

CHAPTER 4 – AEC - AFAS AND SERVICES INTEGRATION

MARTÍN MOLINUEVO AND SEBASTIÁN SAEZ

TRADE PRACTICE
TRADE AND COMPETITIVENESS GLOBAL PRACTICE



WORLD BANK GROUP

ACKNOWLEDGEMENT



WORLD BANK GROUP

Chapter 4 goals

Assessing AFAS as a services trade agreement and how it contributes to integration on services trade within the region:

- disciplines and architecture of AFAS
- assessment of progress of AFAS commitments, and comparison with commitments under GATS and other trade agreements, including mutual recognition arrangements
- recommendations to strengthen the ASEAN services trade framework.

Key findings

- Significant steps towards the liberalization of trade and investment in services
- AEC – AFAS have provided a solid platform for the reduction of formal restrictions to services trade
- Roughly on schedule with the negotiating timeframe set out in the AEC Blueprint (up to 2010 7th package)
- But lack of regulatory cooperation needs to be the focus of the next steps towards deeper level of integration
- ASEAN members must redirect the agenda towards cooperation on the regulation of services trade in order to achieve a single market

AEC – AFAS Architecture

Lack of clarity in different elements of the agreement

- Relationship between AFAS and AMNP (whether or not AFAS general disciplines apply to M 4)
- Interpretation of key disciplines
- Land ownership limitations
- Uncertainty about how whether other disciplines are applicable
- Domestic regulation, transparency, etc
- MFN: greater flexibility: ASEAN-minus X. Contradictory with the ambition of a single market

Focus on MA and NT limitations has prevented

AEC – AFAS Architecture

- MRAs: implementation remains unclear and in any case patchy
- Lack of clarity resulted in no practical impacts of these arrangements
- Language leaves door open for discretion in the implementation
- Uncertainty about compliance with AFAS commitment, including do to lack of effective dispute settlement system
- Based on WTO, but never put in motion
- Reduced transparency and predictability

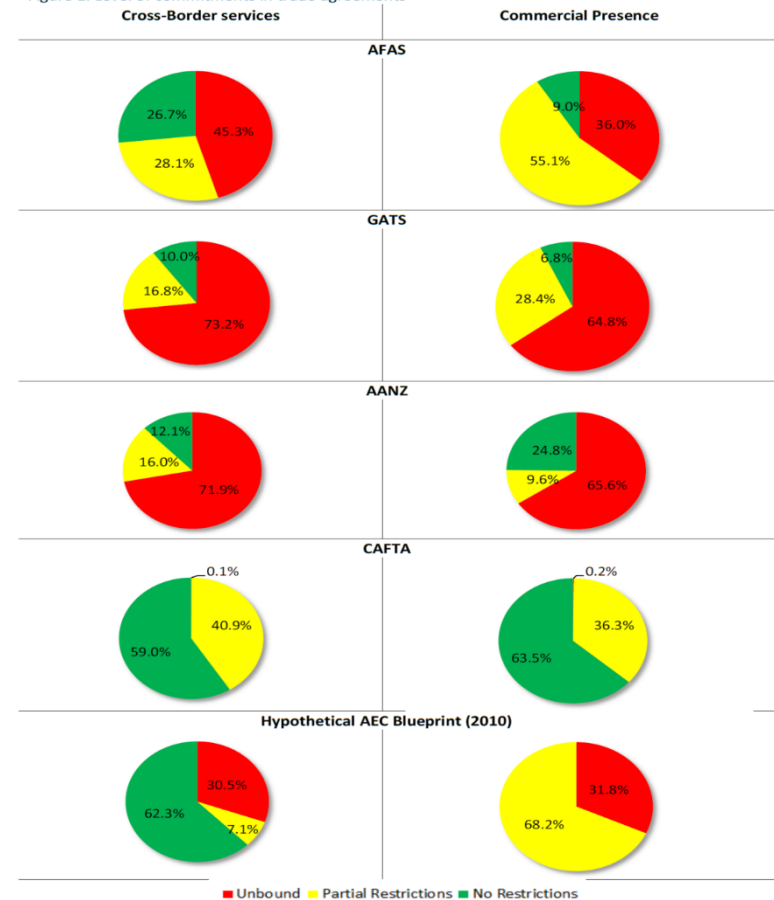
ASEAN Institutional Framework

- Vast and dynamic institutional organization has allowed to make progress in multiple services sectors simultaneously
- But limits the possibility of comprehensive and coherent approach of services integration
- Lack of regular communication between institutions
- Negotiations, as decision–making procedures inadequate for deeper integration
- Disincentive to regulatory cooperation
- Multiple institutions and burdensome modalities for negotiation bear more heavily on smaller members
- Lack of transparency
- In decision-making process
- In existing disciplines (due to lack of regulatory instruments different than international treaties)

Progress in Services commitments

- Significant improvement over GAS commitments
- ASEAN is on track for meeting AEC Blueprint schedule
- But fewer commitments than less ambitious agreements

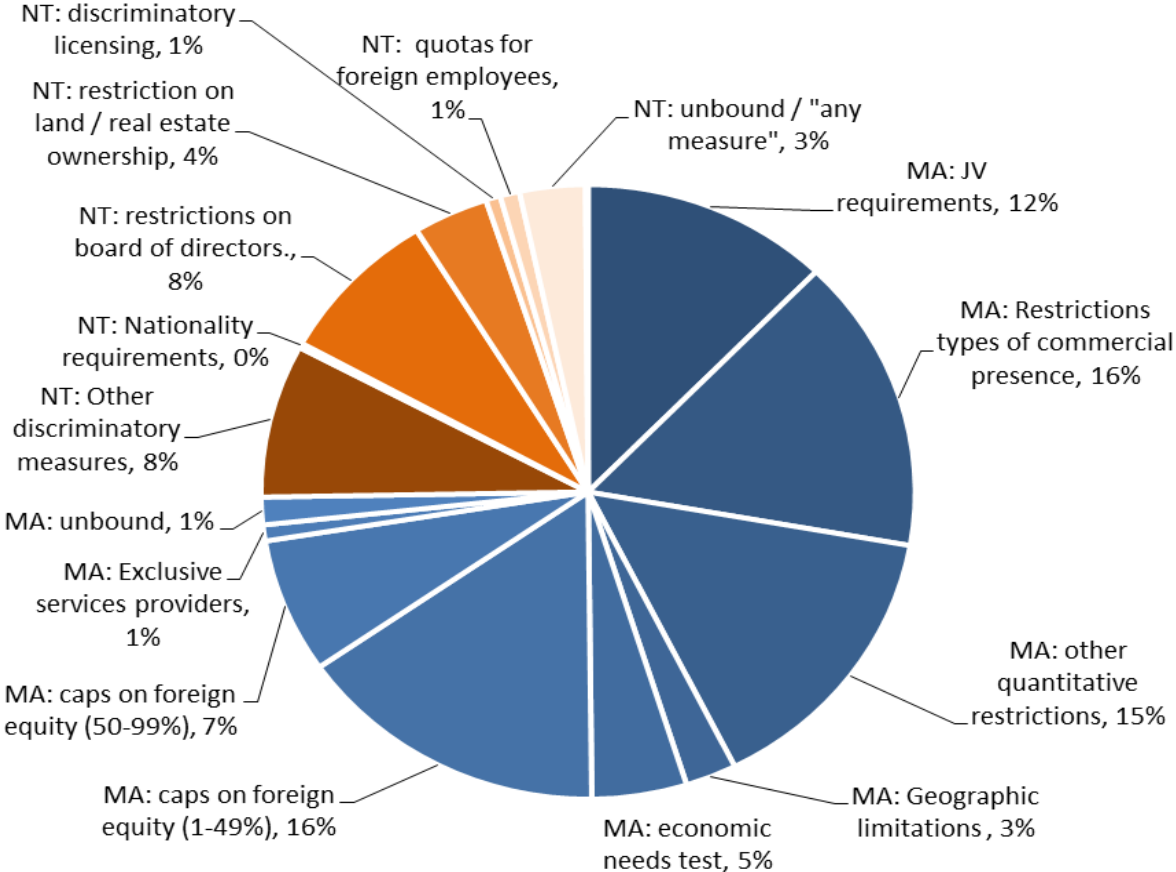
Figure 1. Level of commitments in trade agreements



Source: authors based on commitments by ASEAN countries in under AFAS (up to 7th package), GATS; AANZ, and by Central American countries in CAFTA

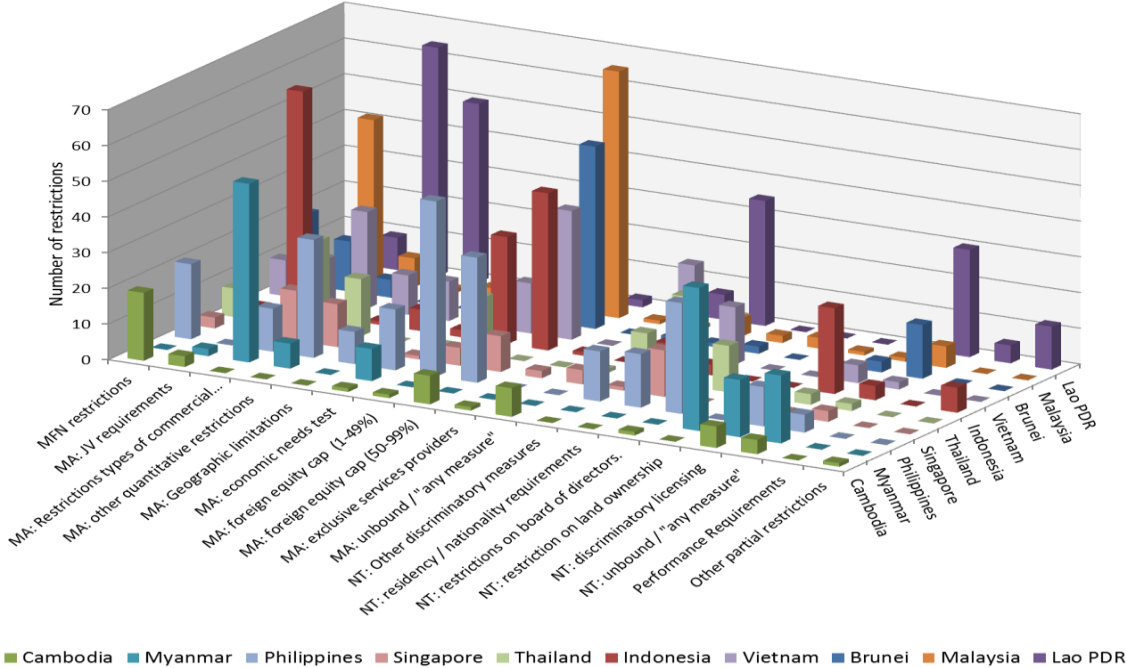
ASEAN Member States have listed a broad range of restrictions on commercial presence in their AFAS schedules.

The large majority of restrictions relate to measures affecting market access



These differences in the policies affecting trade and investment in services suggest that the “single market” still remains a distant goal.

Restrictions on Commercial Presence in AFAS Schedules

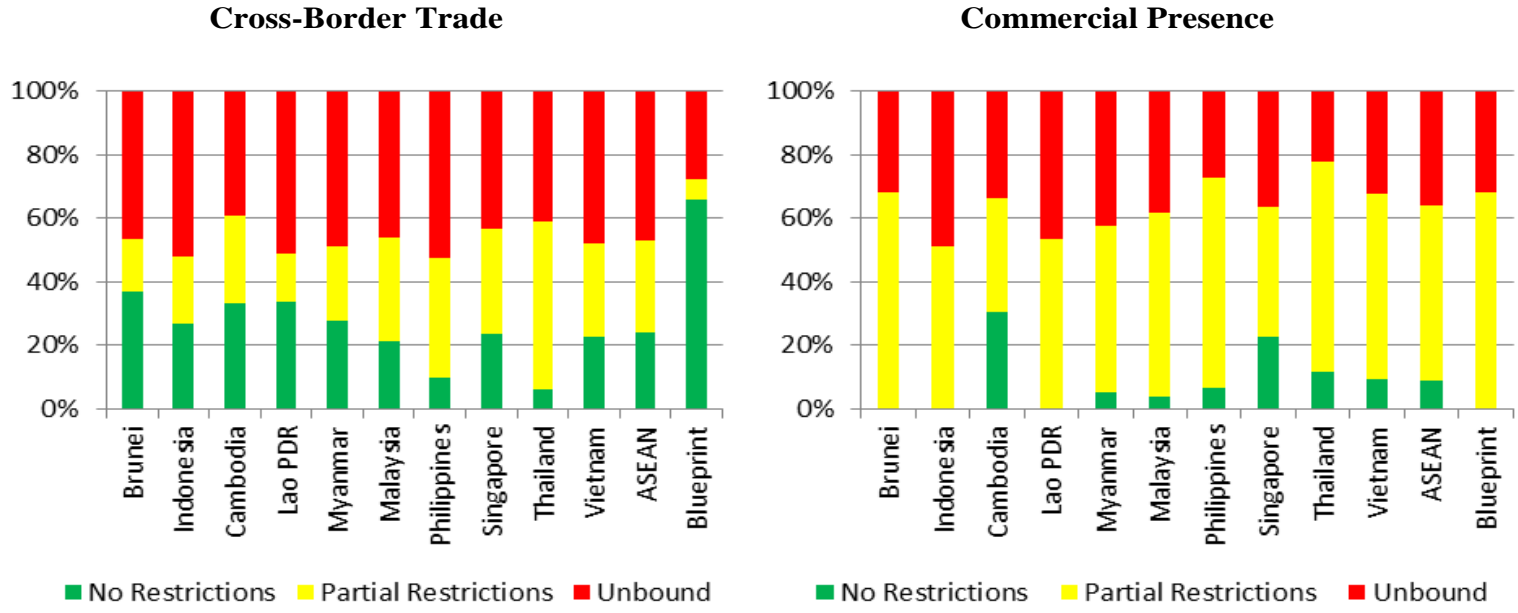


Source: Authors, based on commitments by ASEAN Member States in under AFAS (up to the seventh package).

Note: JV = Joint Venture; MA = Market Access; NT = National Treatment.

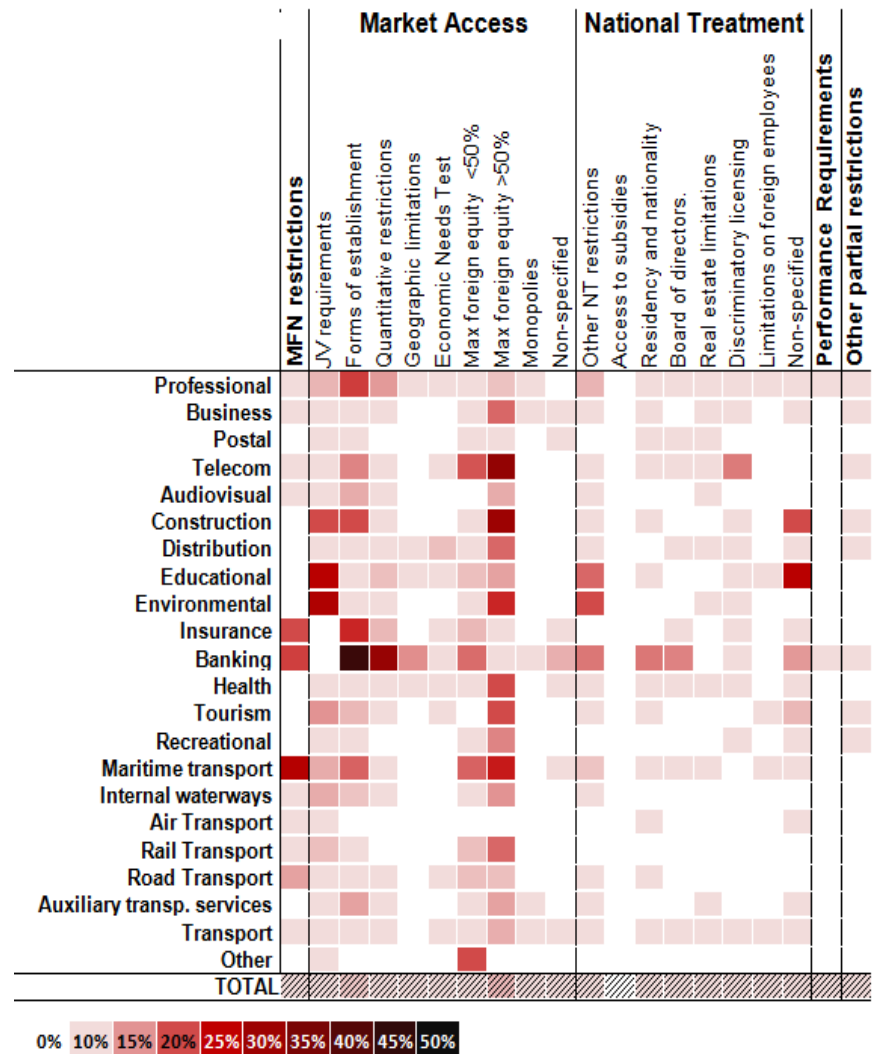
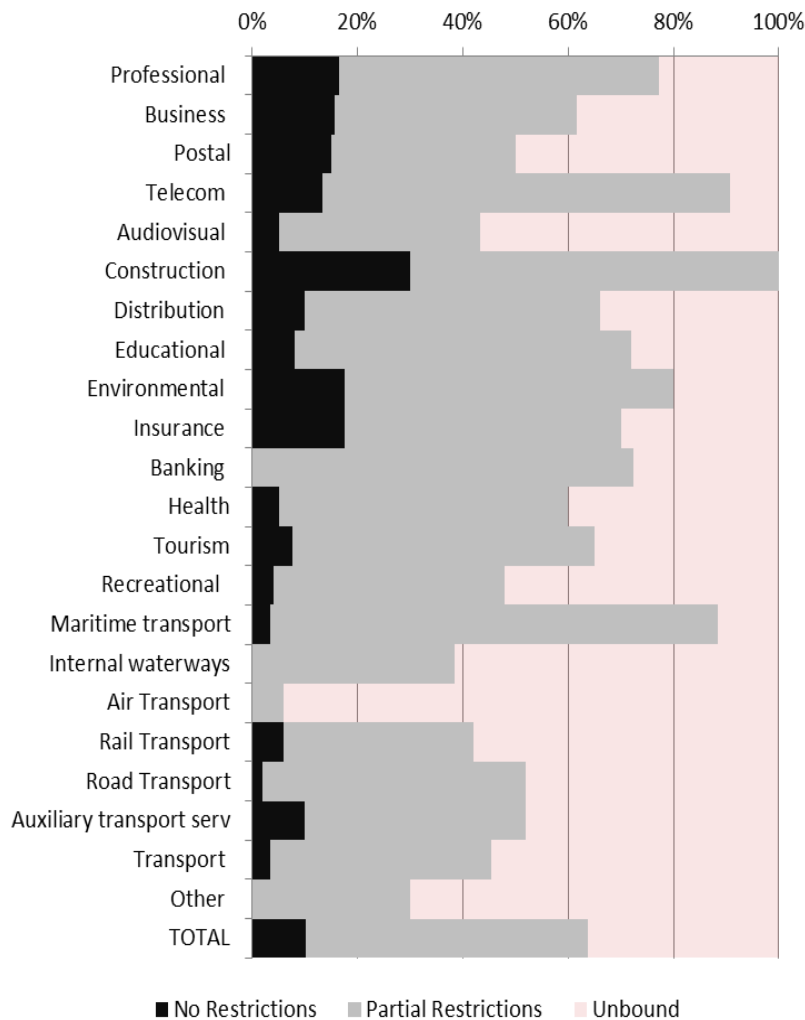
While the AEC Blueprint sets out the same rules for everybody, not all ASEAN Member States are liberalizing services trade at the same pace.

Figure 4.1 Level of Commitments, AFAS



Source: Authors, based on commitments by ASEAN Member States under the AFAS (up to the Seventh Package).

PROGRESS IN SERVICES COMMITMENTS (MODE 3)



AFAS commitments still feature a number of investment restrictions incompatible with a single market

Policy recommendations

- Advance towards regulatory cooperation
- Establish horizontal and sectoral regulatory principles
- Complete intra-regional liberalization
- Remove foreign equity limitations, eliminate 15% flexibility rule, establish negative list (post-2015)
- Monitor implementation and establish Interpretative Procedure in new dispute settlement agreement
- Improve transparency through non-binding decisions and notes.
- Scope of AFAS provisions and relationship with other agreements
- Convert CSS into a Permanent Group to promote participation of smaller members