CUTS Institute for Regulation & Competition

Training Programme on Commercial and Economic Diplomacy

22-26 October 2007, Royal Orchid, Jaipur

Doha Round Market Access Negotiations in Services

An Exercise in

Identification of Possible Trade Offs

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October 25, 2007

The General Agreement on Trade in Services (GATS) established the first ever set of multilateral, legally enforceable rules covering international trade in services. It covers all services sectors and all forms of trade in services. The current ongoing negotiations on services, as a part of Doha Round of multilateral trade negotiations, are taking place at a time when the sector is undergoing a profound transformation as a result of technological innovations in computing and telecommunications. This has considerably expanded the tradability of services. The architecture of the GATS is given in Annex I.

Along with many developing countries, India has growing export interest in the sector having registered an export growth of over 20% in the decade of 1995-2005. India's share of trade in services is 1.4% of the global trade as against only 1% in the case of merchandise trade.

India has received requests for liberalization commitments, both from developed and developing countries, in a large number of sectors such as distribution, telecommunication, energy, environmental, financial, educational, tourism and travel, computer and related services and business services. The horizontal requests are mostly focused on modes 3 and 4, i.e. establishment (FDI) and movement of natural persons.

The growing importance of the service sector to the Indian economy is reflected in its increasing contribution to the GDP. This stood at 52.4% in 2004-05 compared to 46.6% in 1998-99. This reflects a structural shift in the economy. In fact, value added by services sector in an economy is an indicator of its development status.

In the Uruguay Round of negotiations, the commitments of all members in services were modest. In almost all cases, members did not even bind the then existing levels of openness. One of the reasons of course was that GATS being a new agreement, members were not sure about how the agreement would pan out. Members were also unable to secure commitments in areas of exports interest to them. For instance from India's

perspective at that time, the most important mode of delivery was mode 4, namely that of movement of natural persons as suppliers of service. In this area the commitments of developed countries were very modest and confined to the movement of senior level executives as intra-corporate transferees for mode 3 purposes, namely that of establishment of businesses. India's commitments were also modest and confined to only mode 3 in limited number of sectors.
Since then the most significant development in the market place has been the emergence of the Internet, giving rise to IT-enabled, knowledge-based services, almost exclusively traded through mode 1, namely cross-border delivery by electronic means. While India continues to have significant interest in liberalization of mode 4, mode 1 has assumed equal, if not greater significance. By and large, the major developed countries are operating liberal and open regime under mode 1. There are, however, increasing pressures for seeking protection against what is termed as the migration of skilled jobs to developing countries as a result of the developments in IT.
Another noteworthy development has been the autonomous reform and liberalization of the service sector by India (and also by other developing countries); giving India the necessary flexibility for exchange of concessions or trade offs by binding the present degree of openness. Broadly speaking, India's developed country partners in these negotiations are interested in liberalization under mode 3 in sectors such as distribution, telecommunication, energy, environmental, financial, educational, tourism and travel, computer and related services. Our own interest are in modes 1 and 4, across almost all service sectors, as it is possible to export these services, wholly or in part, through mode 1.

The other two important areas in market access negotiations in the Doha Round are liberalization in agriculture and reduction in tariffs on manufactures. International trade in agriculture is highly distorted on account of massive domestic support and subsidization in developed countries. India has an offensive interest in seeking to reduce substantially the current levels of such support. We also have considerable defensive interests in agriculture of protecting livelihood of a vast majority of farmers engaged in subsistence farming. In the NAMA negotiations on reduction of tariffs in manufactures, there is an agreement to do so on the basis of a Swiss formula. There is of course no agreement so far on the coefficients to be used for developed and developing countries. India has a certain degree of flexibility in these negotiations because of tariff reform undertaken in recent years.

In this background participants in the workshop may attempt to identify possible trade offs in the services negotiations, within services negotiations themselves and also across sectors like agriculture and NAMA. The participants have to indicate the process for identification of the trade offs that they may recommend. The process of arriving at the decision is more important than the decision itself.

Participants will be divided into five groups; each group will make its presentation of their recommendations, outlining the process and briefly indicating the reasons for the same, on the basis of their understanding gained from the sessions on negotiating skills and trade offs.

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Annex I

Architecture of the General Agreement on Trade in Services (GATS)

- The Agreement has three elements:
  - A framework of general rules and disciplines
  - Annexes addressing special considerations relating to some service sectors/modes of delivery
  - National schedules of initial commitments
- Supply of services in envisaged under four different modes:
  - Cross border supply – a non-resident service supplier supplying services across borders into a Member's territory
  - Consumption abroad – the freedom for a Member's residents to purchase services in the territory of another Member
  - Commercial presence – the opportunities for foreign service suppliers to establish and expand a commercial presence in a Member's territory
  - Presence of natural persons – entry and temporary stay in a Member's territory of foreign individuals in order to supply service.

- The Agreement covers all services in any sector except service supplied in the exercise of government authority. The scope is thus comprehensive. However, the Annex on Air Transport practically excludes from the preview of the Agreement air transport services, scheduled or non-scheduled, and ancillary services except for:
  - Aircraft repair and maintenance services
  - Selling and marketing of air transport services and
  - Computer Reservations Systems (CRS) services
- The framework of general rules and discipline is divided into a Preamble and five Parts:

- Part I Covers scope and definition.
- Part II Contains general obligations and disciplines applicable to all Members. Notable among these are the provisions relating to the Most-Favoured-Nation (MFN) Treatment and Transparency.

- Part III Specific Commitments – this covers market access, national treatment and additional commitments.

(Annex I –Contd…)

- Part IV Progressive Liberalization – This deals with negotiations of specific commitments in future as well as matters relating to schedules of specific commitments and Modification of schedules.
- Part V Governs Institutional Provisions – regarding dispute settlement, administration of the Agreement, technical co-operation and relationship with other organizations.

- Part VI Final provisions deal with definitions, denial of benefits, etc.

The Agreement also has Eight Annexes – one each dealing with Article II Exemptions, Movement of Natural Persons supplying services under the Agreement, Air Transport Services, and Telecommunications. There are two annexes on financial services and an Annex each on Negotiations on Maritime Transport Services and on Basic Telecommunications Services.

- The Related Instruments are Ministerial Decisions dealing with various issues.