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# Trade Agreements and the Accounting Profession

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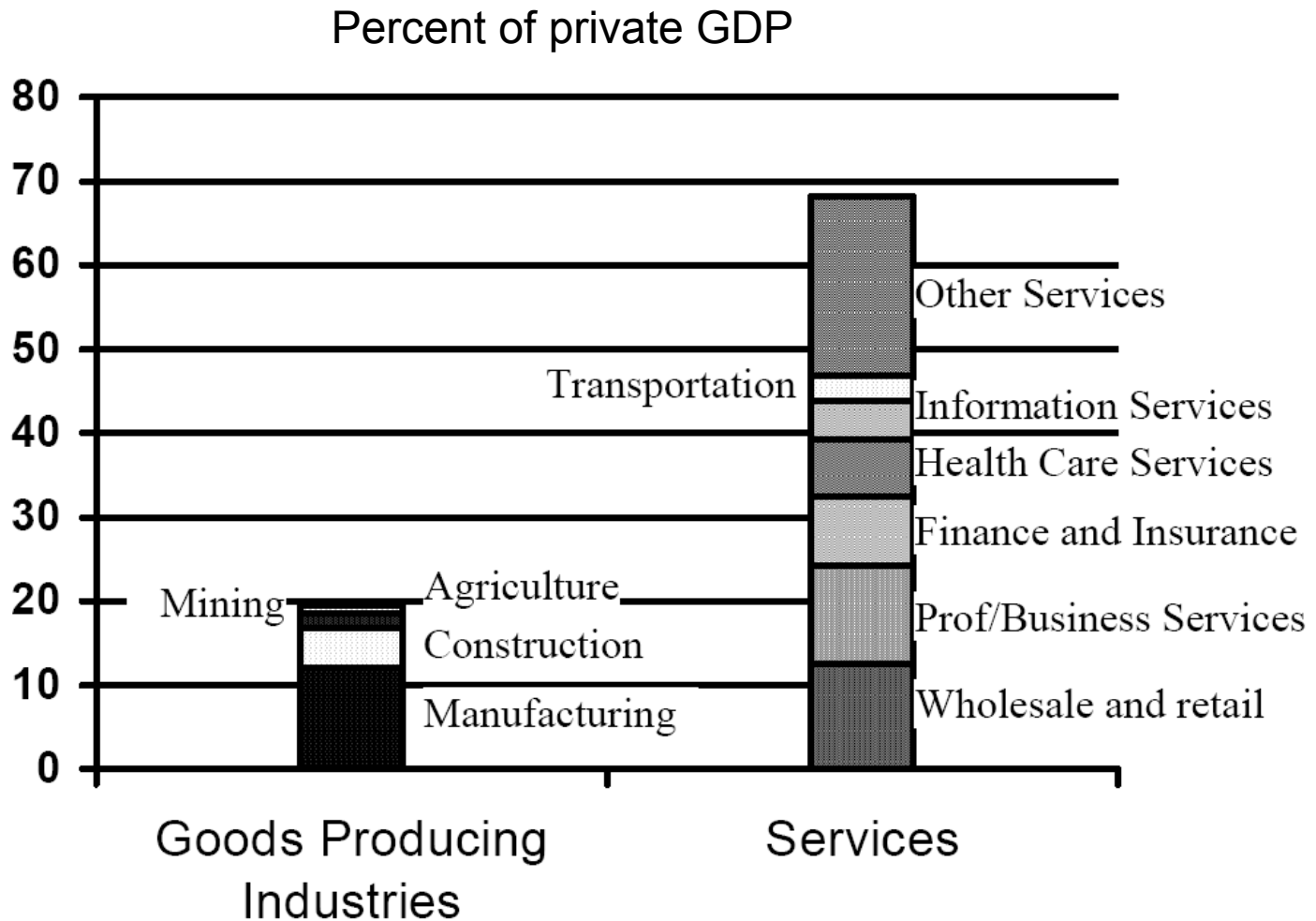
Todd Nissen

Office of the United States Trade Representative



US IQAB  
Nashville, TN  
October 21, 2008

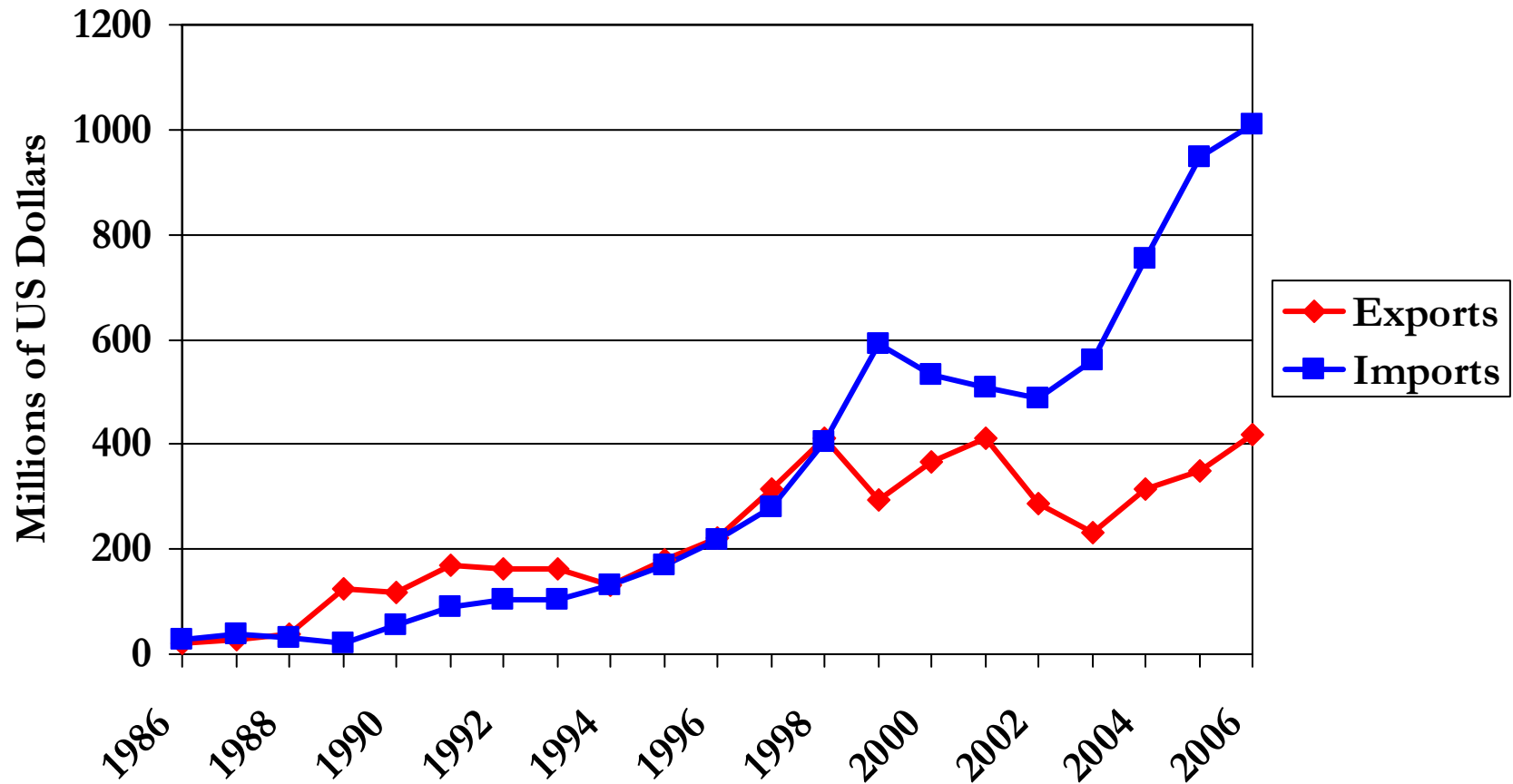
# The U.S. economy



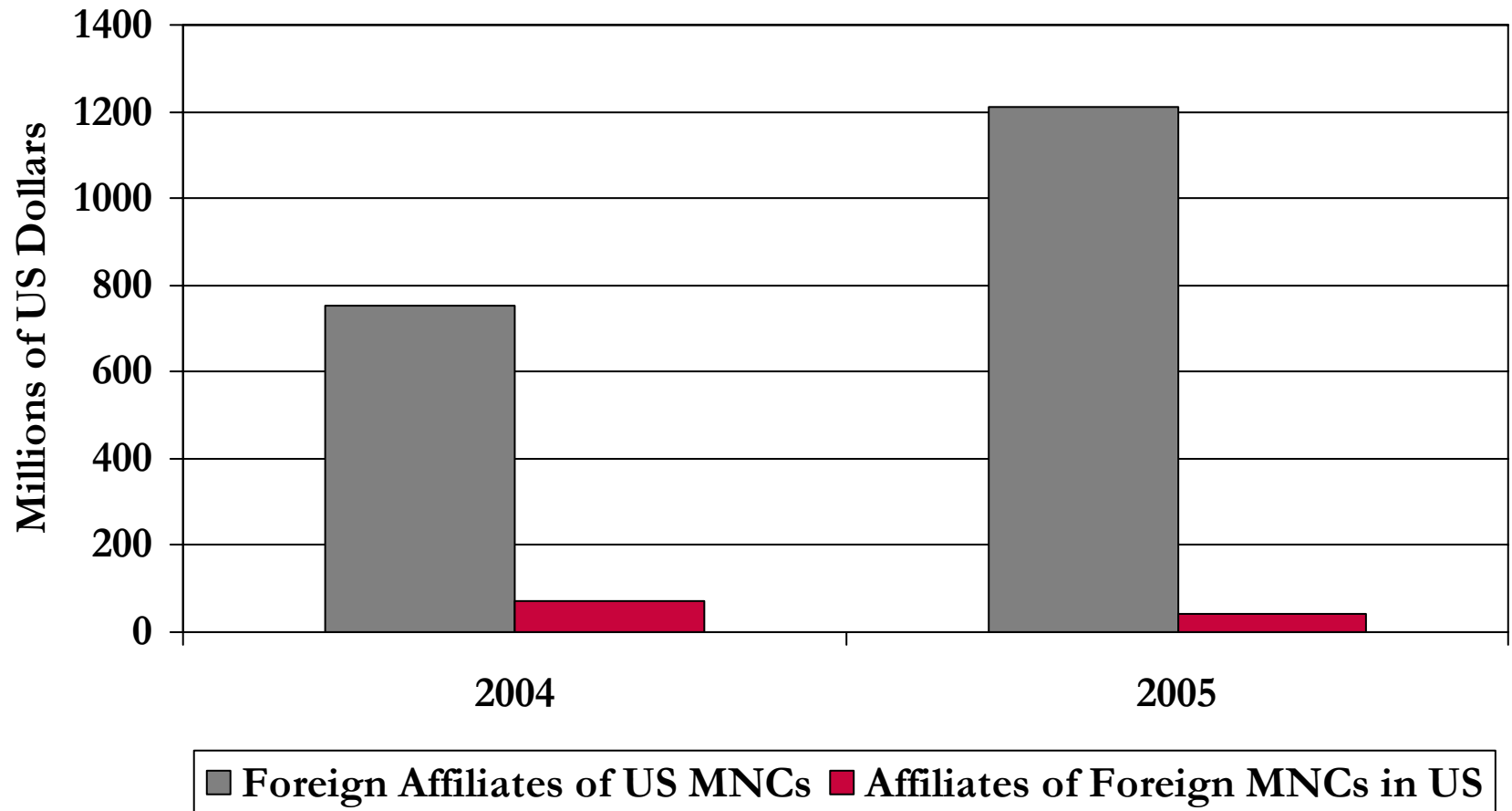
# Services trade growing rapidly

- US largest services trading country in the world
  - US services exports (2006):
    - \$404 billion cross-border, surplus of \$97 billion, third straight year of increasing surplus
    - \$528 billion affiliate sales, surplus of \$140 billion
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# “Accounting, Auditing, and Bookkeeping” Services Cross-Border Trade

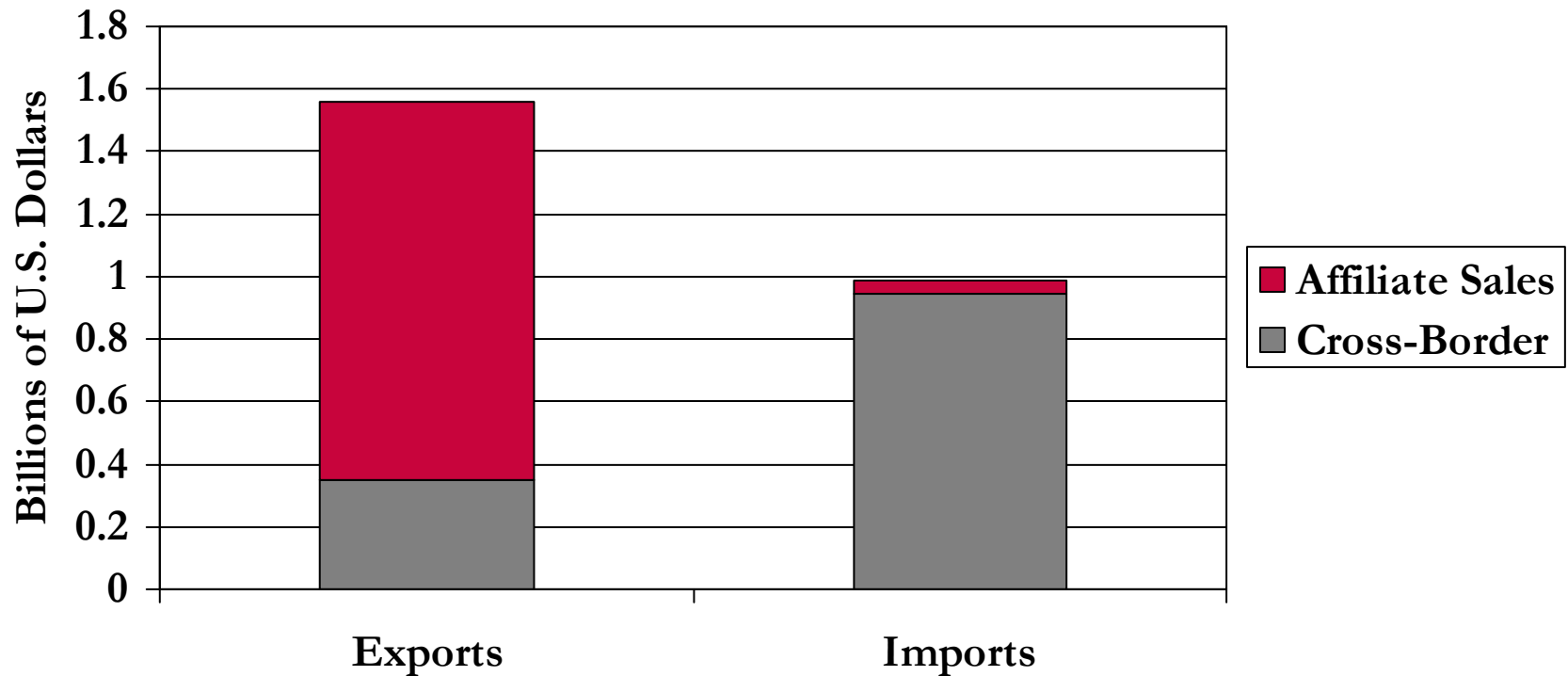


# Affiliate Sales by Multinational Accounting Corporations



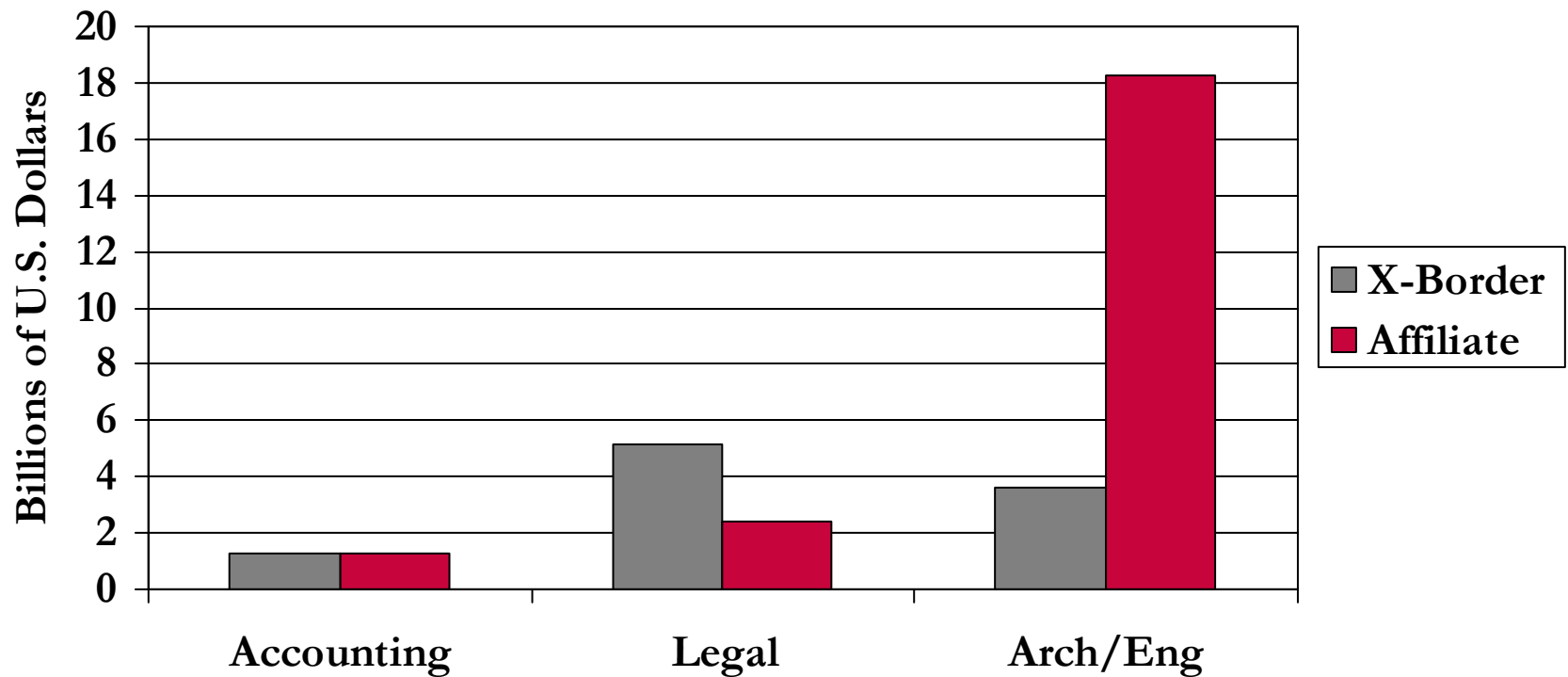
# “Accounting, Auditing, and Bookkeeping” Totals

2005



# Total trade by some professions

2005



# Accounting and global trade

- Greater mobility of people, capital, and information makes “trade” in professional services ever more possible.
  - Creates demand for greater professional mobility: common standards, recognition, substantial equivalency, etc. . .
  - What is the relationship between these forces, regulation of the professions, and the international rules-based trading system?
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# Three-pronged strategy

- Multilateral (WTO)
- Regional (NAFTA)
- Bilateral (Australia-US FTA)

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# The WTO

- WTO: Doha Development Agenda
    - 153 Members
    - Single undertaking: Agriculture, Goods, Services
    - 2001-?
  - The GATS
    - Market Access Negotiations
    - Working Party on Domestic Regulations
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# U.S. Free Trade Agreements

In Force	Pending Implementation	Pending Congressional Approval	Ongoing
Israel	Peru	Colombia	Malaysia
NAFTA	Oman	Panama	Trans-Pacific
Jordan		Korea	(NZ, Sing, Chile, Brunei)
Chile			
Singapore			
Australia			
Morocco			
CAFTA-DR			
Bahrain			

# What do trade agreements do?

- Commitments, or obligations, undertaken by sovereign states to honor common rules that:
  - Foster competition
  - Encourage fairness and nondiscrimination
  - Provide for the orderly settlement of disputes
- Participation is voluntary
  - Incentive is to enjoy benefits from a rules-based trading system – if everybody plays fair, everybody wins
    - If you break the rules, you may lose some benefits
    - But you can't be worse off than the “state of nature”

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# Key obligations

- Market Access: promotes competition
  - Nondiscrimination: levels the playing field
    - Most-Favored-Nation Treatment
    - National Treatment
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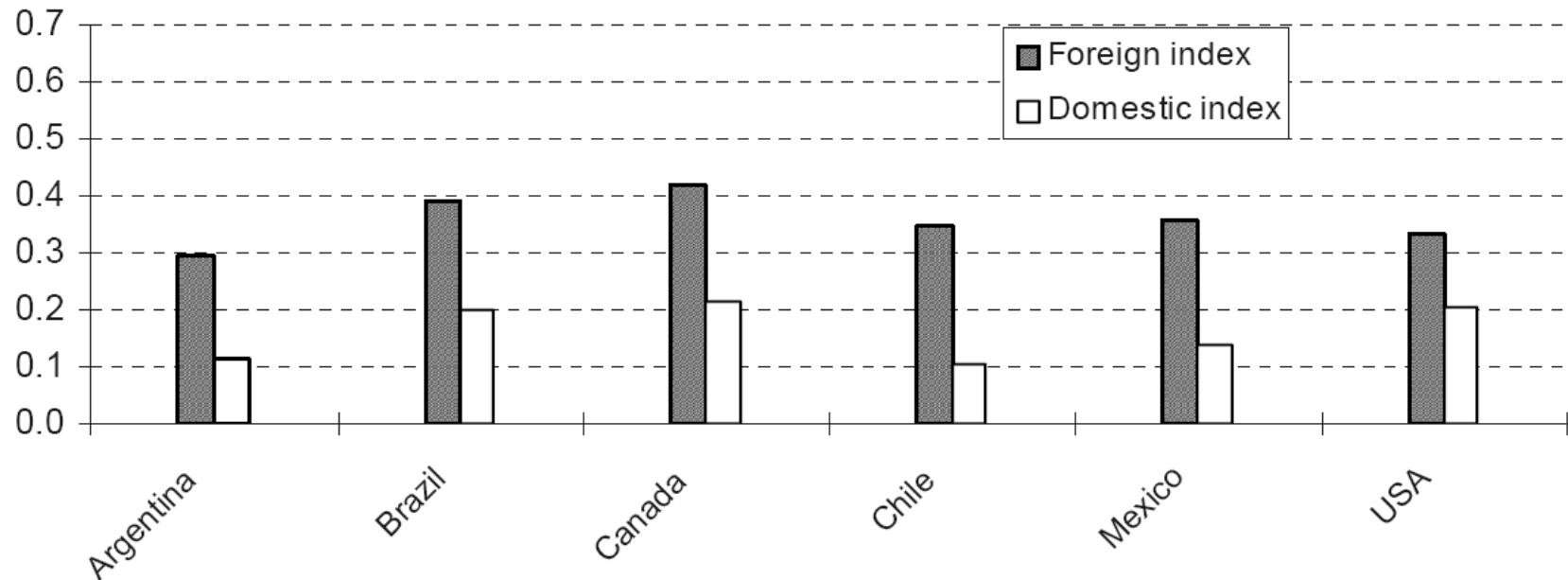
# Common MA and NT barriers

- Limitations on the number of audits performed or size of firm
  - Nationality requirements
  - Limits on foreign ownership and investment
  - Restrictions on forms of incorporation for foreign firms
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# Services barriers often high

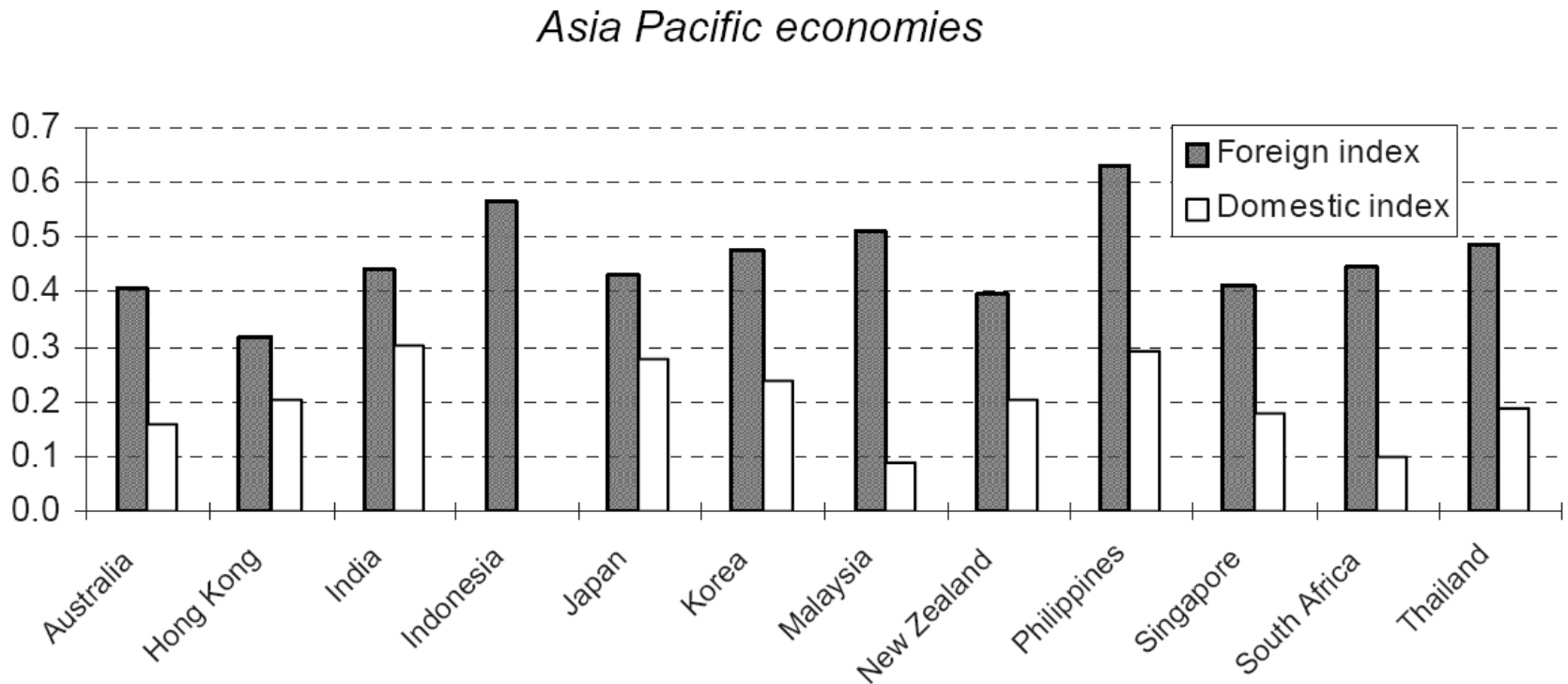
## Restrictiveness Index for Accounting Services

*Selected American economies*



# Restrictiveness Index

Figure 3.3 Restrictiveness index for accountancy services





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# Why take commitments?

- Attract investment
  - Lock in reforms
  - So others will do the same
    - IQAB policy on GATS commitments
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# Other relevant GATS elements

- Domestic Regulation
- Recognition

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# Domestic regulation

- Trade agreements recognize that regulations themselves may create an impediment to trade
    - Possible to create such a regulatory burden as to impede new entrants and effectively discriminate, particularly if policies are not transparent
  - But agreements also recognize that regulators must have discretion to determine the appropriate level of regulation
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# Domestic regulation

- GATS seeks to strike a balance
    - Encourages transparency and objectivity
    - Calls for “adequate procedures” to verify competence of foreign professionals
  - Leaves open option to develop stronger disciplines if agreement can be reached
  - To date, disciplines adopted for one profession—accounting
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# The accounting disciplines

- Broad consensus that more specific disciplines would serve the greater interests of the profession
  - Developed 1995-1998; adopted in 1998
  - Don't take effect until completion of Doha Round
  - Do not apply to countries that don't take commitments
  - Political “standstill” in effect
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# General Provisions

- Members shall ensure that measures . . . relating to licensing requirements and procedures, technical standards and qualification requirements and procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary barriers to trade in accountancy services. For this purpose, Members shall ensure that such measures are not more trade-restrictive than necessary to fulfil a legitimate objective. Legitimate objectives are, *inter alia*, the protection of consumers (which includes all users of accounting services and the public generally), the quality of the service, professional competence, and the integrity of the profession.
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# Similar concept in FTAs

- With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:
  - (a) based on objective and transparent criteria, such as competence and the ability to supply the service; and
  - (b) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

# Recognition

- Trade agreements acknowledge that absence of international standards impedes trade
    - Difficult for professionals to operate internationally and for global companies to identify qualified employees
  - Also explicitly acknowledge that the substance of the standards is outside the scope of trade policy
  - International standards may be desirable, but trade agreements do not require the development or the adoption of such standards
  - Most they can do is encourage “relevant bodies to develop mutually acceptable standards.”
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# Recognition

- FTAs go a little further than WTO on licensing and certification
    - Stronger encouragement of relevant bodies to develop mutually acceptable standards
    - Encouragement of work programs on temporary licensing
    - Some FTAs provide for a working group on recognition issues involving relevant professional bodies
  - USTR role is to facilitate interaction with state regulatory bodies and private professional or accrediting organizations, but not to drive the process
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# Sources of tension

- Some countries consider U.S. standards as an excuse to keep their service suppliers out
  - Want a quick fix, government-to-government
  - U.S. working to increase understanding of:
    - quality assurance – especially quality over time
    - U.S. federal system
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# IQAB's work is critical

- U.S. recognition agreements help establish high-quality standards internationally
  - Helps US business interests in ensuring workforce quality overseas
  - Helps US demonstrate that government agreements are not the only or best way
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