



ELECTRONIC COMMERCE IN REGIONAL TRADE AGREEMENTS

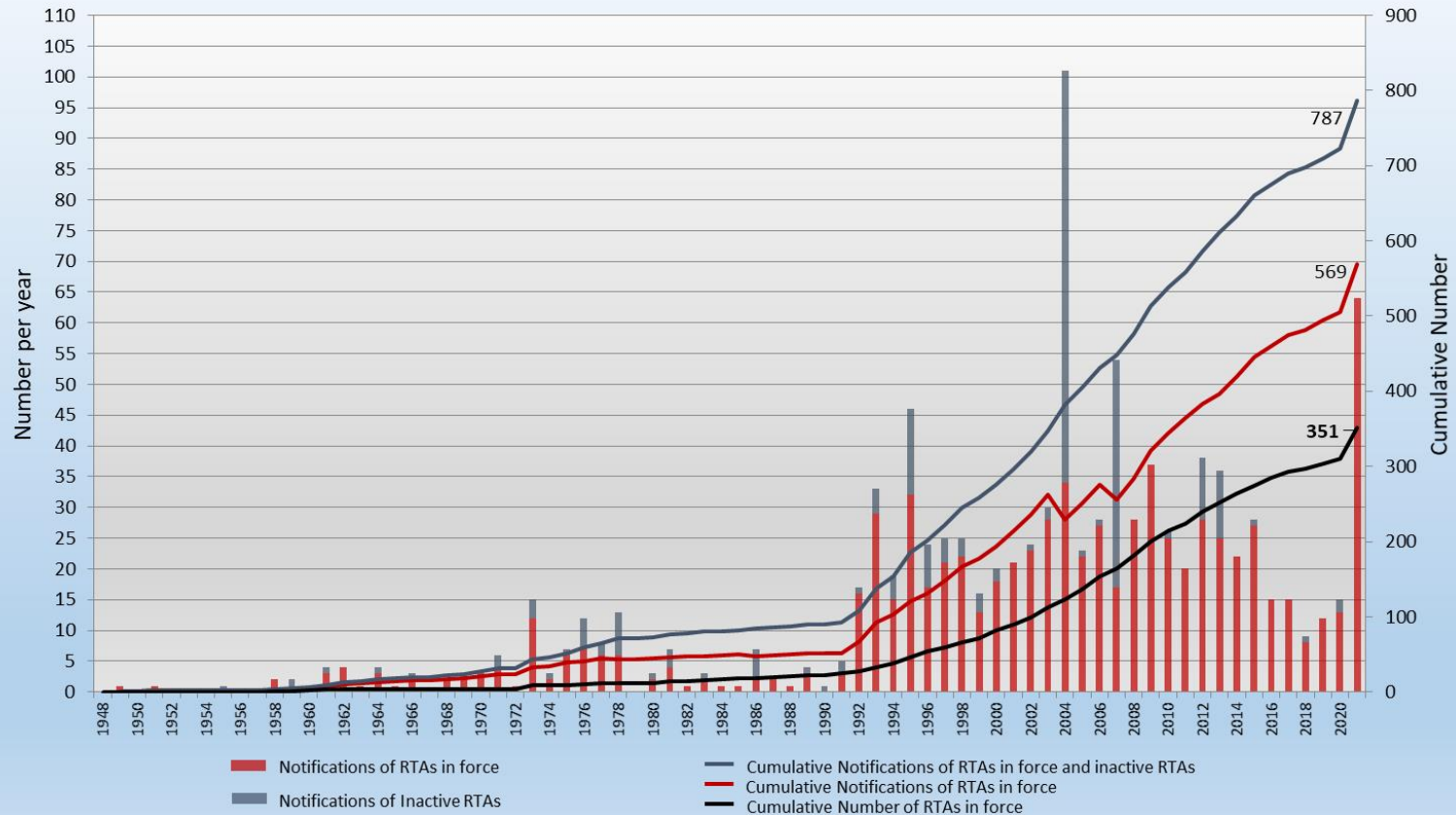
**IDB/INTAL ONLINE WORKSHOP ON
ELECTRONIC COMMERCE FOR MERCOSUR COUNTRIES**

6 DECEMBER 2021



Regional Trade Agreements and the WTO

Evolution of Regional Trade Agreements in the world, 1948-2021



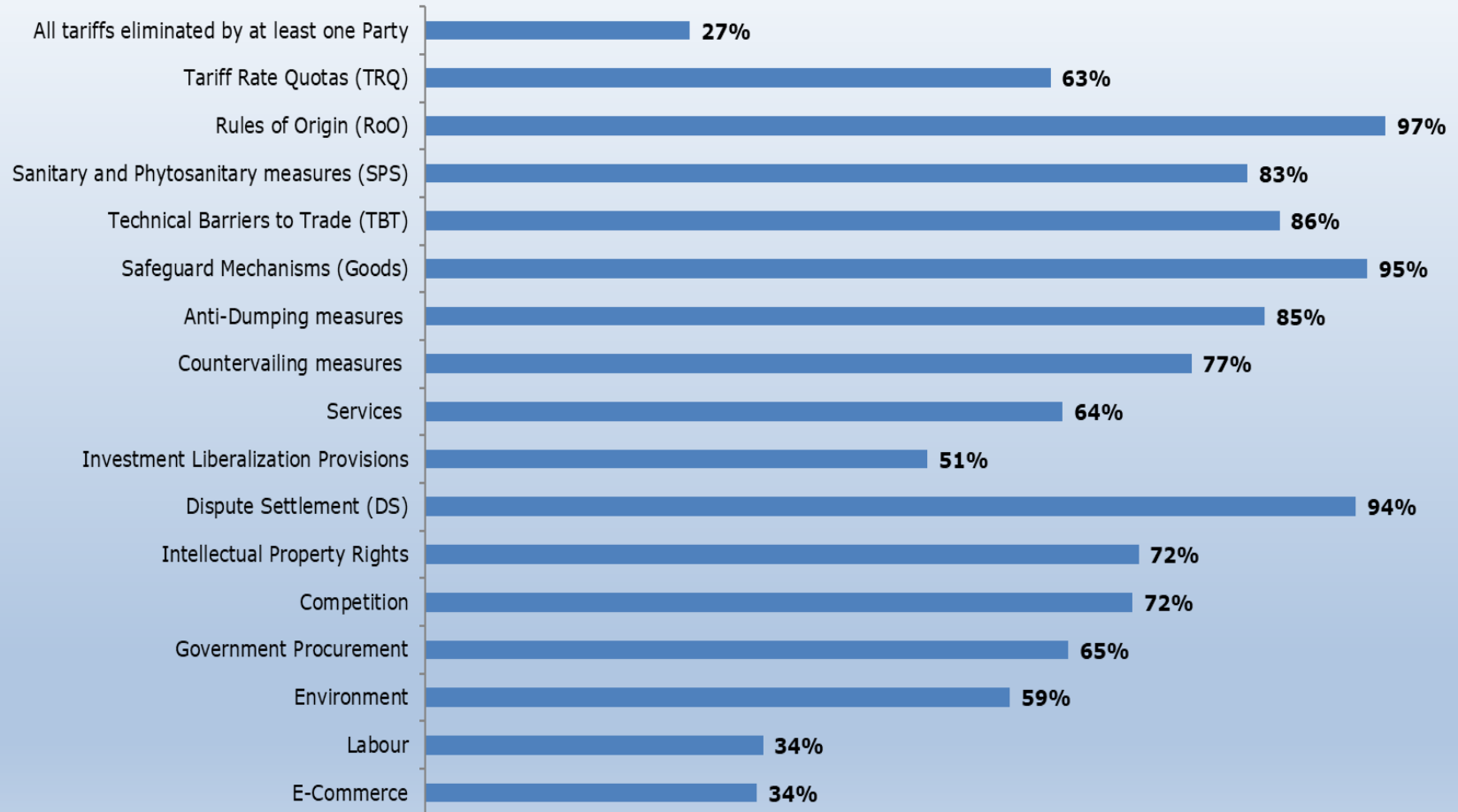
Note: Notifications of RTAs: goods, services & accessions to an RTA are counted separately. The cumulative lines show the number of RTAs/notifications that were in force for a given year. The notifications of RTAs in force are shown by year of entry into force and the notifications of inactive RTAs are shown by inactive year.
Source: RTA Section, WTO Secretariat, December 2021.

As of 1 December 2021, 351 RTAs had been notified to the WTO. These correspond to 569 notifications (goods, services, accessions) of RTAs that are currently in force.



Key provisions in RTAs

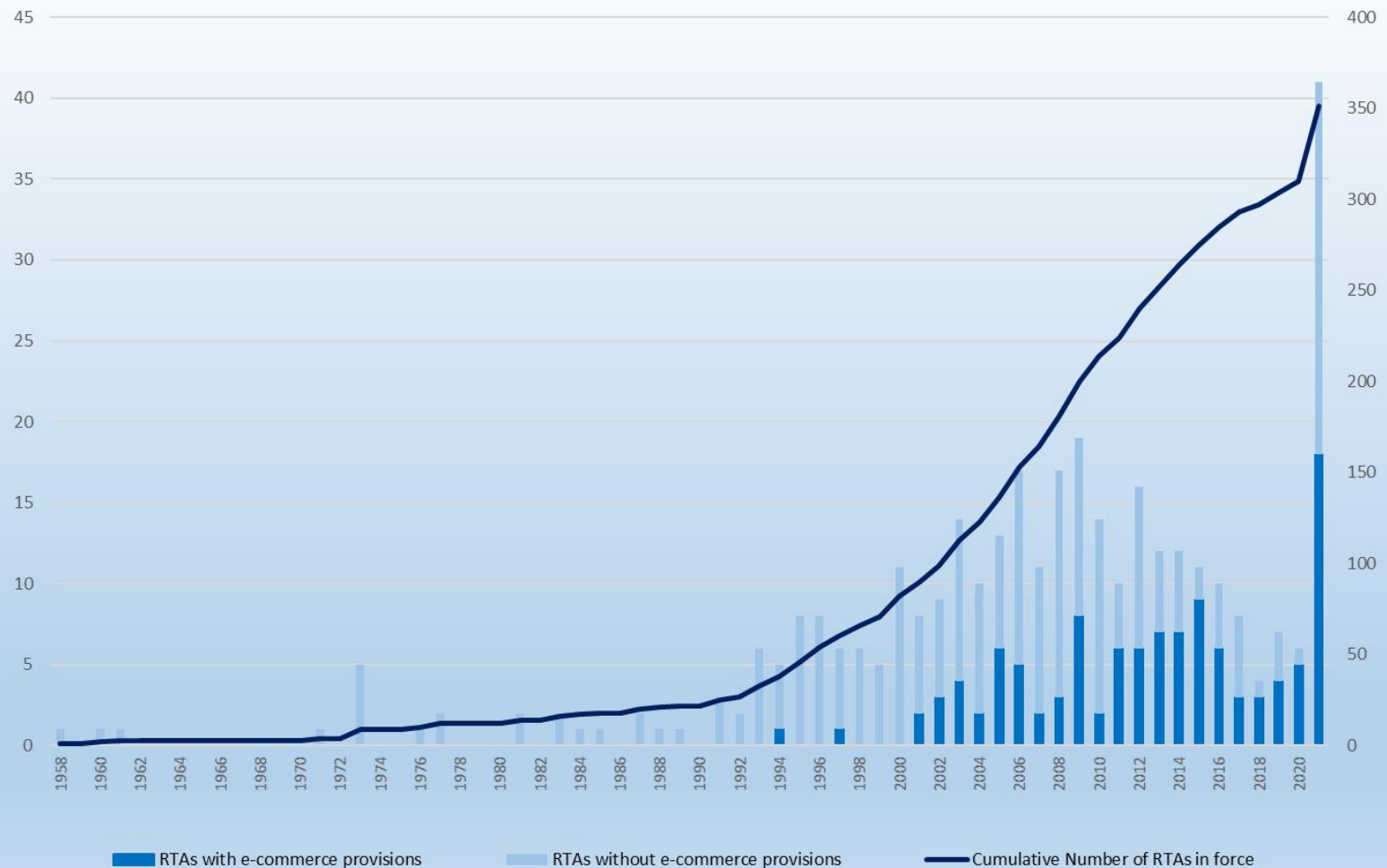
Broad Provisions on RTAs



Source: RTA Section, WTO Secretariat, December 2021. Figures are based on a batch of 337 RTAs notified to the WTO and currently in force. For more details on these provisions: <http://rtais.wto.org/>

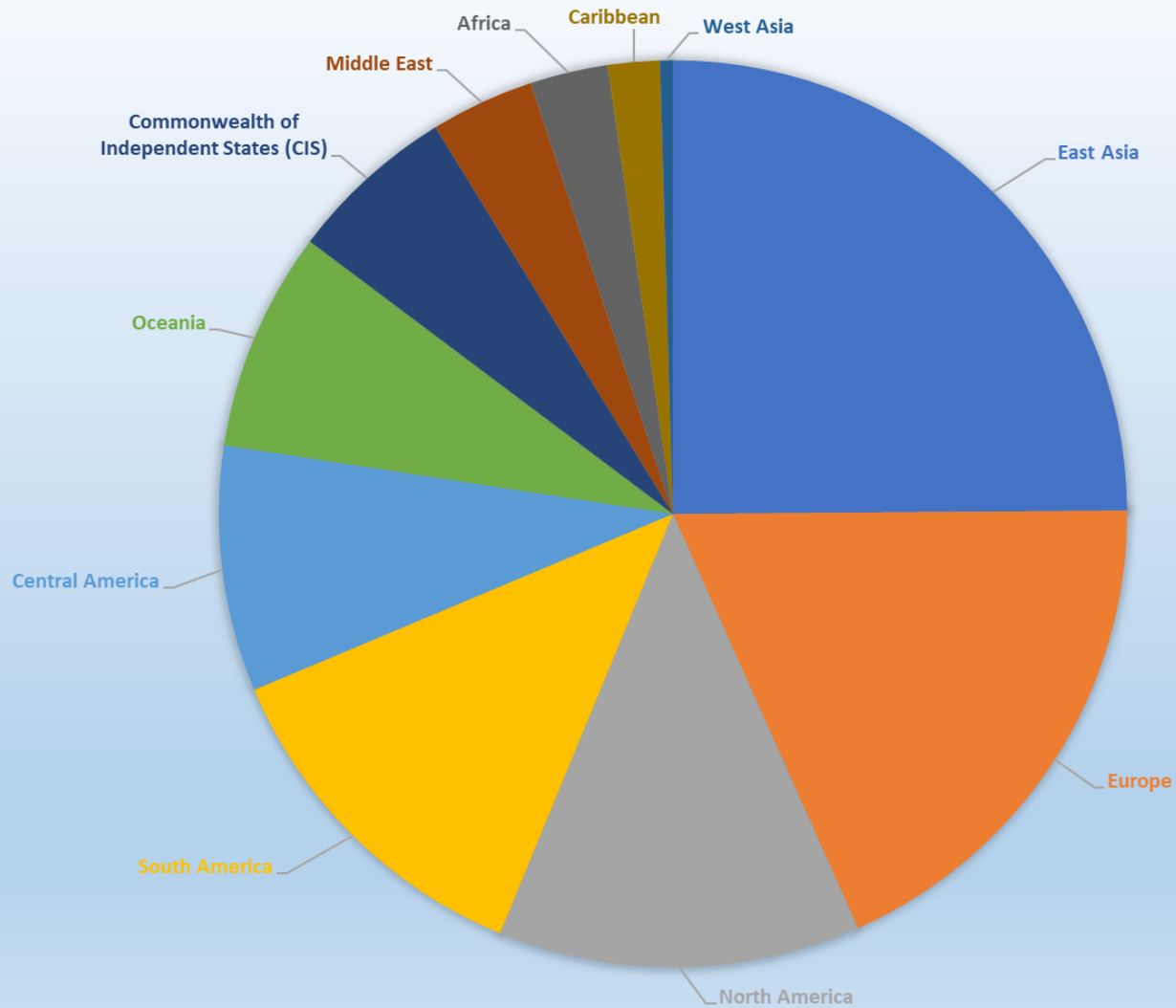


Evolution of e-commerce provisions





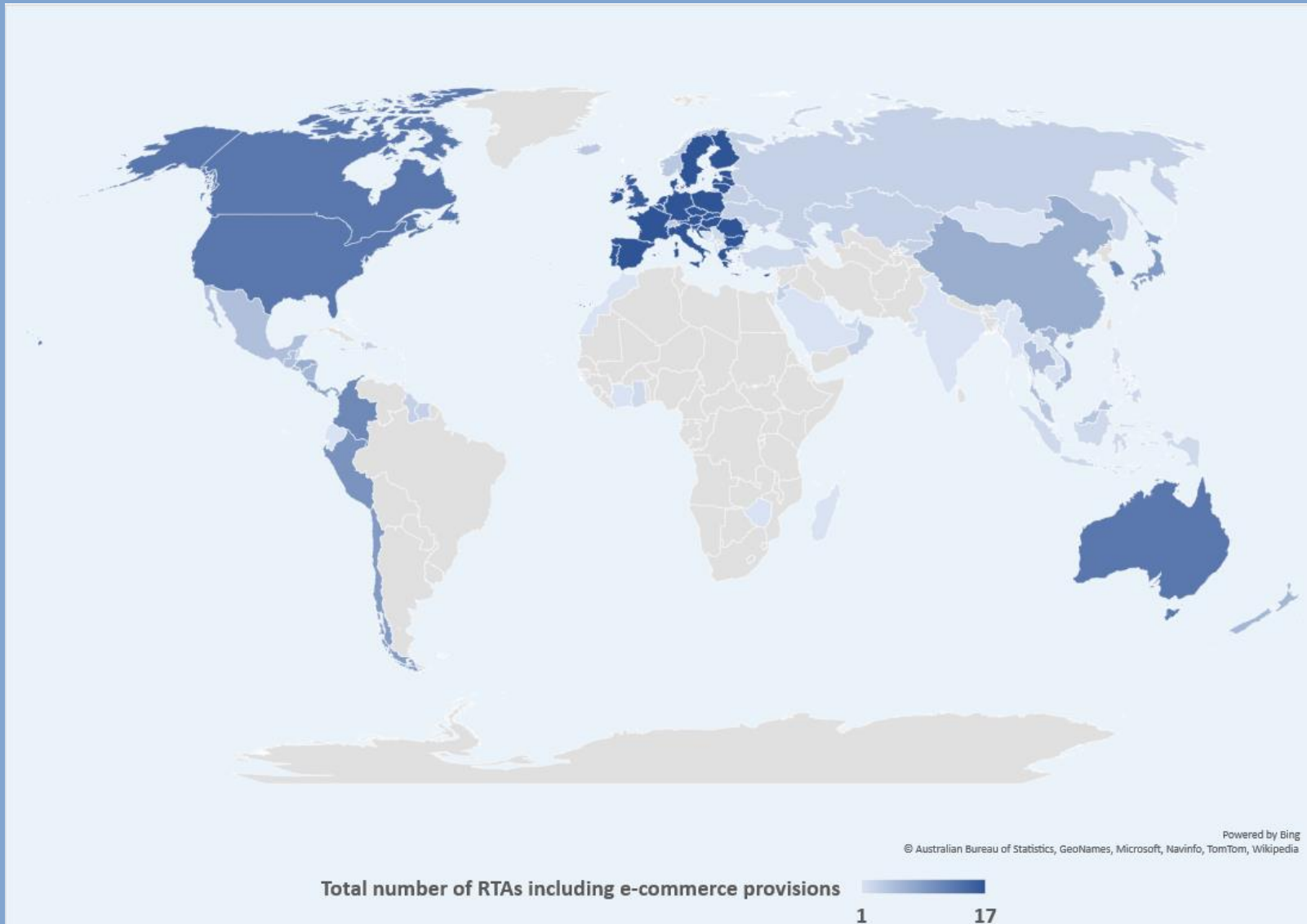
Spread of e-commerce provisions, by Region



Note: RTAs involving countries/territories in two (or more) regions are counted more than once. Source: RTA Section, WTO Secretariat, December 2021.

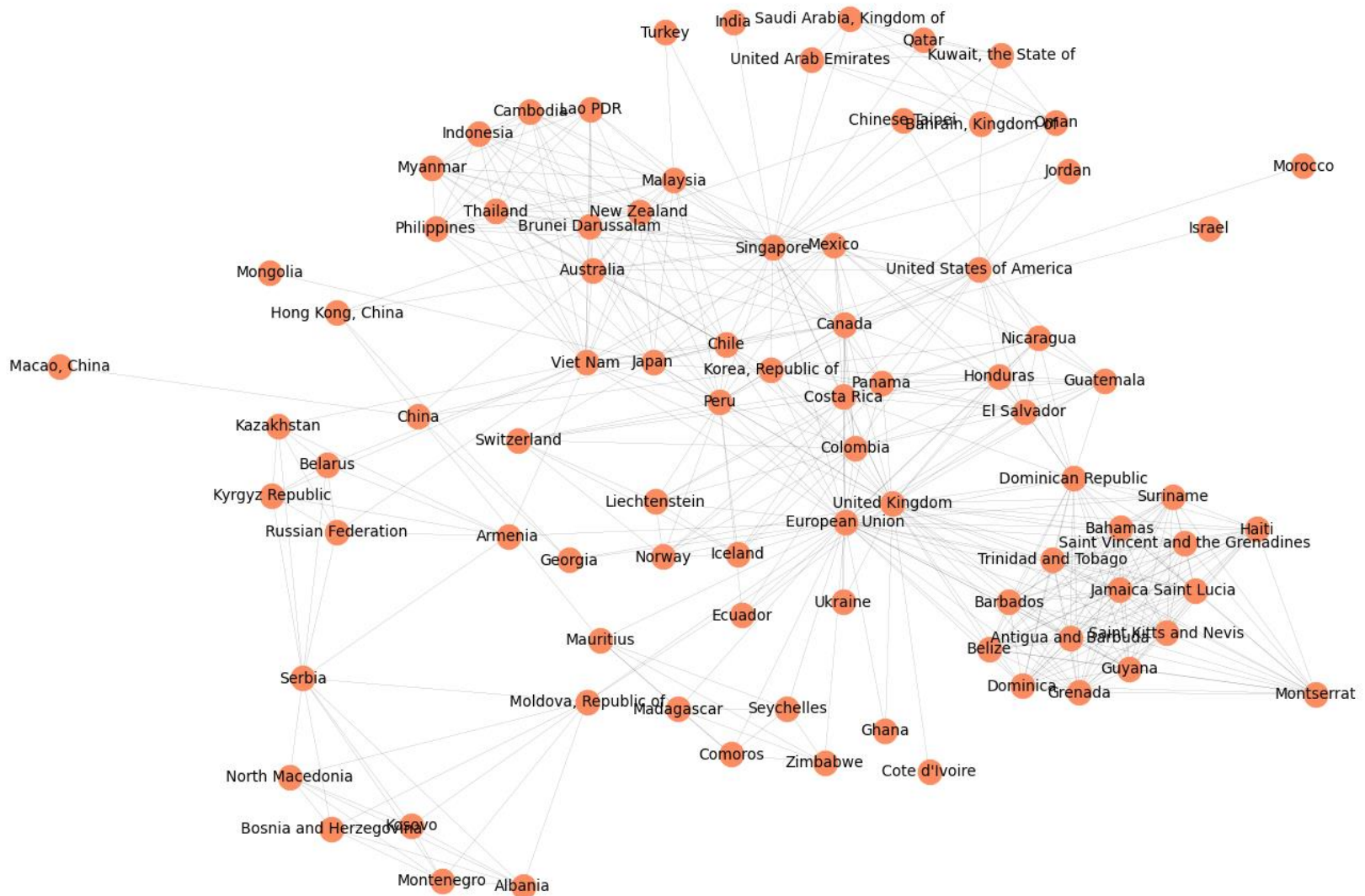


Economies with e-commerce provisions in their RTAs





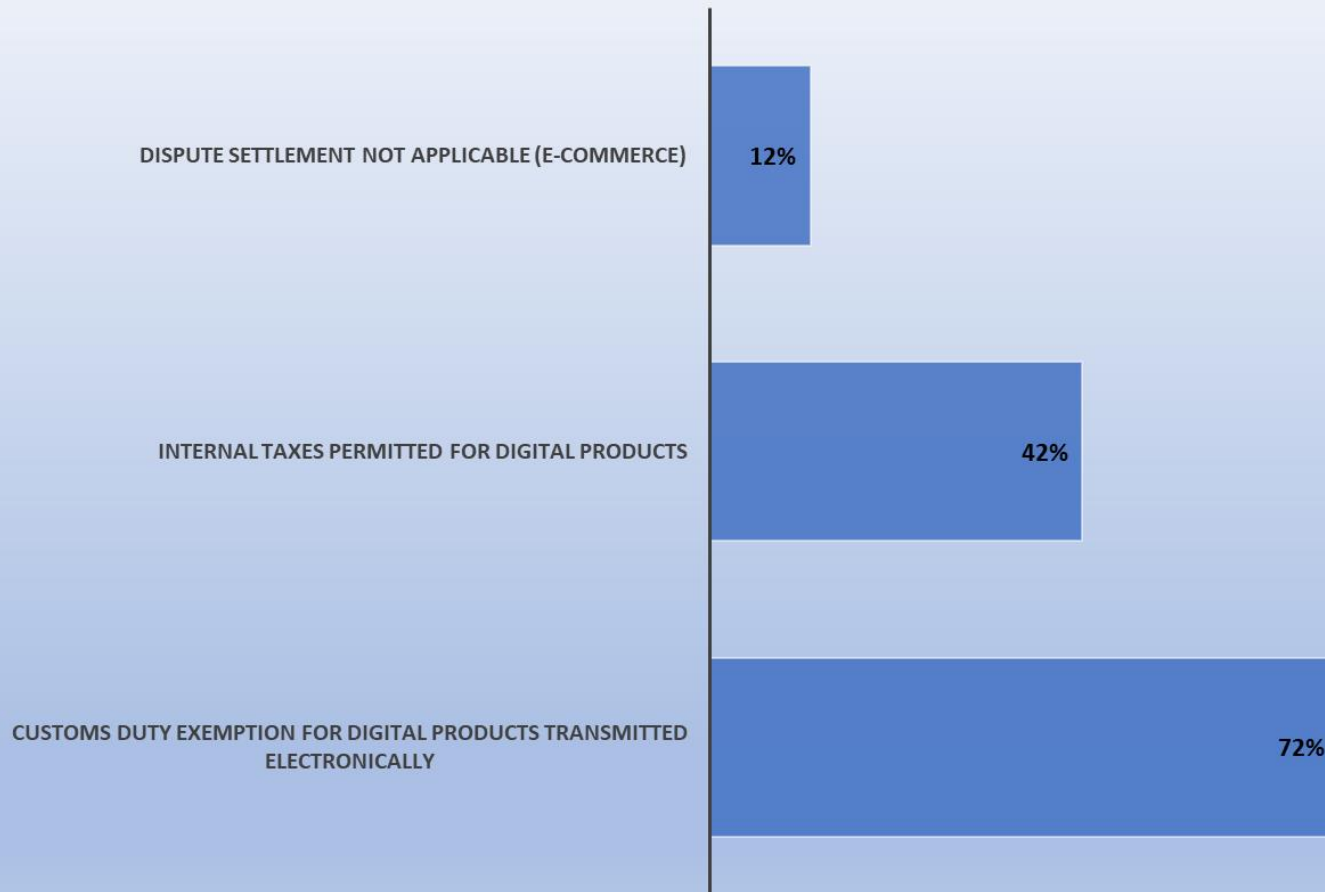
RTAs with e-commerce provisions





Key e-commerce provisions

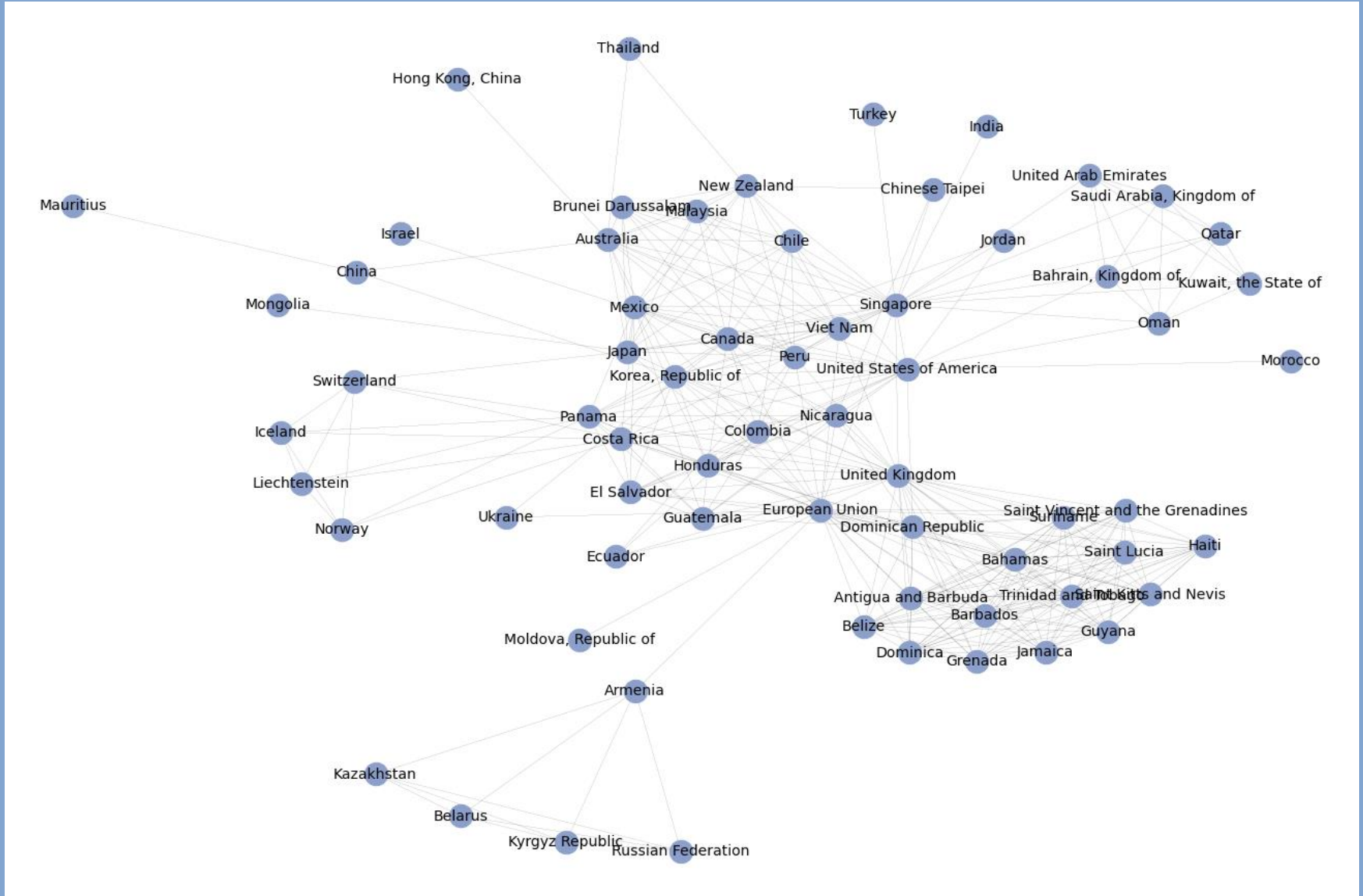
34 % of RTAs include Provisions with regard to Electronic Commerce



Source: RTA Section, WTO Secretariat, December 2021. Figures are based on a batch of 337 RTAs notified to the WTO and currently in force.
For more details on these provisions: <http://rtais.wto.org/>

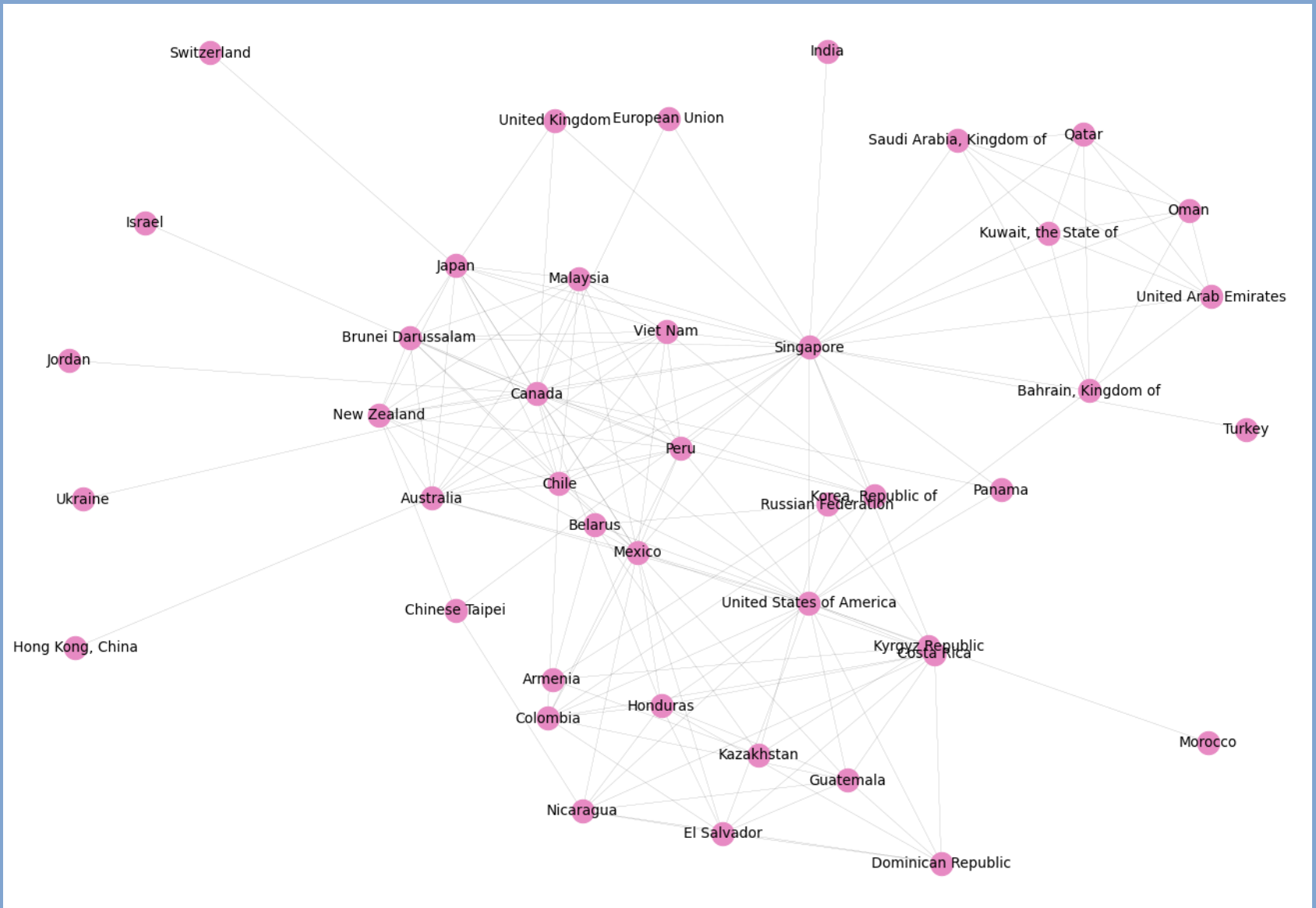


RTAs exempting customs duty for digital products transmitted electronically

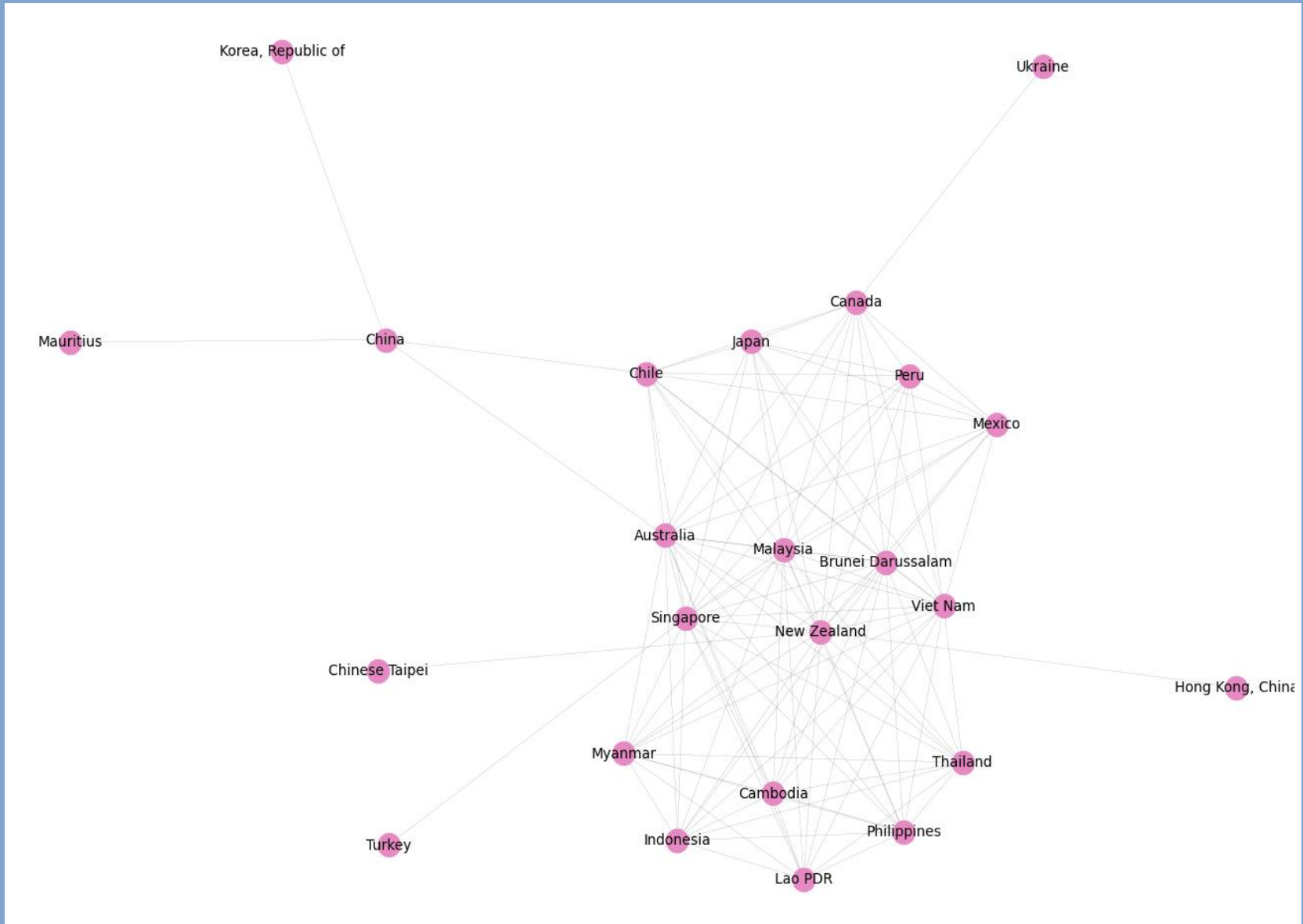




RTAs permitting internal taxes for digital products



RTAs excluding e-commerce from dispute settlement





RTA Provisions: e-commerce

Other key provisions:

- Non-discrimination of digital products or on the basis of ownership (with some exceptions)

No Party shall accord less favourable treatment to digital products created, produced, published, contracted for, commissioned or first made available on commercial terms in the territory of another Party, or to digital products of which the author, performer, producer, developer or owner is a person of another Party, than it accords to other like digital products (AUS-Chile; CPTPP; USMCA) Pacific Alliance

- commitment to legal framework based on international standards such as the UNCITRAL Model Law 1996 (including to facilitate paperless trading);

Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996 or the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York, November 23, 2005 (AUS-Chile)

- Around half of the RTAs with e-commerce provisions agree to adopt the WIPO “Internet treaties” (copyright and performances and phonogram) including enforcement.



RTA Provisions: e-commerce

- consumer protection (e.g., legal framework for personal data protection, e-signatures, spam, telemarketing). Publication of laws

Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities. (CPTPP) also Pacific Alliance

- Most incorporate cooperation provisions, including for technical assistance.
 - Research and training and paperless trading (ASEAN-Aus-NZ, Thailand-Aus, Korea-Viet Nam)
 - SMEs (ASEAN-Aus-NZ, Korea-Viet Nam, CPTPP)
 - Cooperation in international fora (ASEAN-Aus-NZ, Japan-Singapore, Korea-Viet Nam, CPTPP)
- Recent RTAs include new issues such as prohibitions on source code transfer (e.g., CPTPP, EU-Japan, Japan-Mongolia, USMCA) and data localization requirements (e.g., CPTPP, Japan-Mongolia, USMCA, Pacific Alliance).



RTA Provisions: e-commerce

Carve outs:

- Government procurement, subsidies and taxation, dispute settlement, exclusion of preferences for third parties, non conforming measures in services.

This Chapter shall not apply to: (a) government procurement; or (b) information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection (Korea-Central America, CPTPP) (Ind-Sing).

This Chapter shall not apply to: (a) government procurement; (b) subsidies as defined in the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement; and (c) taxation measures. (Jpn-Switz)



RTA Provisions: e-commerce

Carve outs:

- Services: both in positive and negative list approaches

Mode 1 (cross border trade in services):

- Cross border trade prohibited in certain sectors (eg financial services (insurance))
- Unbound in certain sectors (eg telecommunications services)

Mode 3 (commercial presence):

- provider of the cross border service must set up a legal entity in the party in order to provide the service (retail and wholesale distribution services and e commerce platforms)



THANK YOU

Rohini Acharya

rohini.acharya@wto.org