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Perspective on options for CFTA Services Negotiations

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TRAINING WORKSHOP ON TRADE IN SERVICES
NEGOTIATIONS FOR AU-CFTA NEGOTIATORS

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Questions to consider first

- What is the fundamental vision for the CFTA?

If a stepping stone toward an African Economic Union..... then negotiations should be conceived in that light and the structure, modality and other negotiating decisions should be made accordingly



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Questions to consider first

- Who will be the beneficiaries of the CFTA services agreement?

Private sector – services firms.

Negotiators should ask how CFTA will affect business in 5 years? If the CFTA is viewed as an opportunity for business, then the agreement crafted must be effective, easy to use and understand.



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Decisions to make regarding:

- How to Negotiate : Modality
 - Modal and Sectoral Coverage
 - Disciplines to be Included
 - Separate Protocols for Key Issues
- Covering both Goods & Services
- All of these will impact on the quality and effectiveness of the CFTA services agreement



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Choice of Negotiating Modality



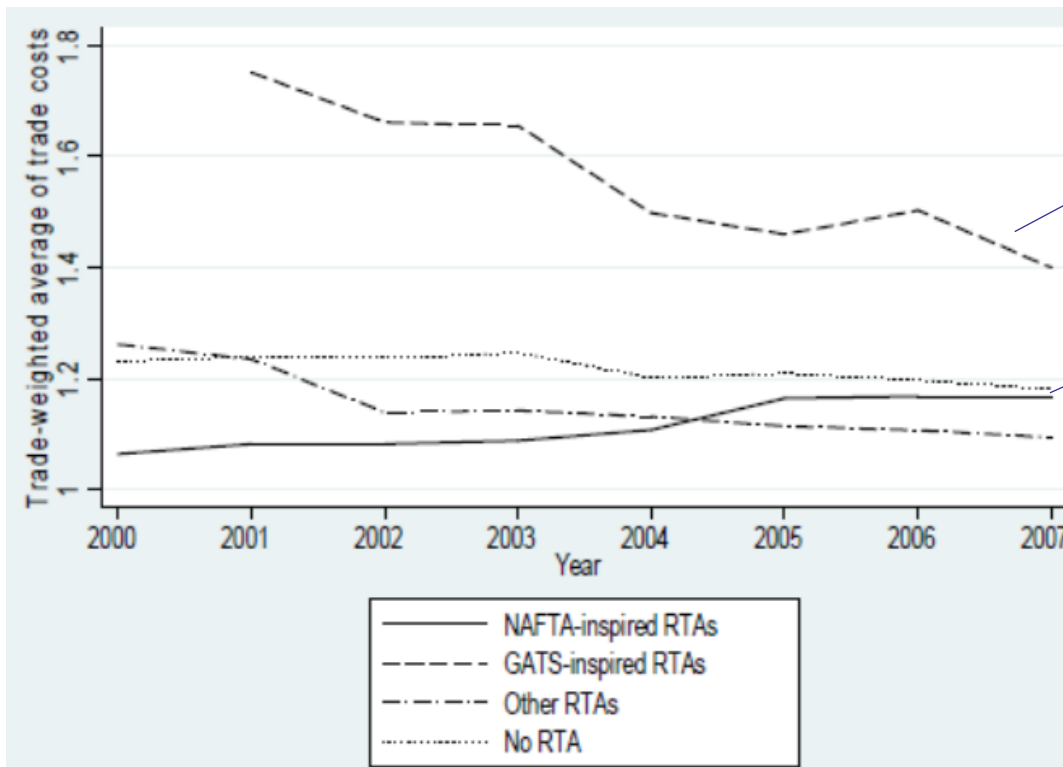
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Positive List Approach – not desirable ?

- Why not desirable?
 - i) Lengthy process with 54 participating countries if request & offer is followed
 - ii) This approach costs governments more (graph)
 - iii) GATS + schedules negotiated within some of the RECs only marginally improve on the WTO
 - iv) Services classification is out of date with little hope for improvement
 - v) Resulting schedules of commitments are dense and impossible for private sector to use



Trade costs for type of Services RTA



GATS-inspired RTAs

NAFTA-inspired RTAs

On average, trade costs are lower in negative list agreements



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Negative / Hybrid List Approach – not realistic?

- Why not realistic?
- May face considerable push-back from governments; AU Member States may consider that they are not ready such a big change
- May feel that this does not give them enough policy space and that more training / exposure is needed
- Comprehensive regulatory audits are not yet available in all of the AU Member States



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Another Option could be Considered

◆ HUB & SPOKE APPROACH WITH FOCUS ON SECTORAL NEGOTIATIONS

- **FRAMEWORK SERVICES AGREEMENT** with enhanced services disciplines (GATS plus)
TOGETHER WITH
- **SECTORAL PROTOCOLS** negotiated in phases with priority sectors negotiated first, followed by other sectors over time
- **AGREEMENTS ON KEY HORIZONTAL TRADE-RELATED ISSUES**



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Elaborating on the Hub & Spoke Option



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1. Framework Text

- Would contain all of the disciplines for the services agreement, either to be applied across the board to all services, or only to those sectors negotiated in the sectoral Protocols (to be decided)
- Important to be as forward-looking as possible, and relevant to the 21st century
- Should include disciplines on
 - DOMESTIC REGULATION – GATS +
 - ELECTRONIC COMMERCE / DIGITAL TRADE
 - RATCHET CLAUSE
 - TRANSPARENCY



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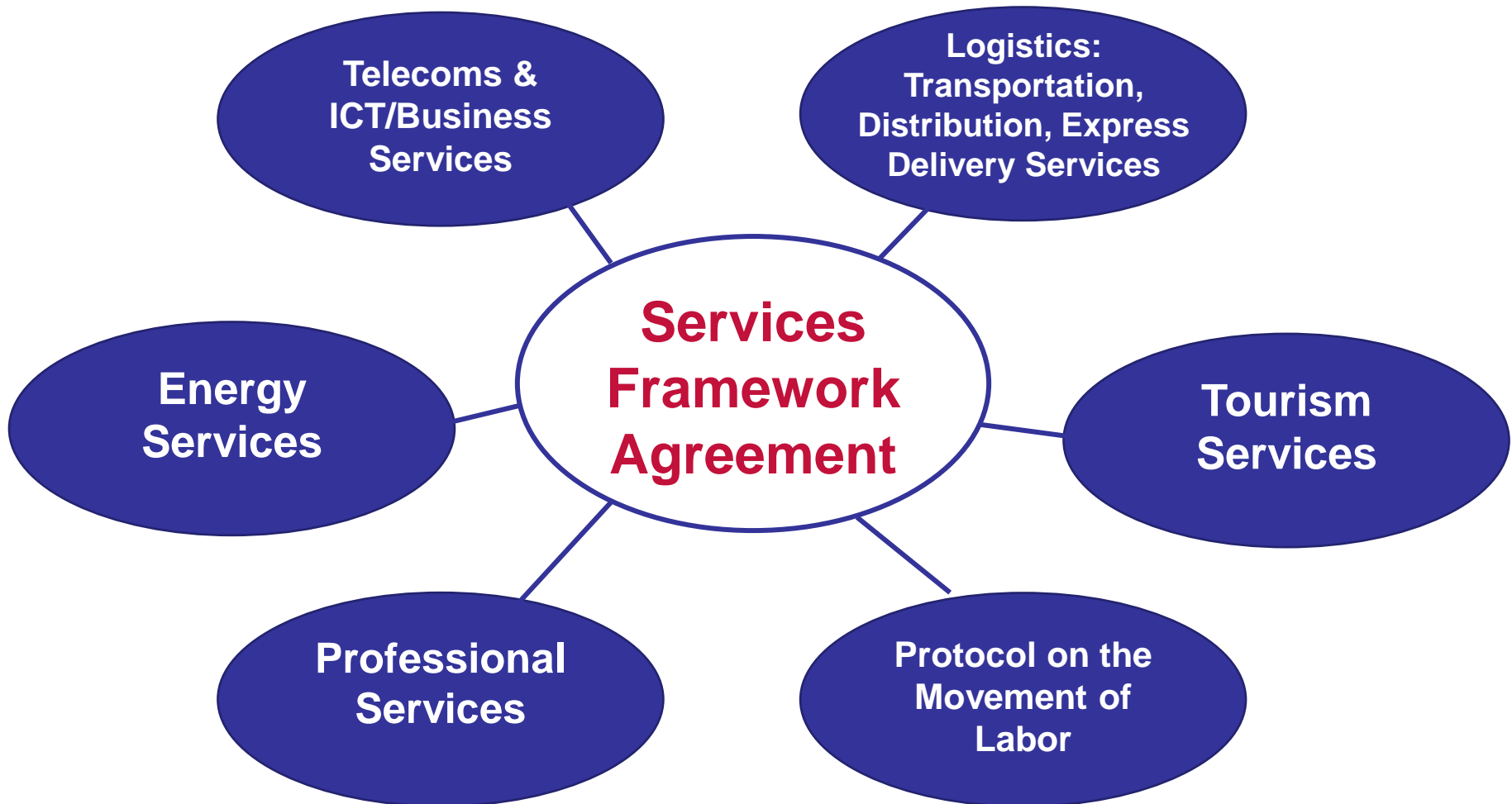
2. Priority Sectors for Sectoral Protocols

- Those identified in the Abuja Treaty, plus a few others
- Focus on “Infrastructure Services” that are key for economic growth and services trade, namely:
 - TELECOMS AND ICT/ BUSINESS SERVICES
 - FINANCIAL SERVICES
 - LOGISTICS: TRANSPORT; DISTRIBUTION; EXPRESS DELIVERY SERVICES
 - ENERGY SERVICES
 - TOURISM SERVICES
 - PROFESSIONAL SERVICES
- Other sectors can be incorporated later, over time



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Hub & Spoke Option (add Financial Services)





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3. Sectoral Protocols to include both Regulatory Disciplines and Liberalization Benchmarks

- **Regulatory Disciplines** : key for liberalization to be effective
- Horizontal disciplines on Domestic Regulation in the Framework Agreement to be supplemented by sector-specific regulatory disciplines, where needed and appropriate
- **Disciplines to be negotiated sector by sector**, with the input of regulators and using existing international standards or guidelines as a starting / reference point



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3. Sectoral Protocols to include both Regulatory Disciplines and Liberalization Benchmarks

- **Market Access Opening Benchmarks:**
 - Benchmark levels for MA Opening to be negotiated and agreed by all AU Members in each sector
 - No Request & Offer negotiations; all AU members expected to meet the agreed Benchmarks through national steps
 - Agreed time frames for implementation of benchmarks
- **Phase-in over time of MA liberalization obligations with longer periods for the LDCs**



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3. Sectoral Protocols to include both Regulatory Disciplines and Liberalization Benchmarks

- **Final Objective: Full Liberalization But.....**
 - If full liberalization in a given sector proves impossible to agree upon in the benchmarks, then AU Member States could list the remaining restrictions at the level of regulatory application, under a **STANDSTILL OBLIGATION** until – if and when - other rounds of negotiation can be carried out
- **Negotiation of market access liberalization benchmarks might proceed with the exchange of “transparency lists” of the national regulations in that particular sector that affect trade in services for each MS**



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4. Protocol on Labor Mobility

- **Protocol on Labor Mobility** : could be negotiated simultaneously with the sectoral protocols
- Would be broader than Mode 4 categories: as broad as possible
- Could proceed by negotiated lists of recognized professions for mobility that could move throughout the continent without visas or work permits; possibly associated with numerical quotas for a certain period of time
- This list of professions would be expanded over time
- **Mechanisms for making labor mobility a reality would need to be carefully reflected upon**



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5. Separate Protocols on Key Horizontal Trade-Related Issues

- Need an integrated horizontal approach for key areas influential over trade : covering both goods & services
 - Investment
 - Competition Policy
 - Government Procurement
 - Intellectual Property
 - Should carefully reflect upon reasons behind why integrated disciplines are important



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Further thoughts on the CFTA services negotiations



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CFTA Services Negotiating Set-up might include

- A Services Negotiating Committee
 - A Committee on the Framework Text
 - **Sectoral Working Groups on the Priority Service Sectors for the Protocols : made up of negotiators and regulators**
 - A Working Group on the Protocol for Labor Mobility
 - Working Groups on Trade-related Horizontal Issues
 - A Committee on Institutional Arrangements
 - A mechanism for private sector input
- All Committees/ Working Groups will need Secretarial support from services officials in RECs / AU



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Monitoring Role following the Agreement on the Sectoral Protocols

- Monitoring would be needed to oversee implementation of the agreed MA Liberalization Benchmarks by sector
- This role could be carried out by the RECs, in coordination with the AUC DTI
- Each AU Member would be asked to submit the steps it had taken for implementation of the MA benchmarks on an annual basis for review



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Technical Assistance for Implementation of Regulatory Commitments in the Protocols

- Assistance with implementation of both the agreed Regulatory Frameworks as well as the MA liberalization obligations could be carried out through the Aid4Trade process as well as through mechanisms to be set up under the AU
- Discussion of technical assistance support would be an integral part of the Services Framework Agreement



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CFTA should be viewed as opportunity for sectoral development as well as a services negotiation

- CFTA is a vehicle
- **Outcomes are what is important:** to enhance economic development; generate employment through expanded trade; and to promote regional integration
- CFTA Services Agreement should be:
 - FORWARD, NOT BACKWARD – LOOKING
 - SUITABLE FOR THE 21st CENTURY
 - USEFUL TO THE BUSINESS COMMUNITY
 - HELPFUL AS A STEPPING STONE TO DEEPER INTEGRATION

CFTA Services Negotiators should think carefully about their choices. This is a unique opportunity of a lifetime and possibly of a century, to construct a useful agreement.



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Thank you

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