems such as a shortage of nurses and care-workers.²¹⁸ In this regard, the Keidanren supported requests from the ASEAN countries, such as receiving foreign nurses and care-workers and extensions of a category in some professional services based on the requests.

The Japan Chamber of Commerce and Industry²¹⁹: In comparison with the Keidanren, the Japan Chamber of Commerce and Industry presents not only large sized companies but SMEs. The nation-wide Japan Chamber of Commerce and Industry is composed of 514 regional chambers of commerce which amount to 1.27 million enterprises.²²⁰ The organisation does not enjoy strong lobbying power as the Keidanren does. Its policy-making is more prioritised on domestic issues rather than international issues including trade negotiations. On the other hand, the organisation has a potentially strong informative power in favour of the services enterprises as 90 per cent of SME members belong to the services sector. Nevertheless, SMEs showed little interest in the FTA services trade negotiations at the time of bilateral FTAs with ASEAN, despite the fact that some members were actively expanding business in East Asia.

Similar to the Keidanren, the secretariat of the Chamber of Commerce and Industry advocated the importance of services trade negotiations to member companies and drafted its basic positions. The organisation was interested in eliminating the negative effects caused by existing plurilateral

²¹⁷ Keidanren (2002b).

²¹⁸ Keidanren (2004).

²¹⁹ The observation was derived from the interview with a senior secretariat of the Japan Chamber of Commerce and Industry (April, 2015). See Appendix 1.

²²⁰ From the Website of the Japan Chamber of Commerce: <http://www.jcci.or.jp/about/jcci/index.html>

trade arrangements. It also supported strengthening preferential treatments vis-à-vis external regions in general. Its economic interests in principle included: (i) improving market access of SMEs and (ii) enhancing the business environment of SMEs that had already invested in these countries.

b. Sectoral associations²²¹: Almost all services sectors have their sectoral association at the national level as well as local level. Some national sector associations are members of the Keidanren and others are not. The major Japanese sector associations generally retain close relations with the domestic regulatory authorities which administer their sector. Even if an organisation is a member of the Keidanren, it will normally lobby its regulatory authority directly in addition to the Keidanren in order to input their specific sectoral interests.

Interests in the bilateral FTAs with ASEAN varied depending on the sector and level of cross-border activities. The Japanese Ship owners' Association, and the Overseas Construction Association of Japan are interested in levelling up the GATS commitments of ASEAN countries since the level ASEAN countries' commitments were extremely low level. The Japan Information Technology Services Industry Association was specifically interested in improving Mode 1 related commitments of ASEAN countries. The Engineering and Consulting Association of Japan (Kaigai Consulting Kyokai, in Japanese) had an interest in promoting MRAs for engineering related services especially with Singapore. The wholesale association lobbied the regulatory authority directly to improve the post investment environment and to facilitate movement of business personnel. Yet, exporting interests toward ASEAN countries of the sectoral associations generally remained low profile because they were either satisfied with the economies of scale of the Japanese market or were completely occupied with surviving intensified competition after a series of domestic deregulations. For example, the business strategy of some sectoral associations, such as the Japanese Bankers Association and the Life Insurance Association of Japan, were completely inward looking after going through the domestic financial reforms which took place in the 1990s and the 1997-98 Asian financial crisis. In terms of improving Japan's GATS commitments, some sectoral associations, such as the association which represents the Japanese construction firms (Zenkoku Kensetsugyo Kyoukai, for which no English name exists), showed anti-liberal interests. The reason why some sectoral associations opted for the status-quo was so that they could avoid collective action problems, by jointly seeking the status-quo, rather than seeking to adjust any regulatory changes.

²²¹ The observation was derived from the interviews in Tokyo with the senior lobbyists of the sectoral associations (April 2015), the senior officials of the domestic regulatory authorities (April 2015), and a senior research offices of Mizuho Research Institute (April 2013) .

c. Professional associations²²² : Most professional associations in Japan are not members of the Keidanren. Professional associations have strong client relationships with their regulatory authorities since their activities represent a specific profession. As for the bilateral FTAs with ASEAN, they strongly protected their market from penetration by the ASEAN professionals. Namely, the Japan Nursing Association (Nihon Kangoshi Kyoukai), the association which represents care-workers (Nihon Kaigohukushishi Kyokai, for which no English name exists) and the Japan Medical Association (Nihon Ishi-kai) displayed strong anti-liberal interests. They insisted that medical services should be provided by Japanese nationals for non-economic reasons. According to them, medical services are a special domain which should be excluded from international trade negotiations including FTAs since the service is directly linked with a human life. Accepting foreign medical service professionals would cause communication problems which might trigger a fatal accident because foreign professionals might not speak Japanese fluently. They showed a strong concern that accepting foreign medical services professionals would downgrade the quality of the Japanese medical system. In this way, they justified their positions. As a matter of fact, medical services-related professionals were mostly afraid of a decrease in pay caused by accepting the lower wage ASEAN professionals. While the professional associations showed strong defensive interests in receiving some professionals to the Japanese markets, they did not hold any offensive interests toward the ASEAN markets.

d. Individual firms²²³: A sector where strong rivalry among Japanese services suppliers exist does not normally depend on its sectoral association. Rather, an individual company lobbies its regulatory authority behind the scenes. For instance, dominant players, or players with high market concentration, individually input their positions to the competent regulatory authorities to protect their market share in Japan. Examples are NTT groups in the telecom sector and Japan Post Bank and Japan Post Insurance in the financial sector. In the case of Japan-ASEAN bilateral FTAs, they strongly lobbied only when Japan had bilateral negotiations with Singapore. Since other ASEAN developing countries did not own globally competitive telecom and financial sector, they did not show defensive interests. Another interesting case is an incumbent: the services suppliers which have already invested in an FTA partner country. When the incumbent had started business under preferential treatment individually provided by a host country government, it personally lobbies its domestic regulatory authority behind the scenes. Its interest is to maintain the status-quo in terms

²²² The observation was derived from the interviews with the Japanese government officials (April 2013) and a senior research offices of Mizuho Research Institute (April 2013). See Appendix 1.

²²³ From the interviews with the METI officials (April 2013). See Appendix 1.

of market access commitments of an FTA partner country (host country) to maintain its preferential status vis-a-vis its Japanese services competitors. At the same time, it opts for improving post investment environments to protect its on-going business in a host country. In the case of Japan-ASEAN bilateral FTAs, this situation was observed in some sectors including the postal and courier services, transport services and the distribution services.

Also, some individual companies which do not belong to any business lobbying associations could directly lobby their regulatory authority. In the case of the Japan-ASEAN bilateral FTAs, this case applied to the franchising of some Japanese restaurants, a bridal service company and some education-related service companies which were expanding their business in East Asia from the 2000s. Yet, at the time of Japan-ASEAN bilateral FTA negotiations, these companies were still not aware that FTAs can be one of the policy options to promote their business and legally stabilise the FDI environments.

Table 5-2: Policy demand side –Specific interests in services trade negotiations of major players and its institutional characteristics

Actors	Interests	Institutional characteristics
Japan Business confederation: Keidanren	<p>Economic interests:</p> <ul style="list-style-type: none"> • Improve market access conditions in Mode 3 for the Japanese services suppliers (e.g. financial services, transport services, and distribution services). • Improve post-investment business environment in the host countries for the distribution, financial and infrastructure-related sectors • Improve environments of a whole logistic process to back-up the regional supply-chains • Make use of FTAs to solve labour shortage problems of the professionals and highly skilled personnel. • Receiving some medical related professionals (e.g. nurses and care-workers) <p>Policy interests:</p> <ul style="list-style-type: none"> • Eliminate negative effects caused by partner country's existing FTAs and other economic agreements and require a level playing field • Strengthen preferential treatments vis-à-vis external regions by GATS-plus commitments 	<p>Most powerful lobbying group</p> <p>Members composed of both the manufacturing sectors and services sectors and industry organisations (e.g. sector organisations and professional organisations)</p> <p>Represents interests from long-term prosperity of Japan</p> <p>Services sectors are not active in terms of policy-making in comparison with the manufacturing sector</p>
Business confederation:	<p>Economic interests:</p> <ul style="list-style-type: none"> • Improve market access for SMEs 	The powerful lobbying group representing SMEs all over Japan

The Japan Chamber of Commerce and Industry	<p>which plan to start business in East Asia</p> <ul style="list-style-type: none"> • Enhance business environments of SMEs already doing business with the ASEAN countries <p>Policy interests:</p> <ul style="list-style-type: none"> • Eliminate negative effects caused by partner country's existing FTAs and other economic agreements and require a level playing field • Strengthen preferential treatments vis-à-vis external regions by GATS-plus commitments 	Many of member companies belong to the services sector
Sectoral associations	<p>Economic Interests:</p> <ul style="list-style-type: none"> • Eliminate investment related restrictions (e.g. capital participation, nationality requirement) • Promote MRAs (only the case with Singapore) • Improve transparency of domestic regulations (e.g. standstill of current regulations) • Facilitate movement of business personnel (e.g. immigration procedure, entry visa) • Avoid erosion of rents and adjustment costs <p>Policy interests:</p> <ul style="list-style-type: none"> • Strengthen preferential treatments vis-à-vis external regions 	<p>Strong client relations with the regulatory authority</p> <p>Some organisation have experts relating to the cross-border business issues, others not</p>
Professional Associations	<p>Economic interests:</p> <ul style="list-style-type: none"> • Avoid erosion of rents and adjustment costs caused by liberalising a professional service (including MRAs) • No offensive interests towards the ASEAN markets <p>Policy interests:</p> <ul style="list-style-type: none"> • Against GATS-plus commitments in Mode 4 	<p>Strong client relations with the regulatory authority</p> <p>Some organisations have experts relating to the cross-border business issues, others not</p>
Individual firms	<p>Economic Interests:</p> <ul style="list-style-type: none"> • Avoid erosion of rents and adjustment costs • Protect its business in a host country vis-à-vis Japanese competitors in the case of an incumbent <p>Policy interests:</p> <ul style="list-style-type: none"> • Case by case 	

C. Interest representation – How were policy demand side interests delivered in the decision-making process?

In the previous section, we explained the institutional character of the major actors and their interests in Japan-ASEAN bilateral FTAs. Then the next step is to assess how these interests were delivered to the Japanese government during the decision-making process. At the stage of initial studies, it was mainly two business confederations: the Keidanren and The Japan Chamber of Commerce and Industry that were involved in setting out the broad negotiating positions which included the strategic approach of rule-making and areas of interests (i.e. Modes and sectors) to the government. Once negotiations started, the Japanese government collected specific requests from the sectoral associations, professional associations and individual firms in order to prepare sectoral negotiations with an FTA partner. The analysis below focuses on explaining how major business actors were involved in the decision-making process in order to demonstrate how these interests were reflected in the each ministry's position making. The observation is derived from a series of interviews with Japanese government officials and Japanese private sector individuals, the government documents, the private sector's policy papers and articles written by trade negotiators.

Japan-Singapore FTA (in effect 2002)

The private sector demanded a comprehensive and high quality FTA covering services trade in general. And it expected that the Japan-Singapore FTA would become a model for the following FTA negotiations. However, the private sector had difficulty in identifying their business interests which could technically fit in the services trade agreement for two reasons. First, given that the Japan-Singapore FTA was the first set of FTA negotiations for Japan, the private sector had no experience of being involved in domestic decision-making for FTAs. At the pre-negotiation stage, the Keidanren showed specific interest relating to the services sector in the two areas: (i) relaxation of some regulatory restrictions in the financial market to further improve the business environment; and (ii) promotion of regulatory harmonisation between Japan and Singapore in the Information and Technology sector, distribution sector and financial sector in order to enhance international competitiveness.²²⁴ However, there was no strong offensive push of liberalisation toward Singapore in detail once preparations for the sectoral request and offer negotiations started. A significant difference from other ASEAN countries was that Singapore was a substantially highly liberalised market in terms of market access (MA) and national treatment (NT).

In terms of inward liberalisation, the Keidanren requested the Japanese government to make use of the Japan-Singapore FTA to accelerate domestic structural reforms to revive economic

²²⁴ See Keidanren (2000b).

competitiveness of the Japanese economy which had suffered more than a decade of economic recession from the 1990s.²²⁵ However, it did not specifically highlight the services sector. Since Singapore did not request any specific market access for professional services, professional associations remained silent during the decision-making process.

Japan-Malaysian FTA (in effect 2006), Japan-Thailand FTA (in effect 2007) and Japan-The Philippines FTA (in effect 2008)²²⁶

Since the FTA negotiations with Malaysia, Thailand and The Philippines started after Japan had gone through FTA services trade negotiations with Singapore and Mexico, the technical capacities of the Japanese private sector were improved by comparison with the time of the FTA negotiations with Singapore. At the business confederation level, either the Keidanren or the Japan Chamber of Commerce and Industry set out its positions to the MOFA and the METI. Demarcation was made between both organisations according to the bilateral committee of which they were in charge. The Keidanren worked for the Japan-Thailand FTA since the organisation had the Japan-Thailand bilateral committee whereas the Japan Chamber of Commerce and Industry worked for the Japan-Malaysian FTA as well as the Japan-The Philippines FTA as the Chamber of Commerce had the Japan-Malaysia bilateral committee and the Japan-The Philippines bilateral committee. At both business federations, the economic interests of the private sector were nebulous in services trade. For example, the Keidanren requested a high standard FTA with comprehensive coverage including services trade initiated by the secretariat, yet a strong interest in services trade negotiations was not expressed by member companies at the time of the Japan-Thailand FTA. Consequently, the Keidanren prioritised the manufacturing sector, namely improving the business environment of the regional supply chains established by Japanese manufacturing companies. The situation of the Japan Chamber of Commerce and Industry was basically the same. While the manufacturing companies which engaged in intra-industry trade in Malaysia and The Philippines were enthusiastic about eliminating high tariffs and enhancing trade and investment rules, services suppliers showed little interest. Thus, the organisation emphasised its strong interest in the manufacturing sector to the Japanese government.

At the sector association level, associations replied to the questionnaires from their regulatory authority to identify the difficulties confronting them in Malaysia, Thailand and The Philippines as a part of the preparation process for sectoral request and offer negotiations. Some sectors, namely the distribution sector, ICT sector, financial sector and maritime sector, showed a certain degree of

²²⁵ See Keidanren (2000b).

²²⁶ The observation was derived from the interviews with the Keidanren secretariat (April 2015), the Japan Chamber of Commerce and Industry secretariat (April 2015), senior lobbyists of the sector associations (April 2015), and the MOFA officials (April 2013 and April 2015). See Appendix 1.

interests. They emphasised trade and investment barriers which they were confronted with. For example, the distribution sector was facing problems with the strict conditions on after-sales services. In the case of Malaysia, some sectors suffered from licensing problems as the domestic regulatory authorities exercised strong discretionary powers. For example, a Japanese department store could open the first shop, however, it had difficulties in opening a second shop due to the licensing autonomy of the Malaysian domestic regulatory authority. The Japanese banking sector had a similar problem in Malaysia. Pro-bumiputera policies such as the requirement of a certain equity share by bumiputera were the major problems. The Philippines was the most transparent in terms of the legal institutions in the services sector. However, the problem was that the Constitution of The Philippines provided some restrictions on Mode 3 related services. Thailand was the most complicated case in the services sector because the domestic legal and regulatory system was not transparent and so left much room for discretion at the political and ministries/agencies level. For example, restrictions relating to investment such as a permitted share of foreign capital were not clear from the regulation. While some services suppliers showed interests in eliminating Mode 3 related restrictions, other services suppliers hesitated to make requests on Mode 3. The latter had already invested in Thailand, either with an exceptional permission from Thai Government, or were making use of the legal ambiguity.

From the inward perspective, some sectors such as energy services, public-related services, medical related services and professional services showed basic defensive interests. Professional services associations were among the most vocal actors. Since Thailand and The Philippines requested entry of some professionals into Japan, some Japanese professional service associations, namely the Japan Medical Association, the Japanese Nursing Association and the association of care-workers strongly lobbied the Ministry of health, Labour and Welfare not to make any compromises in making any GATS-plus commitments. They insisted that the safety of Japanese healthcare would be threatened by foreign nurses and care-workers. They also claimed that foreign nurses and care-workers would derive employment opportunities from them and bring down the minimum wages. On the pro-liberal side, the Keidanren was showing awareness of labour shortages in some manufacturing sectors, as well as services sectors, and requested that the Japanese government should accept foreign professionals through the FTA negotiations. Yet, the Keidanren's request was not accompanied by lobbying in action. In this regard, anti-liberal forces overcame pro-liberal forces.

Japan-Indonesian FTA²²⁷

The Japanese private sector's policy-making experience in FTA services trade negotiations had been further accumulated through the negotiations with Singapore, Malaysia, Thailand and The Philippines. Since the negotiations for the Japan-Indonesian FTA took place after the negotiations with these four ASEAN countries, the Japanese private sector was becoming more aware of services trade negotiations. Yet the Japanese manufacturing sector remained a vocal offensive lobbyist. Apart from accumulated decision-making experience of the Japanese private sector in FTA services trade negotiations, Indonesia's protectionism was increasing business concerns in terms of context. For instance, the Keidanren for the first time wrote an independent chapter for services trade in its FTA position paper.²²⁸ The Keidanren showed concern about protectionism in Indonesia and emphasised the importance of improving commitments in the 'manufacturing-related services sectors' as Japan was the largest investor in Indonesia. The Keidanren also requested to eliminate or reduce restriction on Mode 3 (e.g. a limitation of equity share, and conditions for capital participation). Among the pure services sectors, the distribution sector (lease, convenience store, and franchise business) was targeted as priority. At the sector association level, the construction sector, ICT sector, transportation sector, distribution sector, financial services sector, and legal services sector delivered their business concerns to the MOFA and the METI. They claimed that the Indonesian government quite frequently changed its investment related regulations in response to domestic vested interests, and that implementation of law and regulations at the local government level was arbitrary and lacked transparency. Because of Indonesia's protectionism, Japanese investors tried to improve legal certainty and predictability through FTA services trade and investment agreements.

From an inward perspective, there was a political battle between pro-liberal forces and anti-liberal forces. At the time of FTA negotiations with Indonesia, The Keidanren responded positively to the request from Indonesia regarding entry and temporary stay of some professionals (e.g. Indonesian nurses and care-workers, professionals working in tourism and hotel services) and requested the government to make changes to domestic regulations if necessary. The organisation also asked the Japanese government to propose some technical cooperation relating to professional services. On the anti-liberalisation side, many professional associations acted defensively against accepting Indonesian professionals. Among medical related professional associations, namely the Japanese Nursing Association and the association of care-workers, they again made collective efforts to strongly resist any regulatory changes, by directly lobbying their regulatory authority, the Ministry

²²⁷ The observation was derived from the interviews with the Keidanren secretariat (April 2015), the Japan Chamber of Commerce and Industry secretariat (April 2015), senior lobbyists of the sector associations (April 2015), the METI officials (April 2015) and the MOFA officials (April 2013 and April 2015). See Appendix 1.

²²⁸ See Keidanren (2006).

of Health, Labour and Welfare. In contrast, the Keidanren's positive appraisal of accepting some professionals where a labour supply shortage existed was not accompanied by lobbying in action. Lobbying of professional associations, which maximised client relationship with its regulatory authority, was strong enough to overcome the pro-liberal force.

Japan-Viet Nam FTA²²⁹

Since Viet Nam made high level commitments in services trade for the WTO accession (January 2007), the private sector did not pay special attention to the Japan-Viet Nam FTA in terms of services. The major business organisations such as the Keidanren and Japan Chamber of Commerce and Industry focused more on trade in goods, namely rules of origin. The Japanese Nursing Association and the association of care-workers remained defensive, although they accepted to offer commitments, the level of which was the same as that which Japan had made for the FTAs with The Philippines, Thailand and Indonesia.

5.3.2 Policy supply side interests

A. General Interests

There are three general motivations for negotiating FTAs with ASEAN which affected the services trade negotiating positions of Japan. One is the pressure of speedy conclusion of FTAs to catch up the global FTA trends as well as to take a lead in developing an FTA network in East Asia. The second is a strong motive of creating FTAs to support regional supply chains established by manufacturing companies in East Asia. The last is limited interest in locking-in domestic services reforms by using Japan-ASEAN FTAs.

FTA catch-up incentives and political rivalry in developing FTA network in East Asia²³⁰

As explained in the previous section, the Japanese private sector started FTA lobbying to the Japanese government from the late 1990s to dismantle economic disadvantages caused by FTAs in which the EU and U.S were involved. The private sector suggested adopting a dual economic diplomacy which encompasses both multilateralism and plurilateralism. The private sector's lobbying prompted the METI to catch up with the FTA activities of the EU and the US.

²²⁹ From the interviews with the Keidanren secretariat (April 2013) and the MOFA officials (April 2013). See Appendix 1.

²³⁰ From a series of interviews with the Japanese government officials (April 2013 and April 2015) and the WTO secretariat (April 2013 and July 2015) . See Appendix 1.

Nevertheless, at the early stage of business lobbying, the economic diplomacy elites of the MOFA still prized multilateralism and the Ministry kept the position that Japan's economic diplomacy had to rely on multilateralism. It was just after Japan had gone through 1997-98 Asian financial crisis and the failure of the WTO Seattle Ministerial in 1999 when the Japanese government finally shifted its position from multilateral trade diplomacy to the dual trade diplomacy encompassing both multilateralism and plurilateralism. Then the Japanese government immediately accepted a request from Singapore to start a feasibility study for the Japan-Singapore FTA.

The Japanese government had to aim for a speedy conclusion of FTAs with ASEAN for two reasons. The first reason was strong requests from the Japanese business sector to dismantle the economic disadvantage of not having any FTAs and to institutionally back up the Japanese companies' business activities at the global level. However, Japan's domestic coordination to start negotiating the Japan-Mexico FTA was stuck due to domestic protectionism of agriculture in the early 2000s. The situation irritated the Japanese business sector who urged the Japanese government to conclude the first FTA. The second reason was a strong diplomatic motivation to take a leadership in developing FTA network in East Asia including political rivalry with China. Time pressure of the policy supply side as a consequence induced the government to give up high-quality services trade agreements at the final stage of negotiations with some ASEAN countries, which we will explain later (5.4.2).

FTAs for the manufacturing sector²³¹

In terms of content, the Japanese government committed itself to achieving an FTA which assured the business activities of the Japanese manufacturing companies which had established regional supply chains and gave further incentives to the market. To achieve the aim, the Japanese government prioritized four areas. One was reducing or abolishing the high tariffs imposed on intermediate products. The second was to establish high-quality investment rules to protect existing Japanese manufacturing companies in the ASEAN by introducing a separate investment chapter. The third was protecting intellectual property rights of the Japanese manufacturing companies. The fourth was creating a system to support these business activities which cannot fit in the typical FTA structure. Therefore the Japanese government established a separate chapter to improve the business environment. Attention was not paid to services trade in the government's policy priority in substance.

²³¹ From a series of interviews with the Japanese government officials which took place in April 2015 in Tokyo. See Appendix 1. Also from Watanabe (2013), p226 and Solis and Urata (2007), p231.

Weak incentive of locking-in services reforms²³²

In contrast to the strong diplomatic motives and market motives mentioned above, the incentive to lock-in services reforms was too weak. When the Japanese government discussed Japan's FTA strategies in the late 1990s, it envisaged using FTAs as engine of domestic structural reforms. Since the Japanese economy had been stagnating from the early 1990s and the country was suffering from a declining population and ageing society, pro-policy reform academics and policy makers, namely the METI and the MOFA, underlined the need for structural reforms under FTAs. The major target of structural reforms was agriculture and fishery products. In addition, movement of natural persons, medical, educational and other services were included in the policy discussions. The MOFA emphasised that these were the issues which top-down political initiatives needed. However, pro-reform forces were limited to the MOFA and the METI. The two ministries faced strong anti-reform forces during the domestic-decision making process (see 5.4).

B. Specific interests in services trade

As previously described, inter-governmental coordination is characterised by the dominance of bureaucrats during a whole process as well as wide participation of the domestic regulatory ministries and agencies. As for Japan's seven bilateral FTAs with the ASEAN countries, we analyse below the kind of specific interests in services trade that the participating ministries and agencies possessed (see Table 5-3).²³³

Ministry of Foreign Affairs (MOFA): The MOFA obtained four policy interests. Achieving high-quality GATS-plus services agreements was the MOFA's top priority. At the time of the FTA negotiations with Singapore, the MOFA aimed to make a high-quality GATS type services trade agreement which could be used as a model of the following bilateral FTA negotiations in East Asia. Since the Japanese government had gained technical capacities of using a negative list approach for the FTA services trade agreement after concluding the FTA negotiations with Mexico in March 2004, the MOFA's motivation was even upgraded to use a negative list approach for the FTA negotiations with Malaysia, Thailand and Indonesia when the negotiations started in early 2004. The reason was that these countries retained a huge gap between the autonomous liberalisation level and the GATS commitment level. The negative list was an appealing policy approach as it ensured standstill commitments in principle. Second, in order to show Japan's commitment to

²³² From MOFA (2002). Nihonn no FTA Senryaku (Japan's FTA strategy), from <http://www.mofa.go.jp/mofaj/gaiko/fta/summary.html>; Oike (2006) p27; and Solis and Urata (2007), pp231-232.

²³³ The observation is based on a series of interviews with the Japanese government officials (April 2013 and April 2015). See Appendix 1.

multilateralism, the MOFA seriously took into account legal compatibility with the GATS Article V (Economic Integration). One example was compliance with the requirement of substantial sectoral coverage provided in Article V: 1 (a).²³⁴ Third, the MOFA had a strong incentive to eliminate discriminatory treatment caused by trade and investment related agreements which FTA partner countries had previously agreed with the third parties (e.g. Treaty of Amity and Economic Relations between Thailand and the US conclude in 1966). Lastly, the MOFA was interested in using FTAs to stimulate structural reforms in Mode 4, namely receiving foreign professionals where Japan suffered a shortage of supply.

In terms of economic interests, the MOFA was motivated to maximise business opportunities for Japanese companies. For the request and offer negotiation process in practice, the MOFA had to collect the liberalisation requests or information on the regulatory barriers from the Japanese companies, as much as possible, since business requests strengthen the negotiating power of the MOFA at negotiations with an FTA partner country. From the WTO services trade negotiations, the Japanese government was well aware that the export interests of major ASEAN countries, such as The Philippines, Thailand and Indonesia lay in Mode 4. The MOFA understood that FTA negotiations with the ASEAN countries would become a deal between Japan's interests in Mode 3 and the ASEAN's interests in Mode 4. In this regard, the MOFA tried to collect requests on Mode 3 from the Japanese private sector as much as possible.

Ministry of Economy, Trade and Industry (METI): The METI basically shared the policy interests of the MOFA. The first priority of the METI was to improve the level of commitments up to the substantial liberalisation since the Ministry was not happy with the ASEAN's policy space between substantial liberalisation and the level of the GATS commitments. Applying a negative list approach was ideal for the METI to achieve its goal. Secondly, the METI was motivated to eliminate discriminatory treatments arising from the existing trade and investment related agreements of the FTA partner countries. The ministry tries to achieve a level playing field for the Japanese companies in the ASEAN countries. Third, the Ministry was in favour of using FTAs to stimulate services sector's reform in the area where an FTA partner country had strong competitiveness. In the case of FTAs with ASEAN, it supported the relaxation of the market access restrictions of the medical related professional services, such as nurses and care-workers, since the Japanese market was suffering the supply shortage due to ageing population.

²³⁴ According to GATS V (Economic Integration), an FTA should have substantial sectoral coverage *in terms of number of sectors, volume of trade affected and modes of supply*. In order to meet this condition, agreements should not provide for the a priori exclusion of any mode of supply.

The METI's economic interests were more strategic and pro-active than the MOFA's because the ministry was responsible for designing strong Japanese services sectors from an economic strategy perspective. Therefore the METI was motivated to strengthen the Japanese companies' international competitiveness using the FTAs with the ASEAN countries. Given that the METI mainly represents the whole manufacturing sector, it was interested in relaxing or diminishing restrictions in the manufacturing-related services sector in order to improve the business environment of the Japanese manufacturing sector in ASEAN. In the area of services, it administers only distribution and energy. As a delegated authority of the distribution sector, it especially showed offensive interests in liberalising the distribution sector in ASEAN. In general, the METI's position on the energy sector was defensive but the Ministry was not pre-occupied with protecting the Japanese energy markets regarding the bilateral FTAs with ASEAN since none of these countries showed interests in penetrating into the Japanese energy markets.

Financial Services Agency: The policy interest of the Financial Services Agency was to pursue its regulatory objectives, since the financial sector specifically requires market confidence, stability of the financial system and consumer protection. In comparison with other regulatory agencies, the regulatory autonomy of the financial services agency was quite clear and protected. FTAs with ASEAN was an opportunity for the Financial Services Agency to strengthen preferential treatment for Japanese financial services providers vis-à-vis financial services providers from external regions. Since regulatory policies in ASEAN countries, with the exception of Singapore, were unpredictable, the Financial Services Agency supported applying the negative list approach and legally ensuring standstill status.

As for economic interests, the Agency had specific incentives to develop and enhance business opportunities for Japanese banks and insurance companies in ASEAN. As the financial markets in the ASEAN countries, except Singapore, were heavily closed to the foreign suppliers, the Agency held offensive interests against the FTA partners to improve market access in Mode 3. The Agency was also interested in improving transparency, since the Japanese financial sectors had problems with authorisation in practice. From the inward perspective, the Agency had nothing to protect since the Japanese financial market was completely open in terms of market access and national treatment.

Ministry of Internal Affairs and Communication: The ministry covers a wide range of ICT services which include postal and courier services, telecommunication services and audio-visual services. As the telecom sectors in Japan require minimal registration formalities and are basically

open to competition as a result of regulatory reforms, administration of the telecommunication sector by the Ministry was the minimal level such as providing a universal service.²³⁵ On the other hand, postal and courier services were heavily regulated. Therefore, the Ministry's major policy interest was to protect regulatory autonomy and to pursue its regulatory objectives in the area of postal and courier services.

In terms of economic interests, the Ministry of Internal Affairs and Communication aimed at opening the telecommunication sectors in the ASEAN countries, most of which were still heavily shielded from competition. From the inward perspective, the Ministry's general position was to protect NTT as a major capital owner (33%). In the case of the FTA negotiations with ASEAN, the Ministry did not have to protect NTT as FTA partners did not show export interests in the area.

Ministry of Health, Labour and Welfare: The Ministry of Health, Labour and Welfare is one of the ministries with strong regulatory autonomy in Japan. In the labour policy area, the Ministry aims at protecting employment of Japanese nationals and minimum wages. Therefore, the ministry was completely against Mode 4 negotiations which went above the GATS commitments. The ministry also held a very strong regulatory objective, which was to protect Japanese consumers' health and safety in the medical related services. Given its sectionalism, the Ministry detested any international negotiations which intervenes in their regulatory autonomy and regulatory objectives.

When Japan negotiated bilateral FTAs with ASEAN, Japan was suffering a shortage of nurses and care-workers due to its ageing society. However, the Ministry of Health, Labour and Welfare persistently kept defensive positions on receiving foreign professionals for three reasons. The first was the policy incentive of protecting strong regulatory autonomy of administering licensing and professional qualifications in the health and social services. The second was that the ministry had a strong incentive to protect vested interests, which were the interests of Japanese nurses and care-workers asking for the regulatory authority to shield the Japanese medical services sectors from market penetration by the foreign services suppliers. The third was the incentive of protecting the Japanese labour markets to retain average wages and the quality of professionals from the labour policy perspective.

Ministry of Justice: Similar to Ministry of Health, Labour and Welfare, the Ministry of Justice maintained strong regulatory autonomy in the area of temporary movement of natural persons and some legal services as administrator of licences and qualifications. Since the Ministry's regulatory

²³⁵ See WTO (2013) p95.

objective is to ensure security of the Japanese society, it does not accept any trade negotiations which would interfere its regulatory concerns. In this regard, the Ministry of Justice resisted changing regulations relating to horizontal commitments of Mode 4. The Ministry also held a specific economic incentive to protect Japanese law firms, professional lawyers and solicitors from market penetration of foreign law-firms and lawyers. In the case of the FTA negotiations with ASEAN, legal services was not the issue as ASEAN countries did not show interests in the area. Thus, Ministry of Justice's interest was to maintain the status-quo, which is to maintain horizontal commitments of Mode 4 under the GATS.

Ministry of Land, Infrastructure, Transport and Tourism: Since this Ministry covers a wide range of services including construction services, transport services and tourism services, the basic policy interest of the Ministry was to protect regulatory autonomy when it comes to trade negotiations. For the Ministry, pursuing regulatory objectives in the construction services, transport services and tourism services was the priority.

In terms of economic interests, the Ministry's interests were intricate as it covers a wide range of services sectors. In the area of the construction services, there was strong incentive to expand the Japanese construction firms' business in East Asia including ASEAN. On the other hand, as far as the domestic market is concerned, there was a strong incentive to protect the market power of the major Japanese constructing companies. In the tourism sector, although the Japanese markets were open, the Ministry possessed strong incentive to maintain the quality of services relating to hotels and tourism management as the regulatory authority. Therefore, the ministry was persistently against the requests from Indonesia i.e. improving market access to professionals relating to hotel management. In contrast, the Ministry maintained the offensive economic interests to promote liberalisation of maritime sectors in East Asia in order to improve logistics which was the core part of supply chains in East Asia.

Ministry of Education and other culture-related domestic regulatory authorities: Like other domestic regulatory ministries, the Ministry of Education and other culture-related domestic regulatory authorities (e.g. Ministry of Culture, Sports, Science and Technology and Agency for Cultural Affairs) tried to protect regulatory autonomy of its policy domain. In terms of economic interests, the Ministry of Education had an interest in promoting trade and investment of the Japanese education-related services in ASEAN. And the culture-related domestic regulatory

authorities were interested in promoting Japanese culture such as Japanese animations, films and J-Pop. On the other hand, these regulatory authorities were reluctant to certify a new category of educational and culture related-professionals (e.g. Thai instructors teaching Thai dance, music and cuisine). The reasons was that the Ministry was afraid that any regulatory changes would interfere their regulatory objectives of ensuring the quality of services.

In summing up, there were three types of policy actors in terms of interests. One is the pro-liberal ministries which tried to achieve high-quality agreement and high-standard market liberalisation commitments including sectoral reforms. The METI and the MOFA were advocates of services trade agreement belonging to this group. Their interests in services trade negotiations were much stronger than other ministries. The second is anti-liberal ministries which completely denied any domestic regulatory changes and held no interest in the FTA partner’s services market. The Ministry of Health, Labour and Welfare and the Ministry of Justice belonged to this group. Their defensive interests made a relatively strong incentive to participate in the negotiations. The third group is the ministries which had both pro-liberal and anti-liberal interests due to a wide coverage of services sector. The majority of the domestic regulatory authorities belonged to this group. They were not highly motivated to participate in sectoral liberalisation negotiations since they were afraid that they might have to make compromises in areas they wished to defend, in return for getting liberalisation commitments from ASEAN.

Table 5-3: Policy supply side – Specific interests in services trade negotiations of the major players

Actors	Interests
MOFA (Ministry of Foreign Affairs)	<p>Policy interests:</p> <ul style="list-style-type: none"> • Strengthen preferential treatments (minimum GATS-plus) vis-à-vis external regions=NAFTA type negative list approach • Achieve the GATS Art.V compatible FTAs • Eliminate discriminative treatments caused by existing trade related agreements of a partner country • Use FTAs to stimulate structural reforms in Mode 4 <p>Economic interests:</p> <ul style="list-style-type: none"> • Reflect the interests of the Japanese services suppliers (e.g. Mode 3)
METI (Ministry of Economy, Trade and Industry)	<p>Policy interests</p> <ul style="list-style-type: none"> • Strengthen preferential treatments (minimum GATS-plus) vis-à-vis external regions=NAFTA type negative list approach • Eliminate discriminative treatments caused by existing trade related agreements of a partner country • Achieve the GATS Art.V compatible FTAs • Use FTAs to stimulate structural reforms in Mode 4. <p>Economic interests</p> <ul style="list-style-type: none"> • Relax or diminish restrictions in the manufacturing related service sectors of

	<p>host countries</p> <ul style="list-style-type: none"> • Promote trade and investment of the Japanese distribution sector • Protect the Japanese energy services markets (potentially, but not in the case of bilateral FTAs with ASEAN)
Financial Services Agency	<p>Policy interests</p> <ul style="list-style-type: none"> • Pursue its regulatory objectives • Protect regulatory autonomy • Strengthen preferential treatment (minimum GATS-plus) vis-à-vis external regions in the financial sector =NAFTA type negative list approach <p>Economic interests</p> <ul style="list-style-type: none"> • Promote trade and investment of the Japanese financial sectors in East Asia to support the Japanese manufacturing sector
Ministry of Internal Affairs and Communications	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives • Strengthen preferential treatment (minimum GATS-plus) vis-à-vis external regions in the telecommunication sector <p>Economic interests</p> <ul style="list-style-type: none"> • Promote the trade and investment interests of the Japanese ICT providers • Protect NTT as a major capital owner (33.3%)
Ministry of Health, Labour and Welfare	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives <p>Economic interests</p> <ul style="list-style-type: none"> • Protect the Japanese professionals in the medical sector (e.g. nurses, care-workers, medical doctors) • Protect the Japanese labour markets: (a) avoid unemployment and (b) retain average wages
Ministry of Justice	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives <p>Economic interests</p> <ul style="list-style-type: none"> • Protect the Japanese law-firms and lawyers, certified under the Japanese law, from penetration of foreign law-firms and lawyers
Ministry of Land, Infrastructure, Transport and Tourism	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives <p>Economic interests</p> <p><u>Construction:</u></p> <ul style="list-style-type: none"> • Promote investment of the Japanese construction sector and the construction-related sector in East Asia • Protect the market power of the Japanese major constructing companies in the domestic markets from market penetration by non-Japanese suppliers • Protest against receiving construction-related professionals or engineers from East Asia (except from Singapore) <p><u>Tourism:</u></p> <ul style="list-style-type: none"> • Maintain the level of the professional qualifications relating to hotels and tourism (e.g. Against professional workers in hotel and tourism from Indonesia) <p><u>Transport</u></p> <ul style="list-style-type: none"> • Achieve GATS-plus commitments in the maritime sector • Improve logistics for supply-chains in East Asia for the Japanese manufacturing companies
Ministry of Education	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives <p>Economic interests</p> <ul style="list-style-type: none"> • Reluctant to certify a new category of educational related-professionals (e.g. Thai

	<p>instructors teaching Thai dance, music, cuisine) and to promote MRAs with East Asian countries in the education related-services</p> <ul style="list-style-type: none"> • Promote trade and investment of the Japanese education related services providers in East Asia
<p>Other domestic regulatory authorities</p> <p>e.g. Ministry of Culture, Sports, Science and Technology</p> <p>Agency for Cultural Affairs</p>	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue its regulatory objectives <p>Economic interests</p> <ul style="list-style-type: none"> • Promote the Japanese culture

5.3.3 Ideas

‘Manufacturalism’ - Japan as a country of manufacturing

There was an idea which significantly influenced the interests of the Japanese government as well as the Japanese private sector. Not only the market reality of regional supply chains established by the Japanese manufacturers in East Asia, but also the idea of ‘manufacturalism’ shaped the interests of actors who participated in domestic decision-making for FTA negotiations with ASEAN. The idea of ‘manufacturalism’ is deeply embedded in Japanese society. There are historical and cultural reasons for this. First, ‘monodzukuri’ (manufacturing in English), historically deemed to be a virtue in Japan, was transformed from ‘takumi’ (artisan or craftsmanship) to technology. In Japanese society, professionals, who are engaged in ‘monodzukuri’, are highly respected. The second is the leading role of the manufacturing sector in Japanese economic development after World War II. For example, the manufacturing sector’s cumulative nominal GDP between 1955 and 1960 accounted for 132.5 per cent led by the steel industry and machinery industry and 100.3 per cent between 1960 and 1965 led by growing exports of the machinery sectors.²³⁶ While economic developments of the US and the UK were led by the non-manufacturing sector, economic development of Japan was led by the manufacturing sector.²³⁷ The manufacturing sector-led growth formed the societal idea that manufacturing constitutes the base of strength of the Japanese economy.

When Japan negotiated the bilateral FTAs with ASEAN, the embedded ideas of ‘manufacturalism’ formed the basic negotiating stance of both the policy demand side and the policy supply side. For instance, the business executives of large sized Japanese companies believed that “Japan was a country of manufacturing”. And they thought that they were major players of the Japanese

²³⁶ See Yoshikawa, H and Miyagawa, S. (2009). Sangyou Kouzou no Henka to Sengo Nihon no Keizai Seichou (Changes in Industrial Structure and Post-war Economic Growth in Japan), RIETI, p5-6, available at: <http://www.rieti.go.jp/jp/publications/dp/09j024.pdf>

²³⁷ See Yoshikawa, H and Miyagawa, S. (2009), p10.

economy and that they had to keep leading Japan. This would be one of reasons why Japanese manufacturing companies were major policy-making players inside the Keidanren, whereas the services suppliers were passive. On the government side, the METI, which devised the economic strategy of Japan, put especially great emphasis on the roles of the Japanese manufacturing sector in development. For example, in “Monodzukuri Hakusho 2005” (White Paper on Manufacturing) which was annual publication of METI, emphasised the importance of teaching a ‘monodzukuri’ spirit at the early stage of education.²³⁸ Whenever they started trade negotiations, the manufacturing sector was the first issue to be considered. A top negotiator of the Japanese government at the time of the Japan-ASEAN FTAs declared that the Japan-ASEAN bilateral FTAs were for goods and, in this regard, the mission was achieved.²³⁹

5.4 Institutions – Supply side condition

5.4.1 Domestic decision-making structure for Japan-ASEAN FTA services trade negotiations and the logic of veto players

The interests of domestic regulatory authorities described in the previous section can be summarised as a strong preference of the status-quo. Next, we explain the domestic decision-making structure for the Japan-ASEAN FTA services trade negotiations by applying the logic of veto players. Table 5-4 summarises the institutional characteristics of the policy supply side actors. In the case of the services decision-making process, the agenda setter is MOFA which leads services trade negotiations representing Japan as well as the METI which works together with MOFA mainly representing the business federations. Veto players are domestic regulatory authorities which participate in the domestic-decision making process. These include Financial Services Agency; Ministry of Internal Affairs and Communications; Ministry of Health, Labour and Welfare; Ministry of Justice; Ministry of Land, Infrastructure, Transport and Tourism; Ministry of Education and culture related authorities. For the veto players, the status-quo meant no changes in regulations or any substantial changes in the level of liberalisation.²⁴⁰

There are five reasons why domestic regulatory authorities had a strong preference for the status-quo:

(i) First, domestic regulatory authorities have legitimate objectives for regulation, which is resolving market failures (i.e. market power, imperfect and asymmetric information, externalities

²³⁸ See METI (2005), Monodzukuri Hakusho 2005 (White Paper on Manufacturing 2005), available at: <http://www.meti.go.jp/report/downloadfiles/g51115a10j.pdf>

²³⁹ The interview took place in April 2015 in Tokyo. See Appendix 1.

²⁴⁰ It should be noted that the position of the status-quo for the Japanese domestic regulatory authorities and that of many ASEAN countries are different. The status-quo of the ASEAN countries was to maintain the level of GATS commitments to maintain a policy space (see Chapter 6).

and public goods).²⁴¹ For example, all domestic regulatory authorities have to protect consumers from imperfect and asymmetric information and maintain the quality of services. Regulations in Japan such as licensing, technical standards, qualification requirements, prudential regulations are mutualised as well as complicated at the same time. Ministries which are in charge of network industries (e.g. communication services, postal services and transport services) have to deal with network externalities which are common economic failures in network industries after privatisation. The Ministry of Health, Labour and Welfare, which administers health and medical services and professional services in these sectors strongly reflects the public goods nature, as their regulatory objective is to ensure the health and safety of Japanese nationals. Because market failures provided legitimate reasons to regulate, the Japanese domestic regulatory authorities did not allow any international trade negotiations to intervene in its regulatory autonomy.

(ii) The second reason is sectoral segmentation. Each domestic regulatory authority is in charge of a specific sectoral economy and market. There exists a clear demarcation between ‘international matters’ which embrace economic diplomacy and ‘domestic matters’ within an authority. Basically, policy makers of domestic regulatory authorities are underpinned by the notion of ‘domestic matters’. For them, it is very hard to admit that the sectors, which they administer, embrace ‘international matters’, including international services trade negotiations. And it is hard to associate their tasks with economic diplomacy such as FTAs. Namely, domestic regulatory authorities do not consider that liberalisation under an FTA is a way to reform the economic inefficiency of a specific sector or a way to make regulatory reforms.

(iii) Third, there was no incentive for policy reforms or regulatory reforms by using bilateral FTAs with ASEAN. Prior to the bilateral FTA negotiations with ASEAN, a series of deregulation and regulatory reforms, which was called ‘Kisei Kaikaku’, had already taken place in the major services sectors from the 1990s. The WTO sectoral negotiations in the financial sector and telecommunication sector also accelerated structural reforms in the sector. Therefore, domestic regulatory authorities did not perceive FTAs as a policy device to promote further policy reforms or regulatory reforms.

(iv) Fourth, in the area where pro-reform policy makers considered that policy reforms were needed to stimulate the Japanese economy (e.g. health and social services), domestic regulatory authorities were completely captured by vested interests due to their strong client relationship. This was the case of health services-related professionals including nurses and care-workers. As explained before, these professional associations collectively insisted that the safety of the Japanese health-care were in danger. They also appealed to politicians behind the scene to entirely capture the Ministry of Health, Labour and Welfare.

²⁴¹ See explanation about market failures in Chapter 2: 2.4.1.

(v) The fifth reason was insufficient export interest to make a bargain. As previously explained, in comparison with goods trade negotiations, services trade liberalisation is less visible and it technically more difficult to make concessions.²⁴² This heterogeneous nature of services, brought about weak interest in the domestic regulatory authorities for liberalising ASEAN markets in general. In addition, there was no strong lobbying in terms of exporting services.

All through the inter-governmental coordination process, all domestic regulatory authorities exercised veto power to maintain the status-quo for the reasons mentioned above. The agenda setters: the MOFA and the METI which aimed at high-quality services agreements could not break through ‘policy stability’, which means *the difficulty for a significant change of the status-quo* (Tsebelis 2002, p37) for two reasons. The first reason was horizontal fragmentation of power. All domestic regulatory authorities obtained regulatory power equally (see Table5-3). The Financial Services Agency is a typical case of a Ministry with a strong negotiating power as it exercises regulatory autonomy as the supervisory authority for all financial sectors, which is deemed to be vital for a stable macro economy. The Ministry of Health, Labour and Welfare also obtains strong negotiating power as the Ministry is in charge of the backbone of people’s life, such as employment, health and safety. A wide participation of domestic regulatory authorities with strong regulatory power in services trade decision-making strengthened the status-quo forces as the veto power model entails that ‘policy stability’ is strengthened as the number of veto players increases. The second reason was the agenda setters’ weak political power. In the case of the MOFA, domestic political power of attaining its aim was quite weak as the ministry had no authorisation power. The MOFA could play a role only as coordinator without any designated ruling power such as changing domestic regulations. Likewise, the METI’s political power was weak although it envisaged improving productivity of the Japanese services sector from the perspective of users (e.g. manufacturing sector) or end-users (individual consumers).²⁴³ In practice, the METI did not obtain the political power necessary to override the regulatory domains of the other domestic regulatory ministries.

Table 5-4: Policy supply side -Institutional characteristics

Actors	Institutional characteristics
MOFA (Ministry of Foreign Affairs)	No authorisation power Coordinator of services trade negotiations without designated ruling power Diplomatic negotiators without specific economic and sectoral expertise

²⁴² See explanation in Chapter 2.

²⁴³ From interviews with the WTO secretariat which took place in April 2013 (Appendix 1). They pointed out that ministries with authorisation and regulatory autonomy can exercise stronger political power than the ministry which protects consumers’ benefits such as METI of Japan.

METI (Ministry of Economy, Trade and Industry)	<p>Represent the Japanese private sector both in goods and services</p> <p>Higher priority on manufacturing sector than services sectors in terms of policy making</p> <p>Regulatory ministry for distribution sector and energy sector</p> <p>Devise Japan's services industrial strategy in general from improving productivity and international competitiveness point of view, without implementation power as a regulatory authority</p> <p>Represent end users</p>
Financial Services Agency	<p>Exercises strong regulatory autonomy as supervisory authority for all financial sectors including licensing</p> <p>Possesses strong political power as supervisory authority of the major economic sectors</p> <p>Represents the interests of Japanese financial sectors</p>
Ministry of Internal Affairs and Communications	<p>Regulatory ministry for ICT sectors with minimal registration formalities</p> <p>Represent the NTT groups</p> <p>Devise Japan's ICT-related policy</p>
Ministry of Health, Labour and Welfare	<p>Strong regulatory autonomy: administer licensing and qualifications in the medical and welfare sector</p> <p>Represents the health and welfare related professionals (e.g. nurses, care-workers)</p> <p>Devise the Japanese labour market policy</p> <p>Devise the Japanese health services policy</p>
Ministry of Justice	<p>Strong regulatory autonomy: administer licensing and qualifications of legal-related professional (e.g. Lawyers, solicitors)</p>
Ministry of Land, Infrastructure, Transport and Tourism	<p>Strong regulatory autonomy in construction and transport</p> <p>Represents the Japanese construction companies and construction-related professionals and engineers</p> <p>Devise the Japanese infrastructure policy</p> <p>Promote inward tourism to Japan</p> <p>Represents the Japanese maritime sector, and air-transport sector</p> <p>Devise a sectoral policy of transport</p>
Ministry of Education	<p>Represent education related services and professionals</p> <p>Strong regulatory autonomy in education related-services</p> <p>Devise the education policy</p>
Other domestic regulatory ministries e.g. Ministry of Culture, Sports, Science and Technology Agency for Cultural Affairs	<p>Represent culture related services and professionals</p> <p>Strong regulatory autonomy in culture related-services</p> <p>Devise the culture related policy</p>

5.4.2 How did domestic regulatory authorities obstruct the lead ministry?

How did the domestic regulatory authorities obstruct initiatives of the MOFA and the METI for making high-quality services agreements through inter-governmental coordination process for the Japan-ASEAN bilateral FTAs? We trace the inter-governmental coordination process of the following FTAs: Japan-Singapore, Japan-Malaysia, Japan-Thailand, Japan-The Philippines, Japan-Indonesia and Japan-Viet Nam. The analysis is extracted from a series of interviews with Japanese government officials and Japanese private sector individuals, government documents, the private sector's policy papers and articles written by trade negotiators. The policy-making process is divided into two stages: one is the domestic policy-making stage and the other is the bilateral negotiation stage.

Japan-Singapore FTA (in effect 2002)

Domestic policy-making stage: The basic negotiating position of the MOFA was to achieve a comprehensive and high quality FTA so that it could be used as a model for the subsequent negotiations with other ASEAN countries. The MOFA and the METI aimed at achieving a higher margin of the GATS-plus and comprehensive rules with a focus on investment. However, both ministries faced difficulties in achieving their blueprint for three reasons. One is that the Japan-Singapore FTA was the first FTA for Japan. Since the domestic regulatory authorities had no prior experience of making FTAs, they could hardly understand how their domestic policy and regulatory framework were associated with the services trade agreements in an FTA. Because of this, “the domestic regulatory authorities became extremely nervous about the negotiations” according to a senior official of the MOFA who was in charge of the Japan-Singapore FTA. The domestic regulatory authorities' major concern was that the Japan-Singapore FTA might interfere with their policy and regulatory domain. Accordingly, the MOFA had to spend quite some time interpreting the possible services trade chapter in an FTA and describe its relation with domestic regulatory policy and institutions to the domestic regulatory ministries. A second reason was Singapore's liberal and opened economy. The domestic regulatory ministries anticipated that they might be requested to take regulatory actions. Among them, the Ministry of Internal Affairs and Communications; and the Ministry of Culture, Sports, Science and Technology became notably defensive since these were the areas where Singapore had strong competitiveness. A third reason was that there were limited substantial requirements from the private sector to push the blueprint of the MOFA and the METI. Given a lack of offensive pressure from the private sector, the domestic regulatory authorities were further demotivated.

During the internal government coordination to prepare requests to Singapore, the Financial Services Agency and Transport department of Ministry of Land, Infrastructure, Transport and Tourism showed offensive interest in several services sectors (e.g. banking services and transport services). Thus, the priority was set to (i) make a high level disciplines and commitments in the financial sector since Singapore was playing an important role in Asia²⁴⁴; (ii) upgrade commitments in the maritime sector to improve supply chains in East Asia; and (iii) improve GATS commitments in the manufacturing related services such as distribution.²⁴⁵

Bilateral negotiation stage: Both Japan and Singapore tried to achieve as high a margin of the “GATS-plus” offers as possible from their counterpart. Singapore did not accept relaxation of certain financial restrictions which would have required domestic regulatory changes. The MOFA official recalled, however, that was Japan that struggled more in making concessions than Singapore did. The MOFA could hardly change the attitude of the domestic regulatory authorities to maintain the status-quo.

Japan-Malaysian FTA (in effect 2006), Japan-Thailand FTA (in effect 2007) and Japan-The Philippines FTA (2008)

Domestic policy-making stage: After concluding the Japan-Singapore FTA, the Japanese government was motivated to use FTAs as a driving force for domestic structural reforms in the ASEAN countries, as emphasised by Prime Minister Koizumi in his speech delivered in 2002.²⁴⁶ In addition, the Japan-Mexico FTA (in effect September 2004), which took the NAFTA style negative list approach in the services trade agreement, endorsed a more ambitious position of the MOFA and the METI. The MOFA²⁴⁷ thought that applying the NAFTA type negative list services agreement to the FTAs with Malaysia, Thailand and The Philippines became technically possible for Japan thanks to institutional experience from the Japan-Mexico FTA. The METI was more ambitious than the MOFA in terms of getting a higher level of commitments from the partner countries. The METI’s position was to achieve commitments from these countries up to the level of substantial liberalisation, whether actual interests from the Japanese private sector existed or not.²⁴⁸ The METI also aimed at a high level investment chapter encompassing both goods and services. Other offensive actors from the outward perspective were the Financial Services Agency

²⁴⁴ Japan-Singapore made substantially GATS-plus liberalisation in the financial sector. For example, Singapore increased the number of licences for full-banking services, eliminated limits of issuing licences for wholesale banking. Japan liberalised intermediary insurance services and expanded the scope of activities in trans-national security services.

²⁴⁵ See <http://www.mofa.go.jp/mofaj/area/singapore/kyotei/kyotei.pdf>

²⁴⁶ The Speech of Prime Minister Koizumi titled “Japan and ASEAN in East Asia – A sincere and Open Partnership (January 2002), available at: <http://www.mofa.go.jp/region/asia-paci/pmv0201/speech.html>

²⁴⁷ A meetings with the MOFA senior officials in April 2015. See Appendix 1.

²⁴⁸ A meeting with the METI official in April 2015. See Appendix 1.

for the financial sector, the METI for the distribution sector and the Ministry of Internal Affairs and Communication for the telecommunication sector.

From the inward perspective, the domestic regulatory authorities' negotiating positions remained basically unchanged. Their strong preference for maintaining the status-quo could not be challenged either by the MOFA or the METI. They shielded themselves from any domestic regulatory changes to pursue their regulatory objectives and protected their regulatory autonomy. On the other hand, the domestic regulatory authorities were not as unnecessarily defensive as they had been at the time of the Japan-Singapore FTA negotiations. Thanks to the previous FTAs with Singapore and Mexico, the domestic regulatory authorities accumulated basic knowledge about the FTA services trade negotiations and its linkage with their policy and regulatory domain.²⁴⁹ They realised that FTAs with the ASEAN countries would not become a threat to Japanese markets for two reasons. One was that Malaysia, Thailand and The Philippines were developing countries without export capacities in the services sectors except for some professional services. The other reason is that Japan went through a series of domestic structural reforms and autonomous liberalisation from the 1990s. They realised that there were huge gaps between the substantial liberalisation and the Japan's GATS commitments. Nevertheless, there were some ministries which showed defensive positions in Mode 4. The Ministry of Justice basically rejected making any GATS-plus horizontal commitments in Mode 4 with the ASEAN countries. The Ministry of Health, Labour and Welfare most strongly resisted liberalising the movement of professionals in the health related services sectors. The Ministry of Land, Infrastructure, Transport and Tourism took defensive positions for the Japanese construction-related professionals and engineers. Ministry of Culture, Sports, Science and Technology had negative positions against making commitments in a new category of culture and sports related professionals.

Bilateral negotiation stage: The MOFA was confronted by two major obstacles in making high-level GATS-plus FTAs. The first basic obstacle was caused by the ASEAN side (Malaysia, Thailand and The Philippines). The idea of achieving high quality agreements was completely rejected by the three countries. According to anecdotes of a Japanese government official, when the Japanese negotiators proposed the negative list approach to Thailand at the first bilateral negotiation, the Thai delegates showed deep embarrassment and immediately left the negotiating table.²⁵⁰ Even further, Thailand proposed to treat the services trade issues as a Built-in-Agenda like the one in the China-ASEAN FTA. Likewise, the request of Japan to make an investment chapter encompassing both manufacturing and services was completely rejected by all three countries. The reason was that the investment chapter took a more liberal approach by application of the negative list approach. They insisted that services-related investment and manufacturing-related investment

²⁴⁹ From the interview with the MOFA senior officials (April 2015). See Appendix 1.

²⁵⁰ From the interview with the MOFA senior officials (April 2015). See Appendix 1.

should be separated and that services related investment should be incorporated into Mode 3 (investment) of the GATS type agreement. Because of the strong resistance from Malaysia, Thailand and The Philippines, the Japanese government had to give up applying the negative list approach²⁵¹ and incorporating the services related investment into the investment chapter.²⁵²

The second obstacle arose from the defensive positions of the Japanese domestic regulatory authorities in Mode 4. For Thailand and The Philippines, the market access of some professional services to Japan was their only interests (Malaysia did not show a particular interest in professional services). In the case of Thailand, Japanese domestic regulatory ministries resisted relaxing the restrictions of entry and temporary stay of Thai care-workers; Thai spa therapists; Thai cooks; and Thai instructors who teach Thai classical or traditional dance, Thai music, Thai cuisine, Thai boxing, Thai languages and Thai spa services. Among these, the Ministry of Health, Labour and Welfare specifically strongly resisted changing any regulations relating to Thai certified care-workers and Thai spa therapists. From The Philippines, entry and temporary stay for Philippine nurses and care-workers were requested. Again the Ministry of Health, Labour and Welfare persistently protested against any regulatory changes in the area. The MOFA tried to elicit compromises from the Ministry of Health, Labour and Welfare Ministry to make a substantial deal with Thailand and The Philippines in the area of the Japanese interests (e.g. the manufacturing related services and Mode 3). However, the MOFA could hardly find any compromise from the Ministry of Health, Labour and Welfare. The Ministry of Health, Labour and Welfare persistently echoed that acceptance of entry of nurses and care-workers would significantly reduce (i) the quality of health services in Japan and (ii) wages of the Japanese professionals. To solve the problem of a serious shortage of nurses for the Japanese elderly society, the Ministry stuck to the impractical idea of encouraging nurses who had become housewives to come back to the labour market by increasing wages. In the end, the Ministry of Health, Labour and Welfare nodded its head to accept the requests of nurses and care-workers, on condition that the arrangements did not require any legal changes. Accordingly, a solution arose accepting natural persons who seek a qualification as nurses and care-workers under the Japanese law²⁵³ as ‘trainees’ with many detailed requirements, including the qualifications following Japanese language courses and professional training courses to become nurses and care-workers which Japanese students take. The duration of stay in Japan as ‘trainees’ was up to 3 years for nurses and 4 years for care-workers. For those who pass the Japanese national examination of nurses and care-workers, they are entitled to work in

²⁵¹ The level of modification from the negative list approach differed among the three countries as described in Chapter 3.

²⁵² For Japan, the investment chapter was more important than the services trade chapter because the Japanese government was pushed by strong lobbying from the Japanese manufacturers. On the other hand, the services sector was not supported by the real interests from the Japanese services sector. Malaysia and The Philippines also basically understood the importance of endorsing FDI in manufacturing sector by the investment chapter.

²⁵³ The ones who seek access to Japan as ‘trainee’ of nurses or care-workers have to obtain the qualification of nurses or care-workers under the Philippine and Thai law.

Japan up to seven years for ‘training’ purpose.²⁵⁴ By accepting the foreign nurses and care-workers as ‘trainees’, no legal changes were required.²⁵⁵ Other than the professional services, Thailand also requested Japan to change Japan’s domestic legislation so that Japanese tourists could use Japanese medical insurance when they have to receive medical treatments in Thailand. However, the Ministry of Health, Labour and Welfare totally rejected the offer.

Strong resistance to Mode 4 by the Japanese domestic regulatory authorities made it more difficult for the MOFA and the METI’s positions to draw concessions in Mode 3 from Thailand and The Philippines. Facing strong defensive positions of the three countries at the initial stage of bilateral negotiations (i.e. rejection of applying the negative list approach and incorporation of services related investment into the investment chapter), the METI negotiators, which was the most ambitious ministry in achieving the high-quality GATS-plus FTAs, were under great stress. To induce any substantial results, the METI had to focus on liberalising Mode 3 in the ‘manufacturing-related services’ sectors in order to improve the business environment of the regional supply chains established by Japanese manufactures. The METI persuaded the FTA partners that a better business environment in the services sector (e.g. the distribution and telecommunication) would attract further FDI in the manufacturing sector. Services negotiations came to a deadlock as Thailand and The Philippines were unsatisfied with the Japanese defensive positions in Mode 4 while Japan was unsatisfied with the ASEAN’s protectionism in general as well as hard positions in making concessions in Mode 3.

At the final stage of bilateral negotiations, the MOFA declined to make a package deal of agreements instead of adhering to a high-quality GATS-plus agreement. As previously described, the Japanese government was under a huge pressure of competing FTA networking in East Asia. Also, there was strong pressure from the Japanese business sector for early conclusions of FTAs following the ones with Singapore and Mexico. The primary goal of the MOFA as lead ministry was to create an FTA. Being left out and becoming a loser in the FTA networking competition in East Asia was the worst scenario, which had to be avoided whatever the cost. At the same time, the Japanese government had to achieve its first priority of supporting the Japanese manufacturing sector to enhance its regional supply chains in East Asia in terms of context. Therefore at the final stage of international negotiations, the MOFA gave up drawing more commitments from the ASEAN countries. One of the METI officials, who was in charge of services trade negotiations with Malaysia, was upbraided by a Japanese head negotiator for failing to grasp the wide picture of foreign diplomacy and ordered to immediately stop pressing Malaysia to make commitments.²⁵⁶

²⁵⁴ The limit of duration was abolished in 2010.

²⁵⁵ From the interview with a counsellor of the WTO secretariat (April 2013).

²⁵⁶ From the interview with a former services negotiator of the METI who negotiated Japan-ASEAN bilateral FTAs (April 2015, in Tokyo).

This anecdote reveals the pressure employed by the Japanese head negotiators to complete an FTA as a package, instead of adhering to the quality of services trade chapter.

Japan-Indonesian FTA (2008)

Domestic policy-making stage: From the outward perspective, the METI²⁵⁷ evaluated that Japan's negotiating tactics with Malaysia, Thailand and The Philippines were not realistic. According to a METI official,²⁵⁸ the level of achievement was such that while Japan requested 10 points, only two out of ten were accepted by the partner countries at the time of FTA negotiations with Malaysia, Thailand and The Philippines. The METI considered that requesting detailed commitments across whole services sectors without strong requests from the Japanese private sector was neither convincing to FTA partner countries nor economically beneficial to Japan. To make the requests from Japan more powerful, the METI proposed to target two specific issues which would bring about practical benefits to both countries. One was to improve commitments in manufacturing related-services, namely liberalisation of Mode 3. The METI thought that Japan could convince Indonesia that improving the quality of manufacturing related-services was necessary for Indonesia not only to be tightly integrated in regional supply chains but also to induce further investment in the manufacturing sector in order to create employment and boost the economy. Second was the improvement of commitments directly related to two major Japanese services companies already invested in Indonesia (e.g. distribution services) because they were suffering day to day business uncertainty such as frequent changes of legislations and arbitrary and opaque licensing procedures.

From the inward perspective, the consensus was made during the coordination process of government that the commitments of Japan should be basically the same level as the bilateral FTAs with Malaysia, Thailand and The Philippines unless Indonesia made higher level commitments. Therefore, 'policy stability' of the domestic regulatory authorities was ensured in principle.

Bilateral negotiation stage: Like Thailand and The Philippines, Indonesia showed its interests in Mode 4.²⁵⁹ In addition to nurses and care-workers, the country requested mutual recognition of qualifications in tourism and hotel services, spa services, food-and beverage-related services and seafarers. The Ministries of Health, Labour and Welfare; and Land, Infrastructure, Transport and Tourism refused to accept mutual recognition of professional services suggested by Indonesia. Consequently, Japan's offers in Mode 4 became the same as the ones for Thailand and The

²⁵⁷ From the meetings with the METI senior officials (April 2015) in Tokyo. See Appendix 1.

²⁵⁸ From the meeting which took place in April 2015 in Tokyo. See Appendix 1.

²⁵⁹ From the meetings with the Indonesian government officials (April 2013 and July 2015). See Appendix 1.

Philippines. The METI²⁶⁰ was namely in charge of persuading Indonesia that making a binding commitment to a better market access in Mode 3 to Japanese services suppliers in manufacturing-related services would attract more FDI from Japan, which would create employment. Nevertheless, the METI could not get a positive response from the Indonesian government, mainly due to Japan's defensive positions in Mode 4. With regard to providing legal certainty for existing Japanese investors in Indonesia, Japan could hardly draw concessions since the Indonesian government was completely captured by domestic vested interests.

Japan-Viet Nam FTA (2009)²⁶¹

Domestic policy-making stage: The MOFA's negotiating position was to welcome Viet Nam's firm commitments in implementing its GATS commitments. Since there was little gap between substantial liberalisation and the GATS commitments of the Viet Nam, the MOFA and the METI decided to offer technical cooperation instead of pushing further liberalisation, with the exception of the distribution sector where the Japanese private sector's offensive interests existed. From the domestic regulatory authorities' point of view, there was no difficulty in providing the same level of commitments as the bilateral FTAs previously concluded with the other ASEAN countries. Like the case of negotiations with Indonesia, 'policy stability' of the domestic regulatory authorities was secured at an early stage of negotiations.

Bilateral negotiating stage: Like the cases of Thailand, The Philippines and Indonesia, the movement of natural persons was Viet Nam's only interest. Viet Nam requested Japan to liberalise entry and temporary stay of the Viet Nameese nurses and care-workers certified in Viet Nam. It also requested entry and temporary stay for IT-related professionals certified in Viet Nam. The Ministry of Health, Labour and Welfare had no difficulty in applying the level of commitments made for the other ASEAN countries to Viet Nam. The Ministry of Internal Affairs and Communications refused to accept IT-related professionals certified in Viet Nam. In short, the Japanese domestic regulatory authorities kept the status-quo without making any regulatory changes in Mode 4.

5.5 Findings

In the previous sections (5.3 and 5.4), we argued how interests and institutions during the decision-making process shaped the negotiating positions of Japan by applying the modified policy demand

²⁶⁰ From the meeting with a METI senior official (April 2015). See Appendix 1.

²⁶¹ From the meeting with a MOFA senior official (April 2015). See Appendix 1.

and supply side model of Mattli (1999a). As for the policy supply side condition, we explained how the domestic regulatory authorities obstructed the lead ministry through the logic of veto player. Below, we highlight our findings (Table 5-5).

Table 5-5: Political economy factors in decision-making which shaped the Japan’s negotiating positions – Interests and Institutions

<p>Interests</p>	<p>Policy demand side:</p> <ul style="list-style-type: none"> • nebulous offensive interests of the Japanese services enterprises vs. strong defensive interests of nurses and care-workers <p>Policy supply side:</p> <ul style="list-style-type: none"> • Policy interests of the MOFA and the METI to achieve high-quality services agreements vs. Strong preference of the status-quo and defensive interests in Mode 4 of the domestic regulatory authorities • Strong influence of general interests <ul style="list-style-type: none"> ➢ Ultimate goal is concluding an FTA ➢ Achieving an FTA which helps and enhances regional supply chains for the Japanese manufacturing companies <p>The idea of ‘manufacturalism’ constituted interests of both policy demand and supply sides.</p>
<p>Institutions (Supply side condition)</p>	<ul style="list-style-type: none"> • The veto power of domestic regulatory authorities, due to horizontal fragmentation of government, hindered the lead ministry. ➢ Weak political power of the MOFA and the METI to achieve high-level services agreements: No authorisation power, nebulous interests of the private sector ➢ Strong political power of the domestic regulatory authorities to achieve policy stability (=the status-quo): regulatory power ➢ Strong defensive force in Mode 4: Strong client relationship with the professional associations (e.g. Ministry of Health, Labour and Welfare, Ministry of Justice)

5.5.1 Interests

a. Policy demand side interests

Nebulous offensive interests in services vs. strong defensive interests in some professional services

While there was a strong demand from the manufacturing sector to strengthen the business environment in ASEAN to enhance regional supply chains, interest in services trade was nebulous. During a series of bilateral FTA negotiations with the ASEAN countries in the 2000s, the structure of domestic interest had always been the same. Whereas Japanese manufacturing companies

strongly lobbied the Japanese government with their clear offensive interest in enhancing regional supply chains in East Asia, interests in services trade were weak and ambiguous. Two powerful business federations: the Keidanren and the Japan Chamber of Commerce and Industry Japanese requested higher liberalisation in services trade in general.²⁶² However, the position was not supported by substantial strong business interests of member companies and sectoral organisations. The secretariats of the Keidanren and the Japan Chamber of Commerce and Industry had to face difficulty in finding out the real business interests from their member companies at the time of position making. The situation seemed nebulous for the secretariats of the both organisation.²⁶³ While liberalising the ASEAN services markets were secondary offensive interests, some professional services (e.g. nurses and care-workers) actively lobbied their regulatory ministry, the Ministry of Health, Labour and Welfare, with strong defensive interests.

Reasons for nebulous interests

The question is why was the Japanese private sector's interest in services trade negotiations nebulous when Japan negotiated bilateral FTA with ASEAN during the 2000s? In other words, why could the Japanese private sector not show strong business interests in detail, while it showed interest in high-quality GATS-plus agreements in general? Looking back at the nebulous offensive interests in services trade in the 2000s, three reasons can be identified. First, the type of business which the Japanese services suppliers engaged in the ASEAN countries was 'B to B'. The clients of these 'B to B' were not the local suppliers, but the Japanese manufacturing companies with investments in the countries. Because the Japanese services suppliers went to the ASEAN countries as a part of the business package offered by a host country, they did not suffer particular problems in the host countries. Secondly, underdeveloped services markets in the ASEAN countries (except Singapore) were not attractive enough for the Japanese services suppliers to penetrate the markets. In addition, the ASEAN economies had also not yet fully recovered from the 1997-98 Asian financial crisis by the early 2000s and their markets were not attractive enough. Thirdly, most of the Japanese services companies had to prioritise domestic markets in their business strategy. Because of a series of domestic regulatory reforms which had taken place during the 1990s initiated by the Japanese government, as well as the WTO sectoral liberalisation in the financial and telecommunication sectors, the Japanese services markets were highly exposed to competition. Consequently, the major services players, who had been incumbents of the markets, were preoccupied with surviving intensified competition in the domestic markets in the 2000s.

²⁶² See Keidanren 2000a, for example.

²⁶³ From the interview which took place in Tokyo, in April 2015.

On the other hand, one has to be aware that market factors are not enough to give a full explanation of the nebulous offensive interests of the Japanese private sector. One should not ignore the fact that there were non-economic factors behind this. As a result of a series of interviews with the lobbyists of the Japanese private sector, three strong reasons were identified: One was the complicated, outdated, and limited structure of the GATS. As for the complicated structure of the GATS, many criticised four modes of supply. From the private sector's perspective, the definition of modes did not matter in the real business. The conditions of investment in terms of market access and regulatory environment after investment was the core issue for any business, whether manufacturing or services. Therefore, it was meaningless for them to separate services-related investments (Mode 3) from the manufacturing-related investments. Many sectors also criticised the GATS for being outdated and meaningless from the business point of view. The most significant case is the ICT sector. Since the content of business had been radically changing in the ICT industry due to technological advances from the early to late 2000s, the industry started to realise the limitation of the GATS, such as the old classification developed in the early 1990s, the structure of the commitments, and major disciplines.²⁶⁴ Since FTAs apply the GATS style agreement, the ICT sector was not motivated to use an FTA. Two business confederations also pointed out the limitations of the GATS. According to the Keidanren, most of the problems which the Japanese companies faced in the ASEAN countries were related to domestic regulations issues which were beyond the capacity of the GATS style agreement to cope with. The Japan Chamber of Commerce and Industry reported the fact that some SMEs with international competition, which had expanded their business in East Asia during the 2000s (e.g. Japanese franchised family restaurants; Kumon: after school maths and reading school; and a Japanese wedding ceremony company) did not expect anything from the GATS, mostly because of the complicated and outdated nature of the GATS.

The second non-economic factor was forum choice. The Japanese companies distinguished several types of private economic diplomacy, in accordance with situations:

- (i) An investor-host country government diplomacy: According to some lobbyists²⁶⁵, there are many cases where the ASEAN governments provided exceptional market access to a specific company from their industrial policy point of view. Japanese companies were no exception. For example, a major Japanese land transport company was doing business in Malaysia under an exception of the limited market access to foreign companies. The Japanese banking sector also preferred to lobby a host country on its own considering the sensitivity of the host countries. In some cases, the incumbents, the Japanese companies which had already invested

²⁶⁴ From an interview with a lobbyist of the Japanese ICT organisation which took place in April 2015 in Tokyo

²⁶⁵ Some pointed out the issue, such as Japan Chamber of Commerce and Industry (interviewed on 20 April 2015), the Keidanren (interviewed on 24 April 2015).

prior to Japan-ASEAN bilateral FTA negotiations, enjoyed vested interests in preferential treatment provided by the host country and kept silent during the domestic decision-making process.

- (ii) Sectoral forum-host country diplomacy: The private sector endeavours to maintain consistently good relationships with the host countries using the international sectoral forum as a means of diplomacy. These forums are mutually beneficial for both sides. The private sector can raise policy or regulatory problems they are encountering and alert the host countries to any negative economic effects these policies or regulations may cause. Host country regulatory authorities can acquire technical information which helps them design domestic regulatory systems.
- (iii) Acting as a local supplier: Once a company is localised, it tends to join the domestic sector association or business federation. For example, some Japanese financial enterprises became core members of the local sector associations in the ASEAN countries and were actively involved in their activities. According to them, lobbying activity as a local services supplier through the domestic sector association is sometimes a more useful way to solve the problems they face, rather than using the GATS-type trade negotiations.

The third non-economic factor was a business method inherent in Japanese companies. In comparison with European or American companies, Japanese companies historically had an approach of adapting themselves to the host country's regulatory systems, institutions and culture instead of trying to change them. Even more, Japanese companies sometimes made use of the host countries' complicated regulatory environment to establish advantageous positions against their global competitors. A typical case are general trading enterprises ('Shosha' in Japanese) operating a wide variety of business at a global level both in trade in goods and services.²⁶⁶ They esteem domestic values or social systems of host countries, rather than challenging them by using multilateral or plurilateral trade negotiations.

²⁶⁶ For example, Mitsubishi Corporation *develops and operates businesses across virtually every industry including industrial finance, energy, metals, machinery, chemicals, living essentials, and environmental business. MC's current activities are expanding far beyond its traditional trading operations as its diverse business ranges from natural resources development to investment in retail business, infrastructure, financial products and manufacturing of industrial goods* (from the website of the Mitsubishi Corporation: <http://www.mitsubishicorp.com/jp/en/about/>).

b. Policy supply side interests

Policy interests of the MOFA and METI to achieve high-quality services agreements vs. the status-quo interests of the domestic regulatory authorities

In terms of specific interests in services trade negotiations, both the MOFA and METI, which led the services trade negotiations on behalf of Japan, had strong policy interests in achieving high-quality services agreements. Especially after concluding the Japan-Mexico FTA, they were motivated to apply the NAFTA type negative list approach to the bilateral FTAs with Malaysia, Thailand and The Philippines. However, the policy interests of both ministries were not supported by the strong business interests, as explained in the previous section.

From the inward perspective, the MOFA and METI were pro-reform minded. They expected to use the bilateral FTAs with ASEAN to lock-in domestic services reforms including Mode 4, medical and educational services. In comparison, the domestic regulatory authorities showed strong interests in the status-quo of their policy and regulatory environments. Their interests were pursuing regulatory objectives and protecting their own regulatory autonomy. The domestic regulatory authorities showed negative positions on Mode 4. Among the domestic regulatory authorities, the Ministry of Health, Labour and Welfare strongly refused to accept nurses and care-workers at the time of negotiating FTAs with Thailand and The Philippines.

Strong influence of general interests

Once bilateral negotiations took place, the lead ministries were confronted with difficulties in drawing concessions from the FTA partners. This was not only because of the ASEAN's antagonism against the high-quality services agreements (i.e. the negative list approach), but also because Japan could not make substantial concessions to accept some professional services in the interests of ASEAN such as nurses and care-workers. At the final stage of bilateral negotiations, the top negotiators of the Japanese government instructed the Japanese services trade negotiators to give up pushing the ASEAN countries for two reasons. One reason was that ultimate goal of the Japanese government was to materialise an FTA. A speedy conclusion was required because of the private sector's strong FTA catching-up incentives, as well as strong diplomatic incentive for leading competitive bilateralism in East Asia. The second reason was that bilateral FTAs with ASEAN were primarily for the manufacturing sector. The government had to institutionally support regional supply chains established by the Japanese manufacturing companies as expressed

as “Mono no FTAs (in Japanese)” which means the FTAs solely serves for trade in goods.²⁶⁷ Achieving high-quality services agreements was not included in its general motivations.

C. Ideas

The idea of ‘manufacturalism’

The idea of ‘manufacturalism’ influenced the interests of the business lobbyists as well as policy makers. The services sector had been the major sector of the Japanese economy for decades. A share of GDP of services had reached 60 per cent in 1987 and was showing steady growth. When Japan negotiated the bilateral FTAs with ASEAN, a share of GDP reached 70.0 per cent (2003).²⁶⁸ However, the idea of ‘manufacturalism’ was deeply emended in the Japanese society. The ‘monodzukuri’ spirit was culturally deemed a Japanese virtue. In addition, the fact that Japan’s economic development over half a century had relied heavily on the Japanese manufacturing sector, reinforced the idea of ‘manufacturalism’. Both the policy demand and supply sides did believe that the ‘monodzukuri’ (manufacturing) was the source of Japan’s vitality and creativity and that the dynamic manufacturing sector was a backbone of the Japanese economy. And the policy supply side, especially the METI, held the view that it was the government who had to institutionally support Japanese manufacture’s global competition. This belief was reflected in the interests of business people and policy makers during the domestic-decision making for the bilateral FTA negotiations with ASEAN countries. Consequently, services trade was ideologically neglected from the early stage of strategy-making to the domestic-decision making.

5.5.2 Institutions (Supply side condition)

Horizontal fragmentation of government and veto power of the domestic regulatory authorities

Critical was the institution which channelled interests. As described in Chapter 4, services trade covers a wide array of sectors and many domestic regulatory ministries/agencies with a regulatory power are involved in the negotiations. Due to the horizontal fragmentation of government, the domestic regulatory authorities exercised veto power during the decision-making process for the bilateral FTA negotiations with the ASEAN countries. As a consequence, they forced the MOFA and METI to retreat on their positions which aimed to achieve high quality services trade agreements with ASEAN countries. The mechanism of veto power can be summarised as follows.

²⁶⁷ From the interview with a METI official who represented the METI during the time of Japan-ASEAN bilateral negotiations (April 2015, in Tokyo).

²⁶⁸Source: World Bank data, Services, etc., value added (% of GDP), available at: <http://data.worldbank.org/indicator/NV.SRV.TETC.ZS?page=5>

First of all, the MOFA and METI were institutionally too weak to achieve their aims of achieving high-quality GATS-plus FTAs. Although the MOFA was assigned as the lead ministry, it was simply a coordinator without any authorisation power in practice. The METI, which devise Japan's economic strategy including services, mainly represents consumers of the services suppliers (i.e. manufacturing companies and end-users). Its regulatory power is limited to the distribution sector and energy sector. Because of sectoral segmentation and regulatory autonomy, the METI could not interfere in the policy areas of other regulatory authorities. In addition to a lack of authorisation power, their positions of achieving high-quality GATS-plus agreements became weak because of the intangible interests of the Japanese private sector. Secondly, all domestic regulatory authorities held strong political power to achieve 'policy stability' thanks to their regulatory power. The domestic regulatory authorities could easily justify their positions on the ground of legitimate objectives for regulations, which is to resolve market failures. Thirdly, in the area of Mode 4, some regulatory authorities such as Ministry of Health, Labour and Welfare showed strong defensive power by exercising strong client relationships with some professional associations (i.e. nurses and care-workers). Because horizontal fragmentation of power created a veto power of the domestic regulatory authorities, the positions of the MOFA and METI of achieving the high-quality services agreements both failed.

5.5.3 External factors

The case study of Japan examined how interests and institutions in the domestic decision-making process shaped Japan's negotiating positions for the Japan-ASEAN bilateral FTAs. From a series of interviews with trade negotiators who were involved in the FTAs with the ASEAN countries, however, we found that there was one international political factor which affected the result of the services trade negotiations. In the case of the FTA negotiations with Malaysia, Thailand and The Philippines, regional hegemonic rivalry, which was explained as China versus Japan (Figure 5-1), strongly affected the positions of these countries. Malaysia, Thailand and The Philippines did not accept the liberalism approach (substantial and comprehensive liberalisation) proposed by Japan because China approached them taking a gradualism approach which suspended services liberalisation. Under great pressure from Malaysia, Thailand and The Philippines on one hand, and the domestic pressure for the speedy conclusion of an FTA on the other hand, the Japanese government had to compromise and accept the second best option of 'gradualism' for the sake of the ultimate goal of materialising an FTA. We will further discuss the issue in Chapter 7.²⁶⁹

²⁶⁹ See 7.3 Analytical constraints and 7.5 Areas for future research in Chapter 7.

5.6 Conclusion

This chapter empirically analysed how interests and institutions shaped the Japan's negotiating positions for the bilateral FTAs with ASEAN. We first observed, as a base of arguments, the market and policy environments in the 2000s when the Japan-ASEAN FTAs were negotiated and concluded. In the markets, regional supply chains in East Asia established by Japanese manufacturing companies from 1990s were further developed in the 2000s. To support these Japanese manufacturing companies, the major Japanese services suppliers (e.g. financial sector, distribution sector and transport sector) conducted 'B to B' (business to business) type of business in East Asia. The services either targeted local services suppliers or the local consumers were still extremely limited at the time. From the policy perspective, regional hegemonic rivalry between China versus Japan in creating FTAs with the ASEAN was highlighted. China's FTA strategy toward ASEAN based on gradualism (progressive liberalisation) was completely in conflict with the Japan's FTA strategy toward the ASEAN, based on the liberalism (substantial and comprehensive liberalisation).

Second, we examined how interests and institutions shaped the Japan's negotiating positions for the bilateral FTAs with ASEAN, by applying a demand and supply side model modified from the model in Mattli (1999a). On the policy demand side, whereas there were secondary offensive interests from the Japanese private sector across the services sectors, strong defensive interests of nurses and care-workers were significant. On the policy supply side, the MOFA as lead ministry and the METI as a main offensive player, held policy motivations to achieve high level services agreements encompassing domestic services reforms. However, horizontal fragmentation of government created veto power of the domestic regulatory authorities with a strong preference for the status-quo. And the domestic regulatory authorities reduced the negotiating positions of the MOFA and METI. While the MOFA was the lead ministry without any authorisation power, the domestic regulatory authorities owned regulatory power. The domestic regulatory ministries exercised a strong veto power to retain policy stability during the decision-making process. The most powerful defendant was the Ministry of Health, Labour and Welfare which acted to protect the Japanese nurses and care-workers. At the bilateral negotiation stage, the MOFA was confronted with difficulties in drawing concessions from the ASEAN countries, not only because of ASEAN protectionism but also for domestic reasons. One was the Japanese private sector's nebulous interests in liberalising the ASEAN markets. The other was the defensive positions for Mode 4 of some domestic regulatory authorities. At the final stage of bilateral negotiations, the MOFA had to prioritise a speedy conclusion of an FTA with a focus on goods trade. As a consequence, the Japan-ASEAN bilateral FTAs resulted in the shallow GATS-plus FTAs.

Chapter 6: A Case Study of JAPAN-ASEAN Bilateral FTAs - The ASEAN countries' Perspective

6.1 Introduction

The aim of this chapter is to examine the domestic factors which shaped ASEAN's negotiating positions for the Japan-ASEAN bilateral FTAs. This chapter covers the countries which concluded the bilateral FTAs with Japan in the 2000s: Singapore, Malaysia, Thailand, The Philippines, Indonesia and Viet Nam. The argument follows the same procedure as that of Chapter 5. As a basis of argument, we will first overview the market and policy environments of these countries in the 2000s. Second, we will move to the policy demand and supply side analysis of the Japan-ASEAN bilateral FTAs from the ASEAN's perspective. As in Chapter 5, we will apply the analytical framework which modified the model in Mattli (1999a). We will identify general incentives behind creating the FTA as well as specific interests in services trade agreements. Then we will analyse institutions (supply side condition) to see how interests are shaped through inter-governmental coordination. The analysis of interests and institutions are mainly supported by a series of interviews with the ASEAN government officials, private sector lobbyists and researchers, including the trade policy experts of the WTO secretariat. Lastly, we will summarise our findings.

6.2 An overview of market and policy environments of ASEAN countries in the 2000s

ASEAN as a region of diversity

We observed in Chapter 3 (3.3) that East Asia is a region of diversified economies. Now we focus on the characteristics of ASEAN before providing an overview of market and policy environments of the Region in the 2000s. ASEAN can be identified as a region of diversity since history, the size of population, the development level, the type of governing and economy, religions and geographic features of these countries are all different. Singapore is the only high-income country

(GNI per capita US\$55,150)²⁷⁰. The country can be expressed as a city-state which has to rely on importing food and energy for domestic consumption. The government is very efficient and the economy is highly competitive with an open market. Malaysia is following Singapore. It is currently in a transition period from an upper-middle-income (GNI per capita US\$10,660) to a high income country. The multiracial population of 25.08 million²⁷¹ is comprised of Malays, Chinese, Indian and other ethnic groups. The government has a grip on the economic activities that leads to a lack of private dynamisms. Thailand is an upper-middle-income country (GNI per capita US\$5,410) with a population of 67.22 million, most of whom are Buddhist. The country went through volatile politics over the last decade with slow policy development. Indonesia is lower-middle-income (GNI per capita US\$3,650) with a huge and growing population of 252.8 million, most of whom are Muslim. The country possesses immense natural resources. Governance of the country is not straightforward due to 34 provinces retaining strong administrative power and the unique geography of several hundreds of islands. The Philippines is also a lower-middle-income country (GNI per capita US\$3,440) with a relatively large population of 100.1 million, most of whom are Catholic. Whereas highly educated human resources with the high English proficiency are an advantage, the wealth is concentrated among some of the richest people and economic growth is not equally distributed to the bottom.²⁷² The central government has limited administrative capacity like Indonesia. Viet Nam is a lower-middle-income country (GNI per capita US\$1,890) with 90.73 million population. It is a socialist country that has been shifting from a centrally planned economy to a market economy guided by Doi Moi in late 1980s. Although the country is a late comer to the world economy, which acceded the WTO in 2007, it is recognised as one of the fastest growing countries in East Asia.

6.2.1 Market environments

Economic modernisation accompanied by steady economic growth

The strong economic feature of the region in the 2000s was economic modernisation which was accompanied by steady economic growth. Although the countries were in different economic and political conditions, all had recovered from the 1997-98 Asia financial crises by the early 2000s and similarly showed steady economic growth during the 2000s except 2009 due to the 2007-08 global financial crisis (see Figure 6-1). We can observe economic structural shifts in each country

²⁷⁰ According to the World Bank classification which is revised every year based on a GNI per capita, countries are classified into high-income country, upper middle-income country, middle-income country, lower-middle-income countries, and low-income countries. As of 1 July 2014, low-income economies are \$1,045 or less in 2013; middle-income economies are more than \$1,045 but less than \$12,746; high-income economies are \$12,746 or more. Lower-middle-income and upper-middle-income economies are separated at a GNI per capita of \$4,125.

²⁷¹ The source of data of population is World Development Indicator, The World Bank.

²⁷² According to Forbes Asia, the 40 richest absorbed 76% of absolute rise in GDP in 2011.

by looking at the sectoral composition of GDP²⁷³ and employment by sector²⁷⁴ as described below. Services were becoming a major player of the economies of each country in the 2000s, although the size differed reflecting the level of development and the type of economy.

- Singapore: Up to the point when the economy of Singapore was seriously stressed by the 2007-08 global financial crisis, it recorded high economic growth with between 8-10 per cents. Singapore has been a services sector oriented economy, the share of which was already 65% of GDP in 2003. Services generated more than 70% of employment in the 2000s
- Malaysia: Although economic growth slowed down in the beginning of the 2000s, its economy still maintained high growth of 5-6 per cents, up to the 2007-08 global financial crisis. The country started as an oil and gas producing country. Then its economy transformed to export-oriented manufacturing. Transformation started from unskilled and labour intensive manufacturing and reached the technology-intensive goods which composed the upper end of the value-chain in the middle 2000s. Because of the limited population, the Malaysian economy still relied on export oriented manufacturing and inward FDI in the manufacturing sector up to the middle of the 2000s. At the same time, the economy started to shift to services. The output of the services sector accounted for nearly half (43% in 2000) of GDP and more than 50% of employment was created in the services sector in the 2000s.
- Thailand: The economy of Thailand was seriously hit by the 2007-08 global financial crisis. Otherwise, it maintained around 4-5 per cents economic growth during the 2000s. The share of the services sector in GDP (49% in 2000) slowly declined while the share of the manufacturing sector slowly increased during the 2000s. The share of services in total employment had been increasing from the 1990s and reached around 38% in the middle of the 2000s.
- The Philippines: Since the economy resumed after the 1997-98 Asian financial crisis, GDP growth stayed between 4 and 8 per cents in the 2000s. The services sector became the major driver of economic growth, as well as the highest growing sector of the Philippine's economy. Most of the growth in the early 2000s was attributed to overseas remittances which was a traditional source of The Philippines' growth. Output of the services sector accounted for 52% of GDP in 2000. Almost a half of total employment was created in the services sector

²⁷³ The source of data is World Development Indicator, The World Bank. <http://data.worldbank.org/topic/economy-and-growth>

²⁷⁴ The source of data are ILO and ADB (2014). ASEAN Community 2015: Managing integration for better jobs and shared prosperity, p32, <http://www.adb.org/sites/default/files/publication/42818/asean-community-2015-managing-integration.pdf>

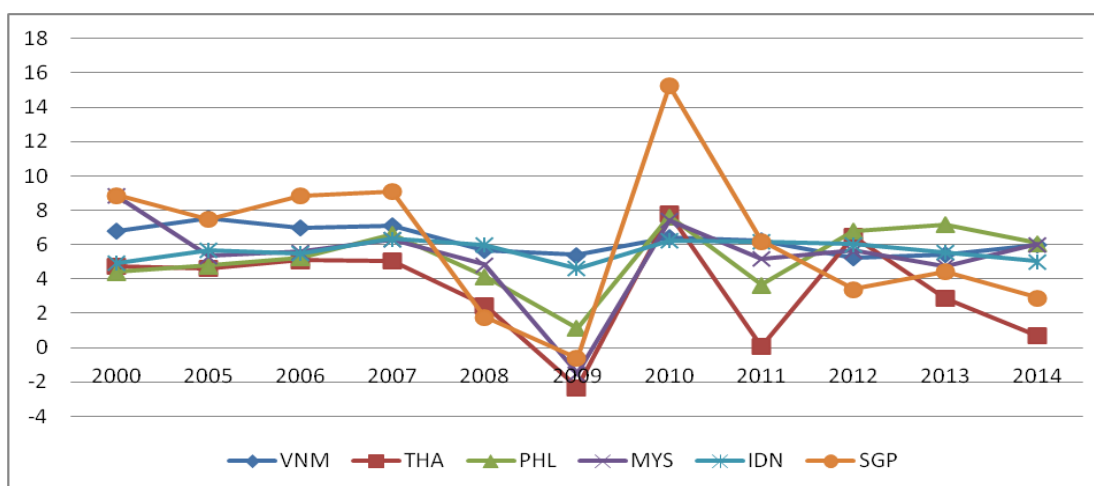
whereas that of the manufacturing sector accounted for only 10%. The Philippines suffered a high unemployment rate of 11% to 12% in the early 2000s.

- Indonesia: Strong domestic demand with economies of scale helped Indonesia recover from the 1997-98 Asian financial crisis. Since then Indonesia has showed stable economic growth between 4 and 6 per cents during the 2000s driven by steady domestic consumption and global demand for commodities. Although the economy was growing, the pace of long-term growth was slower than that of Malaysia, which used to be at the same development level in the 1960s. The reason was that Indonesia failed to become a part of global or regional supply chains unlike other ASEAN countries.²⁷⁵ Whereas employment in the services sector was increasing from the 1990s (31% in 1992) to 2000s (36% in 2003), the structural shifts were not observed in terms of sectoral composition of GDP. Manufacturing stayed as a major sector (46%) followed by services (40%). The economy suffered from high unemployment rate of over 9% from the beginning of the 2000s. Personal and regional income disparities were also widening instead of shrinking.
- Viet Nam: Viet Nam maintained consistently high economic growth between 6 and 8 per cents driven by the growing export-oriented sector and strong domestic investment in the 2000s. Its economy was not so much affected by the 2007-08 global financial crisis. Structural changes slowly took place with a shrinking agriculture sector combined with growing manufacturing and services sectors. Its manufacturing exports were still dominated by foreign firms in the 2000s, and value creation by local firms and workers was limited.²⁷⁶ In the 2000s, the services sector, the labour productivity of which was higher than other sectors, became one of the major sectors of the economy (39% in 2000) together with the manufacturing sector (37% in 2000). A major source of employment was the agricultural sector which accounted for 60% (2003) while employment in the services sector accounted for only 23% (2003).

²⁷⁵ See Ohno (2015).

²⁷⁶ See Ohno (2009).

Figure 6-1: GDP Growth (2000-2014)



Source: World Development Indicators: GDP Growth,

<http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/1W?display=graph>

State owned enterprises (SOEs) and local SMEs as major providers of services

In ASEAN countries, SOEs and local SMEs were major players in the services sector in the 2000s. In terms of output, SOEs dominated the major services sectors, although the level of involvement varied among countries depending on the process and speed of privatisation. SOEs of Indonesia and Thailand dominated key services such as the financial, telecoms, transportation, infrastructure, broadcasting, water and other services. Viet Nam's economy was characterised as state capitalism where SOEs dominated a wide range of sectors. In the case of Malaysia, government linked corporations (GLCs) exercised market power in the major services sectors such as telecommunications, banking, energy, transportation, infrastructure and real estate development.

In terms of the number of services suppliers, local SMEs made up the majority in many ASEAN countries. Although no data on the share of establishment of SMEs in the services sector in each ASEAN country is available, a study²⁷⁷ shows that about 86.5% (2003) of total SMEs in the ASEAN countries belonged to the services sector. Since the share of SMEs of total business establishments accounted for 99.4% (Singapore in 2012), 97.3% (Malaysia in 2011), 99.8% (Thailand in 2012), 99.6% (The Philippines in 2011), and 99.9% (Indonesia in 2011),²⁷⁸ we can see the significant presence of SMEs which belong to the services sector. Except for the key infrastructure-related services sector such as banking, telecom, energy and transportation, where SOEs and GLCs dominate the markets, most of the services sector were SMEs dominant in the number of establishments.

²⁷⁷ Tulas Tambunan (2009). Development of Small and Medium Enterprises in ASEAN countries, Readworthy.

²⁷⁸ ERIA (2014). ASEAN SME Policy Index 2014 –Towards Competitive and Innovative ASEAN SMEs, June 2014, from http://www.eria.org/publications/research_project_reports/FY2012-no.8.html

Box 6-1: SOEs and SMEs in ASEAN - the linkage with development policy

SOEs and development policy: A study done by OECD (2015) found that there is a strong linkage between development policy and the presence of SOEs in the services economy. ASEAN countries have been using state-owned assets as a means of development. Singapore was a pioneer which successfully used government-linked corporations (GLCs) through a government investment company, which was called Temasek, for its economic development since 1960. The other ASEAN countries copied Singapore's SOE strategy, first Malaysia and The Philippines followed by Indonesia and Viet Nam. In Malaysia, the situation became more complicated than Singapore as GLCs closely related to Bumiputra policy which gave preference to the ethnic Malays. The reforms of Kazanah, which was the government's investment holding arm, took place from 2004. Nevertheless, Kazanah remains highly political, taking an interventionist approach to GLCs. OECD (2015) points out that SOEs in ASEAN countries have been a source of economic inefficiency and low productivity with widespread corruption.

SMEs and development policy: SME development is the third pillar of the ASEAN Economic Community (AEC) Blueprint. At the national level, SME policy has been one of the pillars of development policy. However, many ASEAN countries had been facing difficulties in modernising and developing SMEs, including those in the services sector. According to Ohno (2009), an extreme case is Indonesia. The Indonesian government has been shielding local SMEs from competition under its FDI policy. Consequently SMEs were protected from global competition and stayed small and inefficient. In the manufacturing sector, SMEs are not involved in global supply chains, unlike SMEs in Thailand and Viet Nam. SME support is organised by a state-level ministries including the Ministry of Industry of Indonesia, however, decentralisation diminished the power to implement SME-related policies at the state level.

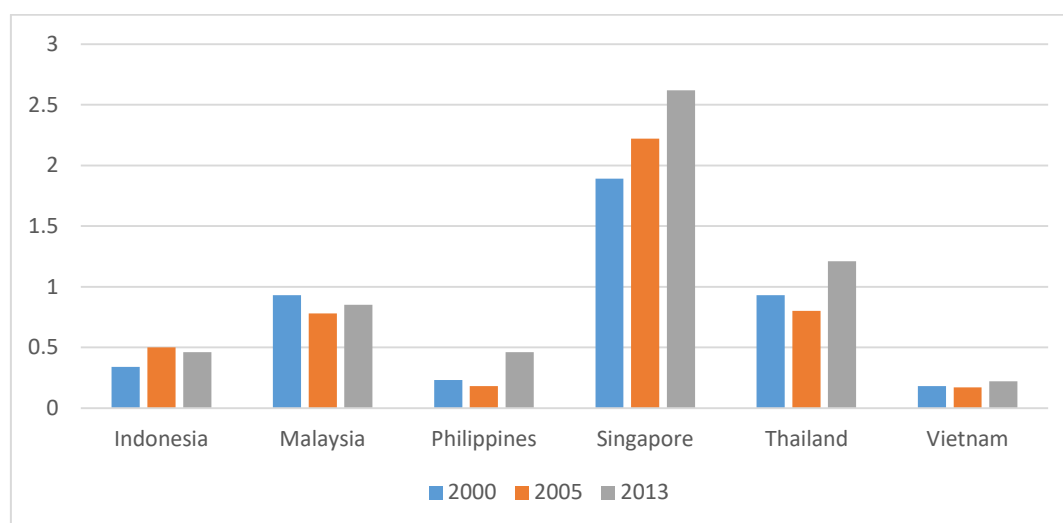
Limited role of services trade in the economy

The role of services trade in the economy was still limited in the 2000s, with the exception of Singapore. Economic development in most of ASEAN countries was mainly driven by goods exports from the 1980s. For example, a major industry of Thailand was electronics which accounted for more than three quarters of total merchandise exports. Likewise, in The Philippines exports were heavily concentrated in electronics, among which more than two-thirds were

electronic equipment. Unlike Malaysia, Thailand, The Philippines and Viet Nam, Indonesia depended on exports of natural resources.²⁷⁹

On the other hand, the share of world exports of commercial services between 2000 and 2013 (Figure 6-2)²⁸⁰ demonstrates that export competitiveness in services trade in many ASEAN countries modestly increased. For example, The Philippines became a net exporter of services in 2006. Thanks to its comparative advantages of English language and human resources, call centres started to grow in the late 1990s. Then the business process outsourcing (BPO) industry attracted foreign services suppliers and grew as a major export industry in the 2000s. Full-time employment increased by 340 per cent from 2000 to 2009 (100,000 workers in 2000 to 443,000 workers in 2009) and BPO revenues increased by almost 400 per cent from 2004 to 2009 (US\$1.5 billion in 2004, US\$7.2 billion in 2009) in the BPO industry.²⁸¹ Thailand also started to experience a trade surplus in services in the 2000s, although the share of world exports of commercial services dropped in the middle of the 2000s. The major services exports of Thailand were passenger transportation and travel services, which accounted for more than a half of revenue (about 65% between 2002 and 2006)²⁸².

Figure 6-2: Share of World Exports of Commercial Services: 2000, 2005 and 2013 (%)



Source: WTO trade statistics

²⁷⁹ WTO (2008a), WTO (2009a), WTO (2011e), WTO (2012a) and WTO (2013b).

²⁸⁰ The services trade data can show only cross-border trade (Mode 1 under the GATS) as recorded in national balance of payments statistics. Mode 2 (consumption abroad), Mode 3 (investment) and Mode 4 (movement of natural persons) are not included.

²⁸¹ Yi (2012).

²⁸² See WTO (2007g).

The role of FDI in the services sector gradually increased in the 2000s, however, the IPN related investment in the manufacturing sector was playing a central role in most of the ASEAN countries. In Malaysia, FDI in the manufacturing sector, which used to occupy two-third of total FDI in the middle of 1990s, declined to around 38% in the beginning of the 2000s. FDI in the services sector increased from the beginning of the 2000s and diversified from the financial and business sectors to wholesale and retail; hotels; transport and communications; and high value-added services (e.g. regional headquarters and R&D).²⁸³ In Thailand, inward FDI increased with an average growth rate of 21 per cents between 2002 and 2006. Manufacturing remained the largest recipient of FDI, followed by services (e.g. retail and wholesale trading, non-bank financial institutions, and real estate activities).²⁸⁴ Viet Nam became an attractive destination for foreign investors after the WTO accession in 2007 and experienced an upsurge in FDI inflows.²⁸⁵ Nevertheless, most foreign investors were in the manufacturing sector. Unlike Malaysia, Thailand and Viet Nam, Indonesia was not considered as a manufacturing base for regional or global value chains. The country was one of the popular destinations of FDI thanks to abundant natural resources and economies of scale.

The major green field investors in ASEAN have been the EU, Japan and the US. Among these, Japan was a notably important investor for Malaysia, Thailand, Indonesia and Viet Nam. For instance, the major investors of Thailand were: Japan (30%), ASEAN member countries (27%), the EU (14%) and the US (8%) in the middle of 2000s. Whereas the presence of Japan in the manufacturing sector was high, investment in the services sector was dominated by the US and EU.²⁸⁶

6.2.2 Policy environments

A. Domestic policy

Impacts of the 1997-98 Asian financial crisis on services trade and investment policy regimes

In the 2000s, trade and investment regimes of the services sector in ASEAN were closed to global competition in comparison with the relatively open regimes in the manufacturing sector. There were two reasons for this. One was the impact of the 1997-98 Asian financial crisis. The manufacturing sector had been a strong driving force of economic modernisation in East Asia. After going through the Asian financial crisis, ASEAN countries reconfirmed that integrating their economies into regional/global supply chains in the manufacturing sector was the first policy

²⁸³ WTO (2006a).

²⁸⁴ WTO (2007g) and WTO (2011e).

²⁸⁵ JETRO (2014).

²⁸⁶ JETRO (2014).

priority in order to create a solid foundation for economic modernisation. In this regard, Malaysia, Thailand, Indonesia and Viet Nam particularly focused on attracting FDI in the assembly-type manufacturing sector (e.g. automobiles, electronics, motorcycles and industrial machinery).²⁸⁷ The other reason was scepticism of the Washington Consensus among the ASEAN policy makers after the Asian financial crisis. Especially from a development policy perspective, policy makers shared the view that it is not trade liberalisation but other policies, such as human development, that play the most important role in strengthening the domestic services sector.²⁸⁸

Development/industrial policy for economic modernisation – a dearth of policy makers’ interest in services

Economic modernisation and sustainable growth was the key policy goal for ASEAN countries although the level of development differed among them. During the 2000s, development and industrial policy of most of the ASEAN countries spotlighted the technology transfer through FDI. The services sector was not strategically incorporated in development and industrial policy except in Singapore and Malaysia. This was owing to classic concepts of industrial policy which neglected the emergent role of the services sector in the world economy.²⁸⁹ In many ASEAN countries, industrial upgrading had been discussed in the narrow domain of the manufacturing sector with little attention to the services sector. According to Ohno (2009), Malaysia, Thailand and Viet Nam were in the catching-up industrialisation process in the manufacturing sector in the 2000s (see Figure 6-3). Viet Nam, which was a late-comer to the global economy, was situated at stage one, assembling imported key parts and materials and exporting to regional/global markets. The country attracted manufacturing FDI because of abundant unskilled cheap labour. Value-added parts were still all dominated by foreign companies. Malaysia and Thailand had already successfully shifted to stage two where local supporting industries began to increase thanks to technology transfer by foreign investors. Indonesia and The Philippines were distinguished from Thailand and Malaysia due to low performance in industrial modernisation. They were still struggling to climb up the technical ladder from stage one to stage two although they were ahead of Viet Nam. The critical point is that there is a glass ceiling, what is called the ‘middle income

²⁸⁷ Singapore is the exception as it became a high income country through high-value services.

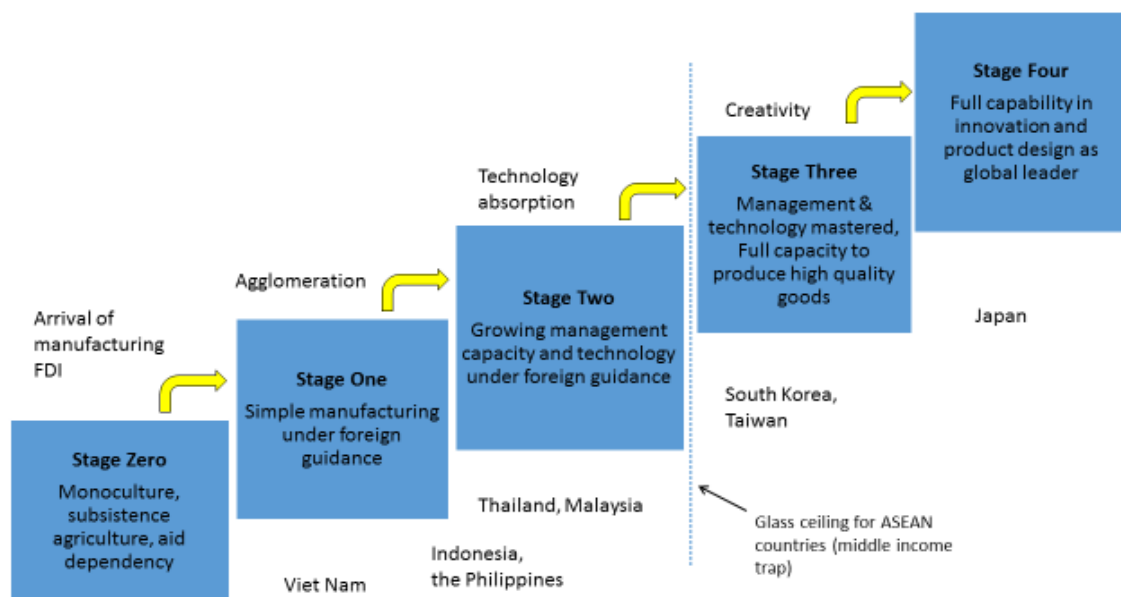
²⁸⁸ From a series of interviews with the ASEAN government officials. Many expressed the opinion that service trade liberalisation was just a part of industrial and development policy.

²⁸⁹ In the 2000s, a role of services sector was underestimated or poorly discussed among economists in East Asia. For example, Ohno (2009, p41) pointed out that *Low-income countries may receive FDI in mining, telecoms, power, tourism, or property development. While such projects based on locational advantages are lucrative for investors and can generate jobs for the poor and provide basic infrastructure for the nation, these alone cannot put the country on a dynamic path of structural transformation as manufacturing does.*

trap'²⁹⁰, between stage two and stage three. It is observed that if a country fails to upgrade its human capital, it cannot climb up to stage three where high quality goods can be produced locally with accumulated skills and technology.

From the industrial policy perspective, the 'middle income trap' constituted great threats for the ASEAN policy makers in the 2000s. For instance, Viet Nam's main interest was attracting more FDI to accumulate production experience for technology transfer and localisation. The situation was more serious for Malaysia and Thailand as there was a glass ceiling to the step-up from stage two to stage three. Consequently, upgrading human capital became the main policy from the development and industrial perspective.

Figure 6-3: East Asia - Stages of Catching-up Industrialisation in the Area of Manufacturing in the 2000s



Source: Ohno (2009), p28

What does this catching-up industrialisation process of ASEAN countries in the 2000s imply in relation to the services sector? Interestingly, 'manufacturing-related services' and BPO (e.g.

²⁹⁰ According to Ohno (2015), 'middle income trap' is defined as a situation where an economy is unable to create new value beyond what is delivered by given advantages including natural, demographic, and geographic factors as well as external factors (e.g. trade, aid and foreign investment).

R&D, product design, distribution and marketing) become more important from stage three, as can be seen from Figure 6-3, although the classic industrial policy did not pay attention to the role of services. Up to stage two, what Government can consider relating to services is to improve the quality of infrastructure-related services (e.g. financial sector, telecom and transportation) in order to attract more manufacturing FDI. After reaching stage two, Government would consider that human capital is the key to further catching-up to stage three which includes 'manufacturing-related services' and BPO. According to the classic concept of industrial policy, policy makers hardly noticed the role of services, and consequently did not strategically incorporate the services sector into their industrial policy.

Box 6-2: Industrial policy and trade & investment policy in the 2000s – Malaysia and Indonesia

Malaysia

Industrial policy: Malaysia implemented its Second Industrial Master Plan (IMP2) 1996-2005 focused on the concept of ‘manufacturing plus plus’ to climb up the value-added in manufacturing. The latter half of the 2000s, the Malaysian government shifted the focus from low value-added to high value-added industry and ‘knowledge-based industry and services’ to generate stable economic growth and compete with neighbouring countries in Asia. Accordingly, the government promoted domestic and foreign investments in selected areas: high-technology manufacturing, ICT, biotechnology, education, and tourism. For the purpose, the government emphasised the importance of education and human capital.

Trade and investment policy: Malaysia overcame the 1997-98 Asian financial crisis by prudent macroeconomic and structural reforms in the key sectors including the financial sector. Although Malaysia did not turn its position to protectionism in terms of trade and investment policy, it became more policy selective for development purposes. Trade and investment regimes for the manufacturing sector were relatively open, except for the automotive industry which was heavily regulated and gave preference for Malaysian domestic industries. The Malaysian government promoted FDI incentives such as pioneer status and investment tax allowances to foreign companies to establish a position as a “gateway to the ASEAN market” in the manufacturing sector.

Services trade and investment was also identified by Government as one of the key drivers of economic growth, namely, tourism, health education, Islamic finance and information and communication technology (ICT)-related and manufacturing-related services. However, a cautious approach was taken for services liberalisation in comparison with agriculture and manufacturing. Namely, restrictions on FDI (e.g. foreign capital participation to investment in banking services, health services, and energy and water supply) persisted during the 2000s.

Indonesia

Industrial policy: The Government undertook major restructuring and reform after the Asian financial crisis 1997-98. After Indonesia recuperated from the crisis, the country was suffering from high employment rates and rigid economic structure which depended on exporting natural resources. The Indonesian government was seeking a way to make a leading industry, ‘national champions’, in the value-added manufacturing sector which could be a part of global supply chains. But the industrial policy lacked consistency and effectiveness.

Trade and investment policy: Likewise, its trade and investment policy in the 2000s was incoherent; the pendulum was going back and forth between liberalisation and protection. In the aftermath of the Asian financial crisis, FDI liberalisation was once accelerated including a revision of the Investment List covering specific sectors (a negative list of foreign capital participation) in 2000. From the middle of 2000s, however, the policy trend became elusive. A new Investment Law was enacted in March 2007 together with revision of the Investment List. The principle of the new Investment Law was to promote foreign investment to boost the economy. However, the contents were based on the economic nationalist approach. For instance, new restrictions were introduced in the sectors where the investments of Japanese companies already existed (e.g. transport, retail, consulting, intermediate services, interpretation business). The new restrictions forced investors to adopt the new legal requirement in detail, such as a new cap on foreign participation, stricter ownership limitation, requirement on JV with the local SMEs, and certain divestment requirements. Interestingly, Indonesia introduced new restrictions in the services sectors necessary to support the Japanese manufacturing companies, such as distribution, logistics, commission agency, retail. The Indonesian government’s aim was to compel Japanese manufacturing investors to use the local services suppliers.

B. Plurilateral policy

ASEAN as a hub for creating FTAs in East Asia

The period of the 2000s can be characterised as an era where ASEAN became a hub for creating FTAs in the Region (see Table 6-1).²⁹² For ASEAN countries, accelerating ASEAN economic integration and enhancing economic relations with their neighbouring countries in Asia was vital for economic recovery from the Asian financial crisis²⁹³ and for establishing their position in the regional/global supply chains in the manufacturing sector. The ASEAN first involved Japan followed by China, India, South Korea, Australia and New Zealand, taking the form of bilateral agreements which were often expressed as ‘ASEAN+ 1’. With regard to relations with Japan, most of the ASEAN countries concluded a bilateral FTA before ‘ASEAN+ Japan’ was concluded. This was because each ASEAN country wished to strengthen a particular economic tie with Japan to compete with other ASEAN rivals. Among the ASEAN countries, Singapore and Thailand had also been active in making bilateral FTAs with other ‘ASEAN+ 6’ partners (Australia, China, India, New Zealand, and South Korea).

For ASEAN countries, the decision to create FTAs with China embraced a special survival strategy. From the early 2000s, the emergence of China in the global market became a source of threats as well as opportunities for ASEAN countries. In addition to economic modernisation, ASEAN countries had to design industrial policies that took into account compatibility with China. Many created a production partnership with China to remain a part of the regional or global supply chains in order to avoid direct competition. For instance, the Malaysian government promoted relocating labour-intensive manufacturing to China recognising that the country was no longer cost-competitive as a labour-intensive manufacturing site.²⁹⁴ ASEAN countries also had to consider the areas of exports to China to make use of its economies of scale. In terms of coverage and quality, ‘ASEAN+ 1’ type FTAs highlighted trade in goods and sometimes left trade in services aside as a future agenda.

²⁹²See Kawai and Wignaraja (2009a), for example.

²⁹³ See Oike (2007), p13.

²⁹⁴ See WTO (2006a) and WTO (2006b).

Table 6-1: ASEAN countries' FTAs in Asia

***The year: the agreement entered into force**

	Singapore	Malaysia	Thailand	The Philippines	Indonesia	Viet Nam
Before and during the 2000s	<p>AFTA: 1992 signed AFAS:1995 signed</p> <p>NZ-Singapore: 2001</p> <p>Japan-Singapore: 2002</p> <p>Australia-Singapore: 2003</p> <p>India-Singapore: 2005</p> <p>South Korea-Singapore: 2006</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Japan-ASEAN: 2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p> <p>China-Singapore: 2009</p>	<p>AFTA: 1992 signed AFAS:1995 signed</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Japan-Malaysia: 2006</p> <p>Japan-ASEAN :2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p>	<p>AFTA: 1992 signed AFAS:1995 signed</p> <p>Thailand-Lao PDR: 1991</p> <p>China-Thailand: 2003</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Australia-Thailand:2005</p> <p>NZ-Thailand:2005</p> <p>Japan-Thailand:2007</p> <p>Japan-ASEAN :2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p>	<p>AFTA: 1992 signed AFAS:1995 signed</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Japan-Philippine: in effect 2008</p> <p>Japan-ASEAN: 2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p>	<p>AFTA: 1992 signed AFAS:1995 signed</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Japan-Indonesia: 2008</p> <p>Japan-ASEAN :2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p>	<p>AFTA: became member in 1995 AFAS:1995 signed</p> <p>China-ASEAN: goods 2005 in effect, services 2007 in effect</p> <p>Japan-ASEAN FTA:2008</p> <p>South Korea-ASEAN: goods in effect 2008, services in effect 2009</p> <p>Japan-Viet Nam: 2009</p>
2010s	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>TPP: FA signed 2010</p> <p>RCEP: negotiation 2013</p> <p>Singapore-Taipei, China: 2014</p>	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>NZ -Malaysia: 2010</p> <p>India-Malaysia: 2011</p> <p>TPP: FA signed 2010</p> <p>Australia-Malaysia: 2013</p> <p>RCEP: negotiation 2013-</p> <p>ASEAN-Hong Kong, China: negotiation</p>	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>ASEAN-Hong Kong, China: negotiation</p> <p>Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation: negotiation 2014-</p> <p>Thailand-India: negotiation 2014-</p> <p>RCEP (Regional Comprehensive Economic Partnership): negotiation 2013-</p>	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>ASEAN-Hong Kong, China: negotiation</p> <p>RCEP: negotiation 2013-</p>	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>ASEAN-Hong Kong, China: negotiation</p> <p>Indonesia-India: negotiation 2011-</p> <p>Indonesia-Australia: negotiation 2012-</p> <p>Indonesia-South Korea: negotiation 2012-</p>	<p>Australia and NZ-ASEAN: 2010</p> <p>India –ASEAN: 2010</p> <p>ASEAN-Hong Kong, China: negotiation</p> <p>-</p>

*services and investment of Japan-ASEAN was not included in 2008 (currently under negotiations).

Limited services integration under AFAS (ASEAN Framework Agreement on Services)

Since ASEAN countries established the ASEAN Free Trade Area (AFTA) in 1992, ASEAN has applied gradualism to liberalise and integrate the region taking into account diversity in history, development, policy, and economics among the member countries. First ASEAN started from reducing and eliminating tariffs under the Agreement on the Common Effective Preferential Tariff Scheme (CEPT). When most Japan-ASEAN bilateral FTAs were negotiated, from the beginning to the middle of the 2000s, the achievements of ASEAN were limited to trade in goods and some areas of investment. As for the trade in goods, old ASEAN Members eliminated most applied intra-ASEAN tariffs except for sensitive products. Certain progress was made in the area of investment after the Framework Agreement on the ASEAN Investment Area (AIA) was signed in 1998. There were several reasons for this.²⁹⁵ First, each country acknowledged a role of investment in developing value chains. Second, the investment authorities which were in charge of investment promotion dealt with the negotiations. Third, especially after the Asian financial crisis, ASEAN countries had to re-appeal for FDI which was otherwise attracted to China.

In comparison, the progress on services was very limited since the AFAS (ASEAN Framework Agreement on Services) was signed in 1995. There was always a huge gap between the ambitious political targets agreed at the ministerial level and its implementation. From 1996 to 2007, four rounds of negotiations took place, the results of which produced six packages of commitments scheduled under AFAS.²⁹⁶ Even though the ASEAN services liberalisation was based on gradualism, in 2007 the ASEAN adopted the ASEAN Blueprint to establish the ASEAN Economic Community (AEC) which included achieving free flow of services by 2015.²⁹⁷ From 2007, the ASEAN members had to comply with the pre-set liberalisation parameters under the AEC Blueprint. The 7th package (2009) was signed under this negotiation modality. According to Fukunaga and Ishido (2012), the level of commitments under the AFAS 5th Package (2006) was still not substantially GATS-plus. And from the 7th Package of commitments onwards, the level of commitments became substantially GATS-plus. In the area of professional services, six Mutual Recognition Agreements, such as engineering services (2005), nursing services (2008), architectural services (2007), surveying qualifications (2007), and medical practitioners (2009), entered into force during the 2000s. However, most of them were still at the initial stage of implementation during the 2000s.²⁹⁸

²⁹⁵ See Oike (2007).

²⁹⁶ These are: 1st Package (1997) and 2nd Package (1998) as a result of 1st Round of negotiations (1996-98); 3rd Package (2001) as a result of 2nd Round of negotiations (1999-2001), 4th Package (2004) as a result of 3rd Round (2002-2004); 5th Package (2006) and 6th Package (2007) as a result of 4th Round (2005-2007).

²⁹⁷ ASEAN failed to meet the target of achieving free flow of services by 2015.

²⁹⁸ The AFAS 8th Package was signed in 2010. The 9th package was still under negotiation at the time of writing (2016) despite the fact that the initial target date of completion was 2012.

The critical point here is the dynamic relations between the liberalisation process under the AFAS and Japan-ASEAN FTAs. Interestingly, Singapore, Malaysia, Thailand, The Philippines, and Indonesia signed bilateral FTAs with Japan before the ASEAN Blue Print was adopted in 2007. The only exception was Viet Nam. As described in Chapter 5 (Table 5-1), the bilateral negotiations between Japan-Malaysia, Japan-Thailand, Japan-The Philippines and Japan-Indonesia took place between 2004 and 2006. This was the period when ASEAN had the 4th Round of negotiations which resulted in the 5th Package and the 6th Package. This indicates that the ASEAN countries negotiated bilateral FTAs with Japan before ASEAN itself achieved substantial GATS-plus under AFAS (7th Package in 2009).

6.3 Interests

Now we move to investigate interests and institutions in domestic decision-making which affected the negotiating positions of ASEAN for the bilateral FTAs with Japan by applying the policy demand and supply side model. We first look at the policy demand side interests followed by policy supply side interests. Interests are categorised into two types: general motivations and specific interests in services trade. Among ASEAN countries, we spotlight Malaysia and The Philippines as examples of explaining specific interests. We selected these two countries for the following reasons. First, Malaysia's economy was the most developed of all ASEAN countries, with the exception of Singapore (6.2.1), since the country was successfully catching up industrialisation process in manufacturing (Figure 6-3). Although the government identified services as key drivers of the economy, the Malaysian government still took a cautious approach to services trade liberalisation in comparison with goods trade liberalisation in the 2000s (Box 6-2). Second, The Philippines was selected as a net exporter of services with a growing comparative advantage in BPO industry (6.1). In comparison with Malaysia and Thailand, the country made slow progress in catching up industrialisation in the area of manufacturing (Figure 6-3). The analysis is mainly derived from a series of informal interviews with government officials and researchers from ASEAN countries.²⁹⁹

²⁹⁹ The interviews with the ASEAN governments and the private sector and trade experts took place between 2013 and 2015 (Appendix 1).

6.3.1 Policy demand side interests

A. General motivations

As IPE literature argued (e.g. Ravenhill 2010, Sally and Sen 2011), policy supply side incentives to join the FTA bandwagon were much stronger than demand side incentives in the case of ASEAN. Unlike the Japanese business sector, business confederations in ASEAN did not have the capacity to formulate trade policy strategies. They depended heavily on governments to do the job. However, a series of informal interviews revealed that once governments decided on a specific bilateral FTA partner and launched the process of negotiating position-making, the policy demand side expressed either offensive or defensive general interests to the policy supply side.

Boosting goods exports to Japan and enhancing technology transfer through FDI

As Japan was a high-income country with strong trade and investment linkage with ASEAN, the private sector in ASEAN welcomed its government's initiative to negotiate an FTA with Japan. For the ASEAN private sector, the Japan-ASEAN bilateral FTA was a chance to reduce or eliminate tariffs and boost exports. Once ASEAN countries launched the decision-making process, strong interests in exports were expressed on a sectoral basis. In the case of Thailand, the textiles and garments, food, and jewellery industries were interested in boosting its exports. In Malaysia, the wood products, plastics, garments and palm oil industries were strongly motivated to boost exports to Japan. The sectoral organisations were only interested in tariffs and no interest was shown in the area of rule-making.

In addition to expectations for trade, the private sector in Malaysia, Thailand, The Philippines, Indonesia and Viet Nam drew attention to the role of FDI as a means of technology transfer from Japanese manufacturers (e.g. auto and auto-parts industries, electrical and electronics industry). For example, the Indonesian Chamber of Commerce (KADIN) requested the Government to promote FDI from Japan in order to facilitate a transfer of science technology from Japan. KADIN considered that technology transfer was necessary for enhancing competitiveness of SMEs and developing human resources in Indonesia.³⁰⁰ The ASEAN private sector had a clear motivation to use the bilateral FTA with Japan to catch up the industrialisation of manufacturing.³⁰¹

³⁰⁰ See "Japan-Indonesia EPA the Joint Study Group Report" (<http://www.mofa.go.jp/region/asia-paci/indonesia/summit0506/joint-3-2.pdf>).

³⁰¹ From the interviews with the ASEAN government officials (April 2013 and July 2015) in Appendix 1. Also see "Japan-Malaysia EPA the Joint Study Group Report" (<http://www.mofa.go.jp/region/asia-paci/malaysia/joint0312.pdf>) and "Japan-Thailand EPA the Task Force Report" (<http://www.mofa.go.jp/region/asia-paci/thailand/joint0312.pdf>).

B. Specific interests in services trade

With the exception of Singapore, the private sector's offensive interests in services trade were very limited in ASEAN when the Japan-ASEAN bilateral FTAs were negotiated. Below, we explain the major actors' specific interests in services trade negotiations with Japan and their institutional characteristics by taking Malaysia and The Philippines as examples.³⁰²

Malaysia (Table 6-2)³⁰³

In Malaysia, there is a business confederation called the National Chamber of Commerce and Industry of Malaysia (MCCIM) which was established in 1962. The Federation is composed of five members: Malay Chamber of Commerce Malaysia; Malaysian Associated Indian Chamber of Commerce and Industry; The Associate Chinese Chamber of Commerce and Industry of Malaysia; Federation of Malaysian Manufacturers; and Malaysian International Chamber of Commerce and Industry.³⁰⁴ Although MCCIM is a powerful lobbying group, the organisation is not active in international trade negotiation matters except for the ASEAN issue. Rather than taking collective action as MCCIM, individual members directly lobby their voice to government for international trade negotiations, which was the case of the Japan-Malaysian FTA,

When the services trade policy-making for the Japan-Malaysian FTA took place in the early to mid-2000s, the Malaysian private sector was still not aware of services trade negotiations in terms of exports.³⁰⁵ For example, the Federation of Malaysia Manufacturers (FMM), which is the most powerful lobbying group for the international trade matters in Malaysia representing 2800 manufacturing companies and industrial service companies, showed strong interests in trade in goods negotiations. The Federation was keen to attract FDI and enhance technology transfer from Japan to climb up the technology ladder of economic development. On the other hand, it retained a defensive position against liberalising the Malaysian automotive sector and steel sector.³⁰⁶ In contrast with its strong interest in trade in goods negotiations, the Federation did not pay attention to services trade negotiations. There are three reasons for this. First, the organisation predominantly represented the voice of manufacturers, since the Federation consisted mostly of manufacturers. The second reason is a lack of awareness. The Japan-Malaysian FTA was the first FTA which substantially embodied services trade. When Malaysia negotiated the ASEAN-China Framework Agreement prior to the FTA negotiations with Japan, services trade had opted out of

³⁰² See the reasons for selecting Malaysia and The Philippines in the introductory paragraph of 6.3.

³⁰³ From the interviews with the Malaysian government officials between 2013 and 2015 and the interviews with the trade experts of the WTO secretariat who is in charge of Malaysia (April 2013 and July 2015). See Appendix 1.

³⁰⁴ From the website of MCCIM (http://nccim.cmshosted.net/?page_id=20).

³⁰⁵ From the interview with the Malaysian senior government official (October 2015).

³⁰⁶ Postigo (2016).

future negotiations. Therefore, the Federation had no prior experience of FTA services trade negotiations. When Malaysia had started a decision-making process for the FTA with Japan, the Federation did not catch onto the idea that facilitating some services, such as distribution, transportation and financial services, was important to attract more FDI in the manufacturing sector. Thirdly, the Malaysian services suppliers were mostly satisfied with the domestic market and did not have export incentives although the services sector was growing in Malaysia in the 2000s.

In contrast to a dearth of offensive interests, strong defensive interests were expressed from the ethnic chambers of commerce (i.e. Malay Chamber of Commerce Malaysia; Malaysian Associated Indian Chamber of Commerce and Industry; and the Associate Chinese Chamber of Commerce and Industry of Malaysia), sectoral associations, professional associations and GLCs. From the policy interest point of view, all of them were against making GATS-plus commitments due to a lack of technical knowledge about the GATS in the first place, since the Japan-Malaysian FTA was de facto the first FTA which covered services trade.³⁰⁷

In terms of economic interests, ethnic chambers of commerce, sectoral associations, and professional associations articulated defensive positions. The three ethnic chambers of commerce showed serious concern that the Japan-Malaysian FTA might negatively change the business conditions of specific ethnic groups. They were equally interested in protecting ethnically owned SMEs from services liberalisation. In addition, the Malay Chamber of Commerce Malaysia flatly refused to make any changes of the investment-related provisions provided in the Bumiputera favouring policies (e.g. foreign equity participation and nationality requirement). The organisation was afraid that the Japan-Malaysian FTA might open the Pandora's Box of social and development policy which was especially set up for the Bumiputera. The organisation was also keen to protect GLCs, since GLCs in Malaysia had a strong linkage with Bumiputera favouring policies.

Sectoral associations were afraid of erosion of rents and adjustment costs. They showed a strong interest in retaining investment related restrictions (e.g. foreign equity participation and nationality requirements). Professional associations were against liberalising professional services to protect the Malaysian professionals in the local professional markets while they showed no export interest. At the individual company level, GLCs tried to avoid erosion of rents and adjustment costs. While they were keen to protect their domestic market, they did not have any export interest to Japan.

In summary, the Malaysian private sector was not interested in exporting services to Japan both in terms of sectors and modes of supply. On the other hand, it showed strong defensive interests. In terms of policy interests, the private sector became extremely cautious about making GATS-plus

³⁰⁷ From the interview with the Malaysian senior government official (October 2015).

commitments since the Japan-Malaysian FTA was the first FTA which encompassed services trade for Malaysia and it had no expertise in FTA services trade in negotiations. In terms of economic interests, defensive interests reflected strong fear of erosion of rents and adjustment costs which might be caused by increasing services imports and services related investment by the Japanese services suppliers. In this context, protecting the Bumiputera favouring policies from the FTA with Japan became a major incentive for defensive forces.

Table 6-2: Policy demand side: Malaysia – Specific Interests in services trade negotiations of major players and its institutional characteristics

Actors	Interests	Institutional characteristics
Business confederation: National Chamber of Commerce and Industry of Malaysia (NCCIM)	Economic interests: <ul style="list-style-type: none"> • No specific interests in services trade 	Powerful lobbying group but not active in terms of international trade negotiations, except ASEAN matters
Business Confederation: Federation of Malaysian Manufacturers (FMM)	Economic interests: <ul style="list-style-type: none"> • No specific interests in services trade 	Most powerful lobbying group in terms of international trade negotiations Members are only from the manufacturing sectors Very limited or no expertise in services trade negotiations
Business Confederation: Ethnic chambers of commerce (Malay, Chinese and Indian) <ul style="list-style-type: none"> • Malay Chamber of Commerce Malaysia • The Associate Chinese Chamber of Commerce and Industry of Malaysia • Malaysian Associated Indian Chambers of Commerce and Industry 	Economic interests: <ul style="list-style-type: none"> • Protect economic activities of a specific ethnic group (Malay, Indian or Chinese) • Protect GLCs (e.g. Bumiputera favouring policies) from services liberalisation • Protect ethnically owned SMEs • No export interests Policy interests: <ul style="list-style-type: none"> • Against GATS-plus commitments 	The powerful lobbying organisations representing ethnic groups Many member companies belong to the services sector Very limited or no expertise in services trade negotiations

Sectoral associations	<p>Economic interests:</p> <ul style="list-style-type: none"> • Retain investment related restrictions (e.g. foreign equity participation, nationality requirement) • Avoid erosion of rents and adjustment costs • No export interests <p>Policy interests:</p> <ul style="list-style-type: none"> • Against GATS-plus commitments 	<p>Strong client relations with a regulatory authority</p> <p>Very limited or no expertise in services trade negotiations</p>
Professional Associations	<p>Economic interests:</p> <ul style="list-style-type: none"> • Avoid erosion of rents and adjustment costs caused by liberalising a professional service (including MRAs) • No export interests <p>Policy interests:</p> <ul style="list-style-type: none"> • Against GATS-plus commitments 	<p>Strong client relations with a regulatory authority</p> <p>Very limited or no expertise in services trade negotiations</p>
Government linked companies (GLCs)	<p>Basic institutional interests:</p> <ul style="list-style-type: none"> • Against GATS-plus commitments <p>Economic Interests:</p> <ul style="list-style-type: none"> • Retain investment related restrictions (e.g. foreign equity participation, nationality requirement) • Avoid erosion of rents and adjustment costs • No export interests 	<p>Retain strong political power</p> <p>Strong client relations with a regulatory authority (Khazanah Nasional and Employees Provident Fund)</p> <p>Very limited expertise in services trade negotiations</p>

The Philippines (Table 6-3)³⁰⁸

Like the case of Malaysia, the Japan-The Philippines FTA was the first FTA which substantially covered services trade agreements for The Philippines. Thus, the private sector was not initially fully aware of the services trade segment of the agreement. Since the Philippine private sector had little idea on how FTA services trade agreement would make an impact on them, a high degree of scepticism arose. However, a significant difference from the Malaysian private sector was a strong interest in Mode 4 and growing BPO industry at home. Therefore, the negotiating positions of the Philippines private sector were not as defensive as those of Malaysia.

There are two main business confederations in The Philippines: the Federation of Philippines Industries and the Philippines Chamber of Commerce and Industry. The Federation of Philippines Industries, which was the most established lobbying actor in general, consists of both the

³⁰⁸ From the interviews with the Philippine government officials and lobbyists between 2013 and 2015 and the interviews with the trade experts of the WTO secretariat in April 2013. See Appendix 1.

manufacturing and services sector. However, its strong interests lay in boosting goods exports to Japan and promoting technology transfer through FDI from Japan. Since the organisation was not well aware of services trade negotiations with Japan, it was not in favour of making GATS-plus commitments. Nevertheless, it was not completely against it. In comparison, The Philippines Chamber of Commerce and Industry, which was the powerful lobbying group representing SMEs, were more defensive. Its primary concern was erosion of rents and adjustment costs which might be consequently brought by the Japanese companies' market penetration, especially in Mode 3. To shield SMEs from competition, the organisation showed defensive positions against making GATS-plus commitments.

The sectoral associations also retained negative interests against accelerating plurilateral sectoral liberalisation from the inward perspective. The logic was the same as the case for Chamber of Commerce and Industry. They were afraid that the Japanese companies' market penetration might cause erosion of rents and adjustment costs to a specific services sector. From the outward perspective, there was a lack of export interest among the sectoral associations. Although the Philippines BPO industry was fast growing in the 2000s, their interest in the Japan-The Philippines FTA was intangible. There were two reasons for this. The first reason is that growth of the BPO industry was mainly market driven with some policy support (e.g. tax incentives and unilateral liberalisation of the IT sectors). Therefore, there was no particular need for an FTA as a policy device. The second reason is a lack of proactive players which could represent the BPO industry. The Business Processing Association of The Philippines (BPAP) was established in 2004. Yet the organisation has not grown as a lobbying actor from the early to middle of the 2000s when the domestic decision-making for the bilateral FTA with Japan took place.

The Philippines business sector's interests in the FTA with Japan was limited to some professional services. However, the situation was more complicated. Whereas some professional services associations and The Philippines Association of Service Exporters had strong interests to improve market access of the Philippine professionals to Japan such as nurses and care workers, they were totally defensive in terms of accepting Japanese professionals into their domestic market. There are two reasons for this. The first reason is that the Philippine professionals were protected from the foreign services professionals under the 1987 Constitution of the Republic of The Philippines.³⁰⁹ The second reason is public opinion. The professional organisations asserted that the Filipino citizens need services provided by Filipinos, not by foreigners.³¹⁰

³⁰⁹ Under the 1987 Constitution of the Republic of The Philippines – Article XII, Section 14, it is provided that *[t]he practice of all professions in The Philippines shall be limited to Filipino citizens.*

³¹⁰ The Philippines socio economic sensitivity about professional services was expressed from a series of interviews including the Philippine trade policy makers and individual lobbyists of the private sector. There was a culture in The Philippines that parents strongly wish their children to become a professional such as medical doctor or lawyer. The

In short, the Philippine private sector's interests were limited to Mode 4 for some professional services. By contrast, there was a strongly articulated defensive interest to protect the local SMEs from the Japanese investment (Mode 3) and the Philippine professionals from penetration by foreign professionals (Mode 4). From the inward perspective, a lack of understanding on FTA services trade liberalisation caused scepticism and aroused defensive interests since it was the first FTA which encompassed services trade for The Philippines. From the outward perspective, it was not only a lack of capacity to associate business activities with the GATS, but also indifference to services trade negotiations as a policy device to expand business in the growing BPO industry, that was observed.

Table 6-3: Policy demand side: The Philippines – Specific Interests in services trade negotiations of major players and its institutional characteristics

Actors	Interests	Institutional characteristics
Business confederation: The Federation of Philippines Industries	<p>Economic interests:</p> <ul style="list-style-type: none"> • No specific interests in services trade <p>Policy interests:</p> <ul style="list-style-type: none"> • Not in favour of GATS-plus 	<p>Powerful lobbying groups involved in the formal consultation process</p> <p>Members composed of both the manufacturing and services sectors and industry organisations (e.g. sector and professional organisations)</p>
Business Confederation: Philippine Chamber of Commerce and Industry	<p>Economic interests:</p> <ul style="list-style-type: none"> • Shield SMEs from competition • Avoid erosion of rents and adjustment costs <p>Policy interests:</p> <ul style="list-style-type: none"> • Against GATS-plus commitments 	<p>The powerful lobbying group representing SMEs</p> <p>Many member companies belong to the services sector</p>
Sectoral associations	<p>Economic interests:</p> <ul style="list-style-type: none"> • Retain investment related restrictions (e.g. foreign equity participation, nationality requirement) • Avoid erosion of rents and adjustment costs 	<p>Strong client relations with a regulatory authority</p>
Professional Associations	<p>Economic interests:</p> <ul style="list-style-type: none"> • Improve the Philippine professionals' access to the Japanese markets • Facilitate movement of business personnel (e.g. immigration) 	<p>Strong client relations with a regulatory authority</p>

public concern was that trade liberalisation of professional services would deprive potential opportunities of the Philippine nationals.

	<p>procedures, entry visa) for IT engineers</p> <ul style="list-style-type: none"> • Protect the Philippine professional services markets from the Japanese professionals 	
Philippine Association of Service Exporters	<p>Economic interests:</p> <ul style="list-style-type: none"> • Improve the Philippine professionals' access to the Japanese markets • Facilitate movement of business personnel (e.g. immigration procedures, entry visa) for IT engineers • Protect the Philippine professional services markets from the Japanese professionals 	Strong client relations with a regulatory authority

C. Interest representation – How were policy demand side interests delivered to the policy supply side in the decision-making process?

Next, we describe how the policy demand side interests were delivered to the policy supply side in the decision-making. In comparison with Japan's business lobbying, two differences are identified.³¹¹ First, is a lack of technical capacities for services trade negotiations in general. Although ASEAN governments started to identify the private sector's interests for the WTO services trade negotiations, as well as for the AFAS negotiations from the late 1990s, the capacity of the ASEAN private sector to analyse a complex relationship between business activities and GATS-type services trade agreements was still underdeveloped in comparison with that of the Japanese private sector. For example, no policy position papers were produced by the business lobbying groups in ASEAN for the Japan-ASEAN bilateral FTAs. Second, the formal consultation process between Government and the private sector was not yet institutionalised with exception of Singapore when the bilateral FTA negotiations with Japan took place from the early to middle 2000s. For example, in Thailand and Malaysia, a consultation mechanism with the private sector was institutionalised in 2007. At the time of Japan-ASEAN bilateral FTAs, input from the private sector was mostly delivered through informal consultations. In other words, governments and the private sector consultation process took place behind the scenes. Namely, strong client relationships between the domestic regulatory authorities and the private lobbying groups prevailed in each country during the decision-making process for the bilateral FTA with Japan.

³¹¹ From the interviews with the ASEAN government officials which took place between 2013 and 2015 (Appendix 1).

Based on understanding two significant differences from Japan, we describe how major actors of the private sector delivered their interests to the governments.

Inward perspective: Once the private sectors in Malaysia, Thailand, The Philippines and Indonesia got to know that Japan aimed at GATS-plus high-quality services trade agreements, their concerns were magnified. The issue here is that these countries were unilaterally liberalising their services sector and keeping sufficient policy space between unilateral liberalisation and multilateral liberalisation. As we demonstrated in Chapter 3 (See Figure 3-33 and 3-34), ASEAN's GATS commitments are very modest.³¹² In particular, the level of unilateral liberalisation in The Philippines, Thailand, Indonesia, Malaysia, and even Singapore was not distributed under the multilateral trade system while these countries promoted unilateral liberalisation after the Uruguay Round. Since the DDA reached deadlock, the private sector was not threatened by the multilateral services trade negotiations in the 2000s. But they realised that it might not be the case for the FTA services trade negotiations. Consequently, the private sector in these countries strongly opposed GATS-plus FTA. In Malaysia, the three ethnic chambers of commerce (Malays, Chinese and Indian) maximised its lobbying power to the Malaysian government to deliver their defensive positions. Amongst them, the Malay Chamber of Commerce emphasised that the Bumiputera favouring policy was a social and cultural issue which could not be interfered with by any FTAs. In Thailand and The Philippines, the professional associations were the strongest defendants. The major professional associations in The Philippines claimed that even under the AFAS, it did not allow the import of any professionals such as nurses from other ASEAN countries.³¹³ In all four countries, GLCs and SOEs flatly refused to ease restrictions of Mode 3. Since GLCs and SOEs were very political, their lobbying involved a top layer of politicians.³¹⁴ Sectoral associations which were afraid of erosion of rents and adjustment costs directly lobbied to their regulatory authority not to make any GATS-plus commitments.

Outward perspective: In contrary to strong business lobbying to protect the domestic markets, business lobbying which represented export interests were almost absent. In Malaysia, the private sector showed no interest in exporting services to Japan.³¹⁵ In Thailand and The Philippines, most

³¹² According to the index of the level of commitments of the GATS, the score of The Philippines, Thailand and Indonesia account for less than 20 (full commitments is 100), that of Malaysia accounts for 27 while that of Singapore and Viet Nam account for 38 and 34 respectively. As a comparison, the score of Japan, South Korea, and China account for 53, 49, and 39. The index of both the EU and the US accounts for 55. The index indicates that the level of commitments of the ASEAN countries, especially The Philippines, Thailand and Indonesia and Malaysia, are very modest.

³¹³ There are seven MRAs under AFAS but none of them has been implemented to date.

³¹⁴ According to the Corruption Perceptions Index in 2005

(http://www.transparency.org/research/cpi/cpi_2005/0/#results), Singapore was the one of most transparent countries (ranked 5th), but other ASEAN countries were not (Malaysia ranked 39th, Thailand: 59th, Viet Nam: 107th, The Philippines: 117th and Indonesia: 137th). The close relationship between political and business circles exists in general.

³¹⁵ In the case of Indonesia, market access of some professional services to Japan was initiated by the Indonesian government. As the Japan-Thailand FTA and Japan-The Philippines FTA were already signed, the Indonesian government had to provide a level playing field to the Indonesia private sector.

of the domestic services suppliers were inactive. It was only the professional associations which actively lobbied the lead ministry, as well as the domestic regulatory authorities to improve access to the Japanese markets while they defended domestic markets.

In short, representation of strong defensive interests overwhelmed offensive interests in the case of ASEAN countries with the exception of Singapore. Defensive forces maximised strong client relationships with domestic regulatory authorities to deliver their interests and successfully captured them.

6.3.2 Policy supply side interests

A. General motivations³¹⁶

There are three types of general motivations for Japan-ASEAN bilateral FTAs which influenced the services trade negotiating positions of ASEAN countries. The first is a strong diplomatic initiative with the absence of substantial strategy in content. The second is a strong motivation to boost goods exports and enhance technical transfer through FDI. The third is a lack of motivation to use a bilateral FTA with Japan to lock-in domestic reforms.

Strong diplomatic initiative with absence of substantial strategy

In ASEAN, the FTA policy strategy was mostly initiated by strong diplomatic motives. ASEAN governments were motivated to use bilateral FTAs as a means of strengthening diplomatic relations with their major non-ASEAN partners. Singapore first jumped into its bilateral FTA project, followed by Thailand after going through the Asian financial crisis 1997-98, a failure of the WTO Seattle Ministerial 1999, and slow the liberalisation progress of AFTA. Then competitive bilateralism triggered Malaysia, The Philippines and Indonesia to launch their FTA project.³¹⁷ Since Japan was a major political and economic partner for ASEAN countries, strong foreign policy motives inspired them to create a bilateral FTA with Japan. However, foreign policy aspirations were not accompanied by a substantive economic strategy with the exception of Singapore. At first, Malaysia, Thailand, The Philippines, Indonesia and Viet Nam joined the bilateral FTA activity without a substantive economic strategy that included services trade.³¹⁸

³¹⁶ From the interviews with the ASEAN government officials which took place between 2012 and 2015 and the interviews with the trade policy experts of the WTO secretariat in April 2013 and July 2015. See Appendix 1.

³¹⁷ Solis, Stallings and Katada (2009).

³¹⁸ Sally (2005), Sally (2006) and Sally (2009).

Boosting goods exports and enhancing technical transfer through FDI

Once ASEAN governments started to plan an economic strategy during the preparation process for a bilateral FTA with Japan, they considered that the FTA with Japan was an opportunity to boost goods exports and FDI.³¹⁹ As for trade, ASEAN countries, with the exception of Singapore, were interested in boosting trade in goods. For example, Malaysia was interested in improving market access for textiles, chemical products and agricultural products. The Malaysian government expected Japan to provide technical assistance of Sanitary and Phytosanitary (SPS) to apply the Japanese SPS standards in order to export Malaysian agricultural products to Japan. Indonesia was interested in tariff elimination in relation to organic chemicals, plastic bags, glass products, textiles and footwear. In addition to improving market access in goods trade, ASEAN governments always, with the exception of Singapore, were interested in enhancing technology transfer through FDI from Japanese manufacturers. Since their industrial and development policies for economic modernisation focused on the manufacturing sector and lacked the services industry perspective (see 6.2.2), ASEAN governments were motivated to make use of a bilateral FTA with Japan to climb up the technical ladder. Consequently, ASEAN governments conceived the idea of requesting technical assistance from Japan as a package deal for improving the investment environment. A strong focus on goods trade, namely technical transfer through FDI in the manufacturing sector, resulted in disregard for the services trade negotiations.

No motivations to lock-in domestic reforms

In comparison with keen interests in boosting exports in goods and FDI in manufacturing, ASEAN governments had little incentive for domestic reforms to achieve further market liberalisation.³²⁰ There were three major reasons for this. One is that strong foreign diplomacy aspirations for FTA activity did not entail economic strategic discussions at the domestic level. The second reason was the influence of the China-ASEAN Framework Agreement, since the Framework Agreement, which was concluded just before ASEAN countries started the bilateral FTA negotiations with Japan, endorsed gradualism without domestic reforms. Therefore, the idea of gradualism became the basis of the ASEAN's FTA policy. Thirdly, Malaysia, Thailand, The Philippines and Indonesia were motivated to tailor the bilateral FTA with Japan to its development and industrial policy. Since development and industrial policy was primary in their policy agenda, a trade agenda such as an FTA could not become a reason to change the pace of economic development and designs of industrial policy which focused on the manufacturing sector. In this way, services sectoral reforms were not associated with the bilateral FTAs with Japan.

³¹⁹ From the interviews with the ASEAN government officials between 2013 and July 2015 as well as the interviews with the Japanese government officials in April 2015. See Appendix 1.

³²⁰ See Oike (2007), p23.

B. Specific interests in services trade

Next, we examine the specific interests in services trade of the major actors in the domestic decision-making process by taking examples of Malaysia and The Philippines.³²¹ Like the case of Japan, bureaucrats dominated the whole process of FTA services trade policy-making with a wide participation of domestic regulatory authorities.

Malaysia (Table 6-4)

Ministry of Industry, Trade and Investment (MITI) and MIDA (Malaysian Investment Development Authority): In Malaysia, the Ministry of International ³²²Trade and Industry (MITI) is in charge of planning and implementing international trade and investment policy including FTAs. For trade policy-making, the MITI serves as a lead ministry of the national consultations for multilateral and plurilateral negotiations. However, for the Japan-Malaysian FTA, the MIDA (Malaysian Investment Development Authority),³²³ which was the MITI-related agency promoting investment, was designated exceptionally as the lead ministry of the services trade negotiations. Since the MIDA was simply an economic planning agency, it did not administer any services sector.

MIDA's negotiating interests basically reflected that of the MITI. The only difference was that the MIDA gave more focus on development and industrial perspective than the MITI did. With regard to the policy interests, the MITI and the MIDA were not interested in going beyond the AFAS style FTA which applied the GATS positive list approach based on gradualism. It was not keen to commit the substantial GATS-plus level of liberalisation either. There were two reasons why the lead ministry (MIDA) and the MITI were passive about bilateral services trade negotiations with Japan. First, since an FTA with Japan was the first FTA which substantially included services trade negotiations, both agencies were very cautious about its economic and social impacts. Secondly, no substantial export interests to Japan were expressed by the Malaysian private sector. Although the two agencies had obtained policy incentives to eliminate discriminatory treatment caused by the Japan-Singapore FTA, as well as strengthening preferential treatment vis-à-vis other

³²¹ See the reasons of selecting Malaysia and The Philippines described in the introductory paragraph of 6.3.

³²² From the interviews with the Malaysian government officials which took place between 2013 and 2015; the interviews with the Japanese government officials who was in charge of Japan-Malaysian FTA in April 2015; and the trade policy experts in charge of Malaysia at the WTO secretariat in April 2013 and July 2015.

³²³ There are three MITI agencies which have trade-related functions: the Malaysian Investment Development Authority (MIDA) which promotes Malaysia's manufacturing and services sectors; the Malaysian External Trade Development Corporation (MATRADE) which is responsible for export promotion; and the Malaysia Productivity Corporation (MPC) which monitors and improves the productivity and competitiveness of the economy.

ASEAN Members in general, the absence of substantial export interests to Japan diminished their bargaining incentives.

In terms of specific economic interests, the MIDA, as an investment authority, had a strong incentive to promote FDI in the manufacturing sector from Japan to accelerate technology transfer. However, FDI in the services sector was not included in its interests. MIDA's basic position was that any liberalisation of the services sector should be introduced gradually in accordance with Malaysia's economic and industrial policy. In the early 2000s, Malaysia's industrial and development policies were still focusing on the manufacturing sector. As one of the MITI-related agencies, the SME Corporation Malaysia, which was the central coordinating agency for SME development, showed concerns about liberalising services markets as the national SME master plan³²⁴ did not include market liberalisation as a policy option to strengthen SMEs.

Ministry of Finance and its related agencies: The Ministry of Finance possessed strong political power as a supervisory authority of the financial sector. Given that Malaysia was a developing country, the incentives of Ministry of Finance to protect the Malaysian financial institutions from foreign capital was still quite strong. Also, as a regulator of the financial services, it had a strong incentive to protect its regulatory autonomy. In addition to this, the Ministry of Finance had to represent the positions of Kazanah Nasional³²⁵ as well as Employees Provident Fund of Malaysia since they were the Ministry of Finance-related agencies. Kazanah Nasional and Employees Provident Fund, which obtained strong political power, were in favour of bumiputera policy and had a strong interest in shielding GLCs from liberalisation. For these reasons, the Ministry of Finance, Kazanah Nasional and Employees Provident Fund had a strong preference for no more commitments than Malaysia had made under the GATS.

Other domestic regulatory ministries: Other domestic regulatory ministries, which administrated services sectors, owned more defensive interests than those of MIDA. Since the domestic regulatory authorities possessed strong regulatory autonomy in administering licences and qualifications in its regulatory sectors, they were afraid that an FTA with Japan might invade their policy domains. Therefore, no domestic regulatory authorities wanted to make commitments

³²⁴ For instance, the Malaysian Government highlighted six areas in the SME Masterplan (2012): innovation and technology, human capital development, access to financing, access to markets, legal and regulatory environment, and infrastructure.

³²⁵ Kazanah Nasional was established as Malaysia's sovereign national fund. It is a government agency related to Ministry of Finance which invests the commercial assets of the Government of Malaysia. Its president has a big influence on management. Its portfolio companies encompass a wide range of services sectors (e.g. financial institutions, infrastructure and construction, tourism and leisure sector, transportation, logistics, healthcare, real estate, and environmental services).

beyond what Malaysia had made under the GATS. From the economic perspective, the domestic regulatory authorities had difficulty in associating Malaysia's national economic plan with FTA services trade negotiations with Japan. They were concerned that any new commitments with Japan might require changes in Malaysia's national economic plan, which gave priority to manufacturing industries. Since the domestic regulatory authorities were in a position which viewed international trade negotiations as just a part of their industrial and development plans, they strongly wished to avoid any changes in development and industrial plans and to keep development of the services sector under their control. Accordingly, the domestic regulatory ministries were interested in protecting domestic services suppliers, most of which were SMEs, from market liberalisation and competition. From the outward perspective, the domestic regulatory authorities did not have any offensive economic interest in services, since no specific export interests were articulated from the private sector.

Ministry of Foreign Affairs: International trade negotiations were outside the mandate of the Ministry of Foreign Affairs of Malaysia. The Ministry had a strong incentive to strengthen security by promoting bilateral FTAs in Asia in general, however, the Ministry was not involved in thematic negotiations, including services trade negotiations.

Table 6-4: Policy supply side – Specific interests in services trade negotiations of major players, Malaysia

Actors	Interests
MITI	<p>Policy interests:</p> <ul style="list-style-type: none"> • Make the AFAS-compatible FTA (GATS style) based on gradualism • Moderate GATS-plus commitments • Eliminate discriminatory treatments caused by the Japan-Singapore FTAs • Strengthen preferential treatments vis-à-vis other ASEAN Members • Achieve Malaysia's economic development plan by using the FTA <p>Economic interests:</p> <ul style="list-style-type: none"> • Protect major domestic services suppliers and SMEs
METI related agencies (1) MIDA (Malaysian Investment Development Authority) (2) MATRADE (Malaysian External Trade Development Corporation)	<p>Policy interests</p> <ul style="list-style-type: none"> • Achieve Malaysia's development and industrial plan by using the FTA • Make the AFAS-compatible FTA (GATS style) based on gradualism • Moderate GATS-plus commitments • Eliminate negative effects caused by the Japan-Singapore FTAs • Strengthen preferential treatments vis-à-vis external regions (e.g. ASEAN competitors)

(3) SME Corporation (4) MPC (Malaysia Productivity Corporation)	Economic interests: <ul style="list-style-type: none"> • Protect major domestic services suppliers and SMEs
Ministry of Finance	Policy interests <ul style="list-style-type: none"> • Pursue regulatory objectives • Protect regulatory autonomy • Commitments not more than Malaysia had made under the GATS Economic interests <ul style="list-style-type: none"> • Strengthen competitiveness of the Malaysian financial sector while protecting the government-related financial institutions
Ministry of Finance related agencies (1) Khazanah Nasional (2) Employees Provident Fund	Policy interests <ul style="list-style-type: none"> • Commitments not more than Malaysia had made under the GATS Economic interests <ul style="list-style-type: none"> • Protect Bumiputera related enterprises from market liberalisation
Other domestic regulatory ministries (Ministry of Domestic Trade; Ministry of Co-operatives and Consumerism; Ministry of High Education; Ministry of Energy, Green Technology and Water; and Ministry of Information, Communication and Culture)	Policy interests <ul style="list-style-type: none"> • Pursue regulatory objectives • Protect regulatory autonomy • Commitments not more than Malaysia had made under the GATS Economic interests <ul style="list-style-type: none"> • Implement Malaysia’s national economic plan from an industrial and development perspective, without any interference from FTA negotiations • Protect major domestic services suppliers and SMEs

The Philippines (Table 6-5)³²⁶

National Economic Development Authority (NEDA): The NEDA was designated as the lead ministry of services trade negotiations for the Japan-The Philippines FTA. It was expected that the NEDA, which is the authority in charge of forming social and economic policies, could grasp The Philippines’ services sectors from the horizontal perspective. In terms of policy, NEDA’s preference was the GATS style services agreement which strongly reflects gradualism. The Authority envisaged the elimination of discriminative treatments caused by the Japan-Singapore FTA and to establish stronger positions to compete with other ASEAN competitors. In contrast to its ambition, the NEDA was not motivated to make substantial GATS-plus commitments. The strongest economic interest of the NEDA was to enhance economic ties with Japan in order to achieve The Philippines’ development objectives. Thus, attracting FDI to promote technology

³²⁶ From the interviews with the Philippine government officials which took place between 2013 and 2015; the interviews with the Japanese government officials who was in charge of Japan-Philippine FTA in April 2015; and the trade policy experts in charge of the Philippine at the WTO secretariat in April 2013 and July 2015.

transfer in the manufacturing sector became NEDA's top priority as an economic planning agency. As for specific economic interests in services, Mode 4 was only export interests of the NEDA. The NEDA considered that an FTA was not necessary for further growth of the Philippine services sector, such as BPO industry, since the growth was mainly market-driven with step by step unilateral liberalisation in key infrastructure-related services sectors such as telecommunications.

Department of Trade and Investment (DTI): The DTI mostly shared NEDA's interests. The difference was that the Department focused more on promoting trade and investment policy than development policy, even though, the incentives of the DTI in services trade policy-making were limited as it did not administer any services sector. For example, the Department was not so keen on high-quality GATS agreements while it had a certain interest in eliminating discriminative treatments caused by the Japan-Singapore FTA. From the economic point of view, the Department thought that the Japan-The Philippines FTA was an opportunity to promote exporting professional services (Mode 4).

Department of Foreign Affairs (DFA): In general, the department considered FTAs from the foreign policy perspective such as strengthening the Japan-Philippine bilateral relationship and catching up with Singapore and Thailand's FTA activity. As the DFA represents The Philippines for the WTO multilateral trade negotiations, it had strong incentives to achieve GATS Article V compatible FTAs from the policy point of view. Since The Philippines was showing strong interest in Mode 4 at the WTO services trade negotiations, the DFA was motivated to use the bilateral FTA with Japan to improve the market access of some professional services. At the same time, it was concerned about the brain drain problem of The Philippines. Therefore, it was not in favour of using trade negotiations in some professional services, such as medical doctors, where a supply shortage was occurring.

Central Bank of The Philippines: The Central Bank of The Philippines was also actively involved in services trade negotiations as the monetary policy and supervising authority of the financial institutions in The Philippines. The bank had a strong interest in pursuing its regulatory objectives. Therefore, the Bank was in position of maintaining the GATS level commitments. On the other hand, its negotiating position was more relaxed than other departments of the government since the Bank was the designated independent regulatory power to change regulations derived from the 1987 Philippines Constitution. In terms of the economic interests, the Bank protected

domestic financial institutions from the industrial policy perspective. Export interests were absent since The Philippines financial sector was not competitive enough to export services or promote investment to Japan, where the market was already open.

The Philippines Professional Regulation Commission (PRC): The PRC is responsible for regulations and licensing of 46 professions including nurses. It obtains strong political power as a licensing authority of professionals. Therefore, its major focus was to pursue its regulatory objectives and to protect its regulatory autonomy. The Commission held specific economic interests, such as promoting market access for some Philippine professionals (nurses, care-workers and IT specialists) to the Japanese market, and getting the best deal with regard to qualification requirements. On the other hand, the Commission in general strongly rejected improving the market access for any foreign professionals to the Philippine professional markets by referring to Article XII, Section 14 of the 1987 The Philippines constitution which prohibits foreign professionals' practice in The Philippines.

Other domestic regulatory departments: Other domestic regulatory departments (e.g. Department of Finance, Department of Tourism, and Department of Energy) did not hold any strong interests in services trade negotiations. Their focus was pursuing their regulatory objectives and protecting their regulatory autonomy. Basically they did not want to make more commitments than The Philippines had made under the GATS, since they were captured by vested interests (e.g. SOEs, oligopolists and SMEs). Namely, they were against making commitments in Mode 3 in order to protect their domestic services suppliers from Japanese companies' market penetration. The domestic regulatory departments adhered to the 1987 Philippines constitution, which provides services trade related protective measures (e.g. restrictions on capital participation) to reject liberalising commitments under Mode 3.

Table 6-5: Policy supply side – Specific interests in services trade negotiations of major players, The Philippines

Actors	Incentives
NEDA (National Economic and Development Authority)	<p>Policy interests:</p> <ul style="list-style-type: none"> • Achieve The Philippines’ development and industrial plan by using the FTA • Make the AFAS-compatible FTA (GATS style) based on gradualism • Moderate GATS-plus commitments <p>• Eliminate discriminative treatments caused by the Japan-Singapore FTAs</p> <p>• Strengthen preferential treatments vis-à-vis other ASEAN Members</p> <p>Economic interests</p> <ul style="list-style-type: none"> • Protect major domestic services suppliers and SMEs • Improve market access and qualification requirement conditions for some professional services providers
DTI (Department of Trade and Investment)	<p>Policy interests:</p> <ul style="list-style-type: none"> • Make the AFAS-compatible FTA (GATS style) based on gradualism • Moderate GATS-plus commitments <p>• Eliminate discriminative treatments caused by the Japan-Singapore FTAs</p> <p>• Strengthen preferential treatments vis-à-vis other ASEAN Members</p> <p>Economic interests</p> <ul style="list-style-type: none"> • Improve market access and qualification requirement conditions for some professional services providers
DFA (Department of Foreign Affairs)	<p>Policy interests</p> <ul style="list-style-type: none"> • Achieve GATS Art. V compatible FTAs <p>Economic interests</p> <ul style="list-style-type: none"> • Improve market access and qualification requirement conditions for some professional services providers, while avoiding a brain drain from The Philippines
Central Bank of The Philippines	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue regulatory objective • Commitments not more than The Philippines had made under the GATS <p>Economic interests</p> <ul style="list-style-type: none"> • Protect domestic financial institutions from competition • Strengthen the competitiveness of the Philippine financial sectors
The Philippines Professional Regulation Commission (PRC)	<p>Policy interests</p> <ul style="list-style-type: none"> • Protect regulatory autonomy • Pursue regulatory objective • Commitments not more than The Philippines had made under the GATS <p>Economic interests</p>

	<ul style="list-style-type: none"> • Promote market access and qualification requirement conditions for some professional services (e.g. nurses and care workers) • Protect the domestic professional services market from the Japanese professional services suppliers
Other domestic regulatory ministries (e.g. Department of Finance; Department of Tourism; Department of Energy; Department of Information and Communications Technology; Department of Education; Department of Environment and Natural Resources; Department of Health; Department of Labour and Employment; and Department of Transportation and Communications)	<p>Policy interests</p> <ul style="list-style-type: none"> • Pursue regulatory objectives • Protect regulatory autonomy • Commitments not more than The Philippines had made under the GATS <p>Economic interests</p> <ul style="list-style-type: none"> • Implement the 1987 Philippines constitution and national economic plan from the industrial and development perspective • Protect SOEs, oligopolists and SMEs

6.3.3 Ideas

Gradualism: Malaysia, Thailand, The Philippines and Indonesia

Since ASEAN was established in 1967, economic integration has been promoted based on gradualism.³²⁷ Starting from trade in goods, ASEAN countries gradually liberalised their markets and implemented domestic reforms step-by-step at the national level. In this way, market liberalisation was reconcilably conducted in line with each country's strong underpinning developmental interests. The approach of progressive liberalisation based on gradualism was transferred from trade in goods to trade in services (AFAS) by applying GATS type progressive liberalisation. During four rounds of negotiations which took place between 1997 and 2007, implementation at the member country level fell behind the initial targets, and the integration programme for services trade was repeatedly delayed. Clearly, ASEAN style gradualism was deeply rooted among ASEAN policy makers.³²⁸

In addition to AFAS, the 1997-98 Asian financial crises further amplified ASEAN gradualism. Whilst the Asian financial crisis triggered East Asian regionalism, the experience of contagious economic turmoil ironically consolidated the idea of gradualism amongst trade policy makers and the private sectors in ASEAN countries. In addition, ASEAN signed the ASEAN China

³²⁷ Acharya (1997), Dent (2007a), and Dent (2008a).

³²⁸ At the interviews which took place between 2013 and 2015 (see Appendix 1), all ASEAN policy makers stressed an importance of AFAS style gradualism.

Framework Agreement in 2002, just before Malaysia, Thailand and The Philippines started the FTA negotiations with Japan. The trade-light FTA with China locked in the idea of gradualism into ASEAN's FTA activity.

When ASEAN countries negotiated a bilateral FTA with Japan, the idea of gradualism constituted the backbone of policy-making and reflected the negotiating positions of ASEAN in designing services trade agreements. Consequently, Thailand, Malaysia and The Philippines persistently denied the Japanese proposal of applying the negative list approach and insisted on applying the GATS approach based on gradualism. For the reasons described above, the substantial and comprehensive liberalisation, which Japan tried to achieve did not fit the idea of gradualism embedded among the ASEAN policy makers in the 2000s.

Developmentalism with a notion of strong sovereignty: Malaysia, Thailand, The Philippines and Indonesia

Relating to gradualism, developmentalism³²⁹ with a notion of strong sovereignty greatly affected policy-making in services for the bilateral FTA with Japan. For ASEAN policy makers, services trade liberalisation was just part of development/industrial policy as we previously described (6.2.2). In addition to the traditional developmental approach of governments in ASEAN, the lessons from the Asian financial crisis, including the IMF programme after the crisis enhanced the notion of sovereignty.³³⁰ Many ASEAN countries opened financial markets and promoted market oriented financial markets from the late 1980s ushered in by the World Bank. Whereas short-term foreign capital flow cascaded into the markets, their financial system reforms (e.g. market infrastructure and regulatory system) were far behind the speed of liberalisation. When the Asian financial crisis happened, the domestic financial system could not cope with huge withdrawal of speculative lending by the global financial suppliers and spill-over outflow of short-term foreign capital. The lessons which ASEAN policy makers learnt was that domestic reforms and implementation fell behind radical liberalisation would result in economic crisis. What was more, there were strong criticisms of the IMF programme implemented after the crisis. The ASEAN policy makers strongly believed that services policy and the speed of liberalisation should be decided by themselves to achieve each country's socioeconomic development. As a result, they became extremely cautious about international interferences, including binding services liberalisation under FTAs. While they opted for the unilateral liberalisation in accordance with their national economic development agenda, they retained a policy freedom to be resilient from

³²⁹ See Dent (2008a), p49.

³³⁰ Many government officials of Malaysia, Thailand, The Philippines and Indonesia expressed scepticism on the IMF programme in the late 1990s and its influence on economic policy including trade and investment.

the exogenous factors of economies (e.g. regional or global financial crisis).³³¹ Summing up, because of their ideas of developmentalism with a strong notion of sovereignty, ASEAN policy makers wanted to retain policy space between the substantial services liberalisation at the unilateral level and their commitments under the FTA.

As described above, gradualism and developmentalism with a notion of strong sovereignty were embedded in Malaysia, The Philippines, Thailand and Indonesia. Nevertheless, we have to note that these ideas were not embedded in Singapore and Viet Nam. Singapore was an open economy based on liberalism. Viet Nam was a unique case, as it strongly locked in their economic reforms under the multilateral trade system at the time of its accession to the WTO in 2007. As the country was a late comer to the global economy, it radically turned to liberalism at the time of WTO accession. In the area of services, the country committed almost up to the level of substantial liberalisation with a little policy space left over. While the Viet Nameese government esteemed development and industrial policy as a supreme policy agenda, it was based on economic liberalism to compete with China.

6.4 Institutions –Supply side condition

6.4.1 Domestic decision-making structure for Japan-ASEAN FTA services trade negotiations and the logic of veto players

In the previous sections (6.2 and 6.3), we analysed the incentives of the policy demand and supply side actors involved in the domestic decision-making. Now, we examine how interests were shaped through institutions in accordance with our policy demand and supply side model. Since we analysed Malaysia and The Philippines as examples of demand and supply side interests in the previous sections (6.2 and 6.3), we now analyse institutions by taking examples from these two countries. We first clarify who was an agenda setter and who were veto players by applying the logic of veto players. In the case of Malaysia, the agenda setter was the MIDA, the lead ministry of services trade negotiations for the FTA with Japan. Similarly, the agenda setter of The Philippines was the NEDA, which led the services trade negotiations. Veto players were domestic regulatory authorities which participated in the decision-making process.³³² Next, we clarify the location of the status-quo. For the domestic regulatory authorities of Japan, the status-quo meant no changes

³³¹ For example, Thailand reassured “prudent management of the economy” and “a step-by-step market liberalisation” as explained by the ambassador of Thailand at the TPR meeting at the WTO in 2007. See WTO (2007i), p4-5.

³³² As for the agenda setter and veto players of each ASEAN country, see Table 4-1 for the agenda setter and table 4-2 for the veto players.

in regulations and a substantial liberalisation level. Unlike Japan, the status-quo of ASEAN was located at the GATS commitment level. Since Japan is a developed country with a substantially open market in the trade policy context, location of the status-quo was much higher than that of ASEAN. In comparison, ASEAN countries, with the exception of Singapore, were developing countries where the level of development of the services sectors was far behind that of Japan. Therefore, the lower level of status-quo can be understood as a logical outcome. There are five reasons why the domestic regulatory authorities in ASEAN had a strong preference for the status-quo:³³³

(i) First, the domestic regulatory authorities had a strong preference for maintaining a policy space between the level of unilateral liberalisation and that of international trade commitments. As previously described, the idea of developmentalism with a notion of sovereignty was intensified in ASEAN as a consequence of the Asian financial crisis 1997-98. It was right after the economy was recuperating from the crisis, when ASEAN countries started FTA negotiations with Japan. The domestic regulatory authorities wanted to take a firm grip on their industrial and development policy in order to stay resilient from any unexpected exogenous factors of economies.³³⁴ Also, binding GATS-plus was like opening a Pandora's Box of liberalisation for ASEAN since the bilateral FTA with Japan was the first FTA which substantially covered services trade. They were afraid that creating a precedent case of substantive GATS-plus with Japan, subsequent FTA negotiations with other countries would further diminish their policy sovereignty. For this reason, the domestic regulatory authorities became more cautious about making liberalisation commitments beyond their commitments under the GATS.

(ii) Second, domestic regulatory authorities were afraid that FTA services trade negotiations might step into their regulatory concerns. Exactly similar to the case of Japan, each domestic ministry had strong regulatory autonomy. They could justify the existence of domestic regulations in response to market failures, even when the regulations were dually used to protect domestic services suppliers.

(iii) The third reason is sectoral segmentation. In the case of ASEAN, each ministry implemented development and industrial policy in its sectoral domain. For instance, enhancing SMEs capacities was one of the important tasks for domestic regulatory authorities. They thought that making new sectoral commitments may accelerate FDI from Japan and endanger the presence of local SMEs. The domestic regulatory authorities simply wanted to focus on developing domestic SMEs from the industrial policy perspective without any pressure caused by the GATS-plus agreements.

³³³ From the interviews with the ASEAN government officials between 2013 and 2015 (Appendix 1).

³³⁴ During a series of interviews with the ASEAN government officials (2013 and 2015, see Appendix 1), the importance of retaining the gap between the level of unilateral liberalisation and that of commitments under WTO/FTA trade negotiations, as policy space, was emphasized. This means a politically and economically comfortable degree of policy freedom to cope with exogenous factors of economies.

(iv) The fourth reason is the presence of national policy based on developmentalism and nationalism. In the case of Malaysia, Bumiputera favouring policy directly related to protection of GLCs as well as Mode 3 liberalisation. In The Philippines, 1987 Constitution, which provided the protectionist trade related clause, became a shield of discriminative trade and investment measures in Mode 3 and Mode 4. The FTA with Japan was not powerful enough to challenge these national policies.

(v) The last was a lack of incentive or limited interest in bargaining due to the lack of international competitiveness of the domestic services suppliers, except for Singapore. In the case of Malaysia, the private sector showed no export interests. Mode 4 was only offensive interest for The Philippines, Thailand and Indonesia.

As with Japan, interests of domestic regulatory authorities in ASEAN reflected a strong preference for the status-quo and exercised veto power against policy changes during the decision-making process. Consequently, there were very limited offers, which were beyond the GATS. Why could the preference of status-quo give strong influence on the results? There were two reasons for this. The first reason was horizontal fragmentation of power. According to the veto power model, as the number of veto players increases, 'policy stability' is increased as previously explained.³³⁵ Domestic regulatory ministries in ASEAN obtained not only strong regulatory power but also strong political power to implement development and industrial policy (see example of Malaysia: Table 6-6 and The Philippines: 6-7). A wide participation of these regulatory authorities with political power intensified veto power. Second, the lead ministries were too weak to overpower 'policy stability'. The lead ministries were not delegated any power of authorisation for the FTA services negotiations. They simply functioned as coordinators of the decision-making process. In addition, the lead ministries in many ASEAN countries did not administer any specific services industries nor implement trade related regulations. In Malaysia, the MIDA was the authority to promote inward FDI (Table 6-6). In The Philippines, the NEDA was simply the planning agency which devised economic and social policies for development (6-7). They did not have the political or regulatory power which was necessary to break through 'policy stability'.

³³⁵ See 5.4.1.

Table 6-6: Policy supply side -Institutional characteristics, Malaysia

Actors	Institutional characteristics
MITI	Devise trade and investment policy of Malaysia Regulate no services sector, thus no regulatory power in services
METI related agencies (5) MIDA (Malaysian Investment Development Authority) (6) MATRADE(Malaysian External Trade Development Corporation) (7) SME Corporation (8) MPC (Malaysia Productivity Corporation)	(1) MIDA: Coordinator of services trade negotiations without designated ruling power Promote inward FDI to Malaysia Higher priority on manufacturing sector than services sectors to achieve the economic development plan (2) MATRADE: Promote Malaysian exports (3) SME Corporation: Track the implementation of the national SME master plan
Ministry of Finance	Exercise strong regulatory autonomy as supervisory authority for all financial sectors, including licensing Possess strong political power as supervisory authority of the major economic sectors Represent the interests of Malaysian financial sectors
Ministry of Finance related agencies (1) Khazanah Nasional (2) Employees Provident Fund	Obtain strong political power Retain strong influence on the privatisation process Retain strong influence on investment related policy
Ministry of Foreign Affairs	No interests and no influence on services trade policy-making
Other domestic regulatory ministries (e.g. Ministry of Domestic Trade, Co-operatives and Consumerism, Ministry of Works, Ministry of High Education, Ministry of Energy, Green Technology and Water, Ministry of Information, Communication and Culture)	Strong regulatory autonomy, administer licensing and qualifications in its regulatory sectors Represent professional services in its regulatory sectors Implement sectoral industrial and development policy

Table 6-7: Policy supply side -Institutional characteristics, The Philippines

Actors	Type and level of political power
NEDA (National Economic and Development Authority)	<p>Devise social and economic policies from a development perspective</p> <p>No authorisation power</p> <p>Coordinator of services trade negotiations without designated ruling power</p> <p>Devise The Philippines’ services industrial strategy and development strategy without implementation power</p>
DTI (Department of Trade)	<p>Main regulatory body for trade</p> <p>Devise trade and investment policy of The Philippines</p> <p>Promote investments</p> <p>Regulate no services sector, thus no regulatory power in services</p>
Department of Finance	<p>Exercises strong regulatory autonomy as supervisory authority for all financial sectors including licensing</p> <p>Possesses strong political power as supervisory authority of the major economic sectors</p> <p>Represents the interests of The Philippines’ financial sectors</p>
Philippines Professional Regulation Commission (PRC)	<p>Regulate and license 46 professions</p>
Central Bank of The Philippines	<p>Exercise strong regulatory autonomy as supervisory authority for all financial sectors including licensing</p> <p>Possess strong political power as supervisory authority of the major economic sectors</p> <p>Represent the interests of The Philippines’ financial sectors</p>
Other domestic regulatory ministries	<p>Strong regulatory autonomy, administer licensing and qualifications in its regulatory sectors</p> <p>Represents professional services in its regulatory sectors</p> <p>Implement sectoral industrial and development policy</p>

6.4.2 How did domestic regulatory authorities obstruct the lead ministry?

Next, we demonstrate how domestic regulatory authorities actually blocked initiatives of the lead ministry during the decision-making process, through tracing the decision-making process of the Japan-Malaysian FTA and the Japan-The Philippines FTA. The decision-making process is divided into two stages: the first is the domestic decision-making stage and the second is the bilateral negotiation stage. The analysis below relies mostly on a series of interviews with the

ASEAN government officials, private sector individuals and trade policy researchers, including the WTO.³³⁶

Japan-Malaysian FTA

Domestic decision-making stage: In Malaysia, the bilateral FTA with Japan was perceived as a great opportunity to enhance technology transfer from the Japanese manufacturers for two reasons. The first reason is the emergence of China in the early 2000s. The MITI had to reconsider Malaysia's technical advantages to compete with China on the global markets. The second reason is that the domestic regulatory ministries wished to enhance technology transfer in order to avoid the middle income trap in implementing development and industrial policy. The general position of Malaysia hugely affected the MIDA's negotiating position making for services trade negotiations. While the Agency highlighted the bilateral FTA with Japan as a policy device to enhance technology transfer as an authority which promoted inward FDI, it took a cautious approach to services trade related investment (Mode 3). This is because the MIDA considered that it was not the Japanese services suppliers but the domestic services suppliers who should enjoy growing services demand in Malaysia. Consequently, the MIDA decided to (i) apply the GATS style positive list approach based on gradualism and (ii) achieve only a modest level of GATS-plus commitments.

When the pre-negotiation process for the Japan-Malaysian FTA started in 2002 driven by the Malaysian government's strong economic diplomacy impetus, the Malaysian private sector was not well aware of services trade. From the outward perspective, the MIDA could not get any offensive input from the Malaysian private sector. Due to a lack of economies of scale, earning foreign currencies through trade was one of the main pillars of Malaysia's economic development strategy. In the early 2000s, trade was heavily dependent on exporting commodities and manufactured products. Since the Government was well aware that the services sector was important for boosting its economy, it had launched the sectoral reforms in the major services sectors (e.g. the financial sector and the telecommunication sector) from the late 1990s in order to improve competitiveness. Nevertheless, in the beginning of the 2000s, the services sector in Malaysia was not yet ready to expand its business to foreign markets, including these of Japan. Due to a lack of offensive export interests, MIDA's bargaining incentive in the services sector became very weak.

³³⁶ A series of interviews with the ASEAN government officials took place in April 2013 and July- December, 2015 (see Appendix 1).

From the inward perspective, domestic regulatory authorities were not in favour of services trade negotiations in principle. First, they simply detested the fact that international trade negotiations interfered with their policy domains. They were deeply concerned that the FTA services trade negotiations with Japan might challenge their regulatory autonomy, namely to deal with market failures. For example, the Ministry of Health and the professional agencies persistently emphasised that maintaining a quality of services for consumers was the first policy priority. Second, domestic regulatory authorities insisted that healthy growth of the services sector should be guided by national economic development policies, which did not include FTA services liberalisation. They were aware that the services sector was becoming an important segment of the economy following the manufacturing sector in Malaysia. When Malaysia negotiated the FTA with Japan, the domestic regulatory ministries were implementing the Second Industrial Master Plan (1996-2005) which focused on achieving an industrialisation level abundant with skills, technology and human capital. In order to improve competitiveness in services, the domestic regulatory ministries thought developing human capital was far more important than liberalising the market.

What is more, the Asian financial crisis 1997-98 immensely influenced the negotiating positions of the domestic regulatory authorities. After Malaysia suffered massive evacuation of foreign capital, including portfolios, and recuperated from the crisis in the early 2000s, the Malaysian government took a prudent approach to economic policy. In particular, the domestic regulatory authorities learned from the financial crisis that it was not the responsibility of the international forces (i.e. IMF and international negotiations) but the Malaysian government to hold a grip on the pace of services sectoral reforms and liberalisation. Taking into account the degrees of competitiveness of each service sector, Malaysia started to liberalise some sectors step by step on a unilateral basis at the beginning of the 2000s. These included telecommunications, finance, private higher education, ICT, and certain manufacturing-related services.³³⁷ Nevertheless, because of the reasons mentioned above, domestic regulatory authorities strongly preferred to retain sufficient policy flexibility between the level of unilateral liberalisation of these sectors and the level of GATS commitments with Japan.

Bilateral negotiation stage: As for designing a services trade agreement, Japan's suggestion to apply the negative list approach was repugnant to the Malaysian domestic regulatory authorities. The Ministry of Foreign Affairs insisted that ASEAN services integration should be put first before other economic diplomacy, therefore, accepting the negative list approach was totally out of the question from the foreign policy perspective. The domestic regulatory ministries were horribly afraid of legal and economic impacts that a negative list approach would bring about for their policy domain. Since the MIDA was in a position to apply the gradualism approach in line with

³³⁷ WTO (2009a) and WTO (2009b).

AFAS, there were no conflicts between the MIDA and the domestic regulatory authorities to decide Malaysia's position on this.

At the sectoral request and negotiation stage, the MIDA had to face massive opposition from the domestic regulatory authorities. They did not allow concessions in response to Japan's sectoral liberalisation requests. Amongst the domestic regulatory ministries, the Ministry of Finance, which was politically the most powerful ministry, showed strong resistance to reviewing the ethnic favouring policy of Bumiputera, which was directly related to GLCs. The GLCs issue was highly political because the political party retained majority ownership through the Khazanah Nasional. Neither the Khazanah Nasional nor the Employees Provident Fund allowed any changes relating to the ethnic Bumiputera favouring policies, such as changing equity caps on Mode 3; requirements of hiring Malay nationals; and accelerating the privatisation process. Other domestic regulatory authorities, which were lobbied by ethnic chambers of commerce, also retained their defensive position against liberalisation commitments in Mode 3, in order to protect local SMEs and the Bumiputera favouring policies. In other words, domestic regulatory authorities used the Bumiputera favouring policies as the shield for investment protection.

Facing strong resistance from the Ministry of Finance and other domestic regulatory ministries, the MIDA could hardly make concessions. Consequently, the MIDA was forced to further downgrade its negotiating positions. In the end, Malaysia made commitments in only 72 sub-sectors out of 155 sub-sectors while Japan made commitments in 140 sub-sectors.³³⁸

Japan-The Philippines FTA

Domestic policy-making stage: For The Philippines, catching up with Singapore and Thailand in creating a bilateral FTA network was the priority of its FTA activity. A substantial economic strategy did not accompany its strong diplomatic incentive in the first place. When The Philippines and Japan initially agreed to start negotiating the bilateral FTA, DTI policy makers thought that the Japan-The Philippines FTA should be used as a policy device to encourage technology transfer through FDI, since The Philippines was suffering from a lack of FDI investment in the manufacturing sector in comparison with other ASEAN countries. The NEDA, which is the development policy planning agency, underlined the importance of technology transfer in the manufacturing sector from the industrial and development perspective and positioned goods trade negotiations as the primary negotiating agenda. As for the services trade negotiations, the NEDA supported a gradual approach as in the case of Malaysia. The reason was that the pace of domestic reforms in the services sector was very slow in The Philippines because of its domestic political

³³⁸ See Oike (2006), p33.

economy, namely strong opposition from the incumbents and a cosy relationship between political and business circles. In this regard, the NEDA decided to (i) apply the GATS style positive list approach based on gradualism and (ii) achieve moderate GATS-plus commitments.

Even for The Philippines, which was experiencing growing services exports in the 2000s, interests in services trade under the Japan-The Philippines FTA were very limited in comparison with goods trade. From the outward perspective, it was only the professional services-related regulatory authorities (e.g. Philippines Professional Regulatory Commission) which showed offensive export interests. Even in the context of professional services, the NEDA had to take into account a balance between the interests of professionals, who wanted to work abroad and a brain drain of highly skilled people, since the brain drain issue was already a social concern of The Philippines.³³⁹ Because there was no migration policy in The Philippines, migration of Philippine professionals was historically market-driven instead of policy-driven. While the Philippine government tried to arrange better access and a better working environment for the Philippine professionals who wished to work in Japan, it had to improve the domestic environment to encourage them to return. Since nurses and care-workers were domestically oversupplied, the NEDA selected them as a negotiation deal.

The domestic regulatory authorities which administered the growing services sectors, or sectors of high-priority for development, did not show any particular export interest, since they thought that services trade liberalisation was not a policy device to enhance competitiveness. One example is the domestic regulatory authorities which administer the BPO industry with high economic potential, such as the Department of Information and Communications Technology. In The Philippines, the telecommunication sector reforms, which took place in the 1990s, enhanced the back-bone infrastructure. From the early 2000s, the dynamic growth of the BPO industry was mainly driven by markets with some policy incentives (e.g. tax). For example, call centre operations shifted to The Philippines to benefit from the low-cost and highly educated population. In this regard, the domestic regulatory ministries considered that education and human development were crucial to strengthen the international comparative advantage of the BPO industry. Services trade negotiations under FTAs were not included in their policy options. Similarly, the Department of Tourism did not show any interest in services trade negotiations, although promoting tourism was part of the national economic and development plan of The Philippines.³⁴⁰ For the Department of Tourism, improving infrastructure, customer services and strategic advertisement was far more important than improving market access under Mode 3 in the

³³⁹ In The Philippines, both the number of medical professionals and local wages of these professionals had already decreased in the 2000s. Medical professionals use a working experience at hospitals in The Philippines as a career pass, and moved to higher paying jobs abroad. Accordingly, the hospitals in The Philippines started to avoid overinvesting expected migrants. From “Who’s to blame for brain drain”, July 2007, available at: http://www.policyinnovations.org/ideas/briefings/data/brain_drain.

³⁴⁰ WTO (2005) and WTO (2012a).

tourism sector. For reasons mentioned above, NEDA's bargaining incentive in the services sector as weakened.

From the inward perspective, the domestic regulatory authorities took defensive positions against services liberalisation in general. They strongly rejected any interference from trade negotiations with their industrial policy and regulatory domains. They used investment related nationalist clauses in the 1987 Constitution of The Philippines (e.g. restriction of foreign ownership to 40% with minor adjustment by subsequent legislation) as a shield from liberalisation in Mode 3. The professional services regulatory authorities (e.g. Philippines Professional Regulatory Commission) also used the 1987 Constitution to protect Philippine professionals. They kept firmly defensive positions against improving market access of professional services to The Philippines.

Bilateral negotiation stage: The reaction to Japan's request to apply the negative list approach was exactly the same as Malaysia's. All government departments and agencies participating in the decision-making strongly rejected the negative list approach. For example, the Ministry of Foreign Affairs strongly insisted that even the AFAS use the GATS-type progressive liberalisation. While the NEDA decided to reject Japan's request to use the negative list, it persuaded the domestic regulatory authorities that The Philippines should make better commitments than Malaysia had made under the Japan-Malaysian FTA to position the country above the level playing field. In the end, the domestic regulatory authorities agreed to apply what is called the hybrid approach (a mixture between the positive approach and negative approach) to take a lead from the other ASEAN rivals.

With regard to the sector-specific requests, the NEDA could act only as a coordinator since it was a planning agency without any regulatory power. DTI, which was the major ministry formulating trade and investment policy, administered only the manufacturing sector. Therefore, DTI could not insist on changing regulations to promote liberalisation even it found economic benefits there. Facing the domestic regulatory authorities' strong resistance against making concessions in Mode 3, the NEDA had to downgrade the level of achievement as originally envisaged. As a result, The Philippines made commitments in 73 sub-sectors, while Japan made commitments in 140 sub-sectors.³⁴¹

6.5 Findings

In the previous sections (6.3 and 6.4), we examined the political economy factors in the decision-making process which shaped ASEAN's negotiating positions for bilateral FTAs with Japan by

³⁴¹ See Oike (2006), p33.

applying our policy demand and supply model modified from the model in Mattli (1999b). We first examined the policy demand and supply side interests for the bilateral FTA with Japan. Then we looked at the institutions as supply side condition. Below, we extract our findings (Table 6-6).

6.5.1 Interests

A. Policy demand side interests

Strong expectations in boosting goods exports and enhancing inward investment from the Japanese manufacturing companies

For the private sector, general motivations for negotiating an FTA with Japan were to boost exports in goods and enhance investment relations in the manufacturing sector. While the focus was on the manufacturing sector, there was a dearth of awareness about services trade negotiations in the first instance. Since the ASEAN-China Framework Agreement was the only FTA activity that entered into force prior to the FTA with Japan, and the Framework Agreement excluded the services chapter, the private sector in Malaysia, Thailand, The Philippines and Indonesia, was not well aware of the services segment of FTA negotiations.

Limited export interests in Mode 4 vs. strong defensive interests

From the policy demand perspective, there were no, or only limited interests, in exporting services to Japan, with the exception of Singapore. As we saw in the market environment (6.2.1), ASEAN countries in general did not possess export competitiveness in the global markets. In terms of the bilateral services trade with Japan, improving the condition of entering the Japanese market in some professional services was the offensive interest for the private sector only in Thailand and The Philippines. In Indonesia and Viet Nam, such a strong offensive interest did not actually exist in the private sector. Rather, it was the government's initiatives that set out to gain the level playing field in terms of the Japan-Thailand FTA and the Japan-The Philippines FTA.

While there were limited offensive interests, strong defensive interests existed among import competing services suppliers, with the exception of Singapore. As an overview of the market environments demonstrated (6.2.1), SMEs dominated the services suppliers in terms of numbers in the ASEAN countries. Massive fears arose among the local SMEs once the government announced the FTA with Japan. GLCs and SOEs were other strong defensive forces. They were afraid that the government might accelerate GLC reforms or a privatisation process, by using an FTA with Japan. These defensive lobbyists, who were afraid of possible erosion of rents and adjustment costs,

maximised client relationships with their domestic regulatory authority behind the scenes to deliver their interests.

B. Policy supply side interests

Influence of general motivations at the initial stage of the decision-making process

After Singapore joined the FTA bandwagon, competitive bilateralism triggered other ASEAN countries to launch FTA activity. Because of strong diplomatic incentives, they jumped into a bilateral FTA with Japan without a strategy of substance. Once they started to devise negotiating positions, enhancing technology transfer through FDI from Japan was set up as the policy priority. For most ASEAN countries, FDI in the manufacturing sector, especially IPN related investments from Japan, had been playing a crucial role in their economic development since 1980s. After recuperating from the 1997-98 Asian financial crisis, ASEAN countries needed to ensure that the manufacturing sector was strong to make their economic development more resistant to a global economic crisis. To cope with the emergence of China on the global economy was another challenge for them. Especially for some ASEAN countries such as Malaysia and Thailand, policy makers were concerned about a middle income trap of economic modernisation. For these reasons, the central economic objective of the bilateral FTA with Japan became enhancing technology transfer through FDI from Japanese manufacturing firms. This directly affected negotiating positions in services trade.

Policy interests of the lead ministry to apply the AFAS style gradualism vs. strong defensive interests of domestic regulatory authorities against the GATS-plus

In comparison with Japan, motivations of the lead ministry of each ASEAN country in services trade negotiations were rather weak. In principle, the lead ministry wished to apply AFAS style gradualism. From the outward perspective, the lead ministry was not supported by strong demand in the private sector. Due to the limited interest in Mode 4 from the private sector, bargaining incentives of the lead ministry became quite weak. From the inward perspective, the lead ministry aimed at a level of commitments moderately GATS-plus, which were not accompanied with domestic reforms.³⁴² In ASEAN countries, the services sector reforms could not be associated with the FTA negotiations since the reforms were managed under the national development & industrial agendas. In the 2000s, each ASEAN country was at different stages of sectoral reforms including

³⁴² Since most ASEAN countries retained a large gap between the level of unilateral liberalisation and the level of the GATS commitments, making GATS-plus commitments without domestic reforms was technically possible.

privatisation, introduction of competition, and sectoral regulatory reforms. In the case of Malaysia, through the privatisation process of the IT sector in the early 2000s, the government strategically accepted some globally competitive IT players in order to introduce competition. Also, a strong political economy (e.g. political relations between SOEs and politicians, and reallocation of employment) was always involved during the privatisation process in every ASEAN country. Accordingly, the lead ministry thought that it was economically and politically irrational to link the privatisation process with a bilateral FTA with Japan. In addition, there were no top-down initiatives from a head of state or a ministerial level to use the FTA with Japan as a locking-in device of further services sector reforms.

Interests of the domestic regulatory authorities were extremely defensive. In terms of exports, interests were limited to Mode 4 (or nothing in Malaysia). From the inward perspective, they simply rejected making GATS-plus commitments. FTA services trade liberalisation was not necessary for the domestic regulatory authorities for three reasons. Firstly, the domestic regulatory authorities preferred to retain a significant policy flexibility between the unilateral liberalisation level and FTA liberalisation level, which was based on developmentalism with strong notions of sovereignty intensified. The second reason was that services trade liberalisation was not an appealing policy option for domestic regulatory authorities to develop the domestic services sector. One example was BPO industry. The Philippines was already becoming internationally competitive in some BPO industries such as call-centres. To enhance competitiveness of BPO industry, the Government considered education (human resources) and infrastructure to be of the greatest importance. Another example is Mode 3 (investment). Domestic regulatory authorities were relying on other policy options to attract foreign investments in the services sector such as investment promotion (e.g. tax heaven and tax reduction) as well as host country-investor diplomacy.³⁴³ For domestic regulatory authorities, binding Mode 3 (e.g. majority share of foreign capital) under the FTA with Japan was unnecessary. The third reason was a defensive interest against changing socio-economic policy or the Constitution. Malaysia and The Philippines had specific cases that hindered services liberalisation. In the case of Malaysia, strong defensive interests against abolishing the Bumiputera favouring policy affected its negotiating positions. The Bumiputera policy was considered as an important pillar of its Malaysia's socioeconomic and development agenda. By providing the favourable conditions, such as creating opportunities of employment, technology transfer and enhancing export capacities, the government was encouraging the participation of the Bumiputera tribes in economic activities. There were no incentives for the Malaysian government to change the Bumiputera favouring policy for the sake of the bilateral FTA with Japan. In the case of The Philippines, the 1987 Philippines Constitution which includes some trade protectionist provisions was the bottle neck to domestic reforms and

³⁴³ See Chapter 5, 5.5.1.

services negotiations. Defensive interests used the Constitution as a shelter from competition. There was no high-level political incentive to break through the powerful vested interests rooted in Philippine society by using the bilateral FTA with Japan.

C. Ideas

Gradualism as well as developmentalism, with notions of strong sovereignty prevailed in the ASEAN countries. Exceptions are Singapore, whose trade policy has been consistently based on liberalism, and Viet Nam which shifted from developmentalism to neo-liberal ideas of integrating its economy into the world economy through liberalisation at the time of its WTO accession. Since the progress of services liberalisation was so slow inside the ASEAN, the AFAS style gradualism was deeply implanted in policy makers of Malaysia, The Philippines, Thailand and Indonesia. Therefore, the idea of gradualism could not be drastically changed for the sake of bilateral FTAs with Japan. Likewise, a long-standing notion of developmentalism influenced their services policy-making. The ASEAN policy makers perceived services trade liberalisation as a part of development/industrial policy. In addition to developmentalism, a notion of sovereignty was hammered into trade policy makers through the painful lessons of the Asian financial crisis. There existed a strong belief that services policy and the speed of liberalisation should be decided not by international negotiations such as FTAs, but by themselves. Therefore, the ASEAN policy makers greatly hesitated to make commitments that reduce the policy space between the level of substantial liberalisation and the level of commitments under the GATS at the time of the Japan-ASEAN bilateral FTAs.

Table 6-8 (1): Political economy factors in decision-making which shaped the ASEAN’s negotiating positions - Interests

	Singapore	Malaysia	The Philippines	Thailand	Indonesia	Viet Nam
Interests	<p>Policy demand side and supply side:</p> <p>Strong offensive interests with limited defensive interests</p> <p>Ideas Liberalism</p>	<p>Policy demand side:</p> <ul style="list-style-type: none"> Defensive interests (e.g. GLCs) with no offensive interests <p>Policy supply side:</p> <ul style="list-style-type: none"> Limited interests of the lead ministry vs. strong defensive interests of domestic regulatory authorities No incentives to abolish the Bumiputera favouring policy Influence of general interests <ul style="list-style-type: none"> Strong diplomatic incentive with absence of strategy in substance Boost trade and FDI with technology transfer No incentives to lock-in domestic reforms <p>Ideas:</p> <ul style="list-style-type: none"> Gradualism Developmentalism with notions of strong sovereignty 	<p>Policy demand side:</p> <ul style="list-style-type: none"> Strong defensive interests with limited offensive interests in some professional services <p>Policy supply side:</p> <ul style="list-style-type: none"> Offensive interests only in Mode 4 vs. strong defensive interests of domestic regulatory authorities No incentives to change the Constitution Influence of general interests <ul style="list-style-type: none"> Strong diplomatic incentive with absence of strategy in substance Boost trade and FDI with technology transfer No incentives to lock-in domestic reforms <p>Ideas:</p> <ul style="list-style-type: none"> Gradualism Developmentalism with notions of strong sovereignty 	<p>Policy demand side:</p> <ul style="list-style-type: none"> Strong defensive interests with limited offensive interests in some professional services <p>Policy supply side:</p> <ul style="list-style-type: none"> Offensive interests only in Mode 4 vs. strong defensive interests of domestic regulatory authorities Influence of general interests <ul style="list-style-type: none"> Strong diplomatic incentive with absence of strategy in substance Boost trade and FDI with technology transfer No incentives to lock-in domestic reforms <p>Ideas:</p> <ul style="list-style-type: none"> Gradualism Developmentalism with notions of strong sovereignty 	<p>Policy demand side:</p> <ul style="list-style-type: none"> Strong defensive interests <p>Policy supply side:</p> <ul style="list-style-type: none"> Little interests of the lead ministry vs. strong defensive interests of domestic regulatory authorities Influence of general interests <ul style="list-style-type: none"> Strong diplomatic incentive with absence of strategy in substance Boost trade and FDI with technology transfer No incentives to lock-in domestic reforms <p>Ideas:</p> <ul style="list-style-type: none"> Gradualism Developmentalism with notions of strong sovereignty 	<p>Policy demand side:</p> <ul style="list-style-type: none"> Welcomed the Viet Nam’s WTO accession No interests in services in general <p>Policy supply side:</p> <ul style="list-style-type: none"> No incentives and capacities to make commitments more than the ones made for the WTO accession General interests: <ul style="list-style-type: none"> Boost trade and FDI with technology transfer <p>Ideas:</p> <ul style="list-style-type: none"> Radical shift to liberalism

Table 6-8 (2): Political-economy factor in decision-making which shaped the ASEAN's negotiating positions - Institutions

	Singapore	Malaysia	The Philippines	Thailand	Indonesia	Viet Nam
Institutions (Supply side condition)	<ul style="list-style-type: none"> • Veto power of domestic regulatory authorities due to horizontal fragmentation of government regressed the lead ministry ➤ Weak political power of Ministry of Trade and Industry to achieve high-level services agreements: No authorisation power ➤ Strong political power of the domestic regulatory authorities to retain policy stability (=the status-quo regulatory environments) 	<ul style="list-style-type: none"> • Veto power of domestic regulatory authorities due to horizontal fragmentation of government regressed the lead ministry ➤ Weak political power of MIDA to achieve reasonably GATS-plus: No authorisation power ➤ Strong political power of the domestic regulatory authorities to retain the status-quo (GATS commitments) ➤ Strong defensive force of Khazanah Nasional and Employees Provident Fund to protect Bumiputera favouring policy: strong client relationship with GLCs and Ethnic Chamber of Commerce 	<ul style="list-style-type: none"> • Veto power of domestic regulatory authorities due to horizontal fragmentation of government regressed the lead ministry ➤ Weak political power of NEDA to achieve reasonably GATS-plus: No authorisation power ➤ Strong political power of the domestic regulatory authorities to retain the status-quo (GATS commitments) ➤ Strong defensive force to protect 1987 Philippines constitution (e.g. professional services and investment related clause): strong client relationship with Professional Associations 	<ul style="list-style-type: none"> • Veto power of domestic regulatory authorities due to horizontal fragmentation of government regressed the lead ministry ➤ Weak political power of Ministry of Foreign Affairs to achieve moderate GATS-plus: No authorisation power ➤ Strong political power of the domestic regulatory authorities to retain the status-quo (GATS commitments) ➤ Strong defensive force to protect SOEs and SMEs: strong client relationship with sectoral associations 	<ul style="list-style-type: none"> • Veto power of domestic regulatory authorities due to horizontal fragmentation of government regressed the lead ministry ➤ Weak political power of Ministry of Trade to achieve moderate GATS-plus: No authorisation power ➤ Strong political power of the domestic regulatory authorities to retain the status-quo (GATS commitments) ➤ Strong defensive force to protect SOEs and SMEs: strong client relationship with sectoral associations 	<ul style="list-style-type: none"> * Not Applicable as Japan welcomed Viet Nam's WTO accession and the level of services trade commitments

6.5.2 Institutions (Supply side condition)

Horizontal fragmentation of government and veto power of the domestic regulatory authorities

As in the case of Japan itself, almost all domestic regulatory ministries in ASEAN countries were involved in the service policy-making process for an FTA with Japan. A wide participation of domestic regulatory ministries in the decision-making process created horizontal fragmentation of power. And horizontal fragmentation of power strengthened the preference of the status-quo among domestic regulatory ministries. By exercising veto power, the regulatory authorities successfully levelled down the negotiating positions of the lead ministry and blocked making concessions to Japan. We summarise the mechanism of veto power as follows.

First of all, political power of the lead ministry was too weak to achieve its interests. The lead ministry could only put together the positions of domestic regulatory ministries, as a coordinator without authorisation power. In the case of ASEAN, a ministry which was designated as the lead ministry of services trade negotiations with Japan was either a trade ministry or a development related authority which did not administer any specific services sector. In addition, very limited interests in services trade exports of the private sector weakend the lead ministry's negotiating power. By contrast, all domestic regulatory ministries, which were endowed with regulatory power, were strong enough to maintain the status-quo (keeping the GATS level commitments). First, they could justify their defensive position by using legitimate objectives for regulations, as well as its sectoral segmentation in implementing industrial and development policy. Secondly, the domestic regulatory ministries were well captured by domestic vested interests. The lead ministry could not intervene in a strong client relationship between the domestic regulatory ministries and the private sector, namely GLCs/SOEs and the professional associations.

In this way, the domestic regulatory authorities exercised veto power against making GATS-plus commitments. The strong political power of maintaining "policy stability" forced the lead ministry to retreat further in its negotiating positions.

6.5.3. Other issues

The analysis above is a summary about our findings which applied to Malaysia, The Philippines, Thailand and Indonesia. We have to note that the situations of Singapore and Viet Nam were different. In the case of Singapore, which is an open and liberal economy, the country had a comparative advantage in services trade. Thus, there were strong economic interests in improving services trade and investment relations with Japan unlike the other ASEAN countries.

Viet Nam's case was unique because the country started FTA negotiations with Japan immediately after joining the WTO (2007). For the WTO accession, Viet Nam was forced to make higher commitments than other ASEAN countries which had become the WTO Members under the GATT system.³⁴⁴ The country also committed itself to use the WTO as political leverage for economic reforms. Consequently, very limited policy flexibility between the level of substantial liberalisation and the level of the GATS commitments was left. Privatisation of SOEs was the only issue left over for future international trade negotiations. The Viet Nameese private sector was also quite different from the private sector in Malaysia, Thailand, The Philippines and Indonesia. It is true that the private sector was afraid of being exposed to global competition at the time of the WTO accession. However, the Viet Nameese private sector perceived that this would be the only way to compete with China and to make the Viet Nameese economy globally competitive. Therefore, they welcomed the country's accession to the WTO and tried to make use of international economic agreements as business opportunities. Since Japan embraced the high level commitments which Viet Nam had made for the WTO accession in 2007, it proposed technical assistance to implement Viet Nam's WTO commitments under the Japan-Viet Nam FTA. For these reasons, cooperation featured strongly under the Japan-Viet Nam FTA.

6.6 Conclusion

This chapter empirically demonstrated how interests and institutions shaped the negotiating positions of ASEAN for the bilateral FTAs with Japan by applying our policy demand and supply side model.

We first provided the policy and market environments of the ASEAN countries in the 2000s as a basis of argument. Although ASEAN is a region of diversity, we could see some common features. In terms of markets, after recuperating from the 1997-98 Asian financial crisis, ASEAN countries were going through steady economic growth accompanied by economic modernisation. Although the presence of the services sector was becoming important in terms of economic outputs and employment, the role of the services trade in the economy was still limited, with the exception of Singapore and The Philippines. Also, the services sector was still dominated by SOEs and/or GLCs in terms of output and by SMEs in terms of the number of suppliers. The role of FDI in the services sector gradually increased from the early 2000s, however, the major investors were the US and the EU (Japan was the major investor in the manufacturing sector). In terms of policy, economic modernisation and economic growth was the key policy area for the ASEAN governments. In many ASEAN countries, catching-up industrialisation policy focused on

³⁴⁴ See Figure 3-34.

technological transfer and localisation in the manufacturing sector with little attention to the services sector. Whereas ASEAN governments unilaterally liberalised services, and sectoral reforms took place in the infrastructure services, there was a huge gap between the substantial liberalisation and the level of the GATS commitments. At the ASEAN level, services integration under AFAS did not make substantial progress. It was only the 7th package of commitments (2009) onwards when the level of commitments became substantially GATS-plus.

Based on the overviews of markets and policy environments in the 2000s, we conducted the policy demand and supply side analysis. On the policy demand side, there was no interest or very limited export interest in certain professional services. On the other hand, strong defensive interests against the market liberalisation including the professional associations, sector associations and GLCs/SOEs, lobbied the domestic regulatory ministries by maximising its client-relationship with its regulatory ministry. On the policy supply side, the basic positions of the lead ministry in ASEAN became rather weak influenced by general motivations for the bilateral FTAs with Japan, including strong diplomatic incentive with a lack of strategy in substance, enhancing technological transfer through IPN related investments in the manufacturing sector. The lead ministry aimed at an AFAS-compatible FTA based on gradualism. On the other hand, domestic regulatory authorities showed strong defensive interests against making GATS-plus commitments for several reasons (e.g. protecting its regulatory autonomy; retaining policy space between the unilateral liberalisation level and the commitment under the FTA with Japan; and protecting import-competing services suppliers).

As in the case of Japan, horizontal fragmentation of government created a veto power of the domestic regulatory authorities with a strong preference for the status-quo (not more than the GATS commitments). Although the lead ministry in ASEAN countries did not hold high incentives like the lead ministry of Japan, it faced strong resistance from the domestic regulatory authorities against making the GATS-plus commitments during the bilateral sectoral negotiations. Due to the private sector's lack of export interest, as well as having no authorisation power, the lead ministry could hardly convince the domestic regulatory authorities to make concessions to the liberalisation requests from Japan. In this way, domestic regulatory authorities' resistance pushed the lead ministry's negotiating positions further back. Consequently, the Japan-ASEAN bilateral FTAs resulted in the shallow GATS-plus FTAs.

Chapter 7: Findings and Evaluation of Research

7.1 Introduction

In spite of an upsurge of bilateral FTAs in East Asia from the beginning of the 2000s, policy-led services integration does not take place in East Asia. This research investigated the political economy reasons why the Japan-ASEAN bilateral FTAs concluded in the 2000s resulted in shallow GATS-plus services trade agreements. Given that barriers to services trade emanate from domestic regulations, we assumed that domestic factors would have significant effects on the results of the negotiations. Then we analysed interests and institutions in the domestic decision-making of Japan and ASEAN by applying our policy demand and supply side model reframed from Mattli (1999a) in Chapter 5 and 6. This final chapter concludes this study in the following order. First, we test two hypotheses based on the results of the case study. Then we review the project from the analytical and methodological point of view. Lastly, we consider areas for future research.

7.2 Testing hypothesis

Hypothesis: The Japan-ASEAN bilateral FTAs concluded in the 2000s resulted in shallow GATS-plus FTAs because of political economy impediments in domestic decision-making: (i) limited pro-liberal interests, versus strong anti-liberal interests, both on the policy demand and supply sides and (ii) policy supply side constraints characterised as a horizontal fragmentation of power in combination with domestic regulatory authorities' veto power against policy changes to the status-quo.

This research project postulates first that policy demand and supply side interests act as a prerequisite to forming national negotiating positions to promote plurilateral services trade liberalisation and, second, that the domestic decision-making structure provides critical conditions

to shape interests. Below, we assess whether the empirical evidence of Japan (Chapter 5) and ASEAN (Chapter 6) support the hypothesis.

Interests

With regard to interests, the empirical evidence of Japan and ASEAN can be summarised as follows. On the policy demand side, the defensive interests of the import-competing services suppliers and incumbents in the imperfect competition, who were afraid of the erosion of rents and adjustment costs, overwhelmed weak export interests. On the policy supply side, strong diplomatic incentives to join the FTA bandwagon and strong interests in goods trade negotiations undermined the countries' negotiating positions on services trade. Also, there were limited or no incentives to lock in domestic reforms by arising from the Japan-ASEAN bilateral FTAs. Thus, the empirical evidence of Japan and ASEAN supports the hypothesis on interests. However, the empirical evidence revealed that the interests of Japan and those of ASEAN were different in detail, reflecting the level of development as well as market and policy environments in the 2000s.

In the case of Japan, export interests in services trade were unclear. This is not only due to a lack of global competitiveness in the Japanese services sector, but also due to a lack of interest in international services negotiations in general for some reasons (e.g. technical limits of the GATS as a negotiation tool, forum choice of the private economic diplomacy, and the business method of Japanese companies). Although the policy demand side interests of Japan were not as defensive as those of ASEAN countries, some professional services (i.e. nurses and care workers), who were afraid of erosion of rents and adjustment costs, actively lobbied to their regulatory authority (Ministry of Health, Labour and Welfare) with a stress on maximising a strong client relationship. Consequently, defensive interests prevailed over unclear offensive interests in Japan. As for the policy supply side, the lead ministry had a strong interest in achieving high-quality GATS-plus FTAs in terms of both coverage and the level of commitments and was motivated to lock in domestic reforms in the areas of medical related professionals (i.e. nurses and care workers). However, strong defensive forces of the domestic regulatory authorities conquered the pro-reform incentives. In addition, general motivations to create the FTAs with ASEAN further undermined the negotiating positions for services trade at the final stage of negotiation deals with ASEAN countries. First, the desire to dismantle economic disadvantages of the Japanese private sector and to take a lead in developing an FTA network in East Asia, became a strong diplomatic incentive for speedy conclusion of FTAs with ASEAN. From the economic perspective, enhancing regional supply chains in the manufacturing sector was the most important negotiation issue backed by the strong offensive lobbies of Japanese manufacturers. Finally, we should note that the idea of 'manufacturalism', which is strongly embedded in the Japanese society, influenced the interests of the business lobbyists as well as policy makers.

On the ASEAN side, export interests existed only in limited professional services while almost all domestic services suppliers (i.e. GLCs, SOEs and local SMEs) were afraid of erosion of rents and adjustment costs. Since the private sector in ASEAN, with the exception of Singapore, had never experienced FTA services negotiations before the bilateral FTA with Japan, massive fears mostly arose from risk aversion due to a lack of understanding the potential impact. For ASEAN governments, there was no substantial strategy in services trade in the first instance since ASEAN countries jumped into FTA activity with a strong diplomatic incentive. With regard to the bilateral FTA with Japan, enhancing technology transfer by attracting IPN related investments in the manufacturing sector was identified as a strong economic motivation from the development and industrial policy perspective. There were also no incentives to lock-in domestic reforms using the bilateral FTA with Japan because services sector reforms were implemented under development/industrial policy agendas. Also, politics was deeply involved in the GLCs and SOEs reform process. Lastly, we have to note that ideas of gradualism and developmentalism with notions of strong sovereignty formed the basic stance of the ASEAN's passive attitudes towards FTA services liberalisation.

Institutions (Supply side condition)

With regard to institutions, the empirical evidence supports the hypothesis. The empirical evidence demonstrated that the services trade policy-making structure, namely a wide participation of domestic regulatory authorities in the decision-making process (horizontal fragmentation of power), constituted a fundamental blockage in the way of Japan-ASEAN FTA services liberalisation. Domestic regulatory authorities, with strong regulatory concerns and a strong preference for protecting import-competing services suppliers, exercised a veto power against policy changes in the status-quo both in Japan and ASEAN. Consequently, the lead ministry's negotiating positions were set back and liberalisation concessions offers were hardly made.

Horizontal fragmentation of power created by a wide participation of domestic regulatory authorities in domestic decision-making was the key both in Japan and ASEAN since horizontal fragmentation of power enabled domestic regulatory authorities with a strong preference for the status-quo to exercise veto power. Given the lead ministry's lack of authorisation power, policy stability could not be changed by the lead ministry. Whereas the logic of veto power applies to both Japan and ASEAN, we find two significant differences between the Japan's situation and the ASEAN's situation. One is the level of the status-quo as well as the reasons behind the domestic regulatory authorities' strong preference for the status-quo. The other is the level of the lead ministry's negotiating positions.

In the case of Japan, the level of the status-quo for the domestic regulatory authorities meant maintaining substantial liberalisation. In other words, ‘policy stability’ meant no changes in the domestic regulatory environments. And the reasons why the domestic regulatory authorities had a strong preference for the status-quo were: (i) regulatory concerns (i.e. maintaining strong regulatory autonomy and pursuing their regulatory objectives) and (ii) protecting defensive interests in Mode 4 (Japanese nurses and care workers). The lead ministry aimed at high-quality services trade agreements accompanied with domestic reforms in some sectors including the medical services. However, the domestic regulatory authorities exercised a veto power against making any regulatory changes in the area of professional services. Since the lead ministry was simply a coordinator without any authorisation power, the lead ministry could not break through ‘policy stability’. As a result, the concessions for ASEAN were made under the existing legal framework without any regulatory changes.

In the case of ASEAN, the level of the status-quo located by the domestic regulatory authorities was the GATS commitments level (or moderate GATS-plus), which was significantly lower than that of Japan. The domestic regulatory authorities wanted to retain the status-quo where no GATS-plus commitments were made. The reasons were not merely regulatory concerns (i.e. maintaining regulatory autonomy and pursuing regulatory objectives) and protecting defensive interests in a certain sector or mode against erosion of rents as in the case of Japan. Rather, defensive interests of the domestic regulatory authorities in ASEAN covered a wide range of sectors and modes of supply for three reasons. These included: (i) a strong desire to retain policy space between the unilateral liberalisation level and the FTA commitment level, in order to be resilient in the face of exogenous economic factors; (ii) little motivation to use services trade liberalisation as a policy device for developing the domestic services sector; and (iii) defensive interests against changing socio economic policy or the Constitution. The lead ministry of ASEAN countries was also not motivated to make high-quality services trade agreements as the lead ministry of Japan did. The lead ministry preferred the AFAS type services agreements based on gradualism. Due to a lack of interest in the policy demand side, the negotiating power of the lead ministry became very weak. Since the domestic regulatory authorities exercised a veto power against making GATS-plus commitments, the lead ministry could hardly make concession offers to Japan.

In short, the empirical evidence of Japan and ASEAN demonstrated that the domestic regulatory authorities with a strong preference for the status-quo pushed back the lead ministry’s negotiating positions and blocked the making concessions by exercising a veto power. Since the lead ministry did not hold any authorisation power, it had to yield to the negotiating positions of the domestic regulatory authorities. The empirical evidence also indicated, in further detail, that the level of the status-quo set by domestic regulatory authorities and the level of the negotiation target set by the

lead ministry reflect the economic development level as well as market and policy environments in the 2000s.

What do our findings reveal?

The findings above epitomise the fact that both interests and institutions (supply side condition) became political economy impediments to FTA services trade integration in East Asia. In other words, two layers of political economy impediments constrained policy-led services trade integration in East Asia. The question then is: do these domestic political economy impediments reflect the distinctive characteristics of East Asia or simply the heterogeneity of services? The answer is that while institutions do reflect the heterogeneous nature of services, interests of the policy demand and supply sides mostly reflect the distinctive characteristics of East Asia.

The first layer of impediments is the decision-making institutions which reflect the heterogeneity of services. This is a horizontal fragmentation of power that creates a veto power of domestic regulatory authorities. Because the heterogeneity of services equally applies to all countries and regions, it is an unavoidable political economy impediment when a country negotiates services trade both at the plurilateral level and the multilateral level. In comparison with trade in goods negotiations, we should properly understand this institutional complexity at the domestic level.

The second layer of political economy impediments is interests which mostly reflect the distinctive characteristics of East Asia. Let us start with Japan. On the policy demand side, there were two reasons for nebulous interests.³⁴⁵ The first is the economic relation between Japan and ASEAN. The major business activity was 'B to B' in the manufacturing-related services sector in the 2000s. But 'B to B' business was stagnating in the early to middle of the 2000s due to escalating competition in the Japanese markets and diminished market attractiveness of ASEAN due to aftermath of the 1997-98 Asian financial crisis. The weak services trade relation between Japan and ASEAN countries, with the exception of Singapore revealed the distinctive characteristics of East Asia. The second reasons are non-economic. The Japanese business method of trying to adapt themselves to the host countries' regulatory systems and culture as well as a strong preference for private economic diplomacy with the host country's government rather than trade negotiations can be identified as a specificity of Japan. On the policy supply side, the following general interests in FTAs affected the negotiating positions of Japan. These are: (i) the ultimate goal was concluding FTAs to champion FTA bilateralism in East Asia and (ii) the primary focus was to support regional supply chains for Japanese manufacturers. Both strongly reflect the distinctive characteristics of Japan. Furthermore, we have to note that the ideas of 'manufacturalism', which is

³⁴⁵ See the explanation of reasons of unclear interests in 5.5.

a unique characteristic of Japan, strongly influenced the formation of interest both on the policy demand and supply sides.

Next, let us explain ASEAN's distinctive characteristics. On the policy demand side, a lack of export competitiveness and limited comparative advantage in Mode 4 resulted in negligible interests in pro-liberalisation. In addition, strong government intervention and imperfect competition as well as uncompetitive local SMEs became a powerful force against services liberalisation. These can be understood as typical characteristics of developing countries rather than of ASEAN in particular. On the policy supply side, four distinctive characteristics of ASEAN can be identified. First, general incentives for FTAs, which affected the negotiating positions of ASEAN: both (i) strong diplomatic incentive; and (ii) enhancing technology transfer through FDI in the manufacturing sector, reflect strong characteristics of ASEAN. Second, strong support of the GATS-type services trade agreement was greatly influenced by the AFAS, which is based on gradualism. For ASEAN, AFAS became the model for regional services trade integration.³⁴⁶ Third, resistance to making commitments in services reflects the policy environment of ASEAN. As the evidence of high regulatory barriers in Thailand, Malaysia, Indonesia and Viet Nam³⁴⁷ illustrates, ASEAN governments have a clear tendency to use domestic regulations as a protection measure. Lastly, a strong preference for retaining policy space between the level of unilateral liberalisation and commitments under the FTA reflects an ideology of developmentalism with a firm notion of sovereignty in ASEAN countries.

In short, while the institutional factor reflects the heterogeneity of services, interests mostly reflect the distinctive characteristics of East Asia. The heterogeneity of services constituted the first layer of impediment and the distinctive characteristics of East Asia constituted the second layer of impediment. From our research, we can conclude that the double layered impediments of domestic political economy significantly undermine services trade integration in East Asia.

7.3 Analytical constraints

A significant feature of this study was to address the lacuna in IPE literature on the East Asian FTA activity. As described in Chapter 1, there exists some IPE literature on domestic factors, however, contributions are still limited and require further development. From the analytical point of view, this research project has made two major contributions. One is that this research project

³⁴⁶ AFAS was referred as "ASEAN style" by many ASEAN government officials during a series of interviews which took place in 2015.

³⁴⁷ See Chapter 2.

pioneered the introduction of a thematic approach³⁴⁸ to IPE scholarly work on East Asian FTA activity. Before this research, a complete analysis of domestic factors and their effect on outcomes of a specific thematic agreement did not exist.³⁴⁹ Second, we modified Mattli's policy demand and supply side model to better reflect the strong influence of policy supply side interests in the FTA activity of East Asia.

While this project could make analytical contributions to the IPE literature on the East Asian FTA activity, the research reveals two analytical constraints. The first constraint is the policy demand and supply side model. The modified analytical framework allowed us to analyse interests of both policy demand and supply sides and the supply side condition (institutions). Since horizontal fragmentation of power during inter-government coordination was identified as the heterogeneity of services trade negotiations, the analytical framework, which spotlighted the decision-making institutions of the policy supply side, could well explain the complex governmental decision-making process. Nevertheless, the policy demand and supply side model itself had a structural constraint since the model cannot reflect institutions of the policy demand side. In actual fact, the policy demand side institutions, that is how interests of the policy demand side are delivered to the policy supply side in the decision-making process, affect shaping the policy supply side interests. In our argument, we balanced out the constraint by incorporating the analysis of policy demand side institutions into our discussion of policy demand side interests as 'interest representation'.³⁵⁰

The second constraint is that within the analytical framework, which focused on domestic factors, international factors became exogenous despite the fact that domestic factors and international factors are intertwined in reality. In the case of Japan-ASEAN bilateral FTAs, a strong regional hegemonic rivalry between China and Japan in East Asia regionalism (see Dent, 2008) impacted on the negotiations. China, an emerging economy and political power of the Region, proposed to ASEAN to create the ASEAN-China FTA in 2000. China's proposal was quite appealing for ASEAN as the agreement took the early harvest approach excluding services. Since the shallow ASEAN-China framework agreement entered into force in 2003, Thailand, The Philippines, and Malaysia have made use of the ASEAN-China Framework Agreement to resist the high-quality services agreements (i.e. a negative list approach) proposed by Japan. While they showed deep appreciation of the China's diplomacy in esteeming developmental interests of ASEAN, they condemned Japan's diplomacy as forcing Anglo-market-liberalism onto ASEAN. As a result,

³⁴⁸ As long as the Japan-ASEAN bilateral FTAs are concerned, there was no single case of the cross-sector concessions at the international negotiation level (Oike 2007). Therefore, the analytical framework which focused on domestic decision-making for services trade negotiations had a strong correlation with the results of negotiations.

³⁴⁹ One of reasons would be perhaps the quality analysis of agreements and commitments requires a legal disciplinary approach as well as technical knowledge in a particular economic issue.

³⁵⁰ See Chapter 5:5.3.1.C and Chapter 6:6.3.1.C.

Japan had to withdraw their proposal of high-quality services agreements from the negotiation table.³⁵¹

7.4 Methodological limitations

The methodological strength of this research lay in providing empirical studies of both signatories of the bilateral FTAs: Japan and ASEAN. As pointed out in Chapter 1 (1.2.2), observation of simply one signatory cannot demonstrate the strong correlation between domestic factors and the outcomes of the negotiations. By analysing the domestic factors of both signatories of a bilateral FTA, we were able to establish more clearly a causal link between domestic factors and the results of negotiations in comparison with studies which provided only one signatory case study such as Solis (2010 and 2013).

While we attempted the best possible methodology to analyse international political economy of services trade integration in East Asia, there have been three methodological limitations as outlined below.

Limits of qualitative interviews

This project selected the Japan-ASEAN bilateral FTAs as a case study. Accordingly, the case study had to cover seven countries. These were: Japan and six ASEAN countries (Singapore, Malaysia, Thailand, The Philippines, Indonesia and Viet Nam) which concluded bilateral FTAs with Japan. This research project benefitted from the network that the researcher had established through previous positions at UNCTAD, the Japanese government as well as the Keidanren. The network was especially useful for accessing Japanese government officials, private sector individuals and policy analysts at the international organisations.

In comparison, the researcher faced difficulties in having access to ASEAN government officials as well as private sector individuals of ASEAN countries. This was not only because the researcher did not have such an intensive network as the one with Japan, but also because the policy-making practices of ASEAN countries were not so open. For example, the qualitative interviews with ASEAN government officials that did materialise were the ones which were supported by Japanese senior government officials or senior officials of international organisations. It should be noted that even with this support, only half of the attempted appointments materialised in the end. ASEAN government officials and private sector individuals seemed fearful of unveiling the facts or their

³⁵¹ See Chapter 5: 5.4 and 5.5.3.

thoughts even under full assurance of confidence. As a result, the sample size of interviewees of ASEAN was smaller than that of Japan.

Limits of qualitative analysis

Qualitative analysis was employed as the major method of this research project. While this enabled us to provide rich explanations on actors involved in the services decision-making process, collection of qualitative data over seven countries (Japan, Singapore, Malaysia, Thailand, The Philippines, Indonesia and Viet Nam) was extremely time consuming. Amongst these, collecting the same level of qualitative data over six ASEAN countries was extremely difficult. To make the research project manageable within a fixed timeframe, the author had to carefully examine the amount of qualitative data to be collected and estimate time and procedure to collect the data during the research design process.

Limited primary and secondary sources of information about services trade policy-making of ASEAN countries in comparison with those of Japan

The author of this work had the privilege of using the Japanese language as a mother tongue for collecting primary and secondary sources of information which are not available in English. On the other hand, collecting primary and secondary sources of information about services trade policy-making of ASEAN countries could not reach the level of achievement for the case study on Japan (Chapter 5). This was mainly because records of trade policy-making practice as well as policy-related information (e.g. negotiation records, policy papers of the private sector, detailed information on the government websites) were very limited in developing countries. In addition, non-English speaking ASEAN countries (i.e. Thailand, Indonesia and Viet Nam) had limited sources of information in English in the area of our analysis.

7.5 Areas for future research

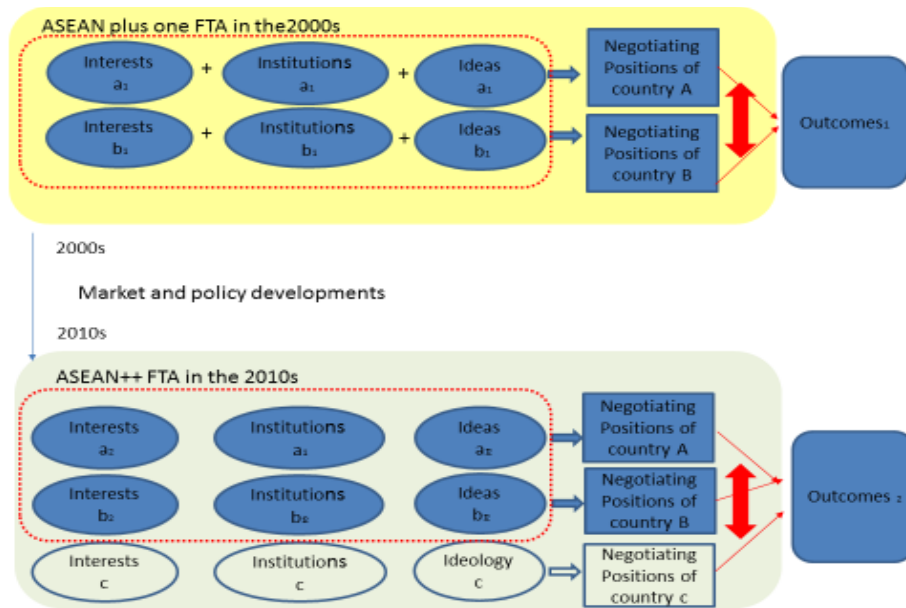
From this research project, two areas for future study can be identified. First, one could develop this research project to a process tracing analysis. This means that one could apply the analytical framework of this project to examine the impact of domestic political economy factors on the ASEAN++ type of FTAs in East Asia, such as currently negotiated ASEAN plus six (Regional Economic Partnership (RCEP)). Second, one could include the international factors, which are treated as exogenous factors under this project, into the analytical framework.

Political economy of the domestic decision-making and its impacts on the outcomes of RCEP

This project provided a snapshot of the Japan-ASEAN bilateral FTAs negotiations which took place in the 2000s to examine how domestic political economy factors influenced the outcomes of FTA negotiations. Since ASEAN plus one type of FTAs were negotiated in the 2000s, market and policy environments have been gradually changing. Consequently, domestic political economy factors would be reshaped from the 2000s. For instance, the interests of the governments as well as the private sector would gradually evolve in response to environmental changes. Given the socio-economic diversities in East Asia, offensive interests in FTA services trade negotiations may grow in some countries whilst offensive interests in other countries may stay with the status-quo in other countries. As for the domestic decision-making structure, horizontal fragmentation of government, which is considered as a heterogeneity of services trade policy-making, is likely to remain. The services trade negotiations require the participation of almost all domestic regulatory ministries during the domestic policy-making process. And a lead ministry without an authorisation power would continuously face difficulties in drawing negotiating flexibility from the domestic regulatory authorities with political power. It is expected that as FTA negotiating matters go deeper into domestic regulatory issues, so there would be more resistance to protect their regulatory autonomy from the domestic regulatory authorities. As for ideas, they cannot be radically changed. However, they can gradually evolve over time as the market and policy environments change at the domestic and international level.

In this regard, the result of this research project can be used as phase one of the process tracing research about impacts of domestic political economy on FTA services trade negotiations in East Asia (Figure 7-1). By conducting process tracing analysis, we can further develop the argument on whether the heterogeneity of services, or distinctive characteristics of East Asia, are stronger in nature. The RCEP would become a good case study once the negotiations are completed.

Figure 7-1: Areas for future research – Process tracing research on the impact of domestic political economy



Incorporating international political economy factors into endogenous factors

This research project illuminated the impact of domestic political economy factors on the negotiating outcomes, since domestic regulations are the central negotiating issues in the case of services trade, as described in terms of the heterogeneity of services in Chapter 2. On the other hand, from the empirical evidence, we found that Sino-Japan regional hegemonic rivalry in forming FTAs was also an important factor which negatively influenced the outcomes of Japan-ASEAN bilateral FTAs in the 2000s. Grossman and Helpman (1995) underlined that *international interdependence sets the parameters for the domestic political contest, while the domestic political environment constrains the actions that governments can take internationally* (Grossman and Helpman 1995, p668). In this regard, incorporating international political factors into endogenous factors of an analytical framework can develop debates on the political economy of services trade integration in East Asia.

For example, a theory of FTA championship (Dent 2007) would be a useful theory from this perspective. According to Dent (2007), there exist three types of FTA models in the Asia-Pacific region. One is the US's 'asymmetric neo-liberal' FTA model (Dent 2007, p464) which is based on strong market liberalism with a wide scope of coverage in the non-tariff issues without economic co-operation considerations. The second is Japan's FTA model which basically shares the US approach with strong economic co-operation considerations. The third is China's 'developing

country' FTA model which applies gradualism with a simple FTA framework focusing on trade in goods liberalisation.

Another theory is asymmetric power among FTA members and its influences on the FTA provisions. Dent (2010b) spotlighted the changing nature of FTAs in the Asia Pacific region, which is a transition from market access negotiations to negotiations and contestations of commercial regulatory provisions. He detected that asymmetric power among FTA members influences the 'FTA templates' (e.g. scope, coverage and nature). A major power can enforce its preferable 'FTA templates' and draw more concessions from smaller countries. For example, the US could force the most comprehensive, WTO-plus type of FTA which includes non-tariff issues such as investment, intellectual property, competition, environment standards and government procurement.

In the 2000s, China's 'developing country' FTA model was strongly supported by ASEAN countries and negatively influenced the outcomes of services trade negotiations in the Japan-ASEAN FTAs. As for RCEP, which model, either Japan's model, China's model or the US model, would champion designing services trade agreements and determining the level of commitments? In the 2010s, the TPP, which applies the US model, can be considered as a potential international factor which may trigger services integration in East Asia under RCEP. As seven countries (Australia, Brunei, Japan, Malaysia, New Zealand, Singapore, and Viet Nam) out of 17 RCEP participating countries have already joined the TPP, political and/or economic domino effects of TPP are likely to take place sooner or later. Currently, South Korea, which already has a bilateral FTA with the US, shows strong interest in participating in the TPP. Indonesia also showed an intention to join the TPP.³⁵² Consequently, the influence of the US model will become stronger. However, from the theory of asymmetric power among FTA members and its influences on the FTA provisions, RCEP would not be able to achieve a high-level services agreement like the one for the TPP due to the absence of the US.

In short, domestic political economy factors constitute the fundamental impediments to services integration in East Asia. However, if one inserts the systemic international factors into an analytical framework in addition to the domestic factors, the argument would become more powerful and comprehensive.

³⁵² The President Widodo of Indonesia showed interests in joining the TPP at the bilateral summit meeting with President Obama of the US which took place in 26 October, 2015. However, questions remain as to the domestic capacities of market liberalisation in Indonesia.

7.6 Conclusion

Services trade integration in East Asia lags far behind goods trade integration. The objective of this research project was to find out the political economy reasons for why policy-led integration does not take place in spite of a rise in FTA activity in the Region from the early 2000s. To investigate, we highlighted domestic political economy determinants since trade barriers lie behind borders in the case of services trade.

First of all, we presented the research design (Chapter 1). We described the state of the art of the IPE literature on the FTA activity in East Asia and its limitations. Then we explained the hypotheses and the analytical framework to explain the domestic political economy factors. In Chapter 2, we conceptualised services trade by spotlighting the heterogeneity of services trade in comparison with goods trade in order to associate the heterogeneous nature of services with our political economy debates. In Chapter 3, we demonstrated underdeveloped services trade integration in East Asia in terms of the market and policy, that are the distinctive characteristics of East Asia. Chapter 4 served to understand the services trade decision-making in practice in order to facilitate the debates on interests and institutions in the domestic decision-making process in the following chapters of the case study. In our case study (Chapter 5 and 6), we examined interests and institutions in the decision-making process for the Japan-ASEAN bilateral FTAs concluded in the 2000s. We applied our refined policy demand and supply model in combination with the veto player model to analyse supply side conditions. We first examined the case from Japan's perspective (Chapter 5) followed by ASEAN's perspective (Chapter 6). Then the final chapter (Chapter 7) reviewed our research project.

In conclusion, the empirical evidence of Japan and ASEAN basically supported our hypotheses on interests and institutions. From the findings, we conclude that there exist two layers of impediments to services trade integration in East Asia. Whereas the institutional impediments reflect the heterogeneity of services, interests mostly reflect the distinctive characteristics of East Asia. The heterogeneity of services constituted the first layer of impediment and the distinctive characteristics of East Asia constituted the second layer of impediment. The double layered impediments of domestic political economy significantly undermined policy-led services trade integration in East Asia.

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Appendices

Appendix 1: Anonymous List of Interviewees

Occupation	Date of interview
Senior Fellow, Research Institute of Economy, Trade and Industry, Japan (Former Head of international trade negotiation, METI, Japan)	26 December, 2011 24 April, 2015
Counsellor, WTO secretariat	8 April, 2013 21 July, 2015
Counsellor, Permanent Mission of Japan to the international organisations, Geneva	9 April, 2013
Deputy Director-General, Ministry of Foreign Affairs, Japan	9 April, 2013 23 April, 2015
Counsellor, Permanent Mission of the Republic of Korea in Geneva	9 April, 2013
Counsellor, Permanent Mission of Thailand to the WTO	9 April, 2013
Counsellor, Permanent Mission of Thailand to the WTO	9 April, 2013
Counsellor, WTO secretariat	10 April, 2013
Counsellor, WTO secretariat	10 April, 2013
Second Secretary, Permanent Mission of the Republic of The Philippines to the WTO, Geneva	10 April, 2013 20 July, 2015
Counsellor, WTO secretariat	10 April, 2013
Counsellor, WTO secretariat	11 April, 2013
Deputy Permanent Representative, Permanent Mission of the Socialist Republic of Viet Nam, Geneva	11 April, 2013 22 July, 2015
Trade Policy Analyst, WTO secretariat	11 April, 2013 22 July, 2015
Counsellor, WTO secretariat	11 April, 2013
First Secretary, Permanent Mission of the Republic of Indonesia, Geneva	12 April, 2013 22 July, 2015
Third secretary, Permanent Mission of the People's Republic of China to the WTO	12 April, 2013
Counsellor, WTO secretariat	12 April, 2013 22 July, 2015
Professor, Keio University, Japan	7 November, 2014
Senior Manager, Keidanren secretariat	8 November, 2014 27 April, 2015
Director, Japan Chamber of Commerce and Industry	20 April, 2015
Ambassador, Ministry of Foreign Affairs, Japan	21 April, 2015
Director, Japan External Trade Organisation	20 April, 2015
Deputy Director, International Economy Division, Japan External Trade Organisation	20 April, 2015
Director General, Japan External Trade Organisation (previous services trade negotiator, METI, Japan)	20 April, 2015
Senior Research Officer, Research Department- Public Policy, Mizuho Research Institute Ltd.	21 April, 2015
Director, METI, Japan	21 April, 2015

Director, International Legal Counsel Office, METI, Japan	21 April, 2015
Member of the Public Policy Committee, Japan Information Technology, Services Industry Association, Japan Member of Japan Services Network	22 April, 2015
Special Advisor, Liaison Officer for Japan and East Asia, The Geneva Association	22 April, 2015
General Manager, The General Insurance Association of Japan	22 April, 2015
Former head of services trade negotiations, METI, Japan	23 April, 2015
Professor, Chiba University	28 April, 2015
Deputy Director, Office of International Affairs, Financial Services Agency, Japan	30 April, 2015
Counsellor, Permanent Mission of the Socialist Republic of Viet Nam, Geneva	20 July, 2015
Senior Counsel, GE Japan (previously services trade negotiator, METI, Japan)	28 April, 2015
Deputy Director-General, Financial Services Agency, Japan	30 April, 2015
Director, Financial Services Agency	30 April, 2015
Minister Counsellor, Permanent Mission of Thailand to the WTO	20 July, 2015
Director, WTO secretariat	21 July, 2015
Second Secretary, Permanent Mission of the Republic of Indonesia, Geneva	22 July, 2015
Counsellor, WTO secretariat	22 July, 2015
Counsellor, Permanent Mission of Thailand to the WTO	23 July, 2015
Director, WTO secretariat	23 July, 2015
Counsellor, Permanent Mission of Thailand to the WTO	23 July, 2015
Director, World Trade Institute	24 July, 2015
Trade Consultant, The Philippines (Previously, trade policy officer, ASEAN secretariat)	2 October, 2015
Senior Director, Ministry of International Trade and Industry, Malaysia	20 October, 2015

Appendix 2: Questionnaire to Government for the field study in Geneva, 2013

Questionnaire to Government

***The questionnaire is used only for the academic research purposes. I will not disclose the answers given to the questions below for other purposes.**

Section A. Services trade policy-making in general

1. Government

Q A.1.1: Which ministry/department leads (or represents) government for services trade negotiations? Is the lead ministry same for the multilateral negotiations for the WTO and plurilateral negotiations?

Q. A.1.2: What are the relations between Ministry of foreign affairs and Ministry of Trade and Industry (or Ministry of Commerce) in terms of leading services trade negotiations?

Q A.1.3: Which ministries and regulatory agencies are involved in services trade policy formulation other than the lead ministry mentioned above? Please list all relevant ministries and agencies.

Q A.1.4: Does the provincial authority participate in the services trade policy-making? Or does it show any interests in any specific sectors?

Q. A.1.5: In general, which ministries are in favour of promoting services trade liberalisation?

Q. A.1.6: In general, which ministries are defensive in services trade liberalisation?

Q. A.1.7: How does the lead ministry reconcile different positions among the ministries and regulatory agencies involved to adopt a country's position?

2. Private sector (business sector)

Q. A.2.1: Does the private sector involve in services trade policy-making in your country?

If YES, please go to Q.A. 2.2-Q.A.2.5

If NO, please go to Q.A.2.6

Q. A.2.2: If Yes (Q2.1), what kind of organisations and firms are major actors? Please list up the name of the organisations in each category.

- (i) Business Federations
- (ii) Sector associations (sector associations and professional associations)
- (iii) Services coalitions (e.g. Coalition of Services Industries (CSI) of the US and European Services Network (ESN) of the EU)
- (iv) Individual firms

Q. A.2.3: To what extent can business lobbying group participate in trade policy formulation (access to the policy making process)?

Q. A.2.4: Does the lead ministry have any formal institutionalised consultation system with the private sector?

- If YES, what kind of formal consultation system is institutionalised?
- Does the lead ministry also informally consult with some private organisations or firms which do not participate in the formal consultation?

- If NO, does the lead ministry informally consult with the private sector?

Q. A.2.5: Do the ministries and/or regulatory authorities which participate in services trade policy-making process also directly contact with the private sector to make its own positions?

Q. A.2.6: If No (Q A.2.1), why does the private sector take participate in services trade policy-making in your country? (e.g. there is no culture to involve the private sector, there is no interests shown from the private sector, government does not want the private sector to be involved, and a lack of capacities of the private sector)

Q. A.2.7: In general, which services sector show interests in liberalising services trade of trade partners?

Q. A.2.8: In general, which services sector show interests in liberalising domestic services markets?

Q.A. 2.9: In general, which services sector are offensive against services liberalisation?

Section B. Your observations on services trade and its policy-making process of your country

Q. B.1.1: What do you observe your government's interests in services trade liberalisation (in comparison with goods trade), especially through PTAs?

Q. B.1.2: How do you observe your country's services sector? Are there any competitive sectors? Are there any sectors which show growing competitiveness?

Q. B.1.3: Do you think that there are any services sectors which require government protection in your country?

Q. B.1.4: What do you observe your country's on-going reforms in the services sector (e.g. privatisation of state owned enterprises, imperfect competition)?

Q. B. 1.5: Do you think that there are any differences between services trade-policy-making for the WTO negotiations and one for the PTA negotiations? (e.g. Home ministries show more interests in PTA negotiations as their negotiation targets against the PTA partners becomes clear)

Q. B.1.6: Do you think that trade policy-making process in services is more complicated vis-a-vis one in goods trade? (e.g. involvement of many ministries, regulatory issues and complex services agreement)

Q. B. 1.7: Do you think that the private sector in your country is well aware of the importance of services liberalisation?

Q. B.1.8: Do you think that the private sector in your country has capacities to lobby for services trade negotiations in terms of human resources and financing?

Section C. Services trade negotiations of PTAs in East Asia

This section specifically asks about the past services trade negotiations of your countries' PTAs within East Asia:

Please answer the following questions for each case.

1. Government

Q. C.1.1: Which ministries and regulatory agencies are involved in services trade policy formulation other than the lead ministry mentioned above? Please list all relevant ministries and agencies.

Q. C.1.2: Did which ministries show offensive interests?

Q.C.1.3: Did which ministries show defensive interests?

Q. C.1.4: Did the Provincial government participate in the policy making process? Or does it show any interests in any specific sectors?

Q.C.1.5: If YES (in Q.C. 1.4), what kind of provincial institutions participate? What kind of interests did they present? How were they involved in the negotiations?

Q. A.1.5: How did the lead ministry reconcile different positions among the ministries and regulatory agencies involved to adopt a country's position?

2. The private sector (business sector)

Q. C.2.1: Did the private sector involve in the negotiation?

If YES, please go to Q. C2.2-Q.C.2.5

If NO, please go to Q.C.2.6

Q. C.2.2: If Yes (Q.C.2.1), what kind of organisations and firms were major actors? Please list up the name of the organisations in each category.

- (i) Business Federations
- (ii) Sector associations (sector associations and professional associations)

- (iii) Services coalitions (e.g. Coalition of Services Industries (CSI) of the US and European Services Network (ESN) of the EU)
- (iv) Individual firms

Q. C.2.3: To what extent could business lobbying group participate in trade policy formulation (access to the policy making process)?

Q. C.2.4: Did the lead ministry have any formal institutionalised consultation system with the private sector?

- If YES, under what kind of formal consultation system?
- Did the lead ministry also informally consult with some private sector which did not participate in the formal consultation
- If NO, does the lead ministry informally consult with the private sector?

Q. C.2.5: Did the ministries and/or regulatory authorities which participate in services trade policy-making process also directly contact with the private sector to make its own positions?

Q. C.2.6: If No (Q C.2.1), why does the private sector take participate in services trade policy-making in your country? (e.g. there is no culture to involve the private sector, there are no interests shown from the private sector, government does not want the private sector to be involved, and a lack of capacities of the private sector)

Q. C.2.7: Which services sector showed interests in liberalising services trade of trade partners?

Q. C.2.8: Which services sector showed interests in liberalising domestic services markets?

Q.C.2.9: Which services sectors were offensive against services liberalisation?

Thank you very much for your cooperation!

Appendix 3: Questionnaire to the Japanese Government³⁵³

Questionnaire to the Japanese Government (METI)

***The questionnaire is used entirely for the research project about the trade policy-making in East Asia at the London School of Economics. Your name will not be disclosed unless you provide special permissions to do so.**

Section A. General observations on services trade and its policy-making process

Q.A.1: How do you observe your government's interests in services trade liberalisation in comparison with those in goods trade?

Q.A.2: How do you observe the Japanese private sector's interests in services trade liberalisation in comparison with those in goods trade?

Q.A.3: Do you think that trade policy-making process in services trade is more complicated vis-a-vis one in goods trade? (e.g. involvement of many ministries, regulatory autonomy and complexities of the services agreements)

Q.A.4: How do you evaluate your country's services sector (e.g. domestic services structure, international competitiveness, their business in the Asian FTA partners)?

Q.A.5: Do you observe that the Japanese companies are becoming more active in expanding their markets in East Asia? Do you observe that services trade and investment among East Asian countries would increase in the future?

³⁵³ Questionnaires were prepared for each ministries. Annex 3 is the one prepared for the METI, Japan

Please answer the questions below based on your experience through the FTA negotiations for services of which you were in charge.

Section B. Services trade policy-making for the FTAs in East Asia and the Japanese government institution

3. Government

Q.B.1.1: Did which ministry officially lead (or represent) the Japanese government for the FTA services trade negotiations? Only MOFA? Or both MOFA and METI?

Q.B.1.2: Which ministries and regulatory agencies were involved in services trade policy making other than the METI and the MOFA? Please list all relevant ministries and agencies.

Q.B.1.3: What was the METI's role during the services negotiations? How do you evaluate the role of the METI?

Q.B.1.4: How do you observe the relations between the METI and the MOFA through a whole process of policy-making (e.g. making the general negotiation positions of Japan and making the requests and offers and take a final decision)?

Q.B.1.5: Prior to the internal government policy coordination, did the METI internally make the initial negotiation positions? If so, please explain about (i) the initial negotiation objectives, (ii) tactics and (iii) the level of agreement.

Q.B.1.6: Among the incentives to create the FTAs listed below (a-g), please tick the degree of importance you think relevant. Please add any incentives if any.

a. Eliminate negative effects caused by the existing FTAs

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

b. Strengthen preferential treatments (minimum GATS-plus) vis-a vis external regions

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

c. Extension of MFN treatment from the existing FTAs which a partner country concluded with the third parties

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

d. Fulfil the requirements of the GATS Art.V in order to be compatible with the WTO system

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

e. Achieve the requests from the Japanese export oriented services suppliers

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

f. Achieve the requests from the import competing, defensive services suppliers to protect the domestic market

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

g. Achieve the requests from the Japanese manufactures to improve the business environment in East Asia

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

h. Other incentives if any:

Q. B.1.7: Which ministries were in favour of opening the market of the FTA partner(s)?

Q.B.1.8: Which ministries are defensive in liberalising the Japanese services markets in terms of the sectors and Modes?

Q.B.1.9: To adopt the country's positions, did you observe that there were any difficulties in reconciling different positions among the ministries and regulatory agencies involved? If so, how did the lead ministry (MOFA?) reconcile them?

Q.B.1.10: How do you evaluate the MOFA's negotiating power inside the government as lead ministry of services trade negotiations?

Q.B.1.11: How do you self-evaluate the METI's negotiating power inside the government?

Q.B.1.12: Do you think that the ministries or regulatory authorities with regulatory autonomy exercised political power during the policy-making process?

The Private sector (business sector)

Q.B.2.1: Do you think that the Japanese private sector has been active in lobbying for the FTA services trade negotiations?

Q.B.2.2: Did the Japanese government establish institutionalised consultation systems with the private sector for the FTA negotiations? If so, please explain the system.

Q.B.2.3: In addition to the system mentioned above, did the METI independently use other formal consultation system specifically for the private sector?

Q.B.2.4: Other than the formal consultation system, did the METI frequently take contact with the business lobbying groups (or firms)?

Q.B.2.5: What kind of organisations and firms were closely taking contact with the METI? Please list up the name of the organisations in each category.

(v) Business Federations

- (vi) Sector associations (sector associations and professional associations)
- (vii) Professional associations
- (viii) Individual firms

Q.B.2.6: To what extent did the METI grasp the fact that the other ministries and/or regulatory authorities which participate in services trade policy-making process have direct contact with a specific private sector or firms to get technical information and make its own positions?

Q.B.2.7 Do you think that the private sector which informally lobbied their regulatory agencies also shared the information with the METI?

Q. B.2.8: Which services sectors (or firms) showed interests in liberalising services markets of the FTA partner(s)?

Q.B.2.9: Were there any services sectors (or firms) which showed interests in liberalising the Japanese services markets?

Q.B.2.10: Which services sectors (or firms) were defensive against services liberalisation of the Japanese services markets?

Q.B.2.11: Among the Japanese private sector mentioned above, inputs from which organisations (or firms) were powerful?

Q.B.2.12: Among the export oriented services suppliers and the import-competing services suppliers which one was influential in terms of services trade policy-making for the FTA?

Section C. Evaluation of the agreement and commitments

Q.C.1: Do you evaluate that the Japanese government could satisfactory achieve the substantially GATS-plus services trade agreements? If yes, which part of the agreements? If not, what were the reasons?

Q.C.2: Do you think that the review process provided in the agreement is effective enough to improve the level of liberalisation?

Q.C.3: Do you think that the private sector is in favour of other international institutional arrangements (e.g. BIT) other than FTAs?

Q.C.4: Would you please explain why the Japan-ASEAN FTA could not include the services agreements? What is the current status of the negotiations?

ご協力、どうもありがとうございました

Appendix 4: Questionnaire to the Japanese private sector

Questionnaire to the Private Sector

***The questionnaire is used entirely for a research purpose. Your name will not be disclosed unless you provide special permissions to do so.**

Section A. General observations on services trade and its policy-making process

Q.A.1: How do you observe your organisation (association, or company)'s interests in services trade liberalisation in comparison with those in goods trade? And why do you think so?

Q.A.2: How do you evaluate your country's services sector (e.g. domestic services structure, international competitiveness, their business in the Asian FTA partners)?

Q.A.3: Do you observe that the Japanese services suppliers are becoming more active in expanding their markets in East Asia? Do you observe that services trade and investment among East Asian countries would increase in the future?

Please answer the questions below based on your experience through the FTA negotiations for services trade of which you were in charge.

Section B. Services trade policy-making for the seven bilateral FTAs* in East Asia and its policy institution

*Seven bilateral FTAs in East Asia include: Japan-Singapore FTA, Japan-Malaysian FTA, Japan-Thailand FTA, Japan-Brunei FTA, Japan-Indonesian FTA, Japan-The Philippines FTA, and Japan-Viet Nam FTA

4. The Private sector (business sector)

Q. B. 2.1: Do you think that the Japanese private sector has been actively lobbying for the FTA services trade negotiations?

Q.B.2.2: Did the Japanese government establish institutionalised consultation systems with the private sector for the FTA negotiations? If so, please explain the system.

Q.B.2.3: In addition to the system mentioned above, did the MOFA independently use other formal consultation system specifically for the private sector?

Q.B.2.4: Other than the formal consultation system, did the business lobbying groups (or firms) frequently take contact with the MOFA through the policy making process (e.g. pre-consultation of the negotiations, up-dating the on-going negotiations status)?

Q.B.2.5: What kind of organisations and firms were major actors? Please list up the name of the organisations in each category.

- (ix) Business Federations
- (x) Sector associations (sector associations and professional associations)
- (xi) Professional associations
- (xii) Individual firms

Q.B.2.6: Did the MOFA also make use of informal consultations with some private sector (e.g. business Federations, sector associations, professional associations and individual firms)?

Q.B.2.7: To what extent did the MOFA grasp the fact that the other ministries and/or regulatory authorities which participate in services trade policy-making process have direct contact with a specific private sector or firms to get technical information and make its own positions?

Q.B.2.8: Do you think that the private sector which informally lobbied their regulatory agencies also shared the information with the MOFA?

Q.B.2.9: Which services sectors (or firms) showed interests in liberalising services markets of the FTA partner(s)?

Q.B.2.10: Were there any services sectors (or firms) which showed interests in liberalising the Japanese services markets?

Q.B.2.11: Which services sectors were defensive against services liberalisation?

5. Government

Q.B.1.1: Did which ministry officially lead (or represent) the Japanese government for the FTA services trade negotiations? Only MOFA? Or both MOFA and METI?

Q.B.1.2: Were which ministries and regulatory agencies involved in services trade policy making other than the MOFA and the METI? Please list all relevant ministries and agencies.

Q.B.1.3: What was the METI's role during the services negotiations? How do you evaluate the role of METI?

Q.B.1.4: How do you observe the relations between the MOFA and the METI through a whole process of policy-making (e.g. making the general negotiation positions of Japan and making the requests and offers and take a final decision)?

Q.B.1.5: Prior to the internal government policy coordination, did the MOFA internally make the initial negotiation positions? If so, please explain about (i) the initial negotiation objectives, (ii) tactics and (iii) the level of agreement.

Q.B.1.6: Among the incentives to create the FTA mentioned below, do you think which one was the most important for the MOFA? Please tick one from five options categorised by a degree of incentives. Please add any incentives if any other than the below.

- a. Eliminate negative effects caused by existing FTAs
 1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong
- b. Strengthen preferential treatments (minimum GATS-plus) vis-a vis external regions
 1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong
- c. Fulfil the requirements of the GATS Art.V in order to be compatible with the WTO system
 1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong
- d. Achieve the requests from the Japanese export oriented services suppliers
 1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong
- e. Achieve the requests from the import competing, defensive services suppliers to protect the domestic market
 1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

Q. B.1.7: Which ministries were in favour of opening the market of the FTA partner(s)?

Q.B.1.8: Which ministries are defensive in liberalising the Japanese services markets in terms of the sectors and Modes?

Q.B.1.9: To adopt the country's positions, did you have any difficulties in reconciling different positions among the ministries and regulatory agencies involved? If so, how did the MOFA reconcile them?

Q.B.1.10: How do you self-evaluate the MOFA's negotiating power inside the government as lead ministry of services trade negotiations?

Q.B.1.11. Do you think that the ministries or regulatory authorities with regulatory autonomy exercised political power during the policy-making process?

Section C. Evaluation of the agreement and its commitments

Q.C.1: What are the highlights of the agreement?

Q.C.2: As for the Japan's commitments, which sectors are more liberalised than the GATS commitments?

Q.C.3: As for the partner country's commitments, which sectors are more liberalised than the GATS commitments?

Q.C.4: Do you evaluate that the MOFA could achieve the substantially GATS-plus services trade agreements? If yes, which part of the agreements? If not, which part of the agreements and what were the reasons?

Q.C.5: Would you please explain why Japan-ASEAN FTA could not include the services agreements? What is the current status of the negotiations?

Q.C.6: Do you think that the review process provided in the agreements is effective enough to improve the commitments?

Q.C.7: What is the current status of implementation issue and/or further negotiations issues of the agreement?

Thank you for your cooperation!

ご協力、どうもありがとうございました。

Appendix 5: Questionnaire to the ASEAN governments

Questionnaire to the government officials of the ASEAN countries

***This questionnaire is used entirely for a research project about the Political Economy of services trade integration in the East Asia –A case study of the Japan-ASEAN FTAs at the London School of Economics (see the research outline in detail). To elucidate the experiences of the ASEAN countries, your supports in answering the questionnaire is necessary. Your name will not be disclosed unless you provide a special permission to do so.**

Below is a short description of the objective of the questionnaire.

This research defines that services trade integration as the process of interactions between markets and policies (FTAs). Services trade integration in East Asia lags far behind from goods integration both in terms of markets and policies. Taking the ASEAN-Japan relations as an example, at the time when the ASEAN-Japan bilateral FTAs were concluded during the 2000s, neither market integration nor policy integration took place.

The main objective of this questionnaire is to identify the policy side reasons. The question: **why did the ASEAN-Japan services trade chapters in the bilateral FTAs between the ASEAN countries and Japan in the 2000s result in the shallow agreements (very limited GATS-plus)?** is at the core of our research interests. By finding the key factors, we can further develop arguments to their implications to on-going services trade integration which are taking place in the 2010s.

Section A. General observations on services trade and its policy-making institution

Q.A.1: How do you observe your government's interests in services trade liberalisation *in comparison with those in goods trade*? Do you think that your government's interests in services trade has been changing in the 2010s in comparison with the ones in the 2000s, around the time when your government made the bilateral FTA with Japan (as well as ASEAN plus Japan FTA)?

Q.A.2: How do you observe your country's private sector's interests in services trade liberalisation *in comparison with those in goods trade*? Do you think that the private sector's interests in services trade have been changing in the 2010s in comparison with the ones in the 2000s, around the time when your government made the bilateral FTA with Japan (as well as ASEAN plus Japan FTA)?

Q.A.3: Do you think that trade policy-making process for services trade is more complicated vis-a-vis the one for goods trade? If so, what are the reasons (e.g. involvement of many ministries, regulatory autonomy and complexities of the services agreements)?

Q.A.4: How do you evaluate your country's industrial policy for services industry? Do you observe that industrial policy for services was different in the 2000s in comparison with the one in the 2010s?

Q.A.5: Do you think that your country (e.g. government, the private sector and society in general) prioritise more on the manufacturing sector rather than the services sector?

Q.A.6: How do you evaluate your country's services sector? Are there any significant development from the 2000s (e.g. domestic services structure, competitiveness and their business in Asia)?

Q.A.7: How do you evaluate the progress of internal services integration of the ASEAN in comparison with the 2000s?

Q.A.8: Do you think that your country takes into account the degree of internal services integration of ASEAN when it negotiates an FTA with non-ASEAN country?

Section B. Services trade policy-making for the FTA with Japan

* If you were involved in the FTA negotiations with Japan, please provide answers based on your specific experience of negotiations with Japan. If you were not involved in the FTA with Japan, please provide general answers.

6. Government

Q.B.1.1: Which ministry officially lead (or represent) your government for the FTA services trade negotiations (hereafter “lead ministry”)?

Q B.1.2: Which ministries and regulatory agencies were involved in services trade policy making other than the above “lead ministry”? Please list all relevant ministries and agencies.

Q.B.1.3: How do you observe political power of the “lead ministry”?

Q.B.1.4: Prior to the internal government policy coordination, does the “lead ministry” internally make the initial negotiating positions? If so, please explain about the initial objectives and negotiating position of the “lead ministry” at the time of the FTA with Japan?

Q.B.1.6: Among the incentives to create the FTAs listed below (a-g), please tick the degree of importance you think relevant. Please add any incentives if any.

a. Eliminate negative effects caused by the existing FTAs

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

b. Strengthen preferential treatments (minimum GATS-plus) vis-a vis external regions

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

c. Extension of MFN treatments from the existing FTAs which a partner country concluded with the third parties

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

d. Fulfil the requirements of the GATS Art.V in order to be compatible with the WTO system

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

e. Achieve the requests from the domestic services suppliers which export services

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

f. Achieve the requests from the import competing, defensive services suppliers to protect the domestic market

1. Very weak, 2. Weak, 3. Not so weak but not so strong, 4. Strong, 5 Very strong

h. Other incentives if any:

Q. B.1.7: Which ministries were in favour of opening the market of Japan at the time of the FTA with Japan?

Q.B.1.8: Which ministries were defensive in liberalising the domestic services markets both in terms of the sectors and Modes?

Q.B.1.9: To adopt the country's positions, did you have any difficulties in reconciling different positions among the ministries and regulatory agencies involved? If so, how did the "lead ministry" reconcile them?

Q.B.1.10: How do you evaluate the lead ministry's negotiating power inside the government at the time of the FTA negotiations with Japan?

Q.B.1.11. Do you think that the ministries or regulatory authorities with regulatory autonomy exercised political power during the policy-making process?

7. The Private sector (business sector)

Q. B.2.1: How was your country's private sector involved in lobbying for the services trade negotiations of the FTA with Japan? (if you were not involved in the FTA with Japan, how is your country's private sector involved in lobbying for the services trade negotiations for the FTAs?)

Q.B.2.2: Is your country's private sector becoming more active in lobbying in the 2010s in comparison with the 2000s? If so, do you think what are the reasons?

Q.B.2.3: Did your government establish institutionalised consultation system with the private sector for the FTA negotiations with Japan? If so, please explain the system (if you were not involved in the FTA with Japan, please provide general explanations).

Q.B.2.4: In addition to the system mentioned above, did the "lead ministry" and/or domestic regulatory ministries/agencies use other formal consultation systems specifically with the private sector?

Q.B.2.5: Did the current consultation system drastically change from the ones in the 2000s?

Q.B.2.6: Other than the formal consultation systems, did the business lobbying groups (or individual companies) frequently take contact with the "lead ministry" during the policy making process (e.g. pre-consultation of the negotiations, up-dating the on-going negotiations status)?

Q.B.2.7: What kind of organisations and firms were major actors at the time of the FTA with Japan? Please list the name of the relevant organisations in each category (if you were not involved in the FTA with Japan, please provide general explanations).

- (xiii) Business federations
- (xiv) Sector associations
- (xv) Professional associations
- (xvi) Individual companies

Q .B.2.8: Among the business lobbying groups (or individual companies) listed above, which actors were the most active (if you were not involved in the FTA with Japan, please provide general explanations)?

Q .B.2.9: Did the “lead ministry” also make use of informal consultations with some private sector (e.g. business federations, sector associations, professional associations and individual firms) at the time of FTA with Japan (if you were not involved in the FTA with Japan, please provide general explanations)?

Q.B.2.10: To what extent did the “lead ministry” grasp the fact that the other ministries and/or regulatory authorities which participate in services trade policy-making had direct contact with a specific sectoral/professional organisation or a firm to obtain technical information and make its own positions (if you were not involved in the FTA with Japan, please provide general explanations)?

Q.B.2.11: Do you think that the private sector which informally lobbied their domestic regulatory ministries/agencies also shared the information with the “lead ministry” (if you were not involved in the FTA with Japan, please provide general explanations)?

Q. B.2.12: Which services sectors (or individual companies) showed interests in liberalising services markets of Japan (if you were not involved in the FTA with Japan, please provide general explanations)?

Q. B.2.13: Were there any services sectors (or firms) which showed interests in liberalising the domestic services markets in the 2000s? What is the current situation in the 2010?

Q.B.2.14: Which services sectors or firms were defensive against liberalising the domestic services markets in the 2000s? What is the current situation in the 2010?

Section C. Evaluation of the agreement and its commitments

Q.C.1: Do you think that your government (or ministry) is satisfied with the result of the services trade chapter of the ASEAN-Japan bilateral FTA? If not, why?

Q.C.2: What are the highlights of the agreement (e.g. standstill, MFN, transparency, and cooperation) for your country?

Q.C.3: As for your countries' commitments, what are the highlights?

Q.C.4: As for the Japan's commitments, what are the highlights?

Q.C.5: Would you please explain why the ASEAN plus Japan FTA could not include the services agreements? What is the current status of the negotiations?

Q.C.6: Do you think that ASEAN services trade integration affected your country's negotiating positions and the level of commitments at the time of negotiations?

Section D: Others

If you were involved in the FTA negotiations with Japan, would you provide your observations on: **why did the ASEAN-Japan services trade chapters in the bilateral FTAs between the ASEAN countries and Japan in the 2000s result in the shallow agreements (very limited GATS-plus)?**

If you were not involved in the FTA negotiations with Japan and have a difficulty in taking contact with them to answer this questionnaire, would you please provide the persons' name and email address so that I can take contact?

Name	Email address

Thank you very much for your time and cooperation.

Appendix 6.1: Questionnaire to International Trade Policy Experts for the Field Study in April 2013 in Geneva

Questionnaire to the TPR Division, WTO secretariat

Minako MORITA-JAEGER

London School of Economics

Below is a summary of my empirical analysis of services trade integration in East Asia as a base of discussion.

Services trade integration in East Asia is underdeveloped both in terms of market and policy.

Economic features of services markets and trade in East Asia: First, most of the East Asian countries (except Singapore and The Philippines) are services importing countries instead of exporting countries. Second, the East Asian countries are not competitive in global services trade. In global services trade, the US and the EU are dominant players both in terms of imports and exports. Some East Asian countries such as China, Japan and Singapore are ranked within the top ten in world services trade exports; however, the volume of exports is very limited, which is only one third of that of the US. Third, services market integration is underdeveloped in East Asia. A certain level of intra-services trade takes place among China, Japan, South Korea and Singapore; however, their major trade partners are the US and the EU. Fourth, the economic features of services market indicate a lack of global competitiveness as well as underdeveloped services market integration in the region. In East Asia, whereas Singapore can be characterized as a country of liberal and competitive services market, the other countries are not. For example, the competitiveness of services sector in Japan and South Korea still lags behind the manufacturing sector. Some ASEAN countries such as The Philippines and Malaysia are gaining competitiveness in some services sectors, however, some uncompetitive sectors are remaining in place. Strong government intervention and imperfect competition are also observed in other ASEAN countries (e.g. Indonesia and Thailand) and China. As for LDCs (Cambodia, Laos and Myanmar), which are undergoing democratic and decentralisation process, the services sector is still small and underdeveloped at the domestic level. In short, the observations could demonstrate a lack of competitiveness in global services markets and underdeveloped services trade integration in the region.

The policy feature of services trade integration in East Asia: First we found that the restrictiveness of the actual policies is much higher than the world average in most of East Asian developing countries except Cambodia. Notably, The Philippines, Indonesia, Thailand, Malaysia, Viet Nam and China are the countries which retain high restrictiveness. Even Japan and South Korea retain higher restrictiveness than the OECD average. The results imply that unilateral services trade policies in East Asia are not providing sufficiently good conditions for services suppliers to do business in the region. Second, in spite of an upsurge of bilateral PTAs in East Asia since the 2000s, the margins of preferential treatment are limited in most of PTAs in comparison with the GATS commitments. This means that the level of liberalisation is much less than the actual liberalisation under unilateral liberalisation. Third, a lack of consistency within the existing agreements in the region may become a deadlock towards creation of a consolidated PTA in the region. In conclusion, the policy analysis identified that institutional integration of services trade in East Asia is too weak to motivate services suppliers to promote services trade in the region.

***The questionnaire is used only for the academic research purposes. I will not disclose the answers given to the questions below for other purposes.**

1. Observation on the services sector

Q.1-1: How do you observe the structural policies of the services sector (e.g. regulatory policy and reform; competition policy; state-owned enterprises and privatisation policy, inward investment policy)?

Q.1-2: How do you observe competitiveness (e.g. growing sectors and weak sectors) of the services sector?

Q.1-3: What are the major problems of the services sector in the country (vis-à-vis the manufacturing sector)?

2. Observation on services trade policy

Q.2-1: How do you observe services trade (including investment) policy of the country? Do you think that the government has been trying to promote liberalisation of the market to vitalise the economy?

Q.2-2: What are the reasons for the low level of GATS commitments (The Philippines, Malaysia, Thailand, Viet Nam and Indonesia)?

Q.2-3: What are the reasons for the low level services commitments of the PTAs in East Asia?

Q.2-4: Which ministries were offensive for services trade liberalisation?

Q.2-5: Which ministries were defensive for services trade liberalisation?

3. Observation on the trade policy making process

Q.3-1: What are strong characteristics of the trade policy formulation process of the country in general?

Q.3-2: Do you observe any involvement of provincial government in the trade policy making process (especially services trade policy)?

Q.3-3: As for the institutional framework of services trade policy-making, do you observe that internal consultations inside government tend to be more complicated than that of goods trade?

4. Participation of the private sector (business sector) in the trade policy making process

Q4-1: Do you observe that trade policy-making process of the country is opened to the non-state actors? Is there any formal consultation mechanism for that?

Q.4-2: To what extent can business lobbying group participate in trade policy formulation (access to the policy making process)?

Q.4-3: Which services sectors are offensive and which are defensive in general?

Q.4-4: Which business organisations are major players of services trade negotiations?

- Are there any business confederations?
- Are there any sectoral associations?
- Are there any professional associations?
- Is there any services coalition?

Q.4-5: How do the business interests groups try to influence policy?

Appendix 6.2: Questionnaire to international trade policy experts for the field study in July 2015 in Geneva

Questionnaire

[General]

How do you evaluate the legal and regulatory environment trend of the ASEAN countries since the 2000s?

How would you characterise the ideology of ASEAN towards economy and trade (e.g. protectionism or liberalism)? Do you think that the ideology remains the same as it used to be in the 2000s?

How would you observe interests of the private sector in ASEAN on services trade? Do you think that the interests have been growing from the 2000s?

[Market]

Q. What are strong characteristics of the ASEAN economy in the 2010s in comparison with the one in the 2000s?

Q. Do you observe trends of the services sector of the ASEAN countries in terms of domestic economy and trade since the 2000s?

[Economic policy and trade policy]

Q. Do you observe that economic development policy play more important role in trade policy making in the ASEAN countries?

Q. How do you generally observe the service sector policy of the ASEAN countries? Are there any differences between the 2000s and the 2010s?

Q. Do you observe that the ASEAN countries were not ready for using FTAs as a mean of promoting services liberalisation and deregulation in the 2000s?

Q. Do you think that the ASEAN government may make use of currently negotiated FTAs (e.g. TPP, RCEP, and ASEAN-EU) for further services liberalisation and regulatory reforms? If not, what are the strong reasons (e.g. nurture the domestic SMEs, protect state-owned enterprises or recently privatised companies, strong resistance of the private sector, and horizontally fragmented government institution for services)?

[Institution]

How do you evaluate the government institution of the ASEAN countries in terms of efficiency; transparency; administrative discretion; and legal and regulatory structure? Which country is the most efficient and transparent and which one is not?

Appendix 7: Services trade related data

Table 1: Percentage of imports in total trade in services, East Asia and US, 2000-2010

YEAR	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
ECONOMY											
Brunei											
Darussalam	-65.24	-54.25	-51.3	-57.79	-49.41	-44.5	-38.65	-38.24	-38.16	-36.21	-
China	-15.54	-15.11	-14.6	-15.5	-13.45	-11.21	-8.761	-6.076	-7.432	-18.5	-11.44
Indonesia	-	-	-	-69.58	-42.25	-41.37	-46.15	-48.67	-46.02	-42.54	-35.73
Japan	-40.76	-40.42	-39	-30.27	-25.99	-17.85	-13.44	-14.12	-12.21	-13.75	-10.23
South											
Korea	-6.304	-8.977	-17.5	-14.24	-11.85	-16.65	-19.09	-14.15	-5.957	-8.276	-11.93
Malaysia	-16.76	-13.22	-9.54	-22.55	-11.2	-10.84	-8.328	2.769	0.1698	4.7231	0.825
Philippines	-35.64	-42.69	-36.9	-36.68	-30.53	-22.85	2.1722	29.92	13.556	23.753	17.226
Singapore	-5.168	-10.87	-8.17	-5.644	-2.919	0.7992	1.7697	14	13.581	17.913	16.426
Thailand	-10.3	-10.86	-7.95	-13.05	-17.49	-25.4	-24.82	-21	-27.84	-20.7	-25.75
Viet Nam	-16.91	-16.91	-20.3	-19.21	-18.4	-6.619	-0.16	-11.13	-11.94	-29.57	-24.81
United											
States	32.281	27.64	24.99	20.26	19.041	22.11	23.059	32.24	33.451	34.851	35.402

Note: Data of Cambodia, Myanmar and Laos are not available.

Source: UNCTADSTAT

Table 2: Leading exporters and importers in world trade in commercial services, 2010

(Billion dollars and percentage)

Rank	Exporters	Value	Share	Annual percentage change	Rank	Importers	Value	Share	Annual percentage change
1	Extra-EU (27) exports	685	24.4	5	1	Extra-EU (27) imports	590	21.9	4
2	United States	518	18.5	9	2	United States	358	13.3	7
3	China	170	6.1	32	3	China	192	7.1	22
4	Japan	139	4.9	10	4	Japan	156	5.8	6
5	India	123	4.4	33	5	India	116	4.3	45
6	Singapore	112	4.0	20	6	Singapore	96	3.6	21
7	Hong Kong, China	105	3.8	23	7	Korea, Republic of	93	3.4	17
8	Korea, Republic of	82	2.9	13	8	Canada	90	3.3	15
9	Switzerland	78	2.8	8	9	Russian Federation	70	2.6	19
10	Canada	67	2.4	15	10	Brazil	60	2.2	36
11	Australia	47	1.7	17	11	Saudi Arabia, Kingdom of	51	1.9	8
12	Russian Federation	44	1.6	7	12	Hong Kong, China	51	1.9	16
13	Taipei, Chinese	40	1.4	28	13	Australia	50	1.9	24
14	Norway	40	1.4	5	14	Thailand	46	1.7	21
15	Thailand	34	1.2	14	15	Norway	42	1.6	15
16	Turkey	33	1.2	2	16	United Arab Emirates	41	1.5	11
17	Malaysia	33	1.2	14	17	Switzerland	38	1.4	-3
18	Brazil	30	1.1	15	18	Taipei, Chinese	37	1.4	28
19	Macao, China	28	1.0	52	19	Malaysia	32	1.2	17
20	Israel	25	0.9	12	20	Indonesia	26	1.0	14
21	Egypt	25	0.8	11	21	Mexico	22	0.8	4
22	Ukraine	16	0.6	24	22	Nigeria	20	0.7	22
23	Indonesia	16	0.6	29	23	Iran, Islamic Rep. of	19	0.7	12
24	Mexico	15	0.5	0	24	Turkey	18	0.7	18
25	Lebanon	15	0.5	-10	25	South Africa	18	0.7	25
26	South Africa	14	0.5	17	26	Israel	18	0.7	5
27	Philippines	13	0.5	20	27	Angola	16	0.6	-10
28	Argentina	15	0.5	18	28	Argentina	13	0.5	15
29	Morocco	12	0.4	2	29	Egypt	13	0.5	2
30	Croatia	11	0.4	-4	30	Lebanon	13	0.5	-7
31	United Arab Emirates	11	0.4	16	31	Ukraine	12	0.4	6
32	Chile	11	0.4	25	32	Kuwait	12	0.4	3
33	Saudi Arabia, Kingdom of	10	0.4	10	33	Chile	12	0.4	17
34	Cuba a	9	0.3	...	34	Algeria	11	0.4	2
35	New Zealand	10	0.3	11	35	Kazakhstan	11	0.4	13
36	Iran, Islamic Rep. of	8	0.3	1	36	Philippines	11	0.4	28
37	Viet Nam	7	0.3	30	37	Bolivarian Rep. of Venezuela	10	0.4	9
38	Kuwait	7	0.2	-34	38	Viet Nam	10	0.4	21
39	Panama	6	0.2	10	39	New Zealand	9	0.3	15
40	Syrian Arab Republic a	5	0.2	...	40	Colombia	8	0.3	13
	Total of above	2670	95.0	-		Total of above	2510	93.1	-
	World (excl. intra-EU (27))	2810	100.0	12		World (excl. intra-EU (27))	2695	100.0	12

a Secretariat estimate.

Note: Figures for a number of countries and territories have been estimated by the Secretariat. Annual percentage changes and rankings are affected by continuity breaks in the series for a large number of economies, and by limitations in cross-country comparability. See the Metadata. For annual data 2000-2010, see Appendix Tables A8 and A9.

Source: WTO World Trade Developments in 2011

Table 3: Japan services exports to the world 2010

Service label	Exported Value in 2010	Service label	Exported Value in 2010
Total services	141282912	Sea transport - Supporting, auxiliary and other sea transport services	2580000
Sea transport - Freight	27540000	Business travel	2160000
Royalties and license fees	26682646	Air transport - Passenger	2120000
Merchanting and other trade-related services	23750000	Worker's Remittances	1510000
Miscellaneous business, professional and technical services	15750000	Insurance services	1273640
Personal travel	11070000	Computer and information services	1046937
Construction services	10637971	Communications services	733653
Supporting, auxiliary and other air transport services	3820000	Compensation of employees	170000
Financial services	3606748	Audio-visual and related services	90000
Operational leasing services	3050000	Other personal,cultural and recreational services	60000
Air transport - Freight	2870000	Sea transport - Passenger	20000
Government services, n.i.e.	2580317	Other transport - Freight	10000

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on International Monetary Fund, Organisation for Economic Co-operation and Development (OECD) statistics

Table 4: South Korea services exports to the world 2010

Service label	Exported Value in 2010	Service label	Exported Value in 2010
Total services	82719400	News agency services	8300
Construction services	11842400	Other information provision services	77100
Financial services	2846700	Franchises and similar rights	821900
Government services, n.i.e.	1149800	Other royalties and license fees	2323900
Telecommunication services	513500	Merchandising	2561100
Audio-visual and related services	190000	Other trade related services	2101400
Computer services	149200	Operational leasing services	901000
Sea transport - Passenger	11100	Legal services	587100
Sea transport - Freight	27816600	Accounting, auditing, book-keeping and tax consulting services	93600
Sea transport - Supporting, auxiliary and other sea transport services	2446500	Business and management consultancy, public relations services	312000
Air transport - Passenger	4028700	Advertising, market research and public opinion polling	267200
Air transport - Freight	3464100	Research and development services	344700
Supporting, auxiliary and other air transport services	276600	Architectural, engineering and other technical consultancy	403400
Business travel	4085800	Waste treatment and depolution	31400
Health-related expenditure	68000	Other agricultural mining, and on-site processing	17700
Personal travel - Education related expenditure	37100	Other miscellaneous business, professional and technical services	3305000
Other personal travel	5573700	Services between affiliated enterprises, n.i.e.	2984400
Postal and courier services	228800	Education services	59300
Life insurance and pension funding	200	Health services	9800
Freight insurance	91600	Other	375800
Other direct insurance	102200	Compensation of employees	598700
Reinsurance	165500	Worker's Remittances	6399600
Auxiliary services	31600		

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation, International Monetary Fund statistics

Table 5: Singapore services exports to the world 2010

Service label	Exported Value in 2010
Total services	112308000
Transportation	32737800
Travel	14180600
Financial services	12182100
Insurance services	2837230
Royalties and license fees	1866600
Computer and information services	1790300
Communications services	1347220
Construction services	1048740
Embassies and consulates	247344
Personal, cultural and recreational services	218630

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on United Nations Statistics Division, International Monetary Fund statistics.

Table 6: China services exports to the world 2010

Service label	Exported Value in 2010	Service label	Exported Value in 2010
Total services	171203280	Air transport - Passenger	4262680
Travel	45814000	Air transport - Freight	5014130
Construction services	14494686	Supporting, auxiliary and other air transport services	613403
Computer and information services	9256345	Other transport - Passenger	47815
Insurance services	1726906	Other transport - Freight	363821
Communications services	1220068	Other transport - Other	981034
Financial services	1331123	Merchandising and other trade-related services	35586768
Royalties and license fees	830484	Business and management consultancy, public relations services	22769600
Government services, n.i.e.	954630	Advertising, market research and public opinion polling	2885246
Audio-visual and related services	122915	Research and development services	
Sea transport - Passenger	29615	Compensation of employees	13636000
Sea transport - Freight	19000860	Worker's Remittances	19803800
Sea transport - Supporting, auxiliary and other sea transport services	3897152		

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation, International Monetary Fund statistics.

Table 7: Philippines services exports to the world 2010

Service label	Exported Value in 2010	Service label	Exported Value in 2010
Total services	13243000	Other personal travel	2737000
Computer services	2151000	Construction in the compiling economy	121000
Telecommunication services	305000	Freight insurance	38000
Financial services	38000	Reinsurance	39000
Audio-visual and related services	27000	Franchises and similar rights	4000
Sea transport - Supporting, auxiliary and other sea transport services	94000	Merchandising	22000
Air transport - Passenger	598000	Operational leasing services	7000
Air transport - Freight	507000	Business and management consultancy, public relations services	6315000
Supporting, auxiliary and other air transport services	152000	Advertising, market research and public opinion polling	12000
Other business travel	11000	Research and development services	16000
Health-related expenditure	14000	Compensation of employees	5127000
Personal travel - Education related expenditure	21000	Worker's Remittances	16238000

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation, International Monetary Fund statistics.

Table 8: Thailand services exports to the world 2010

Service label	Exported Value in 2010
Total services	34298400
Other personal travel	17971900
Other business services	6582300
Transportation	5915750
Worker's Remittances	2302120
Business travel	1742000
Compensation of employees	1278230
Construction services	471650
Communications services	470970
Government services, n.i.e.	240770
Health-related expenditure	233100
Financial services	187660
Personal travel - Education related expenditure	180140
Royalties and license fees	153130
Personal, cultural and recreational services	121200
Insurance services	27910

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on International Monetary Fund statistics

Table 9: Malaysia services exports to the world 2010

Service label	Exported Value in 2009	Service label	Exported Value in 2009
Total services	28769000	Telecommunication services	560050
Compensation of employees	1130870	Construction in the compiling economy	908850
Sea transport - Passenger	3230	Freight insurance	4200
Sea transport - Freight	1589570	Other direct insurance	374890
Sea transport - Supporting, auxiliary and other sea transport services	694100	Financial services	89860
Air transport - Passenger	1430080	Computer services	1453770
Air transport - Freight	453330	Other royalties and license fees	265730
Supporting, auxiliary and other air transport services	161540	Merchanting	722000
Other transport - Other	76250	Operational leasing services	96620
Other business travel	15582200	Other miscellaneous business, professional and technical services	3399610
Health-related expenditure	6540	Other	645750
Personal travel - Education related expenditure	208750	Embassies and consulates	42130

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation, International Monetary Fund statistics.

Table 10: Indonesia services exports to the world 2010

Service label	Exported Value in 2010
Total services	16765800
Worker's Remittances	6734940
Personal travel	4716290
Other business services	4309420
Transportation	2665430
Business travel	2241610
Government services, n.i.e.	555090
Construction services	520050
Financial services	332200
Compensation of employees	181110
Computer and information services	114120
Personal, cultural and recreational services	104220
Royalties and license fees	59560
Insurance services	22170

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on International Monetary Fund statistics

Figure 1: Cambodia services exports to the world 2010

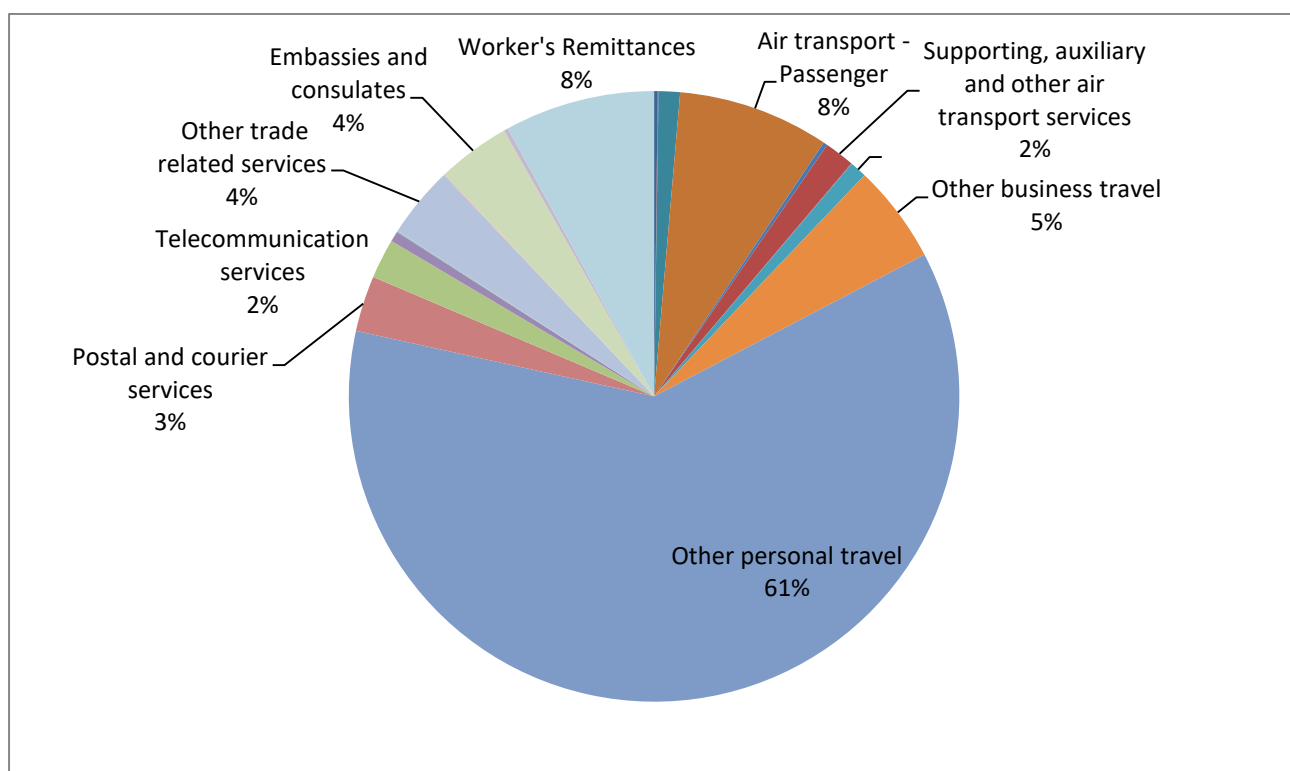


Table 11: Cambodia services exports to the world 2010

Service label	Exported Value in 2010	Service label	Exported Value in 2010
Total services	1743930	Other business travel	98890
Financial services	3550	Other personal travel	1161140
Royalties and license fees	340	Postal and courier services	56060
Sea transport - Passenger		Telecommunication services	40000
Sea transport - Freight	520	Construction in the compiling economy	10460
Sea transport - Supporting, auxiliary and other sea transport services	21470	Freight insurance	1030
Air transport - Passenger	152210	Computer services	320
Air transport - Freight	4170	Other trade related services	71920
Supporting, auxiliary and other air transport services	30170	Other personal,cultural and recreational services	1000
Other transport - Passenger	30	Embassies and consulates	73180
Other transport - Freight	540	Compensation of employees	4500
Other transport - Other	16940	Worker's Remittances	150990

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on United Nations Statistics Division, World Trade Organisation, International Monetary Fund statistics.

Figure 2: Brunei services exports to the world 2009

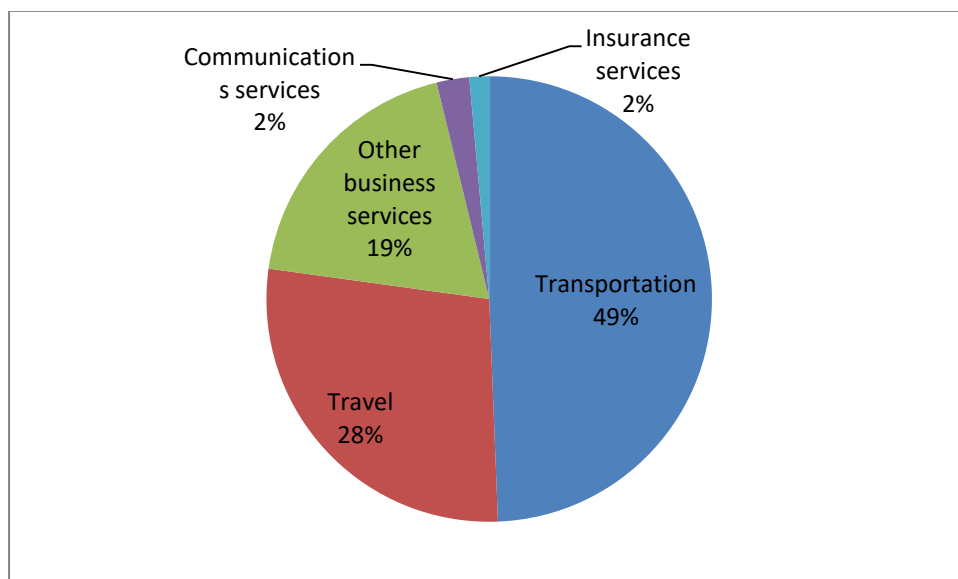


Table 12: Brunei services exports to the world 2009

Service label	Exported Value in 2009
Total services	914911
Transportation	451742
Travel	254373
Other business services	174020
Communications services	21693
Insurance services	13083

Unit : US Dollar thousand

Source: ITC trade database, ITC calculations based on WTO statistics

Figure 3: Laos services exports to the world 2010

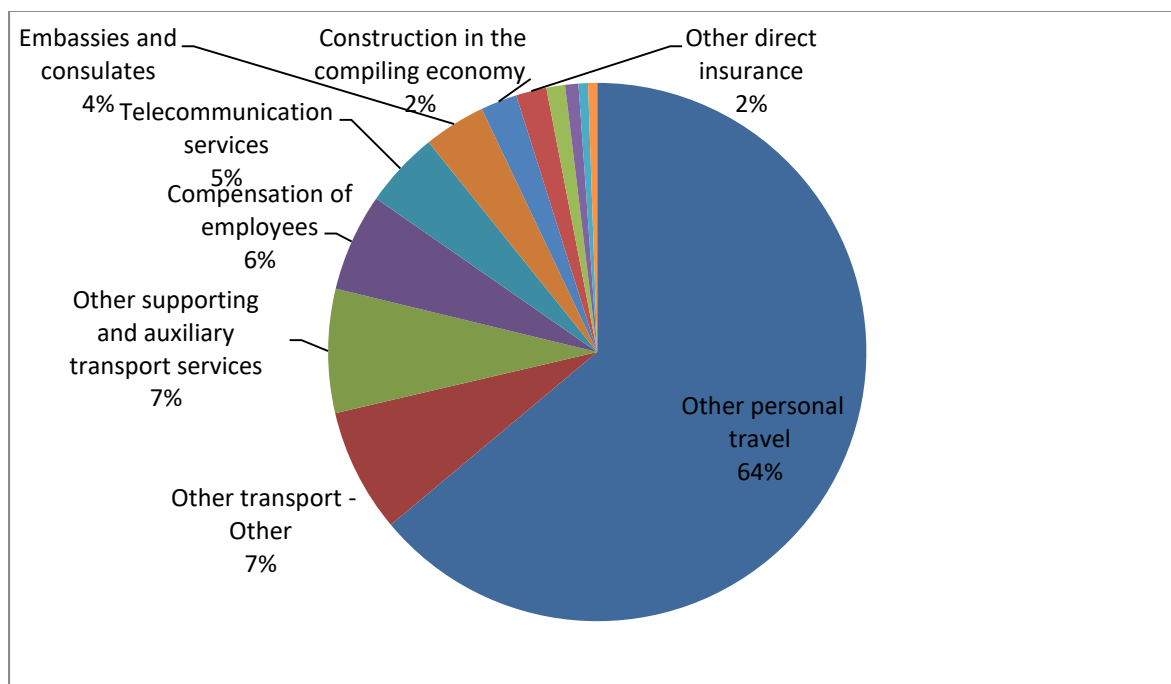


Table 13: Laos services exports to the world 2010

Service label	Exported Value in 2010
Total services	510990
Other personal travel	381670
Other transport - Other	44420
Other supporting and auxiliary transport services	44420
Compensation of employees	35090
Telecommunication services	27260
Embassies and consulates	22200
Construction in the compiling economy	13080
Other direct insurance	10950
Worker's Remittances	6690
Postal and courier services	4760
Air transport - Passenger	3400
Air transport - Freight	3260

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on International Monetary Fund statistics.

Figure 4: Myanmar services exports to the world 2010

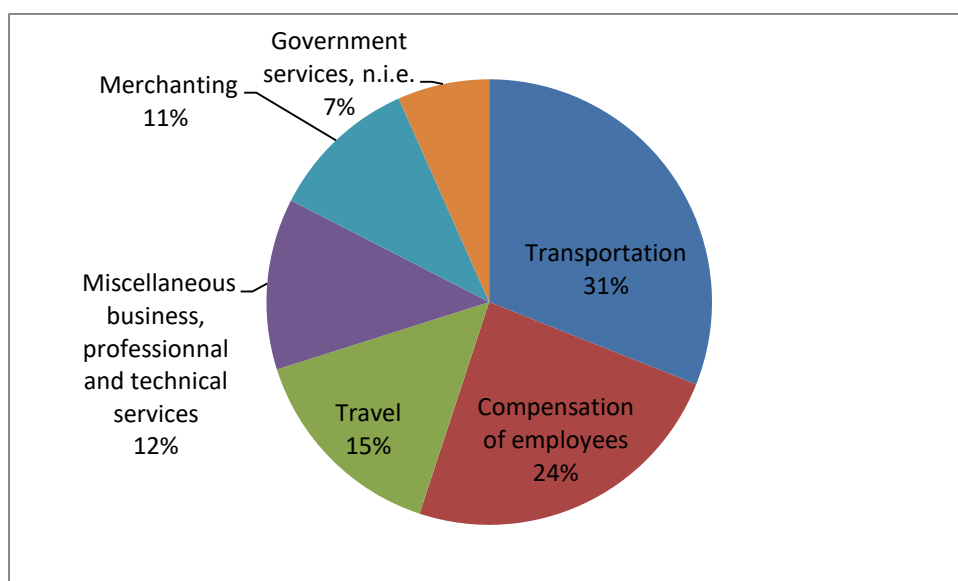


Table 14: Myanmar services exports to the world 2010

Service label	Exported Value in 2010
Total services	366620
Transportation	149730
Compensation of employees	116010
Travel	72630
Miscellaneous business, professional and technical services	59990
Merchancing	52140
Government services, n.i.e.	32130
Communications services	
Royalties and license fees	
Other personal, cultural and recreational services	
Worker's Remittances	

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on International Monetary Fund statistics.

Figure 5: Viet Nam services exports to the world 2004

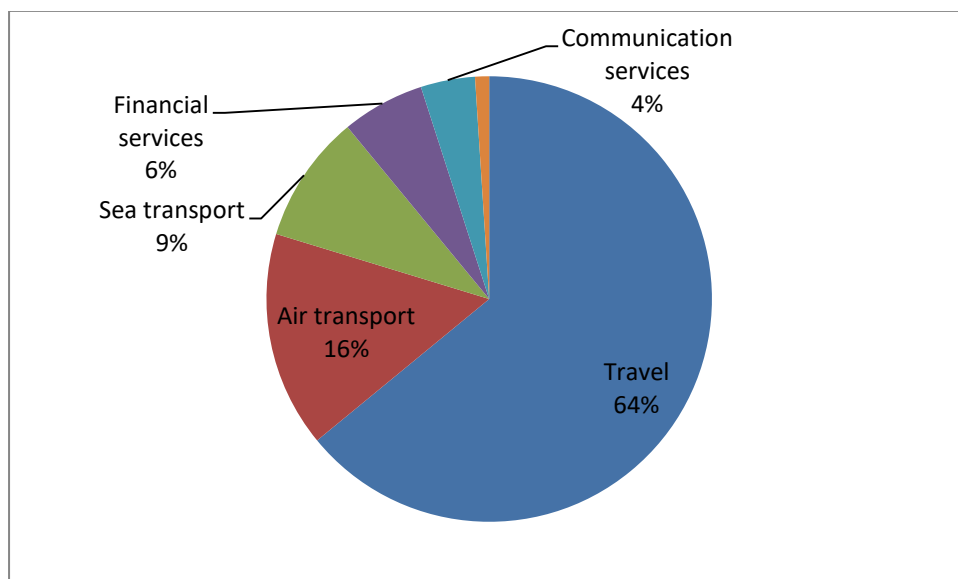


Table 15: Viet Nam services exports to the world 2004

Service label	Exported Value in 2004
Total services	3972400
Travel	1950000
Air transport	476900
Sea transport	283500
Financial services	183000
Communications services	120000
Government services, n.i.e.	31000

Unit : US Dollar thousand

Source : ITC trade database, ITC calculations based on United Nations Statistics Division

Table16: Major exporters and importers in financial services, 2008

Rank	Exporters	Value	Share in 15 economies	Annual percentage change	Rank	Importers	Value	Share in 15 economies	Annual percentage change
1	European Union (27)	163708	57.5	2	1	European Union (27)	69535	60.0	2
	Extra-EU (27) exports	72813	25.6	0		Extra-EU (27) imports	27330	23.6	1
2	United States	60190	21.1	-2	2	United States	19143	16.5	-3
3	Switzerland	19249	6.8	0	3	Japan	3982	3.4	10
4	Hong Kong, China	11818	4.2	-5	4	Canada	3888	3.4	-4
5	Singapore	6579	2.3	0	5	India	3552	3.1	10
6	Japan	5454	1.9	-12	6	Hong Kong, China	3137	2.7	12
7	India	4059	1.4	20	7	Russian Federation	2080	1.8	41
8	Korea, Republic of	3785	1.3	-5	8	Switzerland	2042	1.8	14
9	Canada	3076	1.1	-4	9	Singapore	1885	1.6	7
10	Russian Federation	1320	0.5	12	10	Saudi Arabia	1508	1.3	...
11	Norway	1274	0.4	25	11	Ukraine	1465	1.3	65
12	Brazil	1238	0.4	14	12	Brazil	1145	1.0	42
13	Taipei, Chinese	1146	0.4	-12	13	Turkey	978	0.8	57
14	Australia	901	0.3	5	14	Norway	956	0.8	-15
15	Turkey	841	0.3	113	15	Korea, Republic of	691	0.6	-1
	Above 15	284635	100.0	-		Above 15	115985	100.0	-

Note: Based on information available to the Secretariat. For more information on asymmetries, see the Metadata.

Source: WTO International Trade Statistics

Table 17: Major exporters and importers in telecommunications services, 2008

Rank	Exporters	Value	Share in 15 economies	Annual percentage change	Rank	Importers	Value	Share in 15 economies	Annual percentage change
1	European Union (27)	37964	61.1	8	1	European Union (27)	35074	69.8	3
	Extra-EU (27) exports	12619	20.3	16		Extra-EU (27) imports	12489	24.8	13
2	United States	9163	14.7	14	2	United States	7193	14.3	2
3	Kuwait	6071	9.8	30	3	Russian Federation	1846	3.7	45
4	Canada a	1467	2.4	...	4	Canada a	1041	2.1	...
5	Russian Federation	1401	2.3	18	5	Malaysia	817	1.6	-4
6	India	1211	1.9	3	6	Korea, Republic of	782	1.6	15
7	Turkey	725	1.2	43	7	Australia	728	1.4	27
8	Morocco	632	1.0	57	8	India	502	1.0	16
9	Malaysia	602	1.0	-2	9	Hong Kong, China	417	0.8	22
10	Hong Kong, China	555	0.9	0	10	Norway	401	0.8	27
11	Korea, Republic of	550	0.9	14	11	Argentina	366	0.7	18
12	Norway	511	0.8	10	12	Brazil	296	0.6	221
13	Brazil	452	0.7	75	13	Turkey	289	0.6	-2
14	Kenya	435	0.7	33	14	Israel	283	0.6	-19
15	Philippines	404	0.7	-22	15	Lebanon	249	0.5	18
	Above 15	62145	100.0	-		Above 15	50280	100.0	-

a Secretariat estimate.

Note: Based on information available to the Secretariat. As certain major traders in communications services do not report the item telecommunications services separately, they may not appear in the list. Transactions on telecommunications services are often reported on a net rather than a gross basis. See the Metadata.

Source: WTO International Trade Statistics

Table 18: The level of commitments offered in FTAs in East Asia

Korea-GATS	48.81	Philippines-GATS	16.41	Viet Nam-GATS	34.18
Korea-Singapore	58.42	Philippines-Japan	27.68	Viet Nam-Japan	34.18
Korea-ASEAN	49.70	ASEAN-(P)-Korea	21.47	ASEAN(V)-Korea	34.18
Japan-GATS	52.89	ASEAN-(P)-China	18.75	ASEAN(V)-China	34.18
Japan-The Philippines	62.59	ASEAN 7th package (P)	34.95	ASEAN 7th package (V)	38.27
Japan-Malaysia	62.84	Malaysia-GATS	27.47	Indonesia-GATS	17.26
Japan-Thailand	62.33	Malaysia-Japan	29.08	ASEAN(I)-Korea	23.43
Japan-Brunei	62.84	ASEAN(M)-Korea	33.89	ASEAN(I)-China	17.52
Japan-Viet Nam	54.51	ASEAN(M)-China	28.66	ASEAN 7th package (I)	41.58
Japan-Singapore	58.50	ASEAN 7th package (M)	43.39		
China-GATS	39.29	Thailand-GATS	19.39		
China-Singapore	40.14	Thailand-Japan	20.37		
China-ASEAN	39.97	ASEAN(T)-Korea	19.69		
Singapore-GATS	37.59	ASEAN(T)-China	20.32		
Singapore-Korea	70.98	ASEAN 7th package (T)	37.86		
Singapore-China	44.07	Brunei-GATS	7.99		
Singapore-Japan	59.62	Brunei-Japan	11.73		
ASEAN(S)-Korea	40.31	ASEAN(B)-Korea	9.52		
ASEAN(S)-China	42.37	ASEAN(B)-China	9.18		
ASEAN 7th package (S)	42.03	ASEAN 7th package (B)	30.78		

Source: The index is from the dataset of the commitments in regional trade agreements” of the WTO (available at http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm).

Note: The index is brought onto a 0-100 scale: 100 (full-commitments in all sub-sectors and relevant modes). GATS stands for the GATS commitments. K stands for Korea, J:Japan, C:China, S:Singapore, P: Philippine, M:Malaysia, T: Thailand, B: Brunei, V: Viet Nam, I: Indonesia. Japan-Indonesia EPA is not included here because the index is not available from the dataset.