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Competitiveness of Service Sectors in South Asia:

Role and Implications of GATS

National Council of Applied
Economic Research

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Twenty Years of
Social Change
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Role and Implications of GATS

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Preface

Services production is a dominant economic activity in virtually all countries of the world, regardless of their level of development. The sector represents well over 60 percent of world GDP. The strong and growing role of services in world production, however, is not reflected in its share of world trade. With some notable exceptions, such as maritime transport and a segment of international finance (mainly banking), services have not historically been traded on a significant scale and most have been regarded as essentially domestic activities.

Nevertheless, trade in services has grown more rapidly than merchandise trade since 1985, with developing countries increasing their share during this period. Commercialisation and the reduction, or elimination, of existing barriers to entry have transformed policy regimes across many countries and sectors. Furthermore, the emergence of the Internet has helped create a range of new, internationally tradeable products from e-banking to tele-health to distance learning. It has also helped to remove distance-related barriers between suppliers and users in remote locations. A growing number of services such as telecommunication and other infrastructural services previously under State monopoly are gradually being exposed to competition.

The General Agreement on Trade in Services (GATS) is the first and only set of multilateral rules covering international trade in services. It addresses trade in services through four modes of supply. The presence of natural persons, referred to as Mode 4, is one of the four possible ways of trading a service under GATS. Recent estimates, based on limited empirical information, suggest that Mode 3, commercial presence, accounts for more than half of world trade in services and Mode1, cross-border trade, for about a fourth, while Mode 2, consumption abroad, contributes less than one-fifth. Mode 4 was found to be nearly insignificant, accounting for just over one percent of world services trade.

Liberalisation of restrictions under Mode 4 and any resulting inflows of foreign investment can be essential ingredients of growth and development strategies. Relaxation of restrictions on the movement of natural persons, covered by Mode 4 of the GATS can also help to reduce poverty in poorer countries including through remittances, reductions in surplus labour and skill transfers. Progressive liberalisation of trade in services is a core objective of the ongoing services negotiations mandated under Article XIX of the GATS. It is expected that the gains from liberalising services are substantially greater than those from liberalising trade in goods.

Dani Rodrik of the Harvard University in his study has estimated that temporary work permits for skilled and unskilled workers from poorer nations equivalent to, say, 3 percent of the rich countries' labour force would easily yield $200bn a year for the developing nations. In another study on mobility of labour done by Alan Winters of the University of Sussex, a similar movement of labour would generate an estimated increase in world welfare of over $US150bn p.a.

Given this background, this research report tries to emphasise the relevance of GATS for the developing economies with a particular focus on South Asia. In this study the author has done a simple analysis to check the revealed comparative advantage (RCA) of export of commercial services in total export (merchandise and commercial services). The developing countries of East Asia and Pacific as well as South Asia do reveal comparative advantage in commercial services. With 1.4 as its comparative advantage in commercial services, India is the major contributor in the making of the RCA for South Asia. However, other South Asian countries have less than unity RCA.

Further, the study examines the case of export of hospital services from South Asia. The modernisation of health care facilities has led to concomitant hike in costs of these services. Governments' resource constraints may not necessarily provide guaranteed access to health care services for populations of respective countries. Thus, the scope for the private sector providing health care facilities has been rapidly expanding across the globe. This has increased the potential for international trade in health services. A number of developed countries have taken advantage of new trade opportunities in providing health services.

The study finds that though potential for trade in health services has been increasing during the last few decades, countries have adopted relatively conservative approach while listing their commitments on health services under GATS. As regards South Asia, there has been a low level of commitment on health services by them, with only India and Pakistan having made some positive commitments. However, export of health-services is an area in which developing countries, particularly India, could become major exporters. These countries can attract foreign patients to domestic hospitals and foreign elderly for nursing care. They can also earn from temporary movement of health-professionals abroad.

Besides, identifying the potential gains from trade liberalisation in services and more particularly hospital services, the author, Dr. Rajesh Chadha has also cautioned about some legitimate concerns such as an increase in exports may have an adverse effect on the domestic availability of such services, especially for the poor. In the short run, increased exports are likely to reduce availability and/or increase prices domestically. But there may be some positive effects. As a positive spin-off increased export revenues may provide the resources for expansion of domestic health care facilities.

The present paper intends to highlight how can the ongoing GATS negotiations be used to generate a stronger liberalising momentum in health sector? It would be in the interest of all countries to separate temporary movement from migration, and to push for liberalisation primarily with respect to the former.

Jaipur, India
November 2003

Pradeep S. Mehta
Secretary General

Chapter-I

Introduction

Despite a common misconception about their being non-tradable, services have always been traded in one way or the other. For example, transportation and travel have always been significant economic activities. The 1980s witnessed a faster growth of trade in services as compared with growth of merchandise trade. It took economists and the policy-makers more than four decades to convince themselves that some discipline had to be introduced to the gamut of trade in services across the national borders, similar to the GATT (General Agreement on Tariffs and Trade) for merchandise trade.

The 1980s witnessed a faster growth of trade in services as compared with growth of merchandise trade.

Restrictions and barriers to trade in services do not work in the same way as in the case of merchandise trade since most of the services are actually not observed to cross borders. However, restriction on the ability of national service providers to provide these services across borders and within foreign countries put additional costs and barriers to international trade (Deardorff 2000, Stern 2000). Such barriers are created through limiting the access of foreign services and the foreign suppliers of services to domestic markets.

Hoekman and Braga (1997) distinguish four different types of barriers, namely 1) quotas, local content, and prohibitions; 2) price-based instruments; 3) standards, licensing, and procurement; and 4) discriminatory access to distribution networks. It has been argued that the fundamentals of trade in services are really no different from trade in goods, and only the difficulties of measuring and monitoring trade in services make it distinctive (Deardorff 1985).

The General Agreement on Trade in Services (GATS) is the first multilateral agreement, under the auspices of Uruguay Round, to provide legally enforceable rights to trade in a wide range of services along with their progressive liberalisation.

The General Agreement on Trade in Services (GATS) is the first multilateral agreement, under the auspices of Uruguay Round, to provide legally enforceable rights to trade in a wide range of services along with their progressive liberalisation. Though very little liberalisation was actually achieved, the negotiations on trade in services established the institutional structure for negotiating liberalisation in the future. Many of the developing countries have not been very receptive to the conception of GATS mainly due to non-existence of such rules in the past and also because many of the service sectors had always enjoyed heavy protection.

The preamble to the GATS states that the general goal of participants is to establish a multilateral framework of principles and rules for trade in services with a view to expanding such trade under conditions of transparency and progressive liberalisation.

The preamble to the GATS states that the general goal of participants is to establish a multilateral framework of principles and rules for trade in services with a view to expanding such trade under conditions of transparency and progressive liberalisation. This would promote the economic growth of all trading partners and the development of developing countries. The agreement expresses desire "to facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, *inter alia*, through the strengthening of their domestic services capacity and its efficiency and competitiveness".

The preamble clearly recognises the right of all parties to regulate the supply of services within their territories. It takes "particular account of the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs".

Though the GATS may justifiably be credited with having created a more secure environment for trade in services, it has not generated either the negotiating momentum to reduce such protection or the rules to ensure that it takes a desirable form (Mattoo 2000). The developing countries need to play a different strategy during the ongoing negotiations. Rather than resisting the liberalisation of domestic markets and seeking a dilution of multilateral rules, they need to push aggressively for further liberalisation. This may be achieved through:

- liberalisation of domestic service markets, emphasising competition more than a change of ownership;
- development of improved rules for domestic regulations that encourage economic efficiency in remedying market failures and pursuing social goals; and
- effective liberalisation of foreign service markets by the elimination of both explicit restrictions and implicit regulatory barriers. At the same time, the developed countries should eliminate their barriers to exports from the developing countries. We may then witness not a bitter round of grudging concessions thus leading to a virtuous cycle of mutually beneficial liberalisation (Mattoo 1999).

The developing countries need to play a different strategy during the ongoing negotiations. Rather than resisting the liberalisation of domestic markets and seeking a dilution of multilateral rules, they need to push aggressively for further liberalisation.

The term "services" covers a wide range of economic activities. The WTO Secretariat has divided these divergent activities into 12 sectors.[1] The twelve major categories of services are further divided into 155 sub-sectors. For each sub-sector, commitments are further classified under the four modes of delivery of services with respect to market access and national treatment.

However, the GATS services supplied in the exercise of governmental authority (neither supplied on commercial basis nor in competition with one or more service suppliers) are excluded from GATS discipline. These include the services of central banks and other monetary authorities, statutory social security, public requirement plans, and public services using government financial resources.

Further, the Annex on Air Transport Services exempts from coverage measures affecting air traffic rights or directly related services. The same holds true about the Annex on Movement of Natural Persons, which specifies that the GATS does not apply to measures either affecting natural persons seeking access to employment market of a Member or regarding citizenship, residence or employment on a permanent basis.

Given that there is enough indication that the future is going to put multilateral discipline on trade in services, it is important that the developing countries themselves undertake serious work on understanding the implications of the forthcoming bindings. Provision of efficient services by a WTO member country is likely to hold the key to exports of services as well as the international competitiveness of other sectors of production. Our interest in the present study is limited to the four WTO member South Asian countries, viz. Bangladesh, India, Pakistan and Sri Lanka.

The present study is based on an attempt towards understanding the relevance of trade in services and the multilateral discipline thereon in the context of the developing countries. Trade in health services is the topic of specific interest. The growing importance of services in the economies of developing countries is discussed under section II. Section III highlights the relevance of GATS to the developing countries. Growth of commercial services in South Asia is the subject matter of section IV. Section V explains the nature of GATS Schedules of Commitments. Horizontal and sector-specific commitments by the four South Asian countries are detailed out in section VI. Section VII provides details on commitments by these four countries on trade in health services. Concluding remarks are given in section VIII.

Chapter-II

Growing Importance of Services in Developing Countries

What constitutes trade in services?

Balance of payments statistics given by IMF is the main source of information on international trade in services. It has many weaknesses. Some of the large economies – such as former Soviet Union – did not report data on trade in services till recently. Disaggregation of important components is limited and it varies across countries. There are inconsistencies in the methods used to report items contributing to a downward bias in the value of the service trade reported in the balance of payments.[2]

Transport **covers all transport services performed by residents of one economy for those of another and involving the carriage of passengers, movement of goods (freight), rental of carriers with crew, and related support and auxiliary services.**

Commercial service exports are total service exports minus exports of government services not included elsewhere. International transactions in services are defined by the IMF's *Balance of Payments Manual* (1993) as the economic output of intangible commodities that may be produced, transferred, and consumed at the same time. Definitions may vary among reporting economies.

- *Transport* covers all transport services (sea, air, land, internal waterway, space, and pipeline) performed by residents of one economy for those of another and involving the carriage of passengers, movement of goods (freight), rental of carriers with crew, and related support and auxiliary services. Certain services are excluded from transport service category. For example, freight insurance is included in insurance services; goods procured in ports by non-resident carriers and repairs of transport equipment are included in goods; repairs of railway facilities, harbours, and airline facilities are included in construction services; rental of carriers without crew is included in other services.

Travel **covers goods and services acquired from an economy by travellers in that economy for their own use during visits of less than one year for business and personal purposes.**

- *Travel* covers goods and services acquired from an economy by travellers in that economy for their own use during visits of less than one year for business and personal purposes. Travel services include the goods and services consumed by travellers such as meals, lodging, and transport including car rental (within the economy visited).

Other commercial services **include such activities as insurance and financial services, international telecommunications, postal and courier services; computer data; news-related service transactions between residents and non-residents; construction services; royalties and license fees.**

- *Other commercial services* include such activities as insurance and financial services, international telecommunications, postal and courier services; computer data; news-related service transactions between residents and non-residents; construction services; royalties and license fees; miscellaneous business, professional, and technical services; and personal, cultural, and recreational services.

As per the GATS compass, trade in services includes the sum total of all that is traded under the four modes of service transactions among different countries of the world. The traditional IMF definition of trade in commercial services is based on the *Balance of Payments Manual* (BPM5). The balance of payments statistics under BPM5 are based on the concept of *residency* and all transactions are recorded between *residents* and non-resident *transactors.*[3]

The scope of service transactions gets widened under GATS through introducing additional concepts like *nationality, territorial location,* and *ownership* or *control*. The data of trade in commercial services as provided by IMF (BPM5) relates only to the first two modes of service transactions. In fact, there is no mention of supply of services through *commercial presence* and the quantum of trade in services based on the *movement of natural persons* is, at best, estimated as a proxy.

The scope of service transactions gets widened under GATS through introducing additional concepts like *nationality, territorial location*, and *ownership* or *control.*

The *Manual of Statistics of International Trade in Services* (MSITS, 2001) is a major effort to resolve the divergence between GATS legal framework and the traditional statistical framework mentioned under *BPM5*. The *MSITS* is the result of a joint effort among six international organisations.[4] An internationally agreed GATS-coherent framework for the compilation and reporting of statistics of international trade in services has been set out in *MSITS*. However, the *MSITS* conforms with and explicitly relates to *BPM5*.

International transactions under Mode-3 are based on commercial presence of foreign affiliates. The *foreign affiliate trade in services* has been referred to as *FATS* under *MSITS*. The statistical concept of FATS is very much similar to the commercial presence notion under GATS (Karsenty, 2000). However, there are two major differences. First, while GATS refers to majority ownership and control, FATS data are based on *majority ownership* alone. Secondly, while GATS covers services whether produced by a service company or a company classified under manufacturing sector, FATS statistics aim at measuring the output of companies classified according to their primary activity.

The *Manual of Statistics of International Trade in Services* (MSITS, 2001) is a major effort to resolve the divergence between GATS legal framework and the traditional statistical framework mentioned under BPM5.

Thus trade of *commercial services* in our analysis refers to the first two modes of trade in services while trade of *all services*, in accordance with the GATS definition, includes international service transactions under modes 3 and 4 in addition to *commercial services*.

World exports of goods and commercial services averaged $7.2tr annually in the triennium ending (TE) 2000, including $1.42tr worth of exports of services accounting for about one-fifth of the total world exports (IMF-BOP data)[5] . While the export of services accounts for 16.2 percent of developing-country export, the corresponding share is higher at 21.5 percent for industrial countries during the TE 2000.

The share of developing countries in the world export of services increased from 22.3 percent in 1991 to 28.1 percent in 2000. The share of Asian developing countries in total world exports increased from 9.9 percent to 14.5 percent during this period (IMF-BOP data).

The following section lays out the relevance of GATS for the developing countries.

Table 1: Trade in Services by Mode of Supply

Mode	Proxy Used	Value ($b) 1997	Share (Percent)	Value ($b) 2000	Share (Percent)
Mode1	IMF BOP Commercial Services minus travel	890	40.9	972	41.0
Mode 2	IMF BOP Travel	424	19.5	46.3	19.5
Mode 3	FATS gross output in services	820	37.7	896*	37.8
Mode 4	IMF BOP compensation of employees	41	1.9	41	1.7
Total		2,175	100.0	2,372	100.0

Sources: Karsenty (2000) revised, IMF Statistical Yearbook (various issues).
** Our estimate assuming growth in FATS is equal to that in IMF-BOP commercial services.*

Chapter-III

Relevance of GATS to the Developing Economies

The General Agreement on Trade in Services (GATS) is the first multilateral agreement under the auspices of Uruguay Round to provide legally enforceable rights to trade in a wide range of services along with their progressive liberalisation. The main objectives of GATS are the expansion of trade in services, progressive liberalisation of such trade through negotiations, transparency of rules and regulations, and increasing participation of developing countries. Though very little liberalisation was actually achieved, the negotiations on trade in service sectors established the institutional structure for negotiating liberalisation in the future.[6]

The main objectives of GATS are the expansion of trade in services, progressive liberalisation of such trade through negotiations, transparency of rules and regulations, and increasing participation of developing countries.

The core principles of the GATT, namely Most Favoured Nation (MFN) and National Treatment (NT), apply generally to the GATS. However, these are highly qualified (Srinivasan, 1998). First, a member can exempt any service from the application of MFN and seek further exemptions within sixty days beginning four months after entry into force of the Uruguay Round agreement. Second, a member can improve, modify or withdraw all or part of its specific commitments on financial services during this period. Third, NT applies only to sectors and sub-sectors listed in the member's schedule.

The GATS imposes few limitations on national policy, with the only requirement that there should be no discrimination across alternative sources of supply (Hoekman, 1995). The participating countries are not required to alter regulatory structures or to pursue an active antitrust or competition policy. The positive-list approach enabled many developing countries to accede to GATS with minimal commitments. Accordingly, the GATS may affect developing countries only in a limited way since its rules apply only if specific commitments are made.

The GATS imposes few limitations on national policy, with the only requirement that there should be no discrimination across alternative sources of supply.

There are certain Articles in the GATS, which deal with specific provisions relating to developing countries (UNCTAD-World Bank, 1994). These include Article III (transparency), IV (increasing participation of developing countries), V (economic integration), XII (measures to safeguard the balance of payments), XV (subsidies), XIX (negotiation of commitments) and XXV (technical collaboration). Articles IV and XXV deal exclusively with developing countries. The Annex on telecommunications contains a special article on technical cooperation in the telecommunications industry.[7]

GATS Article IV seeks increasing participation of the developing countries in world trade in services through negotiated specific commitments for access to technology on a commercial basis, improved access to distribution channels and information networks, and the liberalisation of market access in sectors of export interest to developing countries. With regard to transparency, the industrialised nations were asked to establish contact points within two years of the entry into force of the agreement.

These points would facilitate the access of developing country services suppliers to information relating to the commercial and technical aspects of specific services, requirements for registration, recognition and obtaining of professional qualifications, and the availability of services technology. The final provision of Article IV states that special priority shall be given to least developed countries in the implementation of provisions of Article IV.

GATS Article XXV on technical cooperation reaffirms the access of developing country services suppliers to contact points to be established in developed countries (Article IV). It further states that technical assistance to developing countries shall be provided at the multilateral level by the competent Secretariat and shall be decided upon by the Council for Trade in Services. Apart from the secretariat, other multilateral organisations, such as the United Nations and the World Bank, could also be involved in providing such assistance.

Although the developing countries are accorded limited special and differential treatment under GATS, this agreement contains no provisions similar to Part IV of the GATT on more favourable treatment of developing countries.

Although the developing countries are accorded limited special and differential treatment under GATS, this agreement contains no provisions similar to Part IV of the GATT on more favourable treatment of developing countries. GATS Article XIX allows developing countries to make fewer specific commitments than industrialised nations. The developing countries have limited flexibility to offer less liberalisation of services than developed countries but they are not allowed a free ride. The GATS is based on the argument that if the national governments have concern for economic efficiency, the optimal policies would be the same both for developed as well as developing countries.

The present study has a special focus on four South Asian member countries of the WTO. The following section provides a detailed discussion on growth of commercial services in the four South Asian countries under study.

Chapter-IV

Growth of Commercial Services: South Asia

There has been a major structural change in the four South Asian countries during the last two decades. The overall share of services in GDP of South Asia has increased from 37.3 percent in 1980 to 49.2 percent in 2000 (Table 2). The change has been relatively sharp in the case of Bangladesh and India where the share has increased from about 36 percent in 1980 to about 50 percent in 2000.

Exports of commercial services from major regions of the world along with the four South Asian countries, viz. Bangladesh, India, Pakistan and Sri Lanka, during the last two decades are summarised in Table 3. The data also provides averages for the triennium ending 2000 (1998-2000). It may be observed that more than four-fifths of the total export of commercial services originates from the high-income countries leaving less than one-fifth from the low and middle-income countries.[8] The share of India in exports of commercial services constitutes more than 85 percent of exports of commercial services originating from South Asia but just above one percent of world exports of commercial services.

The share of exports of commercial services in total world exports (merchandise plus commercial services) has averaged at 18.9 percent during the TE 1998-2000 (Table 4). While the similar share touched a high of 20.3 percent for the high-income countries and 14.7 percent for low and middle-income countries during the corresponding triennium. The similar share of South Asia averaged at 22.3 percent, which is above that for high-income countries. Within South Asian countries, India has a relatively high share of 27.4 percent while Bangladesh a relatively low share of 4.5 percent.

Table 2: Sectoral share of GDP in South Asian Countries

Sectors	**Agriculture**			**Industry**			**Services**		
Countries	**1980**	**1991**	**2000**	**1980**	**1991**	**2000**	**1980**	**1991**	**2000**
Bangladesh	49.4	37.5	24.3	14.8	16.9	24.7	35.8	45.6	51.0
India	38.1	31.0	24.0	25.9	28.9	27.1	36.0	40.1	48.9
Pakistan	30.6	25.6	26.2	25.6	25.7	24.9	43.8	48.7	48.9
Sri Lanka	26.6	22.3	20.6	27.2	29.2	27.3	46.2	48.5	52.1
South Asia *	37.8	30.6	24.2	24.9	27.4	26.7	37.3	42.0	49.2

*Note: * The region includes four countries only*
Source: ADB, Asian Development Outlook, 2001, and World Development Indicators, World Bank

Table 3: Exports of Commercial Services in major Regions/Economies of World (US$mn)						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	65588	102929	268012	237556	261149	255572
High income countries	297904	647432	1048583	1033861	1169694	1084046
World	363547	750361	1316688	1271417	1430843	1339649
East Asia & Pacific	9415	31204	87727	84486	85404	85872
Europe & Central Asia	16176	15237	79857	65147	73142	72715
Latin America & Caribbean	15855	25313	49216	40581	48444	46080
Middle East & North Africa	2099	14872	23387	23831	23880	23699
Sub-Saharan Africa	8048	9487	13471	8851	9371	10564
South Asia	4014	6816	14418	14660	20908	16662
Bangladesh	172	296	252	266	283	267
India	2861	4610	11067	13940	17670	14226
Pakistan	576	1218	1416	1446	1284	1382
Sri Lanka	223	425	888	888	915	897

Source: World Bank, World Development Indicators, various issues

Table 4: Exports of Commerical Services in total exports (Merchandise and commercial service) (in percent)						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	11.0	12.8	16.9	14.6	13.0	14.7
High income countries	17.9	19.2	20.5	20.3	20.2	20.3
World	16.1	17.9	19.6	18.9	18.4	18.9
East Asia & Pacific	12.0	12.4	14.1	12.6	10.7	12.3
Europe & Central Asia	13.3	10.9	23.7	20.8	19.3	21.2
Latin America & Caribbean	13.9	15.0	14.5	12.1	12.0	12.8
Middle East & North Africa	6.7	10.5	17.7	14.9	10.1	13.5
Sub-Saharan Africa	9.4	12.5	14.3	10.6	9.2	11.3
South Asia	22.8	19.7	21.2	20.7	24.6	22.3
Bangladesh	17.8	15.0	4.7	4.9	4.2	4.5
India	25.6	20.4	24.5	27.6	29.5	27.4
Pakistan	18.0	17.9	14.1	14.0	12.3	13.4
Sri Lanka	17.4	17.6	15.8	16.2	15.1	15.7

Source: World Bank, World Development Indicators, various issues

The average share of transport services in total commercial services is about 24 percent for high as well as low and middle-income countries during 1998-2000 (Table 5). The similar share is relatively low at 17 percent for South Asian region during the corresponding period. While Pakistan exports three-fifths of its total exports of commercial services as transport services, the share is as low as 13.4 percent in the case of India.

The average share export of travel services in world exports of commercial services is 31.5 percent during 1998-2000 (Table 6). The similar share is 28.8 percent in the case of high-income countries while it is 43 percent for low and middle-income countries during the corresponding period. South Asia is a poor performer clicking at 21.4 percent only. While the corresponding share of Sri Lanka is relatively high at 26.3 percent it is relatively low for Pakistan only at 6.9 percent. India clicks at 22.0 percent and Bangladesh at 19.1 percent. The average share of export of "other services" in world export of commercial services touched 45 percent during 1998-2000 (Table 7). The similar share is 47.2 percent for the high-income countries and 33.4 percent for the low and middle-income countries during the corresponding period. South Asia clicked a high share of 61.4 percent due to the similar share being high at 64.5 percent in the case of India. However, Pakistan and Sri Lanka registered relatively poor shares at 33.3 and 29.1 percent, respectively.

We have undertaken a simple analysis to check the revealed comparative advantage (RCA) of export of commercial services in total export (merchandise and commercial services). RCA of export of commercial services for a region/country is the ratio of two different ratios. The numerator is the ratio of export of commercial services of the region/country to its total export. The denominator remains same for each region/country and is the ratio of world export of commercial services to total world export. Thus, while the numerator keeps changing depending on the region/country under consideration, the denominator remains same in calculating RCA for different regions/countries (Table 8).

Table 5: Share of transport in commerical service exports (in percent)

Region/Economy	1980	1990	1998	1999	2000	Average 1998-2000
Low & middle income countries	39.7	28.7	24.8	23.0	23.2	23.7
High income countries	39.1	28.0	25.4	23.4	23.2	24.0
World	39.2	28.1	25.3	23.4	23.2	24.0
East Asia & Pacific	43.7	28.6	22.9	23.3	24.2	23.5
Europe & Central Asia	-	25.0	28.8	25.8	26.5	27.0
Latin America & Caribbean	34.0	28.3	22.8	20.7	20.2	21.2
Middle East & North Africa	27.7	34.4	-	24.8	24.4	24.6
Sub-Saharan Africa	50.8	32.1	22.2	22.6	24.1	23.0
South Asia	21.9	27.9	26.9	13.8	11.0	17.2
Bangladesh	22.7	12.9	36.5	35.3	32.3	34.7
India	15.6	20.8	16.0	13.5	10.6	13.4
Pakistan	47.6	59.3	56.9	57.1	65.4	59.8
Sri Lanka	19.3	39.7	45.0	45.0	43.7	44.6

Source: World Bank, World Development Indicators, various issues

While the RCA value of above unity reveals comparative advantage, its value less than unity reveals absence of comparative advantage. The value unity itself reveals neutrality to the existence of comparative advantage or not. It may be observed from Table 8 that, on an average, the high-income countries have comparative advantage in export of commercial services and not the low and middle-income countries during 1998-2000.

However, the developing countries of "East Asia and Pacific" as well as "South Asia" do reveal comparative advantage in commercial services. With 1.4 as its comparative advantage in commercial services, India is the major contributor in the making of the RCA for South Asia. Other South Asian countries register relatively low RCA, which is less than unity and hence do not reveal comparative advantage. The similar RCA is 0.8 for Sri Lanka, 0.7 for Pakistan and 0.2 for Bangladesh.

The four South Asian countries have different comparative advantage, differ in major export components of commercial services, namely "transport", "travel" and "other services". RCA of export of different components of commercial services, with respect to total export of commercial services, for a region/country is the ratio of two different ratios. The numerator is the ratio of export of a component of commercial services, *say transport*, of the region/country to its total export of commercial services. The denominator remains same for each region/country and is the ratio of world export of the particular component of commercial services (transport in this case) to world export of commercial services.

Thus, while the numerator keeps changing depending on the region/country under consideration, the denominator remains same in calculating RCA in transport services for different regions/countries (Table 9). It may be observed that the South Asian region does not enjoy revealed comparative advantage in transport services even though Bangladesh, Pakistan and Sri Lanka reveal

Table 6: Share of travel in commercial service exports (in percent)

Region/Economy	1980	1990	1998	1999	2000	Average 1998-2000
Low & middle income countries	32.5	42.2	34.3	32.3	33.5	33.4
High income countries	25.9	32.8	47.5	47.1	47.1	47.2
World	27.0	34.1	44.7	44.4	44.7	44.6
East Asia & Pacific	33.4	44.4	36.6	32.3	31.9	33.6
Europe & Central Asia	-	35.8	30.3	34.2	32.8	32.4
Latin America & Caribbean	36.7	51.3	28.7	27.8	29.9	28.8
Middle East & North Africa	26.6	38.5	-	23.6	22.5	23.1
Sub-Saharan Africa	30.6	38.6	37.2	31.7	21.1	30.0
South Asia	45.4	30.1	23	22.1	19	21.4
Bangladesh	9.3	6.4	20.6	18.8	17.8	19.1
India	54.2	33.8	26.6	21.6	17.9	22.0
Pakistan	26.2	12.0	7.3	7.1	6.3	6.9
Sri Lanka	44.4	30.2	25.9	25.9	27.1	26.3

Source: World Bank, World Development Indicators, various issues

Table 7: Share of other services in commercial service exports (in percent)						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	28.2	29.1	34.3	32.3	33.5	33.4
High income countries	35.0	39.2	47.5	47.1	47.1	47.2
World	33.9	37.8	44.7	44.4	44.7	44.6
East Asia & Pacific	22.9	27.0	36.6	32.3	31.9	33.6
Europe & Central Asia	-	39.3	30.3	34.2	32.8	32.4
Latin America & Caribbean	29.3	20.4	28.7	27.8	29.9	28.8
Middle East & North Africa	47.1	27.1	-	23.6	22.5	23.1
Sub-Saharan Africa	19.0	29.3	37.2	31.7	21.1	30.0
South Asia	32.6	42	50.1	64.1	70	61.4
Bangladesh	68.0	80.6	42.9	45.9	49.9	46.2
India	30.2	45.4	57.3	64.9	71.4	64.5
Pakistan	26.2	28.7	35.7	35.8	28.3	33.3
Sri Lanka	36.3	30.1	29.1	29.1	29.2	29.1

Source: World Bank, World Development Indicators, various issues

Table 8: RCA of commercial service in major Regions/Economies of world						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	0.7	0.7	0.9	0.8	0.7	0.8
High in.come countries	1.1	1.1	1.0	1.1	1.1	1.1
East Asia & Pacific	0.7	0.7	0.7	0.7	0.6	0.7
Europe & Central Asia	0.8	0.6	1.2	1.1	1.0	1.1
Latin America & Caribbean	0.9	0.8	0.7	0.6	0.7	0.7
Middle East & North Africa	0.4	0.6	0.9	0.8	0.5	0.7
Sub-Saharan Africa	0.6	0.7	0.7	0.6	0.5	0.6
South Asia	1.4	1.1	1.1	1.1	1.3	0.2
Bangladesh	1.1	0.8	0.2	0.3	0.2	0.2
India	1.6	1.1	1.3	1.5	1.6	1.4
Pakistan	1.1	1.0	0.7	0.7	0.7	0.7
Sri Lanka	1.1	1.0	0.8	0.9	0.8	0.8

Source: World Bank, World Development Indicators, various issues

their comparative advantage in export of transport services in their respective export baskets of commercial services. India's low comparative advantage at 0.6 is the main reason for the absence of comparative advantage in South Asia's export of transport services.

It may be surprising to note that all regions constituting low and middle income countries, except South Asia, reveal comparative advantage in export of travel services with respect to their respective total export of commercial services (Table 10). At a relative scale, none of the four South Asian countries under study have export travel services in their commercial service export-baskets as high as other developing regions have.

The situation, however, takes a U-turn when one looks at the RCA of South Asia. This is one among many regions, constituting low and middle-income countries, which reveals comparative advantage in export of other services relative to export of all commercial services (Table 11). India reveals a comparative advantage of 1.4 while Pakistan and Sri Lanka do not reveal comparative advantage. Bangladesh sits on a neutral zone. The following section provides details about GATS schedules of commitments.

Table 9: RCA of transport services in major Regions/Economies of world

Region/Economy	1980	1990	1998	1999	2000	Average 1998-2000
Low & middle income countries	1.0	1.0	1.0	1.0	1.0	1.0
High income countries	1.0	1.0	1.0	1.0	1.0	1.0
East Asia & Pacific	1.1	1.0	0.9	1.0	1.0	1.0
Europe & Central Asia	-	0.9	1.1	1.1	1.1	1.1
Latin America & Caribbean	0.9	1.0	0.9	0.9	0.9	0.9
Middle East & North Africa	0.7	1.2	-	1.1	1.1	1.1
Sub-Saharan Africa	1.3	1.1	0.9	1.0	1.0	1.0
South Asia	0.6	1.0	1.1	0.6	0.5	0.7
Bangladesh	0.6	0.5	1.4	1.5	1.4	1.4
India	0.4	0.7	0.6	0.6	0.5	0.6
Pakistan	1.2	2.1	2.2	2.4	2.8	2.5
Sri Lanka	0.5	1.4	1.8	1.9	1.9	1.9

Source: World Bank, World Development Indicators, various issues

Table 10: RCA of travel services in major Regions/Economies of world						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	1.2	1.2	1.4	1.4	1.3	1.4
High income countries	1.0	1.0	0.9	0.9	0.9	0.9
East Asia & Pacific	1.2	1.3	1.4	1.4	1.4	1.4
Europe & Central Asia	-	1.0	1.3	1.2	1.3	1.3
Latin America & Caribbean	1.4	1.5	1.6	1.6	1.6	1.6
Middle East & North Africa	1.0	1.1	-	1.6	1.7	1.6
Sub-Saharan Africa	1.1	1.1	1.4	1.4	1.7	1.5
South Asia	1.7	0.9	0.8	0.7	0.6	0.7
Bangladesh	0.3	0.2	0.7	0.6	0.6	0.6
India	2.0	1.0	0.9	0.7	0.6	0.7
Pakistan	1.0	0.4	0.2	0.2	0.2	0.2
Sri Lanka	1.6	0.9	0.9	0.8	0.8	0.8
Source: World Bank, World Development Indicators, various issues						

Table 11: RCA of other services in major Regions/Economies of world						
Region/Economy	**1980**	**1990**	**1998**	**1999**	**2000**	**Average 1998-2000**
Low & middle income countries	0.8	0.8	0.8	0.7	0.7	0.7
High income countries	1.0	1.0	1.1	1.1	1.1	1.1
East Asia & Pacific	0.7	0.7	0.8	0.7	0.7	0.8
Europe & Central Asia	-	1.0	0.7	0.8	0.7	0.7
Latin America & Caribbean	0.9	0.5	0.6	0.6	0.7	0.6
Middle East & North Africa	1.4	0.7	-	0.5	0.5	0.5
Sub-Saharan Africa	0.6	0.8	0.8	0.7	0.5	0.7
South Asia	1.0	1.1	1.1	1.4	1.6	1.4
Bangladesh	2.0	2.1	1.0	1.0	1.1	1.0
India	0.9	1.2	1.3	1.5	1.6	1.4
Pakistan	0.8	0.8	0.8	0.8	0.6	0.7
Sri Lanka	1.1	0.8	0.7	0.7	0.7	0.7
Source: World Bank, World Development Indicators, various issues						

Chapter-V

GATS Schedules of Commitments

GATS consists of: a) framework of general rules and disciplines; b) annexes addressing special conditions relating to individual sectors; and c) liberalisation commitments specific to the service sectors and sub-sectors listed in each country's schedule.

According to the framework of rules, the three important principles of the General Agreement on Trade and Tariffs (GATT), viz the most-favoured nation (MFN) treatment, market access (MA) and national treatment (NT) are also applicable to GATS.

The "schedule of commitments" of a country provides a list of limitations on market access (MA) and national treatment (NT) across the four modes of delivery of a service, viz. cross-border (mode 1), consumption abroad (mode 2), commercial presence (mode 3) and movement of natural persons (mode 4). Specifically, there are six forms of measures that put limitation on market access (MA):

According to the framework of rules, the three important principles of the General Agreement on Trade and Tariffs (GATT), viz the most-favoured nation (MFN) treatment, market access (MA) and national treatment (NT) are also applicable to GATS.

- limitations on number of service suppliers;
- limitations on the total value of services transactions or assets;
- limitations on the total number of service operations or the total quantity of service output;
- limitations on the number of persons that may be employed in a particular sector or by a particular supplier;
- measures that restrict or require supply of the service through specific types of legal entity or joint venture; and
- percentage limitations on the participation of foreign capital, or limitations on the total value of foreign investment.

Under the national treatment (NT) principle, each member country should treat foreign services and service suppliers no less favourably than it does to its own like services and service providers.

There are two types of obligations under GATS, namely *general* and *specific* commitments. General obligations apply directly and automatically to all Members, regardless of the sectoral commitments. Specific obligations constitute the Schedule of Specific Commitments of a Member country. While the MFN treatment and transparency are two important components of the general obligations, specific commitments deal with market access and national treatment obligations undertaken by a Member. The Schedule of Specific Commitments consists of two major sections: *horizontal* and *sectoral*. While the horizontal section contains limitations that apply across all sectors included in the schedule, the sector specific section contains limitations that apply to different individual sectors.

Through adherence to the MFN treatment, each member country guarantees that it would not discriminate between the services and service providers of different member countries and will treat them equally favourably unless it has listed an exemption for a specific sector. An exemption on MFN is taken when a country explicitly states that it will not guarantee MFN treatment in a particular services sector to service providers from other member countries. A country may opt for such exemptions in its MFN-exemption list if it grants special and preferential access to a sector by a specified group of countries. In principle, MFN exemptions can only be taken for a period of ten years and are subject to review after five. MFN exemptions are listed separately from a country's schedule of commitments and include the sector-specific measure inconsistent with MFN, country/countries to which the exemption applies, and the duration and the reason for the exemption.

Through adherence to the MFN treatment, each member country guarantees that it would not discriminate between the services and service providers of different member countries and will treat them equally favourably unless it has listed an exemption for a specific sector.

Schedules of commitments are thus complex documents in which each country identifies the service sectors to which it will apply market access and national treatment obligations of GATS and any exceptions from those obligations it wishes to maintain. A country's schedule of commitments is listed in a table format of four columns with the following headings: sectors/sub-sectors; limitations on market access; limitation on national treatment; and additional comments. The commitments and limitations are entered under MA and NT with respect to each of the four modes of supply. Through providing a schedule of commitments, a government binds the specified level of MA and NT and undertakes not to impose any new measures that would restrict entry into the market or the operation of the service.

The schedule is further classified under *horizontal* and *sector-specific* commitments. A typical Schedule of Commitments begins with a section on *horizontal* commitments containing limitations, which apply to all the sectors. It is the followed by *sector-specific* commitments. A country has a commitment only if it lists that sector in its schedule, and lists any relevant restrictions, which may apply to its market access and national treatment columns. However, the MFN treatment remains guaranteed unless the country has specifically included that sector in its MFN exemption list.

Schedules of commitments are thus complex documents in which each country identifies the service sectors to which it will apply market access and national treatment obligations of GATS and any exceptions from those obligations it wishes to maintain.

No limitations are indicated against any mode of supply with an entry "NONE" in the schedule. It represents an ideal commitment and implies that the sector is completely open to foreign service- providers, i.e. no limits on market access or national treatment. It should, however, be noted that *horizontal* commitments could still limit the service supplier even though the sector-specific entry reads "NONE". In many cases, countries would cross-refer to their *horizontal* commitments, but not always. Thus, *horizontal* commitments should be checked simultaneously while reading and interpreting the meaning of *sector-specific* commitments.

The other extreme of the entry "NONE" is the entry "UNBOUND", which indicates that the country maintains its freedom to modify its regulations as well as to change the condition of entry of foreign suppliers in future. A country may simply leave a sector out of its schedule. In such a case, the country is free to place market access and national treatment restrictions on service suppliers in that sector and/or discriminate against foreign suppliers on the basis of market access and national treatment.

However, when a country imposes limitations against a particular mode of supply, the country undertakes an obligation not to impose any other relatively more restrictive limitations in future. Such commitments lie somewhere between the two extremes of ideal "NONE" and the most restrictive "UNBOUND".

The two major modes of supply of services on which countries have put limitations under the *horizontal* sector include *commercial presence* (mode 3) and *movement of natural persons* (mode 4). While the developed countries are interested more in liberalisation of mode 3, the developing countries have a similar interest in mode 4. The *sector-specific* commitments are undertaken by a country to complement its *horizontal* commitments. As compared with commitments put forward by developed countries, developing countries have covered a limited number of sectors. Box 1 provides a hypothetical example of a country's schedule of GATS commitments.

The WTO classification of services under 12 sectors along with its correspondence with the Central Product Classification (United Nations) is detailed out in Annex 1. It provides a mapping of the 12 sectors and their sub-sectors in correspondence with the Central Product Classification (CPC) of the United Nations:

1. Business (including professional and computer) services;
2. Communication services;
3. Construction and engineering services;
4. Distribution services;
5. Educational services;
6. Environmental services;
7. Financial (insurance and banking services);
8. Health services;
9. Tourism and travel-related services;
10. Recreational, cultural and sporting services;
11. Transport services; and
12. Other services not included elsewhere.

Box 1: Format and example of a schedule of horizontal and specific commitments

Commitments	Mode of Supply:	Conditions and limitations on market access	Conditions and qualifications on national treatment
Horizontal commitments (i.e. acorss all sectors)	Cross-border supply:	None	None, other than tax measures that result in difference in treatment of R&D* services
	Consumption abroad	None	Unbound for subsides, tax incentives, and tax credits
	Commercial presence (FDI**)	Maximum foreign equity stake is 49 percent	Unbound for subsidies, Under law x, approval is required for equity stakes over 25 percent and for new investment exceeding y million
	Temporary entry of natural persons	Unbound, except for the following: intra-corporate transfers of executives and senior managers; specialist personnel subject to economic needs test for stays longer than one year; services sellers (sales people) for stays of up to three months	Unbound, except for categories of natural persons referred to in the market access column
	Cross-border supply	None	Unbound
Specific commitment : Architectural services	Consumption abroad	25 percent of senior management should be nationals	None
	Commercial presence (FDI **)	Unbound, except as indicated under horizontal commitments	Unbound
	Temporary entry of natural persons		Unbound,except as indicated under horizontal commitments

* R & D: Research and development ** Foreign direct investment

Source: International Trade Centre and Common Wealth Secretariat (1999)

Chapter-VI

Commitments of South Asian Countries

All the four South Asian countries (India, Pakisthan, Sri Lanka and Bangladesh) submitted the original Schedules of Specific Commitments on April 15, 1994. These were followed by supplements by each of the four countries. While India has submitted four supplements, Pakistan has submitted three, Sri Lanka two and Bangladesh one. It was in July 1995 that India and Pakistan submitted their revised commitments on financial services. India also revised its horizontal commitments at this time. All the four countries revised commitments on telecommunication services in April 1997. Another round of revising commitments by all except Bangladesh was undertaken in February 1998. Box 2 provides chronological details of GATS commitments by the four South Asian countries under study. Annex 2 provides the GATS commitments of the four South Asian countries under study in this paper.

Horizontal Commitments

With regard to the horizontal commitments, Bangladesh did not commit itself to any of the four modes of supply of services. India, Pakistan and Sri Lanka have not made any commitments under modes 1 and 2. However, all three countries have put forward some commitments with regard to modes 3 and 4.

With regard to the horizontal commitments, Bangladesh did not commit itself to any of the four modes of supply of services.

Modes 1 and 2: No commitments by any of the four South Asian countries under study.
Mode 3: While Bangladesh made no horizontal commitments, Pakistan has made some both under MA as well as NT. India has made commitments only under NT and Bangladesh only under MA.

A. Bangladesh: No commitments.

B. India: No commitments under MA.

Under NT, preference in access will be given to foreign service-suppliers providing the best terms for transfer of technology in cases of collaboration with public sector enterprises or government undertakings as joint venture partners.

C. Pakistan: Commitments have been made under MA as well as NT.

Pakistan has mentioned two sets of commitments under MA:

- Firstly, commitments under 'commercial presence' are subject to incorporation in Pakistan with maximum foreign equity participation of 51 percent unless a different percentage is inscribed against a particular sector or sub-sector. The only exception is in the case of representative offices.
- Second, all expenses of representative offices, where specifically provided for in this Schedule, shall be met by remittances from abroad. Such offices shall restrict their activities to the undertaking of liaison work or of representing the interest of the parent company abroad.

Box 2: South Asia: GATS Commitments				
	Bangladesh	India	Pakistan	Sri Lanka
Original Schedule of Specific Commitments (April 15, 1994)	3	3 MFN	3	3
Commitments on financial Services Revised (July 28, 1995)		+ 3 3	++ 3	
Commitments on Telecommunication Revised (April 11, 1997)	3 MFN	3 MFN Suppl 1	+++ 3 MFN Suppl 1	3 MFN
Commitments on Financial Services Revised (February 26, 1998)		3 MFN Suppl 2	3 MFN Suppl 2	3

Notes:

+ India also revised its horizontal Commitments through submitting a separate note
++ Revised later on October 4, 1995
+++ Revised later on February 16, 1998
3 Schedule of commitments
MFN List of Article II (MFN) exemptions

Under NT commitments, acquisition of real estate by non-Pakistani entities and/or persons is subject to authorisation on a cases-by-case basis keeping into account the purpose and location of the undertaking.

D. Sri Lanka: No commitments under NT.

Sri Lanka has made detailed commitments under MA. Certain limitations, conditions and qualifications pertain specifically to some form of commercial presence by foreign enterprises, as indicated below:

- Foreign investors may invest in any sector of the economy other than the following, which are reserved for citizens of Sri Lanka. These include money-lending, pawn-brokering; retail trade with a capital of less than US$1mn; business providing personal services other than export of tourism; and coastal fishing.
- The Board of Investment of Sri Lanka (BOISL) is responsible for the approval of foreign investments throughout the country, other than for investments made by purchasing shares in the Colombo Stock Exchange. Also excluded are investments in a number of activities, which are regulated by other Statutory Agencies, including: banking; financial institutions; insurance; trading services on the Colombo Stock Exchange; air transportation; coastal shipping; branch or liaison office of companies incorporated outside Sri Lanka; and lotteries.
- BOISL grants automatic approval to foreign equity investment of up to 40 percent and a case-by-case approval to that above 40 percent (and up to 100 percent) in the following sectors. These include construction and

residential buildings; mass transportation; telecommunications; mass communications; education; professional services; freight forwarding; travel agencies; and shipping agencies.

- Incorporation of foreign companies under Companies Act in Sri Lanka is encouraged through charging 100 percent tax on the purchase price of the land acquired by an unincorporated foreign individual/enterprise. Such a tax is not levied either if the company starts its operations in an Export Promotion Zone or gets itself incorporated in Sri Lanka.
- Preference in access will be given to foreign service-suppliers providing the best terms for transfer of technology in cases of collaboration with public sector enterprises or government undertakings as joint venture partners.

Incorporation of foreign companies under Companies Act in Sri Lanka is encouraged through charging 100 percent tax on the purchase price of the land acquired by an unincorporated foreign individual/ enterprise.

Mode 4: While Bangladesh made no commitments under movement of natural persons, other three countries have made cautious opening up of their market access. While Sri Lanka has consigned such movement subject to its national laws, India and Pakistan have clearly permitted entry of only skilled workers with Pakistan further restricting such entry to only 50 percent of a company's requirement.

A. Bangladesh: No commitments.

B. India: Unbound under MA and NT except for measures referred to under MA. Under MA, entry of foreign individuals is permitted only as business visitors and intra-corporate transferees. Entry of business visitors is restricted to a maximum period of 90 days. Intra-corporate transferees have to be at the level of Managers, Executives and Specialists who have been in employment of another juridical Member for a period of not less than one year prior to the date of application for entry into India. They must be getting transferred to a branch or a representative office or a juridical person owned or controlled by the aforesaid juridical person. Their maximum period of stay is five years. The maximum permissible time for professionals is one year extendable with permission for a maximum of three months.

C. Pakistan: Unbound under MA and NT except for measures concerning the entry of natural persons up to a maximum of 50 percent in superior categories, viz. Executives and Specialists, in an undertaking. These natural persons shall have been employed by juridical persons of another Member for a period of not less than one year prior to the date of application for entry into Pakistan, and shall be transferred to render services to the juridical person in Pakistan.

D. Sri Lanka: Unbound under NT. Under MA, movement of natural persons is subject to Sri Lanka's laws on immigration, consumer laws and other relevant regulations. Aliens, who intend to work or to conduct business in Sri Lanka, shall have to obtain the relevant work permits in addition to complying with the immigration requirements.

While the original Schedule of "Specific Commitments of Bangladesh" made no commitments at the horizontal level, its sector-specific commitments were limited to one sub-component of four components of only one sector (sector 9), tourism and travel-related services.

Sector Specific Commitments

Bangladesh

While the original Schedule of "Specific Commitments of Bangladesh" made no commitments at the horizontal level, its sector-specific commitments were limited to one sub-component of four components of only one sector (sector 9), tourism and travel-related services. The only sub-component covered relates to five-star hotels and restaurants (CPC 641 of 9.A, which includes CPC 641-643). Mode 1 is kept "unbound" due to reasons of technical feasibility. Mode

2 is also kept "unbound". While modes 3 and 4 have some limitations on MA, there are "none" on NT.

Supplement 1 (and the only supplement) of Bangladesh, dated April 1997, provides some commitments of liberalisation of some of the sub-components of the component-C of the communication services, namely telecommunication services (2.C). While there are certain limitations on MA, practically no limitations have been put on NT except stating that "certain subsidies and tax benefits may only be extended to national operators".

Additional Commitments state that: "The creation of regulatory disciplines is under review. The outcome of this review then permits additional commitments on regulatory disciplines, which will be attached before January 1998".

MFN Exemptions

Bangladesh have specified some MFN exemptions under Article II through a schedule submitted on April 11, 1997. These exemptions mainly relate to its commitments on international telecommunication services for an intended duration of ten years. The countries to which MFN exemptions can be applied include countries covered by International Telecommunication Services Agreement between Bangladesh and foreign operators on account of bilateral agreements of co-operation. Neighbouring countries are also covered under MFN exemptions on account of bilateral agreements with governments of these countries.

The countries to which MFN exemptions can be applied include countries covered by International Telecommunication Services Agreement between Bangladesh and foreign operators on account of bilateral agreements of co-operation.

India

India put forward its GATS commitments in six out of the twelve service sectors, namely sectors 1, 2, 3, 7, 8 and 9. These include i) business services (sector 1); ii) communication services (sector 2); iii) construction and related engineering services (sector 3); iv) financial services (sector 7); v) health and related social services (sector 8); and vi) tourism and travel related services (sector 9).

• Business Services (sector 1)

In the case of business services, India has made some commitments under mode 3 with modes 1 and 2 being "unbound". Mode 4 is subject to horizontal commitments. India has put forward liberal commitments under mode 3 (commercial presence) in sub-sectors as follows:

- (1.A): Professional services (e. engineering services);
- (1.B): Computer and related services (a. consultancy services related to installation of computer hardware; b. software implementation services; c. data processing services; d. data base services; and e. maintenance and repair services of office machinery and equipment including computers);
- (1.C): Research and Development services (a. R&D services on natural science);
- (1.F): Other business services (e. technical testing and analysis services). All the above mentioned business-service categories have permitted market access on commercial presence only through incorporation with a foreign equity ceiling of 51 percent. However, there are no restrictions (None) under national treatment. It may be noted that trade of research and development services C.**e** under mode 2 is "unbound" due to lack of technical feasibility. There are no other commitments on other sub-sectors

of Business Services, namely real estate and rental/leasing services. In the case of professional services, India has made no commitments on three major health-related services, viz. medical and dental services (A.h); veterinary services (A.i); and services provided by midwives, nurses, physiotherapists and paramedical staff (A.j).

• Communication Services (sector 2)

India has given commitments on two out of five sub-sectors of communication services: telecommunication services (2.C), and audio-visual services (2.D). There are no commitments on postal services (2.A), courier services (2.B) and other services (2.E).

(2.C) Telecommunication services (a. voice telephony services; c. circuit-switched data transmission services; f. fascsimile services; g. private leased circuit services; h. electronic mail; i. Voice mail; j. on-line information and database retrieval; l. enhanced/ value-added facsimile services; n. on-line information and/or data processing; and o. other services: cellular mobile telephone).

(2.D) Audiovisual services (a. motion picture or video tape-distribution system).

It may be observed that under telecommunication services no commitments have been put forward on components like telex and telegraph services, electronic data exchange, and some others. In the case of audiovisual services, only one component has been put under GATS commitments (D.a). No commitments have been made for components like motion picture projection service, radio and television services including transmission, sound recording and other services.

In India, in the case of voice telephony (C.a), the only meaningful commitments are on market access (MA) for commercial presence (mode 3) but with a number of limitations.

In the case of voice telephony (C.a), the only meaningful commitments are on market access (MA) for commercial presence (mode 3) but with a number of limitations. There are no commitments on NT. The same is true of other components including c, f, g and o. Commitments are relatively liberal in the case of components like h, i, j, l and n. These components have no restrictions (none) on mode 1 in addition to some positive commitments on mode 3. Additional comments state and explain the definition and principles on the regulatory framework for the basic telecommunication services subscribed to by India.

Motion picture or video tape-distribution services is the only component of audiovisual services subject to some GATS commitments (D.a). There are positive commitments for commercial presence with respect to MA as well as NT.

• Construction and Related Engineering Services (sector 3)

The only commitments put forward in this section relate to roads and bridges only under construction work for civil engineering (3.B) under commercial presence. Market access under mode 3 is permitted only through incorporation with a foreign equity ceiling of 51 percent. However, there are no restrictions (none) on national treatment under mode 3.

• Financial Services (sector 7)

Commitments given by India on financial services in its original draft of April 15, 1994 were replaced by a supplement dated July 28, 1995 and finally by a supplement dated February 26, 1998. The commitments in financial services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services. All commitments are subject to entry requirements, domestic laws, rules and regulations and the terms and conditions of the Reserve Bank of India, Securities and Exchange Board of India and any other competent authority in India.

The commitments in financial services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services.

India's commitments include the two important sub-sectors of financial services, namely:

(7.A) Insurance and insurance related services (b. non-life insurance but limited to insurance of freight; c. reinsurance and retrocession; and d. insurance intermediation limited to reinsurance).

(7.B) Banking and other financial services excluding insurance) (a. acceptance of deposits and other repayable funds from the public; b. lending of all types including consumer credit, and financial or commercial transactions but excluding factoring; c. financial leasing; d. all payment and money transmission services; e. guarantees and commitments; f. trading for own account of money market instruments, foreign exchange, and transferable securities; i. portfolio management, custodial and trust services; j. clearing services for other banks for cheques, drafts and other instruments; k. participation in issues of securities, including underwriting and placement as agent; financial consultancy services, i.e. financial advisory services provided by financial advisers, etc. to customers on financial matters, investment and portfolio research and advice, advice on corporate restructuring and strategy; factoring; and venture capital.

In the case of freight insurance, some commitments have been given on market access under mode 1 but none under national treatment. The same is true for reinsurance and retrocession. However, in the case of insurance intermediation (limited to reinsurance) some commitments on market access have been put forward in modes 1, 2 and 3 but none under national treatment, which remains "unbound".

The market access to hospital services is permitted only under mode 3 through incorporation with a foreign equity ceiling of 51 percent.

The banking and other financial services have been opened up cautiously with some commitments under mode 3 for market access as well as national treatment. The first two modes have been kept "unbound" and mode 4 is subject to horizontal discipline.

• Health Related and Social Services (sector 8)

India has made some commitments, even though limited only to one sub-sector (hospital services), under this sector.

(8.A) Hospital services

The market access to hospital services is permitted only under mode 3 through incorporation with a foreign equity ceiling of 51 percent. There are no limitations to national treatment (none) under mode 3.

• Tourism and Travel Related Services (sector 9)

The following two sub-sectors have been opened up for market access under mode 3 through incorporation with a foreign equity ceiling of 51 percent. There are no restrictions (none) on national treatment.

(6.A) Hotels and Other Lodging Services; and
(6.B) Travel Agency and Tour Operator Services.

MFN Exemptions

India submitted its list of MFN exemptions on April 15, 1994 and submitted two supplements later on.

• Shipping

MFN exemption has been sought for *cargo sharing* between bilateral partners for an indefinite period. This has been done in the context of overall trade relations with Bulgaria, Pakistan and United Arab Republic.

MFN exemption has been sought for *cargo sharing* between bilateral partners for an indefinite period. This has been done in the context of overall trade relations with Bulgaria, Pakistan and United Arab Republic.

An indefinite period exemption also applies to *cargo reservation* for all countries in order to fulfil obligations under the UN Code of Conduct for Liner Conferences. Sharing the cargo between the national lines of contracting states and third-country lines in the ratio of 40:40:20 as provided in the Liner Code.

• Recreational Services

Bhutan has been granted waiver on the prohibition of sale of lottery tickets in India for an indefinite period based on a comprehensive bilateral agreement between India and Bhutan.

• Audiovisual Services

An indefinite period exemption has been sought by India with an offer to all countries for promoting cultural exchange through co-production of motion pictures and television programmes with India.

• Telecommunication Services – International Service

India has sought indefinite-period MFN Exemption for measures including the application of different accounting rates for different operators/countries covered by individual International Telecommunication Services Agreements with Videsh Sanchar Nigam Limited, India. Such bilateral agreements deal with various aspects of co-operation. Similar exemptions have also been included with neighbouring countries on account of inter-government agreements. These neighbouring countries include Pakistan, Bangladesh, Nepal and Bhutan.

Pakistan

Pakistan has put forward its GATS commitments in six out of the twelve service sectors, i.e. sectors 1, 2, 3, 7, 8 and 9. These include i) business services (sector 1); ii) communication services (sector 2); iii) construction and related engineering services (sector 3); iv) financial services (sector 7); v) health and related social services (sector 8); and vi) tourism and travel related services (sector 9).

• Business Services (sector 1)

Compared with India, Pakistan has been relatively liberal in committing on modes 2 as well as 3. No restrictions (none) have been put on mode 2 in many of the business service sub-sector components. While mode 1 has been kept "unbound" by both India and Pakistan, mode 4 is subject to horizontal commitments.

Pakistan has put forward liberal commitments under mode 3 (commercial presence) in sub-sectors as follows.

(1.A): Professional services (e. engineering services; f. integrated engineering services; and h. medical and dental services);
(1.B): Computer and related services (a. consultancy services related to installation of computer hardware; b. software implementation services; c. data processing services; and d. data base services);
(1.C): Research and development services (a. R&D services on natural science);
(1.F): Other business services (e. technical testing and analysis services; f & g. services incidental to agriculture and forestry, excluding fishing; h. services incidental to mining).

Pakistan has put certain conditions on market access commercial presence (mode 3) in the case of engineering services (1.A.e & f) by permitting a maximum of 40 percent foreign shareholding in engineering consultancy companies and subject to partnership and/or joint venture with Pakistani engineers or engineering companies.

It is the only country among the four under study to have made some commitments on modes 2 and 3 of medical and dental services.

It is the only country among the four under study to have made some commitments on modes 2 and 3 of medical and dental services. There are no restrictions (none) on market access as well as national treatment under mode 2. There is no restriction (none) on national treatment under mode 3 and market access is permitted subject to Pakistan Medical and Dental Council Regulations.

There are no restrictions on market access as well as national treatment on commercial presence (mode 3) under consultancy services related to the installation of computer hardware (1.B.a). Other components of computer related services (viz. 1.B.b-d) are even freer with no restrictions (none) on market access as well as national treatment under modes 2 and 3.[9] These commitments are relatively liberal as compared to India's commitments, which keep mode 2 practically "unbound" under all categories of business services.

• Communication Services (sector 2)

Pakistan has given commitments only on one of the five sub-sectors of communication services, i.e. telecommunication services (2.C). However, commitments given under various components of this sub-category are relatively liberal as compared with those put forward by India.

(2.C) Telecommunication services (a. voice telephony services; b. packet-switched data transmission services; c. circuit-switched data transmission services; d. telex services; e. telegraph services; f. fascsimile services; g. private leased circuit services; h. electronic mail; i. Voice mail; j. on-line information and database retrieval; k. electronic data interchange; l. enhanced/ value-added facsimile services; and m. code and protocol conversion).

In the case of voice telephony (C.a), the only meaningful commitments are on market access (MA) under mode 1 and mode 2. There are no commitments on NT. In the case of data transmission services (b & c) there are liberal commitments on modes 2 and 3. Commitments on telex services have been liberally put forward in three modes, viz. 1, 2 and 3. The same is true of telegraph, fascimile, voice mail, and on-line information and database retrieval, and electronic data interchange services (f, g, i, j and k). However, national treatment on mode 1 is "unbound" for private leased circuit services (h). There are some general conditions mentioned in Pakistan's offer of telecommunication services. The same are given as follows:

- Policy, regulatory and operation functions are separate and compliance is necessary;
- All services to be provided in Pakistan shall require a licence from the Regulatory authority established under law;
- Operators and service providers may be granted licence in accordance with the local legislation;
- The number of operators, service providers and licensees may be limited due to technical constraint;
- The confidentiality of the International Total Accounting Rate (TAR) shall be maintained;
- The bilateral agreements on accounting rates shall be in accordance with the ITU guidelines;
- Up to 100 percent foreign investment on licensed services may be permitted; and
- This schedule on basic telecommunications does not include any broadcasting services.

Pakistan undertakes the Commitments on Financial Services in terms of the provisions of GATS Agreement. The commitments are based on the understanding outlined in Article XIX of the Agreement, and are subject to the availability of similar commitments from large number of countries of significance to Pakistan.

• Construction and Related Engineering Services (sector 3)

The only commitments put forward in this section relate to construction work for civil engineering for bridges, elevated highways, tunnels, sub-ways, waterways, harbours, dams and other waterworks (3.B) under commercial presence. Market access under mode 3 is permitted subject to partnership and/or joint venture with Pakistani engineers or engineering companies. However, there are no restrictions (none) on national treatment under mode 3.

• Financial Services (sector 7)

Commitments given by India on financial services in its original draft of April 15, 1994 were replaced by a supplement dated July 28, 1995 and finally by a supplement dated February 26, 1998. Pakistan undertakes the Commitments on Financial Services in terms of the provisions of GATS Agreement. The commitments are based on the understanding outlined in Article XIX of the Agreement, and are subject to the availability of similar commitments from large number of countries of significance to Pakistan. Pakistan can adopt or enforce non-discriminatory measures aimed at protecting the soundness and integrity of its banking and insurance industry.

Pakistan's commitments include two important sub-sectors of financial services:
(7.A) Insurance and insurance related services (a. life insurance; b. non-life insurance; and c. reinsurance and retrocession).
(7.B) Banking and other financial services (excluding insurance) (a. acceptance of deposits and other repayable funds from the public; c. financial leasing; d. all payment and money transmission services; e. guarantees and commitments;

f. trading for own account of money market instruments, foreign exchange, transferable securities, and other negotiable instruments; g. portfolio management; participation in issues of all kinds of securities; i. asset management; j. clearing services for other banks for cheques, drafts and other instruments; k. financial and investment advisory services; and l. provision and transfer of financial information and financial data.

In the case of financial services, cautious openness has been granted to market access under mode 3. National treatment has also been granted in some components.

• Health Related and Social Services (sector 8)

Like India, Pakistan has also made some commitments, even though limited only to one sub-sector (hospital services), under this sector.

(8.A) Hospital services

The market access to hospital services (8.A) is permitted only under mode 3 through subject to Pakistan Medical and Dental Council Regulations. Pakistan has put no restrictions (none) on market access and national treatment under mode 2 of hospital services compared. On the contrary, India has kept mode 2 "unbound" under market access as well as national treatment.

Pakistan has put no restrictions (none) on market access and national treatment under mode 2 of hospital services compared.

• Tourism and Travel Related Services (sector 9)

The following two sub-sectors have been opened up for market access and national treatment without any restrictions (none) under mode 3 through.

(9.A) Hotels and Other Lodging Services; and
(9.B) Travel Agency and Tour Operator Services.

MFN Exemptions

Pakistan submitted its list of MFN exemptions on April 15, 1994 and submitted two supplements later on. Pakistan has declared MFN exemptions in two service sectors, viz. financial and telecommunications.

• Financial Services

Indefinite period exemptions, applicable to all countries, have been declared under various components of banking and financial services. Foreign service-promoters are granted licenses on the basis of reciprocity. Favourable treatment can be granted to financial institutions set up to undertake Islamic financing transactions. Separate regulations may be laid down for banks, which are required to undertake and finance treasury function and other non-profitable commodity operation programmes and other price support schemes of the Government. Commodity operation programme is an essential government function undertaken through banks. Treasury function is performed by the National Bank of Pakistan on behalf of the Central Bank.

Favourable treatment can be granted to financial institutions set up as joint ventures under the framework of ECO (Economic Cooperation Organisation) or other protocols signed among the ECO member countries. This exemption is for indefinite period and is based on the Treaty of Izmir and the Istanbul Summit held in July 1993 agreeing to establish financial institutions by the governments of ECO member states with the obligation of meeting the goals of regional economic integration.

• Telecommunication Services

Bilateral agreements with ECO member countries in the field of telecommunication services shall be exempt from MFN for an indefinite period.

• International Services

Pakistan has sought indefinite-period MFN Exemption for measures including the application of different accounting rates for different operators / countries covered by individual International Telecommunication Services Agreements with Pakistan Telecommunication Company Limited and various international operators. Such bilateral agreements deal with various aspects of co-operation. Similar exemptions have also been included with neighbouring countries on account of inter-government agreements.

Sri Lanka

Sri Lanka has put forward its GATS commitments in three out of the twelve service sectors, i.e. sectors 2, 7, and 9. These include i) communication services (sector 2); ii) financial services (sector 7); iii) tourism and travel related services (sector 9).

• Communication Services (sector 2)

Sri Lanka has given commitments only on one of the five sub-sectors of communication services, i.e. telecommunication services (2.C). Sri Lanka has put forward relatively liberal market access on domestic local and long distance basic telephone services on the first three modes as compared with international basic voice telecommunication services. Radio paging and data communication services have also been quoted with liberal market access and national treatment. There has also been some liberalisation commitment on satellite-based services.

• Financial Services (sector 7)

Sri Lanka's commitments include two important sub-sectors of financial services:
(7.A) Insurance and insurance related services (a. life insurance; b. non-life insurance; and c. reinsurance and retrocession).
(7.B) Banking and other financial services excluding insurance) (k. financial and investment advisory services; and l. provision and transfer of financial information and financial data.
In the case of financial services, cautious openness has been granted to market access under mode 3. National treatment has also been granted in some components.
In the case of banking and other financial services, only two components have been cautiously opened up.

• Tourism and Travel Related Services (sector 9)

The following two sub-sectors have been opened up for market access (subject to horizontal measures) and national treatment without any restrictions (none) under mode 3.

(9.A) Hotels and Other Lodging Services; and
(9.B) Travel Agency and Tour Operator Services.

MFN Exemptions

• Telecommunication Services

Pakistan has sought indefinite-period MFN Exemption for measures including the application of different accounting rates for different operators/countries covered by individual International Telecommunication Services Agreements with Sri Lanka Telecom Limited and various international operators. Such bilateral agreements deal with various aspects of co-operation. Similar exemptions have also been included with neighbouring countries on account of inter-government agreements. These countries include SAARC countries, namely Bangladesh, Bhutan, India, Maldives, Nepal and Pakistan.

The present study has trade in health services as a special focus area. Section VII lays out commitments of the four South Asian countries on trade in health services.

Chapter-VII

Country Commitments on Trade in Health Services

Existing Pattern

The health sector in many of the countries has witnessed a major transformation through the 1990s. The modernisation of health care facilities has also led to concomitant hike in costs of providing these services. Governments' budget constraints may not necessarily provide guaranteed access to health care services for populations of respective countries. Thus, the scope for private sector providing health care facilities has been rapidly expanding across the globe. This has increased the potential for international trade in health services. A number of developed countries have taken advantage of new trade opportunities in providing health services, though not to the same extent to which they partook export shares of telecommunications and financial services.[10]

Globalisation is one of the key challenges facing health policy makers and public health practitioners.

Globalisation is one of the key challenges facing health policy makers and public health practitioners (McMichael and Beaglehole, 2000). There are three major channels through which international trade can impact on health systems and health objectives (Bettcher et al, 2000).

Firstly, trade in goods can have a major impact on health of populations of the trading countries. Such trade may be in health goods like pharmaceuticals, medical devices, equipment, etc., or in the form of non-health goods like hazardous wastes and materials, unsafe industrial technologies, tobacco, etc. Moreover, while the importance of intellectual property protection through TRIPs is widely recognised, patent protection provisions are raising issues concerning the production of needed drugs, drug prices, access to necessary medications and health system costs (Kinnon, 1998).

Trade can impact on health through the relationship between trade, its economic outcomes in the form of growth and development, and broader determinants of health.

Secondly, trade in health services can have a major impact on health. This trade may be in services directly related to provision of health services or to educational services in the area of health. Thirdly, trade can impact on health through the relationship between trade, its economic outcomes in the form of growth and development, and broader determinants of health. However, broader health determinants do not necessarily guarantee desirable health outcomes.

Though it is well recognised that globalisation can have significant effect on health, clear understanding on the channels through which globalisation affects the health of peoples of different countries and what should be nature of policy response by different countries is lacking.

Though it is well recognised that globalisation can have significant effect on health, clear understanding on the channels through which globalisation affects the health of peoples of different countries and what should be nature of policy response by different countries is lacking. There appears to be increasing tension between the new rules, actors and markets that characterise the modern phase of globalisation and the ability of the countries to protect and promote health (Woodward et al, 2001). Good health, in the form of longevity, is more likely to materialise when economic prosperity works through poverty removal and public health care (Sen, 1999). In fact, trade and growth need to be accompanied by a comprehensive package that, depending upon the country situation, includes economic, social and governance reforms, in order to improve welfare (WHO, 1999).

The developing countries are interested in liberalisation mode 4 of trade in health services. However, under mode 4 of GATS trade liberalisation is limited to the temporary movement of natural persons. Mobility associated with citizenship, residence and employment on a permanent basis is excluded. The GATS, however, neither defines the meaning of temporary presence nor does it specify a time frame that applies to the term "temporary".[11]

The economic benefits of globalisation need to be translated into health benefits through appropriate national health policies. This implies that economic growth should be relatively favourable to the poorer section of the economy.

For globalisation to have positive influence on the health of poor populations, it is essential that the economic effects of globalisation extend to all countries. Secondly, the economic benefits of globalisation need to be translated into health benefits through appropriate national health policies. This implies that economic growth should be relatively favourable to the poorer section of the economy. Thirdly, potential adverse effects of globalisation, e.g. tobacco marketing or cross-country spread of infectious diseases, must be minimised through a joint international effort. Fourthly, the design and implementation of international rules should take full account of potential effects on the health care system and health-related sectors.

There is thus a need for a full health impact assessment of international agreements and measures, which may have significant effects on health-related sectors, before their implementation. The effects may be direct, for example, through constraints or influences on sectoral policies or indirectly, for example through the availability of resources and input costs (Woodward et al, 2001).

Thus, a balance has to be struck between the social and commercial aspects of health services to preserve the equity, accessibility and efficiency of the sector. Primacy of national health care policies must be considered to be important. In this regard, foreign suppliers of health services need to be supportive of national health programmes, and benefits derived from trade in services should be used to contribute to improving the health and living conditions of the population. The extremely vulnerable position of the least developed and other structurally weak countries must be kept under special attention lest these should face further erosion of their health care services resulting from brain drain and lack of access to new technology (UNCTAD, 1997b).

Foreign suppliers of health services need to be supportive of national health programmes, and benefits derived from trade in services should be used to contribute to improving the health and living conditions of the population.

Although accurate statistics on balance of payments statistics are not available, existing information demonstrates that health services were one of the service sectors in which developing countries have a revealed comparative advantage (RCA). Such advantage results from lower cost of services, provision of unique services, potential to combine health care and tourism and natural resources with perceived curative benefits. There is an increased potential for South-South trade in health services with health markets in many developing countries growing at a rapid rate. Portability of health insurance shall add immense value to trade in health services (UNCTAD, 1997b).

As mentioned earlier, trade in health services under GATS is covered under two categories, namely 1) Business services and 8) Health related and social services. Three components of sub-category 1.A) professional-services are related to health services. These are 1.A.h) medical and dental services; 1.A.i) veterinary services; and 1.A.j) services provided by midwives, nurses, physiotherapists and paramedical personnel. Two sub-categories of category 8, namely health related and social services also relate to health services. These sub-categories are 8.A) hospital services and 8.B) other human health services. Thus, there are four categories of human health services. These include 1.A.h, 1.A.j, 8.A and 8.B.

Though potential for trade in health services has been increasing during the last few decades, countries have adopted relatively conservative approach while listing their commitments under health services. However, non-scheduling of a sector or a non-commitment on a particular mode does not imply that there is a complete lack of any discipline. The basic obligation of the "most favoured nation" (MFN) treatment applies in all cases. Any exemptions from MFN treatment have to be clearly listed out and are valid only for a period of ten years in principle, at the date of entry into force of the Agreement or at the date of accession for the new members.

Though potential for trade in health services has been increasing during the last few decades, countries have adopted relatively conservative approach while listing their commitments under health services.

The existence of GATS commitments does not impinge on the ability of the member governments to regulate the services concerned. The Agreement makes a clear distinction between external liberalisation under Articles XVI and XVII, and internal regulation for objectives relating to quality of the service provided.

A developed member country like Canada has not undertaken commitments in any of the four components of health services. Japan and the USA have scheduled only one sector each (Box 3). Some of the least developed countries like Burundi, Gambia, Lesotho, Malawi, Sierra Leone and Zambia had each made commitments at least in three of the four components of health services. Some of the recently joined WTO members including Estonia, Georgia, Jordan, the Kyrgyz Republic, and Latvia have undertaken extensive commitments. However, no service sector except education has drawn fewer bindings than the health sector.

The highest number of commitments, 54, have been made in medical and dental services (1.A.h) followed by hospital services (8.A) at 44. Only 29 members have made any commitments on services provided by midwives, nurses, physiotherapist and paramedical personnel (1.A.j). Only 17 member countries have committed to other human health services (8.B). It may thus be observed that it may be politically easier or economically more attractive for member countries to liberalise skill-intensive (1.A.h) and capital-intensive (8.A) sectors than labour-intensive sectors.

The relatively shallow commitments in health services appear to be government monopolies, in law or in fact, offering health services at subsidised rates.

The relatively shallow commitments in health services appear to be government monopolies, in law or in fact, offering health services at subsidised rates. However, in most of the countries private sector coexists along with the public sector with the two catering to the different market segments. Moreover, there were no developed country members taking special initiatives for liberalisation of health services similar to their roles played in sectors like telecommunications and financial services in which they had major export interests.

Many of the developing member countries have made commitments under mode 3, possibly with an intention to overcome constraints caused by shortages of capital. Lack of meaningful commitments in mode 4, except for

Box 3: Specific commitments of WTO Members on individual health services				
Members	**Medical and dental services**	**Nurses, midwives etc**	**Hospital services**	**Other human health services**
Antigua and Barbuda	X			
Australia	X			X
Austria	X	X	X	X
Barbados	X			
Belize	X			X
Bolivia			X	
Botswana	X	X		
Brunei Darussalam		X		
Bulgaria	X			
Burundi	X		X	X
Congo DR	X			
Costa Rica	X		X	
Czech Republic	X			
Dominican Republic	X		X	X
Ecuador			X	
EU (X2)	X	X	X	
Estonia	X		X	X
Finland		X		
Gambia	X	X	X	X
Georgia	X		X	X
Guyana	X			
Hungary	X		X	X
India			X	
Jamaica	X	X	X	
Japan			X	
Jordan	X	X	X	X
Kuwait			X	X
Kyrgyz Republic	X	X	X	X
Latvia	X	X	X	
Lesotho	X	X		X
Malawi	X	X	X	
Malaysia	X		X	X
Mexico	X	X	X	
Norway	X	X		
Pakistan	X		X	
Panama			X	
Poland	X	X	X	
Qatar	X			
Rwanda	X			
Saint Lucia			X	
Saint Vincent and the Grenadines			X	X
Senegal	X			
Sierra Leone	X	X	X	
Slovak Republic	X			X
Slovenia	X		X	
South Africa	X	X		
Swaziland	X		X	
Sweden	X	X		
Switzerland	X			
Trinidad and Tobago	X		X	
Turkey			X	
USA			X	
Zambia	X	X	X	X
Total	54	29	44	17
Source: Adlong and Carzaniga (2001)				

intra-corporate employees and skilled workers not available domestically, is a reflection of the generally restrictive outlook towards movement of natural persons. This, however, is true for all other service sectors as well.

Commitments of South Asian Countries

Among four South Asian countries covered under this study, only two have mentioned some commitments in health services, India and Pakistan.

In the case of India, market access to hospital services is permitted only under mode 3 through incorporation with a foreign equity ceiling of 51 percent. There are no limitations to national treatment (none) under mode 3.

Pakistan is the only country among the four under study to have made some commitments on modes 2 and 3 of medical and dental services. There are no restrictions (none) on market access as well as national treatment under mode 2. There is no restriction (none) on national treatment under mode 3 and market access is permitted subject to Pakistan Medical and Dental Council Regulations.

Like India, Pakistan has also made some commitments, even though limited only to one sub-sector (hospital services), under this sector.

The market access to hospital services (8.A) is permitted only under mode 3 through subject to Pakistan Medical and Dental Council Regulations. Pakistan has put no restrictions (none) on market access and national treatment under mode 2 of hospital services compared. On the contrary, India has kept mode 2 "unbound" under market access as well as national treatment.

There has been a low level of commitments on health services by the countries of South Asia with only India and Pakistan having made some positive commitments with Pakistan being more liberal than India.

Status of Health Services: South Asia

There has been a low level of commitments on health services by the countries of South Asia with only India and Pakistan having made some positive commitments with Pakistan being more liberal than India. While Bangladesh, India and Pakistan belong to the low income countries, Sri Lanka is a part of lower middle income countries.[12]

Health is a serious issue in South Asian countries. As shown in Table 12, the total expenditure on health as percentage of GDP is relatively high at 5.3 percent in India, 4.0 percent in Pakistan, and relatively low in Bangladesh (3.8 percent) and Sri Lanka (3.3 percent). Southeast countries along with China spend less than 4.5 percent of their GDP on health with Indonesia recording a relatively low percentage at 2.6.[13]

Public expenditure on health as a percentage of total expenditure on health shows wide variations across countries (Table 13). While Sri Lanka's public expenditure on health is about 50 percent of its total expenditure on health, the corresponding figures are 36 and 23 percent for Bangladesh and Pakistan, respectively. Public expenditure share is relatively low in India touching about 17 percent only leaving 83 percent of the expenditure incurred by India's people as private expenditure. Interesting contrast is that the figures are exactly reverse in case of the United Kingdom with 83 percent expenditure being public and the remaining 13 percent being private.

Governments of developed countries earmark relatively large proportion of the general public expenditure on health (Table 14). It is about 17 percent in

Table 12: Total expenditure on health as % of GDP			
Country	**1997**	**1998**	**Avg. (1997-1998)**
Australia	8.4	8.6	8.5
Canada	9.0	9.3	9.2
USA	13.0	12.9	13.0
UK	6.7	6.8	6.8
Bangladesh	3.8	3.8	3.8
India	5.5	5.1	5.3
Nepal	4.7	5.4	5.1
Pakistan	4.0	4.0	4.0
Sri Lanka	3.2	3.4	3.3
Indonesia	2.4	2.7	2.6
Malaysia	2.3	2.5	2.4
Philippines	3.6	3.6	3.6
Thailand	3.7	3.9	3.8
China	4.2	4.5	4.4
Source: The World Health Report, 2001			

the United States of America and 14 percent in the United Kingdom. The figure is as high as 13 percent in China and 12 percent in Thailand. The corresponding values are relatively low in South Asian countries, Bangladesh (6.4), Sri Lanka (5.9), India (5.2) and Pakistan (3.0).

Per capita health expenditure per annum is alarmingly low in South Asian countries (Table 15). While Sri Lanka spends $27.5 per capita per annum as total expenditure on health, the figures are $23 for India, $18 for Pakistan and $11 for Bangladesh. Even if these are converted in international dollars (PPP terms), the results are not encouraging at all (Table 16). Though the value for India turns out to be the highest among South Asian countries (PPP $110.5), it is below that in China (PPP

Table 13: Public expenditure on health as % of total expenditure on health			
Country	**1997**	**1998**	**Avg. (1997-1998)**
Australia	69.3	69.9	69.6
Canada	69.9	70.1	70.0
USA	45.5	44.8	45.2
UK	83.7	83.3	83.5
Bangladesh	34.7	36.5	35.6
India	15.3	18.0	16.7
Nepal	20.6	23.5	22.1
Pakistan	22.9	23.6	23.3
Sri Lanka	49.5	51.3	50.4
Indonesia	23.8	25.5	24.7
Malaysia	57.6	57.7	57.7
Philippines	43.4	42.4	42.9
Thailand	57.2	61.4	59.3
China	39.4	38.8	39.1
Source: The World Health Report, 2001			

$135.0) and obviously no match to $3985 in the United States. Per capita public expenditure on health is also woefully low in South Asian countries, both in dollar terms as well as in international dollar (PPP) terms (Tables 17 and 18).

Approximately 14 physicians, on an average, are available for every 10,000 people in the world. The corresponding average is 5 in the case of low-income countries and 29 in the case of high-income countries. The figure lies at 2 for Bangladesh, 4 for each India and Sri Lanka, and 6 for Pakistan. On the average, 32 beds are available in the world for every 10,000 people. The number is 13 in the case of low-income countries and 72 in the case of high-income countries. It is 27 for Sri Lanka, 8 for India, 7 for Pakistan and only 3 for Bangladesh.[14]

Table 14: Public expenditure on health as % of general government expenditure

Country	1997	1998	Avg. (1997-1998)
Australia	16.6	16.8	16.7
Canada	14.2	14.7	14.5
USA	17.3	16.9	17.1
UK	13.7	14.3	14.0
Bangladesh	5.8	6.9	6.4
India	4.7	5.6	5.2
Nepal	5.3	6.2	5.8
Pakistan	2.9	3.1	3.0
Sri Lanka	6.0	5.8	5.9
Indonesia	2.8	3.3	3.1
Malaysia	5.6	6.0	5.8
Philippines	6.7	6.6	6.7
Thailand	10.9	13.3	12.1
China	13.6	12.8	13.2

Source: The World Health Report, 2001

Table 15: Per capita total expenditure on health at official exchange rate units

Country	1997	1998	Avg. (1997-1998)
Australia	1680.0	1672.0	1676.0
Canada	1876.0	1847.0	861.5
USA	3915.0	4055.0	3985.0
UK	1499.0	1628.0	1563.5
Bangladesh	10.0	12.0	11.0
India	24.0	22.0	23.0
Nepal	11.0	11.0	11.0
Pakistan	18.0	18.0	18.0
Sri Lanka	26.0	29.0	27.5
Indonesia	25.0	12.0	18.5
Malaysia	110.0	84.0	97.0
Philippines	41.0	32.0	36.5
Thailand	93.0	71.0	82.0
China	31.0	34.0	32.5

Source: The World Health Report, 2001

Table 16: Per capita total expenditure on health in international dollars (PPP)			
Country	**1997**	**1998**	**Avg. (1997-1998)**
Australia	1950.0	2080.0	2015.0
Canada	2183.0	2363.0	2273.0
USA	3915.0	4055.0	3985.0
UK	1457.0	1512.0	1484.5
Bangladesh	40.0	42.0	41.0
India	111.0	110.0	110.0
Nepal	51.0	58.0	54.5
Pakistan	66.0	67.0	66.5
Sri Lanka	89.0	99.0	94.0
Indonesia	78.0	54.0	66.0
Malaysia	194.0	168.0	181.0
Philippines	162.0	144.0	153.0
Thailand	221.0	197.0	209.0
China	127.0	143.0	135.0
Source: The World Health Report, 2001			

Table 17: Per capita public expenditure on health at offical exchange rate (US$)			
Country	**1997**	**1998**	**Avg. (1997-1998)**
Australia	1164.0	1172.0	1168.0
Canada	1311.0	1296.0	1303.5
USA	1780.0	1817.0	1798.5
UK	1254.0	1357.0	1305.5
Bangladesh	4.0	4.0	4.0
India	4.0	4.0	4.0
Nepal	2.0	3.0	2.5
Pakistan	4.0	4.0	4.0
Sri Lanka	13.0	15.0	14.0
Indonesia	6.0	3.0	4.5
Malaysia	63.0	48.0	55.5
Philippines	18.0	14.0	16.0
Thailand	53.0	44.0	48.5
China	12.0	13.0	12.5
Source: The World Health Report, 2001			

The upshot of the above discussion is that availability of health services is pathetically low and quality poor in countries of South Asia.

Maximising Benefits from Trade in Health Services

Some of the most significant gains in world welfare could be realised through an expansion of services exports from developing countries. Provision of health-services, in particular, is an area in which developing countries could become major exporters. These countries can attract foreign patients to domestic hospitals and foreign elderly for nursing care. They can also earn from temporarily movement of health-professionals abroad.

Table 18: Per capita public expenditure on health in international dollars (PPP)			
Country	**1997**	**1998**	**Avg. (1997-1998)**
Australia	1351.0	1457.0	1404.0
Canada	1525.0	1657.0	1591.0
USA	1780.0	1817.0	1798.5
UK	1220.0	1260.0	1240.0
Bangladesh	14.0	16.0	15.0
India	17.0	20.0	18.5
Nepal	11.0	14.0	12.5
Pakistan	15.0	16.0	15.5
Sri Lanka	44.0	51.0	47.5
Indonesia	18.0	14.0	16.0
Malaysia	112.0	97.0	104.5
Philippines	70.0	61.0	65.5
Thailand	126.0	121.0	123.5
China	50.0	55.0	52.5

Source: The World Health Report, 2001

A central objective is to examine how the gains from trade can be realised without undermining the pursuit of objectives such as equitable access.

But there is also a legitimate concern that an increase in exports may have an adverse effect on the domestic availability of such services, especially for the poor.

A central objective is to examine how the gains from trade can be realised without undermining the pursuit of objectives such as equitable access. For an expansion in trade to be possible, two conditions need to be fulfilled: an elimination of barriers in foreign markets and the development of capacity within developing countries to provide services of an acceptable quality, possibly through greater foreign investment. Secondly, measures need to be taken to ensure that increased opportunities to trade do not have a negative distributional impact.

The development of communication technology has greatly increased the scope for cross-border supply, but the other three modes remain more important. It seems reasonable to assume that a country like India potentially has comparative advantage in supplying health services to foreigners either by attracting them to India or sending its providers abroad, whereas countries like the United States have a comparative advantage in providing services through the establishment of commercial presence. Identifying the interplay between these modes will be one of the key aspects of the study.

Another largely unexplored area is old-age nursing homes. OECD countries are witnessing an increase in the number of old and disabled people in need of nursing care for prolonged periods.

Gains and Barriers

Casual empirical evidence reveals that there are likely to be substantial gains from trade. For instance, while the cardiovascular surgery package costs about $47,000 in Massachusetts General Hospital (Boston), its cost in India's ISO-9000 certified Apollo Hospital (Chennai) is about $6,000. Even a low-cost hospital in the United States, Christiana Hospital (Newark) charges about $28,000 for such a surgery. The corresponding figures for neurosurgery are about $42,000 in Massachusetts General Hospital, $23,000 in Christiana Hospital and only $3,500 in Apollo Hospital. One question is whether these price differences would remain large once differences in the quality of services in different locations are taken into account.

Another largely unexplored area is old-age nursing homes. OECD countries are witnessing an increase in the number of old and disabled people in need of nursing care for prolonged periods. The number of elderly people in the USA is estimated to grow from 4.5 million in the early 1980s to 8 million by 2040.[15] The potential impact of permitting portability of health insurance could be substantial. If only 3 percent of the 100 million elderly persons living in OECD countries retired to developing countries, they would bring with them possibly US$30 to 50 billion annually in personal consumption and $10 to 15 billion in medical expenditures (United Nations and WHO, 1998).

A major barrier to *consumption abroad* of medical services is the lack of portability of health insurance. For instance, reimbursement of medical expenses by the US federal or state government is limited to licensed and certified facilities in the United States. The lack of long-term portability of health coverage for retirees from OECD countries is also a constraint to trade. In the United States for instance, Medicare covers virtually no services delivered abroad. Other nations may extend coverage abroad, but only for limited periods such as two or three months. This constraint is significant because it tends to deter the elderly from travelling or retiring abroad. And those who do retire abroad are often forced to return home to obtain affordable medical care.

Greater insurance-portability would enable insurance companies to bring into the insurance net people who cannot afford costlier insurance packages for treatment/nursing care in their own countries.

The rationale for the restrictive conditions on *health insurance* needs to be examined. Greater insurance-portability would enable insurance companies to bring into the insurance net people who cannot afford costlier insurance packages for treatment/nursing care in their own countries. The National Coalition of Health Care (USA) in a 1999 paper has estimated that 43.4 million of the US people, 16 percent of the population, had no health insurance in 1997. It has also estimated that about 53 million of non-elderly US citizens, i.e. one in five, will be uninsured in 2009 under current arrangements. Obviously, providing health insurance at, say 25 percent of the existing cost could bring many such people into the health insurance net.

Any possibility of trade critically depends on the ability of developing countries to provide an acceptable quality of health services. It may not be necessary to match the quality of services in the best health centres, for it is conceivable that a vertically differentiated market could emerge, but a certain threshold quality would certainly need to be attained. We know that countries like India and Cuba already attract foreign patients, many of whom come from other developing countries. But we do not have a good sense of quality differences between countries and within countries, and of the cost of quality improvement.

Any possibility of trade critically depends on the ability of developing countries to provide an acceptable quality of health services.

It is likely that elimination of the restrictions that developing countries impose on FDI in health services would help enhance both capacity and quality. For instance, India's GATS commitments suggest that commercial presence is allowed only through incorporation with a foreign equity ceiling of 51 percent. The restrictive effect of such ownership restrictions and other impediments to investment itself merits closer examination.

An alternative to patients travelling abroad is for the health providers – doctors, nurses and others – to travel to the country of the patient. Many different barriers constrain the *movement of individual service providers*. The numerous formalities alone (e.g. to obtain a visa) make red tape-related to FDI seem trivial by comparison. The most obvious barriers are explicit quotas and/or economic needs tests.[16] Qualification and licensing requirements and the regulations of professional bodies are major barriers as well. The entry of foreigners can be impeded by non-recognition of their professional qualifications, burdensome licensing requirements or by the imposition of discriminatory standards on them. The requirement of registration with, or membership of, professional organisations can also constitute an obstacle for a person wishing to provide the service on a temporary basis. Distinguishing between the legitimate and the protectionist is a major challenge in the domain of domestic regulations.

Impact on Social Objectives

In the short run, increased exports are likely to reduce availability and/or increase prices domestically. But there may also be some positive effects.

How would liberalising trade and investment in health services effect access to health services, especially for the poor? In the short run, increased exports are likely to reduce availability and/or increase prices domestically. But there may also be some positive effects. Increased export revenues may provide the resources for expansion of domestic health care facilities. Over time, the prospect of increased incomes in the health care profession is likely to lead to augmentation of supply. If access to high-income jobs remains rationed, e.g. because of persisting limits on moving to foreign markets, then it is conceivable that the quantity supplied to the domestic market would also expand. In any case, the outcome is unclear and merits closer examination.

It is important to devise policies that should accompany liberalisation to ensure that social objectives do not suffer. For instance, there may be an increase in taxation (of consumption or income) to finance subsidised health care for the poorer segments of the population. Such subsidies may then be passed on to the provider or the consumer. One may consider imposing universal obligations on health care providers.

It would be in the interest of all countries to separate temporary movement from migration, and to push for liberalisation primarily with respect to the former.

GATS Negotiations

How can the ongoing GATS negotiations be used to generate a stronger liberalising momentum in the sector? It would be in the interest of all countries to separate temporary movement from migration, and to push for liberalisation primarily with respect to the former. For exporting countries, both the financial and knowledge benefits would be greatest if service suppliers (particularly those who have benefited from a subsidised education) return home after a certain period abroad. And for importing countries, such temporary movement should create fewer social and political problems than immigration. It may be feasible to draw a line between temporary movement and migration. It may be feasible to link liberalisation commitments across modes of supply (e.g. investment vs individuals) so as to harness the traditional WTO mechanism of reciprocity-based market access negotiations.

An optimal mix of surplus capital from the high-income countries and surplus health-related workers may be a very "healthy" concoction for the entire world community.

The other key question in the GATS negotiations concerns rules for domestic regulations, such as qualification and licensing requirements. This is an area where little progress has been made, because of the difficulty in striking a balance between national regulatory autonomy and multilateral disciplines on protectionist instruments. A close examination of the conditions imposed on foreign health service providers might provide some insight into how further progress can be made in this area. An optimal mix of surplus capital from the high-income countries and surplus health-related workers may be a very "healthy" concoction for the entire world community. South Asia stands to gain further if it minimises restrictions on trade in health services across its member countries though on MFN basis. The member countries can integrate South Asia into a first class region for provision of health services to populations of its own member countries, as well as, to foreign patients visiting this region.

Chapter-VIII

Concluding Remarks

Services have been playing increasingly important role in South Asian economies. The sector now contributes close to half the total GDP of this region compared with 37 percent in 1980 and 42 percent in 1990. The myth of services being non-tradable has given way to the reality that the total exports of services from this region touched a figure of $21bn during 2000, thus contributing nearly one-fourth of the regions total exports (merchandise and commercial services).

South Asian region does not reveal comparative advantage in transport and travel services.

This figure is relatively high when compared with the world average of 18.4 percent and the high-income countries' average of 20.2 percent during 2000. Within the major developing regions of the world, only South Asian region reveals comparative advantage in export of services though it is mainly arising from a strong position that India holds in contributing to such advantage. The developing countries of Europe and Central Asia, on an average, are close to having revealed comparative advantage in export of services though there has been a decline during the triennium 1998-2000.

South Asia region does not reveal comparative advantage in transport and travel services. In the case of transport services, other developing regions of the world are performing better than South Asia and are close to having revealed comparative advantage nearly similar to the high income countries. It is mainly because of India's weakness that the region loses on export of transport services even though Bangladesh, Pakistan and Sri Lanka reveal comparative advantage in export of transport services.

In the case of export of travel services, South Asian region is a very poor performer with all other developing regions of the world having a high revealed comparative advantage.

In the case of export of travel services, South Asian region is a very poor performer with all other developing regions of the world having a high revealed comparative advantage. This clearly is a poor reflection on the development of the tourism sector or any other type of special feature to attract inflow of tourists into South Asia region.

It is on the "other services" that South Asia scores higher comparative advantage as compared with other developing regions mainly on account of India's strength and partially due to contribution of Bangladesh.

It is on the "other services" that South Asia scores higher comparative advantage as compared with other developing regions mainly on account of India's strength and partially due to contribution of Bangladesh.

The General Agreement on Trade in Services (GATS) is the first multilateral agreement under the auspices of Uruguay Round to provide legally enforceable rights to trade in a wide range of services along with their progressive liberalisation. The main objectives of GATS are the expansion of trade in services, progressive liberalisation of such trade through negotiations, transparency of rules and regulations, and increasing participation of developing countries. Though very little liberalisation was actually achieved, the negotiations on trade in service sectors established the institutional structure for negotiating liberalisation in the future.

Balance of payments statistics (IMF) is the main source of information on international trade in services. It has many weaknesses. Some of the large economies – such as former Soviet Union – did not report data on trade in services unless recently. Disaggregation of important components is limited and it varies across countries. There are inconsistencies in the methods used to report items contributing to a downward bias in the value of the service trade reported in the balance of payments.

The *Manual of Statistics of International Trade in Services* (MSITS, 2001) is a major effort to resolve the divergence between GATS legal framework and the traditional statistical framework mentioned under *BPM5*. The *MSITS* is the result of a joint effort among six international organisations.[17] An internationally agreed GATS-coherent framework for the compilation and reporting of statistics of international trade in services has been set out in *MSITS*. However, the *MSITS* conforms with and explicitly relates to *BPM5*.

Like many other countries, South Asian countries have also played safe while making commitments on trade in services.

Like many other countries, South Asian countries have also played safe while making commitments on trade in services. It is likely that opening up of service sectors may be crucial not only to raise the efficiency of the tertiary sector itself but also to contribute positively to the rapid growth of primary and secondary sectors of the economy (Chadha 2001).

Among various types of services, health related services constitute an area where the countries of the region, with India taking a lead, can gain hugely from opening up. The major gains can be achieved through permitting commercial presence and FDI, such that world-class facilities are made available at affordable costs. Provision of nursing-care facilities to the increasingly large population of old-age people across the globe is yet another potential area of business. The comparative advantage of the region also lies in supplying its surplus medico-labour (doctors, nurses, paramedical staff, etc.) to the developed countries requiring such medical staff for temporary periods. The medico-staff would then be expected to return to South Asia after having gained better knowledge of modern medical facilities and hence benefit provision of medical services in this region of the world. However, portability of medical insurance and reduction in barriers to the movement of natural persons are two pre-conditions to make such a phenomenon successful.

The major gains can be achieved through permitting commercial presence and FDI, such that world-class facilities are made available at affordable costs. Provision of nursing-care facilities to the increasingly large population of old-age people across the globe is yet another potential area of business.

Last, but not the least, major regulatory changes might be required to be introduced in the countries of South Asia on grounds of equity. The spread of new private sector, regional or multinational, might be a threat to the provision of good medical facilities to the poor populations of South Asian countries. Another fear generally expressed is the likely diversion of medico-staff from public sector to private sector hospitals.

Such fears have to be taken seriously into account by the respective Medical Regulatory Authorities, which must be established in countries of South Asia. These bodies should be given enough autonomy so that the interests of the poor are not hurt. This can be done in various innovative ways and through putting special taxes on patients who could afford to pay high prices for either jumping the queue of waitlist or getting luxurious stay while under treatment. Such revenue can then be transferred to the upkeep of the public sector hospitals through enabling them to retain their medico-staff with them and yet provide "reasonable quality" of medical services to the poor patients. Though it may be difficult to define the meaning of "reasonable quality", here we mean that services provided to the poor should be better than the situation when no opening up of trade in health services were permitted.

It is possible that the externalities of having a modern and high-technology system of providing medical services within South Asia region are likely to more than offset the fears of the poor losing out. In any case, private but low-quality "nursing homes" are anyway mushrooming across the countries of this region. The poor are already losing out since they cannot afford treatment in these nursing homes. Barring a few, most of such nursing homes are far below the world-parity due to the absence of economies of scale.

A pro-active role is expected from the developing countries during the process of ongoing service negotiations at the WTO. In case the surplus capital of the developed countries attempts to look for a more lucrative vent in establishing commercial presence in the developing countries, the developing countries should definitely look forward to demolishing the huge barriers put up by the developed countries on the movement of natural persons. There should be a sense of well-considered proportion in applying the rule of comparative advantage – whether on trade in goods or in services.

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Endnotes

1 See Annex 1 for detailed classification of service sectors.

2 See World Development Indicators (2002), page 231 for details.

3 Persons residing abroad for more than one year.

4 European Commission, IMF, OECD, UN, UNCTAD and WTO.

5 All services, i.e. commercial plus government.

6 The structure of the GATS reflects both the special characteristics of services and services trade, and the scope and coverage of the agreement itself. It includes scope and definition of trade in services, general obligations and disciplines, specific (negotiated) commitments, progressive liberalisation (through successive rounds of negotiations), and institutional and final provisions. The GATS thus consists of two major components, namely, (1) the framework agreement including the Articles of the Agreement and its Annexes and (2) the schedules of specific commitments on national treatment and market access along with lists of exemptions from MFN treatment submitted by member governments. (See WTO, 1995).

7 The developed countries are required to abstain from imposing conditions on the access to and use of public telecommunications transport networks and services. The conditions may, however, be imposed by the developed countries if necessary to ensure the availability of services to the general public, protect the technical integrity of networks or prevent the supply of services by countries that have not made specific commitments in the area of telecommunications. On the other hand, the developing countries may impose reasonable conditions on the access to and use of telecommunications networks that they consider necessary to strengthen domestic telecommunications infrastructure and capacity and to increase their participation in international trade in telecommunications services. The GATS members are expected to make available to developing countries information on international telecommunications services and developments in telecommunications and information technology in order to assist in the strengthening of their domestic telecommunications industries.

8 According to the 'World Development Report' (2002) the GNI per capita (PPP) levels for the low, middle and high-income economies are as follows: low-income, \$755 or less in 2000; middle-income, \$756 to \$9,265 and high-income, \$9,266 and more (see page 241 WDR, 2002).

9 Commitments are equally liberal also on R&D on natural sciences (1.C.a) and technical testing and analysis services (1.F.e).

10 This section draws upon Adlung and Carzaniga, 2001.

11 WTO Council for Trade in Services, *Presence of Natural Persons (Mode 4)*, S/C/W/75 (Geneva: WTO December 1998).

12 Gross per capita income of Bangladesh, India, Pakistan and Sri Lanka was \$ 380, 460, 470 and 870, respectively. In PPP terms, these figures translate into \$ 1650, 2390, 1960 and 3470, respectively. While the average gross per capita income of the low income countries was \$ 420 (PPP \$ 1990) in 2000, it was \$ 1140 (PPP \$ 4580) for lower middle income countries. The corresponding world average was \$ 5150 (PPP \$ 7350) while for high-income countries, it was \$ 27510 (PPP \$ 27450). See WDR (2002), page 232-233.

13 Tables 12 to 18 have been extracted from World Health Report (2001) and provide data for 1997 and 1998. Our discussion is based on averages for the years.

14 See WDI 2002, Table 2.15, pages 102-104.

15 Swaminathan S. Aiyar, quoting a Brookings study by Joshua Wiener, in his lecture on "India's Economic Prospects: The Promise of Services" delivered in 1999 at the Center of Advanced Study of India, University of Pennsylvania.

16 Other barriers to movement of natural persons include double taxation, wage-matching requirements (wages paid to foreign workers should be the similar to those paid to nationals in that profession, eliminating the cost advantage for foreigners), and local training requirements (to replace foreign with national labour within a certain time frame).

17 European Commission, IMF, OECD, UN, UNCTAD and WTO.

Annexure 1

WTO Classification of Service Sectors

1. BUSINESS SERVICES

A. Professional services
a. Legal services 861
b. Accounting, auditing and bookkeeping services 862
c. Taxation services 863
d. Architectural services 8671
e. Engineering services 8672
f. Integrated engineering services 8673
g. Urban planning and landscape architectural services 8674
h. Medical and dental services 9312
I. Veterinary services 932
j. Services provided by midwives, nurses, physiotherapists and paramedical personnel 93191
k. Other

B. Computer and related services
a. Consultancy services related to the installation of computer hardware 841
b. Software implementation services 842
c. Data processing services 843
d. Database services 844
e. Other 845+849

C. Research and development services
a. R & D services on natural sciences 851
b. R & D services on social sciences and humanities 852
c. Interdisciplinary R & D services 853

D. Real estate services
a. Involving own or leased property 821
b. On a fee or contract basis 822

E. Rental/leasing services without operators
a. Relating to ships 83103
b. Relating to aircraft 83104
c. Relating to other transport equipment 83101+83102+83105
d. Relating to other machinery and equipment 83106-83109
e. Other 832

F. Other business services
a. Advertising services 871
b. Market research and public opinion polling services 864
c. Management consulting service 865
d. Services related to management consulting 866
e. Technical testing and analysis services 8676
f. Services incidental to agriculture, hunting and forestry 881
g. Services incidental to fishing 882
h. Services incidental to mining 883+5115
i. Services incidental to manufacturing 884+885 (except for 88442)
j. Services incidental to energy distribution 887
k. Placement and supply services of personnel 872

l. Investigation and security 873
m. Related scientific and technical consulting services 8675
n. Maintenance and repair of equipment (not including maritime vessels, 633+ aircraft or other transport equipment) 8861-8866
o. Building-cleaning services 874
p. Photographic services 875
q. Packaging services 876
r. Printing, publishing 88442
s. Convention services 87909*
t. Other 8790

2. COMMUNICATION SERVICES

A. Postal services 7511
B. Courier services 7512
C. Telecommunication services
a. Voice telephone services 7521
b. Packet-switched data transmission services 7523**
c. Circuit-switched data transmission services 7523**
d. Telex services 7523**
e. Telegraph services 7522
f. Facsimile services 7521**+7529**
g. Private leased circuit services 7522**+7523**
h. Electronic mail 7523**
i. Voice mail 7523**
j. On-line information and database retrieval 7523**
k. Electronic data interchange (EDI) 7523**
l. Enhanced/value-added facsimile services including store and forward, 7523** store and retrieve
m. Code and protocol conversion n.a.
n. On-line information and/or data processing (including transaction 843** processing)
o. Other

D. Audiovisual services
a. Motion picture and video tape production and distribution services 9611
b. Motion picture projection service 9612
c. Radio and television services 9613
d. Radio and television transmission services 7524
e. Sound recording n.a.
f. Other

E. Other

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES
A. General construction work for buildings 512
B. General construction work for civil engineering 513
C. Installation and assembly work 514+516
D. Building completion and finishing work 517
E. Other 511+515+518

4. DISTRIBUTION SERVICES
A. Commission agents' services 621
B. Wholesale trade services 622
C. Retailing services 631+632 6111+6113+6121
D. Franchising 8929
F. Other

5. EDUCATIONAL SERVICES
A. Primary education services 921
B. Secondary education services 922
C. Higher education services 923
D. Adult education 924
E. Other education services 929

6. ENVIRONMENTAL SERVICES
A. Sewage services 9401
B. Refuse disposal services 9402
C. Sanitation and similar services 9403
D. Other

7. FINANCIAL SERVICES

A. All insurance and insurance-related services 812**
a. Life, accident and health insurance services 8121
b. Non-life insurance services 8129
c. Reinsurance and retrocession 81299
d. Services auxiliary to insurance (including broking and agency services) 8140

B. Banking and other financial services (excluding insurance)
a. Acceptance of deposits and other repayable funds from the public 81115-81119
b. Lending of all types, including consumer credit, mortgage credit, 8113
factoring and financing of commercial transaction
c. Financial leasing 8112
d. All payment and money transmission services 81339**
e. Guarantees and commitments 81199**
f. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
- money market instruments (cheques, bills, certificates of deposits, etc.) 81339**
- foreign exchange 81333
- derivative products including, but not limited to, futures and options 81339**
- exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc. 81339**
- transferable securities 81321*
- other negotiable instruments and financial assets, including bullion 81339**

g Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of service related to such issues 8132
h. Money broking 81339**
i. Asset management, such as cash or portfolio management, all forms of 8119+**
collective investment management, pension fund management, custodial 81323*
depository and trust services
j. Settlement and clearing services for financial assets, including securities, 81339**

k. Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy 8131 or 8133
l. Provision and transfer of financial information, and financial data processing and related software by providers of other financial services 8131

C. Other

8. HEALTH-RELATED AND SOCIAL SERVICES (other than those listed under 1.A.h-j.)
A. Hospital services 9311
B. Other human health services 9319 (other than93191)
C. Social services 933
D. Other

9. TOURISM AND TRAVEL-RELATED SERVICES
A. Hotels and restaurants (including catering) 641-643
B. Travel agencies and tour operators services 7471
C. Tourist guides services 7472
D. Other

10. RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)
A. Entertainment services (including theatre, live bands and circus services) 9619
B. News agency services 962
C. Libraries, archives, museums and other cultural services 963
D. Sporting and other recreational services 964
E. Other

11. TRANSPORT SERVICES
A. Maritime transport services
a. Passenger transportation 7211
b. Freight transportation 7212
c. Rental of vessels with crew 7213
d. Maintenance and repair of vessels 8868**
e. Pushing and towing services 7214
f. Supporting services for maritime transport 745**

B. Internal waterways transport
a. Passenger transportation 7221
b. Freight transportation 7222
c. Rental of vessels with crew 7223
d. Maintenance and repair of vessels 8868**
e. Pushing and towing services 7224
f. Supporting services for internal waterway transport 745**

C. Air transport services
a. Passenger transportation 731
b. Freight transportation 732
c. Rental of aircraft with crew 734
d. Maintenance and repair of aircraft 8868**
e. Supporting services for air transport 746

D. Space transport 733

E. Rail transport services
a. Passenger transportation 7111
b. Freight transportation 7112
c. Pushing and towing services 7113
d. Maintenance and repair of rail transport equipment 8868**
e. Supporting services for rail transport services 743

F. Road transport services
a. Passenger transportation 7121+7122
b. Freight transportation 7123
c. Rental of commercial vehicles with operator 7124
d. Maintenance and repair of road transport equipment 6112+8867
e. Supporting services for road transport services 744

G. Pipeline transport
a. Transportation of fuels 7131
b. Transportation of other goods 7139

H. Services auxiliary to all modes of transport
a. Cargo handling services 741
b. Storage and warehouse services 742
c. Freight transport agency services 748
d. Other 749

I. Other transport services

12. OTHER SERVICES NOT INCLUDED ELSEWHERE 95+97+98+99
The (*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.
The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance
(e.g. voice mail is only a component of CPC item 7523).

Annexure 2

BANGLADESH - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2 COMMUNICATION SERVICES C. Telecommunication services All Subsectors	(4) The employment of foreign natural persons for the implementation of foreign investment shall be agreed upon by the contracting parties and approved by the Government and such personnel shall be employed in higher management and specialised jobs only.	(1,3) Certain subsidies and tax benefits may only be extended to national operators.	The creation of regulatory disciplines is under review. If the outcome of this review permits then additional commitments on regulatory disciplines will be attached before 1 January 1998.
For public use International service: a. Voice telephone services b. Packet-switched data transmission services c. Circuit-switched data transmission services d. Telex services e. Telegraph services g. Private leased circuit services	(1) No bypass of network facilities of Government operator. No call-back or refile allowed. (2) None (3) Reserved to exclusive supply by the Government operator (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
For public use Fixed network infrastructure, Domestic long distance and local service: a. Voice telephone services g. Private leased circuit services	(1) No bypass of network facilities of Government operator (2) None (3) Two licenses are issued to private operators, each to serve designated administrative (rural) areas in competition with the Government operator (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
For non-public use[1] (i.e., services supplied to closed user groups):	(1) No bypass of network facilities of Government operator	(1) None	

1 Means exclusive use of services by users within a corporate body. This use includes communication between corporate branches and affiliates but cannot be accessed for PSTN subscribers for commercial use.

a. Voice telephone services b. Packet-switched data transmission services c Circuit-switched data transmission services	(2) None (3) Only on network facilities supplied by the Government operator and other licensed public-service operators. Two-ended breakout and resale of excess capacity are not permitted (4) Unbound except as indicated under All Subsectors	(2) None (3) None (4) None	
f. Facsimile services	(1) No bypass of network facilities of Government operator (2) None (3) Only on network facilities supplied by the Government operator and other licensed pubic-service operators. (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
o. Other Internet acces services	(1) No bypass of network facilities of Government operator (2) None (3) Only on network facilities supplied by the Government operator and other licensed pubic-service operators. (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
Mobile services (terrestrial) - Cellular/mobile voice telephone services	(1) No bypass of network facilities of Government operator (2) None (3) Four licences issued to private operators, in addition to the Government operator (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	

VSAT services	(1) No bypass of facilities of Government operator (2) None (3) Reserved to exclusive supply by the Government operator, who has entered into build-operate transfer arrangement with three foreign suppliers (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
Gateway earth station services	(1) No bypass of network facilities of Government operator (2) None (3) Reserved to exclusive supply by the Government operator (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
Teleconferencing services (75292)	(1) No bypass of network facilities of Government operator (2) None (3) Reserved to exclusive supply by the Government operator (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
Telecommunications terminal equipment (telephone sets, fax cellular handsets) sales, rental, maintenance, connection, repair and	(1) None (2) None (3) None (4) Unbound except as indicated under All Subsectors	(1) None (2) None (3) None (4) None	
consulting services 9. TOURISM AND TRAVEL-RELATED SERVICES A. Five Star Hotel and Lodging Services (CPC 641)	(1) Unbound* (2) Unbound (3) Commercial presence requires that foreign service providers incorporate or establish the business locally in accordance with the relevant rule and regulations. There is no fixed	(1) Unbound* (2) Unbound (3) None (4) None	

* Mode of supply is technically not feasible.

	ratio of equity between local and foreign investors. Foreign equity to the extent of 100 percent is allowed. (4) In Bangladesh, the entry and residence of foreign natural persons (service providers) is subject to Bangladesh's immigration and labour laws, regulations, guidelines and procedures. There is no restriction in issuing work permits to foreign nationals in Bangladesh. The employment of foreign natural persons for the implementation of the foreign investment shall be agreed upon by the contracting parties and approved by the Government and such personnel shall be employed in higher management and specialised jobs only.		

BANGLADESH : LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or Subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
2.C.Telecommunication services International services	Measures including the application of different accounting rates for different operators/countries covered by International Telecommunication Services Agreements between Bangladesh and various foreign operators.	Countries covered by International Telecommunication Services Agreements between Bangladesh and foreign operators.	Ten years.	On account of bilateral agreements between Bangladesh and foreign operators dealing with various aspects of cooperation.
2.C.Telecommunication services International services.	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of Bangladesh with Governments of neighbouring countries.	Neighbouring countries	Ten years.	On account of bilateral agreements with Governments of neighbouring countries.

INDIA - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Limitations on market access	Limitations on national treatment	Additional commitments
I.HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE			
	(4) Unbound except for measures affecting the entry and temporary stay of natural persons who fall in any of the following categories: (a) Business visitors Persons who visit India for the purposes specified in (i) and (ii) below and who will not receive remuneration from within India: (i) for business negotiations, or (ii) for preparatory work for establishing a commercial presence in India. Entry for persons in this category shall be for a period of not more than 90 days. (b) Intra-corporate transferees At the level of Managers, Executives and Specialists who have been in the employment of a juridical person of another Member for a period not less than one year prior to the date of application for entry into India and are being transferred to a branch or a representative office or a juridical person owned or controlled by the aforesaid juridical person. **Managers are:** Persons who direct a branch office or one or more departments as their head, or supervise or control the work of other supervisory, professional or managerial	(3. In case of collaboration with public sector enterprises or government undertakings as joint venture partners, preference in access will be given to foreign service suppliers/entities which offer the best terms for transfer of technology. (4) Unbound except for measures referred to under Market Access.	

	personnel and have the authority to appoint or remove the personnel and powers to exercise discretionary authority over day-to-day operations. **Executives are:** Persons who are in senior positions within a juridical person including a branch who primarily direct the management, have wide decision-making powers and are either members of the board of directors or receive directions from the board or the general body of shareholders. **Specialists are:** Persons who possess high qualifications and knowledge at an advanced level relevant to the organisation's activities or of the organisation's research, equipment, techniques or management and may include persons who are members of accredited professional bodies. Entry for persons in the above categories shall be for a maximum period of five years. <u>(c) Professionals</u> Natural persons to be engaged by a juridical person in India as part of a services contract for rendering professional services for which he/she possesses the necessary academic credentials and professional qualifications with three years experience in the field of physical sciences, engineering or other natural sciences. Entry and stay in this category shall be for a maximum period of one year extendable with permission for a maximum of three months.		

II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
A. Professional Services (e) Engineering Services (CPC 8672)	(1) Unbound (2) Unbound (3) Only through incorporation with a foreign equity ceiling of 51 percent (4) Unbound except as indicated in the horizontal section	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section	
B. Computer and Related Services (a) Consultancy services related to the installation of computer hardware (CPC 841) (b) Software implementation services (CPC 842) (c) Data processing services (CPC 843) (d) Data base services (CPC 844) (e) Maintenance and repair services of office ma- chinery and equipment including computers	(1) Unbound (2) Unbound (3) Only through incorporation with a foreign equity ceiling of 51 percent (4) Unbound except as indicated in the horizontal section	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section	
(CPC845) C. Research and Development Services (a) R&D services on the following natural sciences only: • Heat, light, electro-magnetism, astronomy, but excluding atomic energy and related matters (CPC 85101) • Engineering and technology, including applied science and technology for casting, metal, machinery, electricity,	(1) Unbound (2) Unbound* (3) Only through incorporation with a foreign equity ceiling of 51 percent (4) Unbound except as indicated in the horizontal section	(1) Unbound (2) Unbound* (3) None (4) Unbound except as indicated in the horizontal section	

communications, vessels, aircrafts, civil engineering, construction, information,			
etc. (CPC 85103) F. Other Business Services e) Technical testing and analysis services	(1) Unbound (2) Unbound (3) Only through incorporation with a foreign equity ceiling of 51 percent. (4) Unbound except as indicated in the horizontal section.	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section.	
2. COMMUNICATION SERVICES			
(CPC 8676) (C) Telecommunication Services[1] (a) Voice telephone service (CPC 7521**) Limited to local/ long distance, for public use over a public telecommunication	(1) Unbound (2) Unbound (3) The service will be permitted to be provided only after the operator gets a licence from the Designated Authority who shall determine the need, if any, for issuance of new licences. The terms and conditions of the licence will be as laid down by the Designated Authority or Government or the prevailing laws in the country.	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated in the horizontal commitments.	The definition and principles on the regulatory framework for the basic telecommunication services subscribed to by India are contained in the annex titled "Explanatory Paper on Additional Commitments by India".
transport network. Wire based (i.e. for fixed network of subscribers)	There will be one operator other than Department of Telecommunications (DOT)/ Mahanagar Telephone Nigam Ltd. (MTNL) in each service area for a period of 10 years from the grant of licence after which the position will be reviewed. The private operator should be a company registered in India in which total foreign equity must not exceed 25 percent. Service operator will be permitted to provide long		The subject of opening up of national long-distance service beyond service area to competition will be reviewed in the year 1999. Also, the subject of opening up of international service to competition will be reviewed in the year 2004.

1 excluding broadcasting services and measures affecting such services. Broadcasting is defined as a form of the uni-directional telecommunications intended for large number of users having appropriate receiving facilities and carried out by means of radio or cable network. This may include sound transmission, television transmission or other types of transmission.

	distance service within the licensed service area only. Resale of voice telephone services will not be permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service. The detailed terms and conditions for providing the service will be as per licence conditions. Unbound except as indicated in the horizontal commitments.		
(c) Circuit switched data transmission services	(1) Unbound (2) Unbound (3) Licensed voice telephone service operators will be permitted for transmission of data on the PSTN[2] network in its licensed service area. (4) Unbound except as indicated in the horizontal	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated in the horizontal	
(CPC 7523**) (f) Facsimile services	commitments. (1) Unbound (2) Unbound (3) Licensed voice telephone service operators will be permitted for transmission of facsimile on the PSTN network in its licensed service area. Franchisees of service operators can provide commercial facsimile services.	commitments. (1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated in the horizontal	

2 PSTN refers to Public Switched Voice Telephone Network which is operated by DoT/MTNL or licensed operator.

(CPC 7521**)	(4) Unbound except as indicated in the horizontal commitments. (1) Unbound (2) Unbound (3) Licensed voice telephone service operators will be permitted to provide leased circuits to their customers, for their own use within their licensed service area. Resale of such leased circuits will not be permitted. (4) Unbound except as indicated in the horizontal commitments.	commitments. (1) Unbound (2) Unbound (3) Unbound	
(g) Private Leased Circuit Services (CPC 7522**) Data and message transmission services are the following: (h) Electronic mail (CPC 7523**) (i) Voice mail (CPC 7523**) (j) On-line information and data base retrieval (CPC 7523**) (l) Enhanced/value added facsimile services, including store and forward, store and	(1) None (2) Unbound (3) Only through incorporation with a foreign equity ceiling of 51 percent.	(4) Unbound except as indicated in the horizontal commitments. (1) None (2) Unbound (3) None	
retrieve (CPC 7523**) (n) On-line information and/or data processing	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound* (3) (i) Only through representative offices which will be allowed to function as branches of companies incorporated	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound* (3) Subject to the prescribed authority having	

	outside India. (ii) Import of titles restricted to 100 per year.	certified that the motion picture has: a) won an award in any of the international film festivals notified by the Ministry of Information & Broadcasting, Government of India; or (b) participated in any of the official sections of the notified international film festivals; or (c) received good reviews in prestigious film journals notified by the Ministry of Information & Broadcasting, Government of India.	
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES			
(CPC 843**) D. Audiovisual Services (a) Motion picture or video tape distribution services (CPC 96113) B. Construction work for civil engineering Roads & Bridges only: Construction of highways, streets, railways, runways, bridges, tunnels, subways, waterways, harbours, dams, pipelines, communication lines, power lines and construction work of constructions for mining and manufacturing not elsewhere classified e.g. power plants, iron foundries, blast furnaces and coke	4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound* (3) Only through incorporation with a foreign equity ceiling of 51 percent.	(4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound* (3) None	
7. FINANCIAL SERVICES			
The commitments in financial services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations and the terms and conditions of the Reserve Bank of India, Securities and Exchange Board of India and any other competent authority in India.			
ovens. It excludes construction work of warehouses and industrial			

buildings, residential and non-residential buildings. (CPC Ex. 513)	(4) Unbound except as indicated in the horizontal section. (1) Unbound except in the case of insurance of freight, where there is no requirement that goods in transit to and from India should be insured with Indian insurance companies only. Insurance is taken by the buyer or seller in accordance with the terms of the contract. This position will be maintained. Once under a contract the Indian importer or exporter agrees to assume the responsibility for insurance such as in the case of f.o.b. contracts for imports into India or c.i.f. contracts for exports from India, insurance has to be taken only with an Indian insurance company. (2) Unbound (3) Unbound Unbound except as indicated in the horizontal section.	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound	
A. Insurance and Insurance-related	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Reinsurance can be taken with foreign reinsurers to the extent of the residual uncovered risk after obligatory or statutory placements domestically with Indian insurance companies. (3) Unbound	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound	
services (b) Non-life, limited to insurance of freight Ex. 5(a)(i)(B)	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Reinsurance of domestic risks can be placed with foreign reinsurers through overseas brokers, to the extent mentioned under reinsurance and retrocession.	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound	

	(3) (i) Overseas brokers are allowed to have resident representatives and representative offices who can procure reinsurance business from Indian insurance companies to the extent mentioned above. They can also place reinsurance business from abroad with Indian insurance companies. (ii) Except for the business indicated above, the resident representatives and representative offices cannot undertake any other activity in India. (iii) All expenses of the resident representatives and representative offices have to be met by remittances from abroad and no income can be received in India from Indian residents.		
B. Banking and other financial services (excluding insurance)			
(C) Reinsurance and retrocession 5(a)(ii) (D) Insurance intermediation, limited to reinsurance Ex. 5(a)(iii) (a) Acceptance of deposits and other repayable funds from the public 5(a)(v) (b) Lending of all types, including consumer credit, mortgage credit and financing of commercial transactions but excluding factoring Ex. 5(a)(vi) (d) Payment and money transmission services including credit, charge and debit cards, travellers cheques and	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) (i) Only through branch operations of a foreign bank licensed and supervised as a bank in its home country. (ii) Grant of licence as permissible under existing laws. (iii) A limit of twelve licences per year both for new entrants and existing banks.	(4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3)(i) Foreign banks are required to constitute Local Advisory Boards consisting *inter alia* of professionals and persons having expertise in areas such as small-scale industry and exports. The Chairman and members of the Local Advisory Board must be resident	

bankers' drafts 5(a)(viii) (e) Guarantees and commitments 5(a)(ix) (f) Trading for own account of: • money market instruments • foreign exchange • transferable securities Ex. 5(a)(x)(A)(B)(E) (i) Portfolio management, custodial and trust services	(iv) Banks are allowed to install ATMs at branches and at other places identified by them. Installation of ATM at a place other than in licensed branches is treated as a new place of business and requires a licence. Licences issued for ATMs installed by foreign banks will not be included in the ceiling of twelve licences referred to in item (iii) above (v) Investments in other financial services companies by branches of foreign banks licensed to do banking business in India individually not to exceed 10 percent of owned funds or 30 percent of the invested company's capital whichever is lower. (vi) Licences for new foreign banks may be denied when the maximum share of assets in India both on and off balance sheet of foreign banks to total assets both on and off balance sheet of the banking system exceeds 15 percent. (vii) Foreign banks are subject to non-discriminatory resource	Indian nationals except for the Chief Executive Officer who may be a foreign national. The appointment of Chairman and members of the Board requires Reserve Bank of India approval. (ii) Public sector enterprises can invest surplus funds in term deposits only with scheduled commercial banks incorporated in	
Ex. 5(a)(xiii) (j) Clearing services for other banks for cheques, drafts and other instruments Ex. 5(a)(xiv) (g) Participation in issues of all	allocation requirements. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) (i) Allowed for foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (including banks)	India. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound except for entities established in accordance with the limitations specified in the market access column.	
kinds of securities, including underwriting and placement as agent (whether publicly or	through incorporation with foreign equity not exceeding 51 percent. (4) Unbound except as	(4) Unbound except as indicated in the horizontal section.	

	indicated in the horizontal section. (1) Unbound (2) Unbound (3) Through establishment of locally incorporated joint venture company with foreign equity not exceeding 49 percent. The foreign equity	(1) Unbound (2) Unbound (3) Unbound except for entities established in accordance with the limitations specified in	
privately) and provision of services related to such issues 5(a)(xi) (h) Stock broking Ex. 5(a)(x)(E) (k) Financial consultancy services, i.e. financial advisory services provided by financial advisers, etc. to customers on financial	participation will be limited to recognised foreign stock broking companies. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) (i) Allowed for foreign bank branches licensed to do banking business in India. (ii) Allowed for foreign financial services companies (including banks) through	the market access column. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound except for entities established in accordance with the limitations	
matters, investment and portfolio research and advice, advice on acquisitions and on	incorporation with foreign equity not exceeding 51 percent. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Allowed for foreign financial services companies (including banks) through incorporation	specified in the market access column. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound except for entities established in accordance with the	
corporate restructuring and strategy	with foreign equity not exceeding 51 percent. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound	limitations specified in the market access column. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound	

	(3) Allowed for foreign financial services companies (including	(3) Unbound except for entities established in accordance with	
Ex. 5(a)(xvi) (O) Other	banks) through incorporation with foreign equity not exceeding 51 percent. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) (i) Allowed for foreign financial services companies (including banks) through incorporation with foreign equity not exceeding 51	the limitations specified in the market access column. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Unbound except for entities established in accordance with the limitations specified in	
8. HEALTH RELATED AND SOCIAL SERVICES			
Factoring	percent. (ii) Funding has to be entirely out of equity. (4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound (3) Only through incorporation	the market access column. (4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound	
9. TOURISM AND TRAVEL RELATED SERVICES			
Ex. 5(a)(vi) (c) Financial leasing 5(a)(vii)	with a foreign ceiling of 51 percent. (4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound (3) Only through incorporation	(3) None (4) Unbound except as indicated in the horizontal section. (1) Unbound* (2) Unbound	
(o) Other Venture capital A. <u>Hospital Services</u> (CPC 9311) (a) <u>Hotels and other lodging services</u> (CPC Ex.641) (b) <u>Travel Agency and Tour Operator Services</u> (CPC 747)	with a foreign equity ceiling of 51 percent. (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) Only through incorporation with a foreign equity ceiling of 51 percent. (4) Unbound except as indicated in the horizontal section.	(3) None (4) Unbound except as indicated in the horizontal section. (1) Unbound (2) Unbound (3) None (4) Unbound except as	

Explanatory Paper on Additional Commitments in Telecommunication Services

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

(a) are exclusively or predominantly provided by a single or limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

(a) control over essential facilities; or

(b) use of its position in the market.

1. Competitive safeguards

Appropriate measures shall be maintained for the purpose of preventing service suppliers from engaging in or continuing in anti-competitive practices of the following type:

(a) using information obtained from competitors with anti-competitive results; and

(b) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport network or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any specified feasible point in the network as indicated in the licence. Such interconnection is provided:

(a) of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;

(b) upon request, at points in addition to the network termination points offered to the majority of users as perlicence conditions, subject to mutually agreed charges.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It will be ensured that a major supplier will make publicly available either its interconnection agreements, or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

(a) at any time or

(b) after a reasonable period of time which has been made publicly known

to a domestic regulatory authority to resolve disputes regarding appropriate terms, conditions and rates for interconnection within reasonable period of time, to the extent that these have not been established previously.

3. Universal service

India retains the right to define the kind of universal service obligation it wishes to maintain. Such obligations are not regarded as anti-competitive *per se*, since they would be administered in a transparent and non-discriminatory manner.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

(a) All the licensing criteria and

(b) the terms and conditions of individual licences.

5. Regulatory Authority

The decisions of and the procedures used by the regulatory authority shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective and timely manner.

INDIA - FINAL LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or Subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
SHIPPING				
(a) Cargo sharing between bilateral partners	Equality in freight liftings originating in the ports of partners to the agreement and equality in freight earnings.	Bulgaria, Pakistan and the United Arab Republic	Indefinite	In the context of overall trade relations.
(b) Cargo Reservations	Cargo reservation under the UN Code of Conduct for Liner Conferences. Sharing of cargo between the national lines of contracting states and third-country lines in the ratio of 40:40:20 as provided in the Liner Code.	All countries	Indefinite	To fulfil obligations under the convention.
RECREATIONAL SERVICES	Waiver on the prohibition of sale of lottery tickets in India.	Bhutan	Indefinite	It is part of a comprehensive bilateral agreement between India and Bhutan.

Sector or Subsector	**Description of measure indicating its inconsistency with Article II**	**Countries to which the measure applies**	**Intended duration**	**Conditions creating the need for the exemption**
2.C.Telecommunication services - International service	Measures including the application of different accounting rates for different operators/ countries covered by International Telecommunication Services Agreements between Videsh Sanchar Nigam Limited and various foreign operators.	Countries covered by International Telecommunication Services Agreements between Videsh Sanchar Nigam Limited and foreign operators.	Indefinite	On account of bilateral agreements between Videsh Sanchar Nigam Limited and various foreign operators dealing with various aspects of cooperation.
2.C.Telecommunication services - International service	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of India with governments of neighbouring countries.	Neighbouring countries (Pakistan, Bangladesh, Nepal and Bhutan).	Indefinite	On account of bilateral agreements with governments of neighbouring countries.

PAKISTAN : SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I.HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	(1) Unbound (2) Unbound (3) (i) Except in the case of representative offices where specifically provided for in this Schedule, commitments under 'commercial presence' are subject to incorporation in Pakistan with maximum foreign equity participation of fifty one percent unless a different percentage is inscribed against a particular sector or subsector (ii) All expenses of representative offices where specifically provided for in this Schedule, shall be met by remittances from abroad. Such offices shall restrict their activities to the undertaking of liaison work or of representing the interest of the parent company abroad. (4) Unbound, except for measures concerning the entry or temporary stay of natural persons up to a maximum of fifty percent in superior categories (namely, Executives and Specialists) in an undertaking. These natural persons shall have been employed by juridical persons of another Member for a period of not less than one year prior to the date of application for entry into Pakistan, and shall be transferred to render services to the juridical person in Pakistan. **(i) Executives** are: persons within an organisation who primarily direct the	(1) Unbound (2) Unbound (3) Acquisition of real estate by non-Pakistani entities and/or persons are subject to authorisation on a case-by-case basis keeping into account the purpose and location of the undertaking	

	management of the organisation or establish goals and policies for the organisation or a major component or function of the organisation, exercise wide latitude in decision-making, and receive only general supervision or direction from higher level executives, or the Board of Directors. **(ii) Specialists** are: persons within the organisation who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organisation's product, service, research equipment,		
II. SECTOR-SPECIFIC COMMITMENTS			
1. BUSINESS SERVICES			
(O) Other Business Services (f), (g) Services incidental to agriculture and forestry (excluding fishing and hunting) (CPC No. 881+882)	techniques and management. (1) Unbound (2) Unbound* (3) None (4) Unbound except as	(1) Unbound (2) Unbound* (3) None (4) Unbound except as indicated under horizontal measures.	
(h) Services incidental to mining (CPC No. 883+5115)	indicated under horizontal measures. (1) Unbound (2) Unbound* (3) None (4) Unbound except as	(1) Unbound (2) Unbound* (3) None (4) Unbound except as indicated under horizontal measures.	
(e) Engineering services for building infrastructures: harbours, dams, hydal power, and airports,only (CPC No. 8672)	indicated under horizontal measures. (1) Unbound (2) Unbound* (3) (i) Maximum of 40 percent foreign shareholding in engineering constancy companies; (ii) Subject to partnership	(1) Unbound (2) Unbound* (3) None (4) Unbound	

* Unbound due to lack of technical feasibility.

	and/or joint venture with Pakistani engineers or engineering companies.		
(f) Integrated engineering services (CPC No. 86730)	(4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound* (3) (i) Maximum of 40 percent foreign equity shareholding in engineering consultancy companies. (ii) Subject to partnership and/or joint venture with Pakistani engineers or engineering companies.	(1) Unbound (2) Unbound* (3) None (4) Unbound except as indicated under horizontal measures.	
(B) <u>Computer and Related Services</u>	(4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound* (3) I) Maximum of 40 percent foreign equity shareholding in engineering consultancy companies. ii) Subject to partnership and/or joint venture with Pakistani engineers or engineering companies.	(1) Unbound (2) Unbound* (3) None (4) Unbound except as indicated under horizontal measures.	
(a) Constancy services related to the installation of computer hardware (CPC No. 841)	(4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound* (3) (i) Maximum of 40 percent foreign equity shareholding in engineering consultancy companies. (ii) Subject to partnership and/or joint venture with Pakistani engineers or	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated under horizontal measures.	
(b) Software implementation services (CPC No. 842)	engineering companies. (4) Unbound except as indicated under horizontal measures. (1) Unbound	(1) Unbound (2) None (3) None (4) Unbound except as indicated under horizontal measures.	

(c) Data processing services (CPC No. 843)	(2) None (3) None (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) None	(1) Unbound (2) None (3) None (4) Unbound except as indicated under horizontal measures.	
(d) Data base services (CPC No. 844)	(3) None (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) None	(1) Unbound (2) None (3) None (4) Unbound except as indicated under horizontal measures.	
(F) Other Business Services (e) Technical testing and analysis services (CPC No. 8676)	(3) None (4) Unbound except as indicated under horizontal measures. (1) Unbound * (2) None	(1) Unbound * (2) None (3) None (4) Unbound except as indicated under horizontal measures.	
2. COMMUNICATION SERVICES			

General conditions of this schedule: This offer is subject to following general conditions:

- Policy, regulatory and operation functions are separate and compliance is necessary.
- All services to be provided in Pakistan shall require a licence from the Regulatory authority established under the law.
- Operators and Service providers may be granted licence in accordance with the local legislation.
- The number of operators, service providers and licensees may be limited due to technical constraints.
- The confidentiality of International Total Accounting Rate (TAR) shall be maintained.
- The bilateral agreements on accounting rates shall be in accordance with ITU guidelines.
- Up to 100% foreign investment on licensed services may be permitted
- This schedule on basic telecommunications does not include any broadcasting services[1] .

* Unbound due to lack of technical feasibility.

1 Broadcasting service is defined as a radio-communication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmission, television transmissions or other types of transmission. In Pakisthan Telecom Law, like many other countries, broadcasting is not part of basic telecommunication services.

C. Telecommunications Service			
Local, domestic long distance and international services, for public:	Until 2003, no bypass[2] of PTCL network and PTCL shall have exclusivity. None as of 1.1.2004.		About 12 percent stake of the Pakistan Telecommunication Corporation (PTC), the sole operator for all basic Telecommunication services was sold to the national and international buyers in 1994-95 through two different offers of PTC vouchers in national and international financial markets.
(a) Voice telephone services	(3) None (4) Unbound except as indicated under horizontal measure. (1) All telecommunication services shall be provided by licensed operators subject to the exclusivity period of 7 years for basic telephony services under the law in favour of PTCL. This exclusivity shall expire by the year 2003. (2) None as of 1.1.2004. Alternative practices such as call back are not allowed. Country direct card service can only be permitted by mutual agreement with the licensed operator.	(1) Unbound (2) None (3) None (4) Unbound except as indicated under horizontal Section.	The offers were many times over subscribed. The Corporation has been, inter alia, converted into a limited company namely Pakistan Telecommunication Company Ltd (PTCL) with effect from 1 January, 1996 through the promulgation of a law. Bounds with US$ 150 million have been floated with an option to convert them into PTCL shares.

2 The GMPCS/Satellite operators shall be reputed to pass traffic via Pakistan PSTN through transit and Gateway exchanges, especially in case of overseas communication from Pakistan. Any operation contrary to this shall be termed as "bypass."

(b) Packet-switched data, Email, Internet and Intranet services	(3) Unbound (4) Unbound except as indicated in horizontal section. (1) Until 2003, except for domestic VSAT, only through network facilities of PTCL. The regulatory authority to grant licences and authorisations to private companies for operation of data, E-mail, Internet and Intranet services in addition to the licences already granted. (2) None (3) Subject to technical constraints, the regulatory authority to grant licences and authorisations to private companies for operation of domestic VSAT, data, E-mail, Internet & Intranet	(1) Unbound (2) None (3) None except for technical constraints. (4) Unbound except as indicated in horizontal section.	Privatisation of PTCL is on the anvil. The management of the Company shall be transferred to the selected strategic operator. Exclusive licence for operation of basic telephony services for a period of 7 years granted to the PTCL. The Pakistan Telecommunications (Re-organisation) Law has been passed as an Act of Parliament in October 1996. An independent Regulatory Authority and a Frequency Allocation Board have been established. Chairman, members and other essential staff of these bodies are already in place. The Authority and Board are already functional. To support effective regulation and spectrum management, GOP is undertaking of PTA & FAB.
(c) Circuit-switched data transmission services	services in addition to the licences already granted. (4) Unbound except as indicated in horizontal section. (1) Until 2003, except for domestic VSAT, only through network facilities of PTCL. The regulatory authority to grant licences and authorisations to private companies for operation of data, E-mail, Internet and Intranet services in addition to the licences already granted. (2) None	(1) Unbound (2) None (3) None except for technical constraints.	Privatisation of PTCL is on the anvil. The management of the Company shall be transferred to the selected strategic operator. Exclusive licence for operation of basic telephony services for a period of 7 years granted to the PTCL. The Pakistan Telecommunications (Re-organisation) Law has been passed as an Act of Parliament in October 1996. An independent Regulatory Authority and a Frequency Allocation Board have

	(3) Subject to technical constraints, the regulatory authority to grant licences and authorisations to private companies for operation of domestic VSAT, data, E-mail, Internet & Intranet	(4) Unbound except as indicated indicated horizontal section.	been established. Chairman, members and other essential staff of these bodies are already in place. The Authority and Board are already functional. To support effective regulation and spectrum management, GOP is undertaking of PTA & FAB.
(o) VSAT for domestic data services	services in addition to the licences already granted. (4) Unbound except as indicated in horizontal section. (1) The regulatory authority to grant licences and authorisations to private companies for operation of VSAT for domestic data, E-mail, Internet and Intranet services in addition to the licences already granted	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	The Pakistan Telecommunication Authority established under the law as an independent body is responsible to: • Regulate telecommunication services; • Grant and renew licences; • Promote and protect the interests of consumers; • Promote efficient, cost effective and competitive services; • Carry out inspections; and • Regulate tariffs.
(d) Telex services	(2) None (3) None (4) Unbound except as indicated in horizontal section. (1) None	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	
(e) Telegraph services	(2) None (3) None (4) Unbound except as indicated in horizontal section. (1) The regulatory authority shall grant licences and authorisations to private companies for operation of Telegraph services	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	• Prescribe standards • Determine terms of interconnection agreements. • Investigate and adjudicate on complaints. • Enforcement on valuation • International traffic and accounting settlements. • Issue regulations. • Receive applications for frequency allocation.

(f) Facsimile services	using PTCL infrastructure until 2003. (2) None (3) None (4) Unbound except as indicated in horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	
(g) Private leased circuit services	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section. (1) Pakistan Telecommunication Company Limited except for domestic VSAT, is the exclusive service provider for seven years. This exclusivity shall expire by the year 2003. None as of 1.1.2004. (2) None (3) Pakistan Telecommunica-	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	The frequency allocation Board established under the law is responsible to allocate and assign frequency spectrum for telecommunication, broadcasting public and private wireless services and classify radio telecommunication services. Appeals against the decisions of the Authority may be filed in the High Court. Following services have been licensed to the private operators and further licensing could be possible: • Cellular Mobile telephone services. • Card pay phones services • Paging • Data network operation • Voice Mail Service • Audio Tex Service • Trunk Radio service • Electronic Mail and internet services • Use of domestic satellites for provision of telecom services • Manufacture of telex, fax, all PABXs/Digital exchanges and modems • manufacture of Fibre/ Optic/copper cables • manufacture of telephone sets, terminal equipment answering machine etc.
(i) Video conferencing tele-medicine and tele-education terminal end services	tion Company Limited except for Domestic VSAT, is the exclusive service provider for seven years. This exclusivity shall expire by the year 2003. (?) (4) Unbound except as indicated in horizontal section. (?) (1) The regulatory authority shall grant licences and authorisations to private companies for operation of video-conferencing, tele-education and telemedicine services,	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	

(o) Trunked radio service	using PTCL network until seven years. (2) None (3) None (4) Unbound except as indicated in horizontal section. (1) The regulatory authority to grant licences and authorisa-tions to private companies for operation of Trunked Radio service in addition to the licences already granted	(1) None (2) None (3) None (4) Unbound except as indicated in horizontal section.	Regulatory Authority shall grant licences on competitive basis as per telecom law and regulations. Regulatory Authority may grant licences for satellite based services on following conditions: (a) Frequency clearance by Board (b) Security and sovereignty regulations (c) Availability of ITUT/R standards\ (d) Resolution of cross-border communication issues; and (e) Resolution of Customs procedures
(k) Satellite based telephony services, including value added services operating over satellite	using PTCL network until 2003. (2) None (3) None (4) Unbound except as indicated in horizontal section. (1) Maintaining PTCL exclusivity for seven years on basic and international telephony	(1) None (2) None (3) None except for technical, sover-eignty, security constraints and safeguarding PSTN bypass (4) Unbound except as indicated in horizontal section.	
(e). Online Information and database retrieval (CPC 7523)	services and safeguarding PSTN bypass licences shall be granted (2) None (3) None (4) Unbound except as indicated	(1) None (2) Unbound (3) None (4) Unbound except as indicated under horizontal measures.	
(n) On-line information and/or data processing (CPC No. 843)	in horizontal section. (1) None (2) Unbound	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated under horizontal measures.	

	(3) a) As in measures applicable to all sectors b) Subject to use of Pakistan Telecommunication Corporation network (4) Unbound except as indi-		
7. FINANCIAL SERVICES			
Pakistan undertakes the Commitments on Financial Services in terms of the provisions of Part III of the Agreement. These commitments are based on the understanding outlined in Article XIX of the Agreement, and are subject to the availability of similar commitments from large number of countries of significance to Pakistan. For these reasons, Pakistan does not consider itself to be prevented from adopting or enforcing non-discriminatory measures aiming at protecting the soundness and integrity of banking and insurance industry.			
A. <u>All Insurance and insurance-related services</u>:			
Insurance: (a) Life	cated under horizontal measures. (1) None (2) Unbound (3) a) As in measures applicable to all sectors. (b) Subject to use of Pakistan Telecommunication Corporation network. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) (a) Bound for the existing foreign insurance service providers as to their scope of operations and equity structure.	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(b) Non-life	(b) Maximum of 25 percent of foreign shareholding in existing life insurance companies. (c) Foreign equity in new life insurance companies permitted up to 51 percent (4) Unbound except as indicated under horizontal measures. (1) Unbound	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	

C Reinsurance and retrocession (CPC 81299)	(2) Unbound (3) Bound for the existing foreign insurance services providers as to their scope of operations and	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
B. Banking and Other Financial services (excluding insurance)	equity structure. (4) Unbound except as indicated under horizontal measures. (1) None (2) Unbound (3) Unbound	Provision of all banking and financial services in Pakistan are subject to the injunctions regarding Islamic banking as pronounced by the competent courts in Pakistan.	
Banking (a) Acceptance of deposits and other repayable funds from the public in Pakistan	(4) Unbound except as indicated under horizontal measures. The commitments in Financial Services are given to the nationals and financial institutions of the Members whose laws and policies do not bar the provision of similar commitments to the Pakistani nationals and financial institutions. (1) Unbound (2) Unbound (3) (i) Bound for the volume of deposits and other repayable funds mobilised by foreign banks in Pakistan as at the time of conclusion of the Negotiations on 12 December 1997. (ii) Foreign banks (other than those already operating their branches in Pakistan as on 12 December 1997) permitted to accept deposits and other repayable funds from public by setting up locally incorporated limited companies with foreign equity ownership up to 49 percent. Licence to undertake commercial banking business required from the Central Bank. The Licence to foreign banks will be issued on the		

	basis of same eligibility criteria as applicable to domestic commercial banks. The minimum paid-up capital required undertaking banking business by foreign banks should not be more than what is required by the domestic commercial banks, i.e. US$11.5 mn. (iii) Bound for the number of branches of foreign banks operating in Pakistan as at the conclusion of the Negotiation on 12 December 1997. Change in the controlling shareholders of the foreign banks operating their branches in Pakistan may require new licence. Other foreign banks will be allowed up to three branches at the place of their choice. ATM's installed at the branch premises not treated as a separate branch. (iv) Prior permission in writing of the Central Bank is required by any person for holding beneficial		
(b) Lending of all types including consumer credit, mortgage, factoring, credit and financing commercial transaction	ownership of 5 percent or more of the paid-up capital of any bank/financial institution. (v) Representation of foreign nationals on the Board of Directors allowed in proportion to their share holding. (4) Unbound (1) Unbound (2) Unbound (3) i. Bound for the total volume of foreign bank assists in Pakistan at the time of the conclusion of the Negotiations on 12 December 1997. Investments in shares of existing domestic banks permitted to foreign national/foreign financial institutions for trading purposes. Acquisition of management control of existing public sector banks considered on case by case basis under specific Sale-Purchase	(1) Unbound (2) Unbound (3) Lending by banks to companies controlled by non-residents is subject to the borrowing entitlements of the foreign companies as determined by foreign exchange rules applicable from time to time. (4) Unbound except as indicated under horizontal measures.	

(d) All payment and money transmission services including traveller cheques and banker's draft (but excluding credit, charge and debit cards)	Agreements to be approved by the Central Bank. (4) Unbound except ass indicated under horizontal measures. Employment of foreign nationals in banks and financial institutions operating in Pakistan require prior clearance of the Central Bank. (1) Unbound (2) Unbound (3) Foreign banks branches	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(e) Guarantees and commitments	operating in Pakistan at the conclusion of the Negotiation on 12 December 1997 and banks incorporated in Pakistan permitted to undertake all payment and money transmission services. (4) Unbound except as indicated under horizontal measures. (1) Unbound	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(f) Trading, for own account only of: - money market instruments; - foreign exchange; - transferable securities; - Other negotiable instruments.	(2) Unbound (3) Guarantees and commitments in foreign currency and those undertaken in favour or on behalf of non-resident to be governed by foreign exchange laws. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) (i) The issue, sale and purchase of foreign currency and traveller cheques are allowed to commercial banks licensed as Authorised Dealer. (ii) Foreign banks allowed to set up joint ventures with local persons with equity participa-	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	

	tion up to 50 percent after obtaining Licence from the State Bank to undertake the sale and purchase of foreign currency and traveller cheques. (iii) Transmission of permissible funds including foreign currency		
(g) Participation in issues of all kinds of securities including only public underwriting and placement as agent and provision of services related to such issues	can be effected only through authorised banking channels. (iv) Commercial banks incorporated in Pakistan and the branches of foreign banks in operation as on 12 December 1997 allowed to operate in call money market. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) Branches of foreign banks in operation as on 12 December 1997 and banks (including investment banks) incorporated in Pakistan permitted to arrange and participate in any public issue and underwriting of securities up to 30 percent of the total paid-up capital of the issuer or 30 percent of their respective paid-up capital	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(j) Settlement and clearing services for negotiable instruments (cheques, bills and promissory notes only)	whichever is less. All investments in shares made as a consequence of underwriting commitments must be reported forthwith to the Central Bank, and is required to be disinvested within 30 days of the investments as approved by the Central Bank. (4) Unbound except as indicated under horizontal measures.	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(c) Financial Leasing	(1) Unbound (2) Unbound (3) All commercial banks are required to be members of the	(1) Unbound (2) Unbound (3) Unbound	

	clearing system operated/ approved by Central Bank to effect interbank settlements. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) Foreign leasing companies will be permitted to set up subsidiary leasing companies in Pakistan with shareholding not exceeding 51 percent of the	(4) Unbound except as indicated under horizontal measures.	
(i) Asset Management: the following only: (a) Cash or portfolio management; (b) All forms of collective investment management; and (c) Custodial and depository services.	total capital to undertake operational leasing including cross-border leasing. Resource mobilisation from the domestic market to be governed by the same rules and regulations as applicable to domestic mobilisation of resources. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) (i) Entities licensed by the Central Bank and banks incorporated in Pakistan can undertake portfolio management services through their locally incorporated	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
(k). Financial and investment advisory services	subsidiaries set up for the purpose with shareholding in such subsidiaries up to 51 percent. (ii) Management of foreign currency assets will be governed by the foreign exchange regulations applicable from time to time. (4) Unbound except as indicated under horizontal measures. (1) Unbound (2) Unbound (3) Banks incorporated in Pakistan will be permitted to undertake financial and advisory services through subsidiary companies	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	

(e). Provision and transfer of financial information and financial data	set up for this purpose with shareholding up to 100 percent provided that transactions undertaken/ services provided by such subsidiaries do not create any financial obligations whether contingent or otherwise on the balance sheet of the holding company or otherwise. (4) Unbound	(1) Unbound (2) Unbound (3) Unbound (4) Unbound except as indicated under horizontal measures.	
8. HEALTH AND RELATED SOCIAL SERVICES			
A. Hospital services (CPC No. 9311)	(1) Unbound, except for the provision of publicly available data and financial information on corporate entities by institutional providers having commercial presence in Pakistan. (2) Unbound (3) Unbound (4) Unbound except as indicated	(1) Unbound* (2) None (3) None (4) Unbound except as indicated under horizontal measures.	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and restaurants (including catering) (CPC No. 614-643)	under horizontal measures. (1) Unbound* (2) None	(1) Unbound* (2) Unbound (3) None (4) Unbound except as indicated under horizontal measures.	
B. Travel agencies and tour operator services (CPC No. 7471)	(3) a) As in measures applicable to all sectors b) Subject to Pakistan Medical and Dental Council Regulations	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated under horizontal measures.	

* Unbound due to lack of technical feasibility.

(Reference Paper relating to Telecomunication Services

1. **Transparency of Regulations**

1.1 Laws and regulations pertaining to provisions of basic telecom services shall be published.

1.2 Advanced public notices and a fair opportunity will be provided for interested parties to comment on proposed measures affecting the provision of basic telecom services.

1.3 The Regulatory Authority consists of three members, one is a professional telecom engineer and other two are technical and financial experts, appointed by the Government for a term of four years and eligible for appointment for a similar term.

1.4 Any member of the Authority shall not have any direct or indirect financial interest in, or have business connection with any person, any establishment or firm which renders telecom services in Pakistan or abroad. For above purpose even any involvement of the spouse or blood relation of any member of the Authority with any telecom firm shall be considered as a direct financial interest or connection with such firm.

1.5 The Authority shall ensure that:

(a) rights of licensees are duly protected;
(b) Decisions and determinations are made promptly in open, equitable, non-discriminatory, consistent and transparent manner;
(c) the persons affected by its decisions or determinations are given a due notice and provided opportunity of being heard.

1.6 A person aggrieved by any decision or order of the Authority can within thirty days of the receipt of order, appeal to the High Court and the Court shall decide such appeal within ninety days.

1.7 A person aggrieved by any decision or order of any officer of the Authority may, within thirty days of the order, appeal to the Authority and the Authority shall decide such appeals within thirty days.

2. **Interconnection and Numbering**

2.1 In the event that a service supplier is unable to reach agreement with any or dominant service supplier or interconnection, following a reasonable amount of time, either party may refer the dispute to the Regulator in Pakistan.

2.2 Service suppliers shall be required to disclose information concerning technical measures/parameters that will affect use of such facilities for other service suppliers.

2.3 The Regulatory Authority shall exercise all powers to enable it to effectively provide guidelines for, and determine, the terms of interconnection arrangements between licensees where the parties are unable to agree.

2.4 Authority shall develop/assign non-discriminatory national telecommunication numbering plans.

3. **Competition Safeguards and Standards**

3.1 When facilities-based service supplier with dominant market position is found engaged in unfair or anti-competitive practices, remedial measures will be available.

3.2 When dominant service supplier provides a competitive service he shall establish separate accounting procedure for the competitive service. Cross subsidy is not permitted.

3.3 The Authority shall notify and publish regulations for establishing national standards for telecom equipment and services. The Authority can specify different standards for different classes of telecom equipment/services and establish procedure for testing.

3.4 The Authority shall not restrict the type of telecom equipment that may be used for the establishment, maintenance or operation of telecom systems or services.

4. **Tariff Regime**

The level of tariffs for telecom services including basic telephone service shall be regulated by the Authority in accordance with the regulations including following principles:

4.1 The regulations shall apply equally to comparable provider/users of any regulated telecom service;

4.2 The criteria used for the establishment of tariff shall regularly be published three months before the criteria is adopted;

4.3 Tariffs shall be at a level which provides a reasonable rate of return on investments taking into account the cost of operation; and

4.4 There shall be no cross-subsidisation of other telecom services by basic telephone sector.

PAKISTAN: LIST OF ARTICLE II (MFN) EXEMPTIONS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Banking and other financial services	Foreign service promoters are granted licences on the basis of reciprocity.	All countries	The reciprocity requirement will remain in place until similar measures maintained by other countries in this sector are removed.	The reciprocity requirement is put in place to ensure that Pakistani banks are accorded equivalent market access in places outside Pakistan.
	Favourable treatment of financial institutions set up to undertake Islamic financing transactions.	All countries	Indefinite	The financing transactions are determined and governed by Religious Boards set up for the purpose by each Islamic financial institution.
	Separate regulations may be laid down for banks which are required to undertake and finance treasury function and other non-profitable commodity operation programmes and other price support schemes of the Government.	All countries	Indefinite	Commodity operation programme is an essential government function undertaken through banks. Treasury function is performed by National Bank of Pakistan on behalf of the Central Bank. These are non-profitable transactions of the banks.
	Favourable treatment of financial institutions set up as joint ventures under the framework of ECO or other protocols signed amongst the ECO Member countries.	ECO Member countries	Indefinite	The Treaty of Izmir and the Istanbul Summit held in July 1993 amongst others decided for the establishment of financial institutions by the governments of ECO Member states with the obligation

				of meeting the goals of regional economic integration.
2.C.Telecommunication services – International service	Measures including the application of different accounting rates for different operators/countries covered by International Telecommunication Services Agreements between Pakistan Telecommunication Company Ltd. and various foreign operators.	Countries covered by International Telecommunication Services Agreements between Pakistan Telecommunication Company Ltd. and foreign operators.	Indefinite	On account of bilateral agreements. between Pakistan Telecommunication Company Ltd. and various foreign operators dealing with various aspects of cooperation.
2.C.Telecommunication services – International service	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of Pakistan with governments of neighbouring countries.	Neighbouring countries	Indefinite	On account of bilateral agreements with governments of neighbouring countries.

SRI LANKA: SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Limitations on market access	Limitations on national treatment	Additional commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	(1) None (2) None (3) Foreign Investment: Certain limitations, conditions and qualifications pertain specifically to some forms of commercial presence by foreign enterprises, as indicated below: (a) Foreign investors may invest in any sector of the economy other than the following activities, which are reserved for citizens of Sri Lanka: i) Money-lending; ii) Pawnbrokering; iii) Retail trade with a capital of less than US$1mn; iv) Businesses providing personal services other than for export of tourism; and v) Coastal fishing. (b) The foreign investment law applicable to foreign investors is the Greater Colombo Economic Commission (GCEC) Law No. 4 of 1978, as amended to date, presently known as the Board of Investment of Sri Lanka BOISL) Act by G.C.E.C. (Amendment) Act No. 49 of 1992 (referred to as "the Law"), supplemented by: i) BOISL Regulation No. 1 of 1978, as amended to date; and ii) BOISL Regulation No. 1 of 1991. (c) The BOISL is responsible for the approval and facilitation of foreign investment throughout the country, other than for investments made by purchasing shares in the Colombo Stock Exchange, or for investments in a number of activities, which are regulated by other Statutory Agencies, including the following: (i) Banking; (ii) Financial	(1) None (2) None (3) None (4) None	

	institutions; (iii) Insurance; (iv) Trading services on the Colombo Stock Exchange; (v) Air transportation; vi) Coastal shipping; (vii) Branch or Liaison Office of companies incorporated outside Sri Lanka; (viii) Lotteries. (d) Foreign investment of up to 40 percent of equity in a company proposing to carry on a business activity listed below other than those listed above will be automatically approved by the BOISL. Foreign investment in excess of 40 percent (and up to 100 percent) in a company proposing to carry on a business activity listed below other than those listed above will be approved by the BOISL on a case-by-case basis in consultation with the relevant State Agencies. This situation will be reviewed every two years with the aim of further simplification. The relevant sectors are the following: (i) Construction and residential buildings; (ii) Mass transportation; (iii) Telecommunications; (iv) Mass communications; (v) Education; (vi) Professional services; (vii) Freight-forwarding; (viii) Travel agencies; (ix) Shipping agencies. (e) If a foreign investor wishes to locate his/her enterprise outside any Export Processing Zone, he/she can either purchase or lease land suitable for his/her enterprise. If a foreign individual buys land, he/she will be liable to pay a tax at 100 percent of the purchase price. However, if a foreign investor incorporates a company in Sri Lanka under the Companies Act and buys the land in the name of the company, there will be no liability or such tax even though the shareholders of the company are foreign nationals, because a company incorporated in Sri Lanka under the Companies Act is deemed to be equivalent to a citizen of Sri Lanka for the purpose of this tax.		

	Joint venture. In relevant sectors when a joint venture partner is a public sector enterprise or a government undertaking, while granting access, preference will be given to foreign service suppliers/ entities, which offer the best terms for transfer of technology. (4) Movement of natural persons is subject to Sri Lankan laws on immigration, consumer laws, and other relevant laws and regulations. Aliens, who intend to work or to conduct business in Sri Lanka, shall have to obtain the relevant work permits in addition to complying with the immigration requirements.		
2. COMMUNICATION SERVICES			
C. Telecommunication Services International basic voice telecommunication services	(1) Monopoly guaranteed for Sri Lanka Telecom Ltd (SLT) until 31 December 1999. Government of Sri Lanka (GOSL) proposes thereafter to issue an additional licence, depending mainly on satisfactory progress having been made with respect to tariff rebalancing. (2) None (3) Monopoly guaranteed for SLT until 31 December 1999. Government of Sri Lanka (GOSL) proposes thereafter to issue an additional licence, depending mainly on satisfactory progress having been made with respect to tariff rebalancing. Foreign equity participation of up to 35 per cent involving a strategic partner permitted in SLT. Foreign equity participation in telecom providers is determined under BOISL related provisions described in the horizontal section of GOSL's schedule of specific commitments (4) Unbound except as indicated in the horizontal section	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section	Sri Lanka subscribes to the attached commitments on regulatory disciplines.

Domestic local and long-distance basic telephone services covered: Mobile cellular services	(1) None (2) None (3) Four operators' licences. This number will be reviewed by the GOSL in the year 2000. Foreign equity participation in these enterprises determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	
Wireless Local Loop (WLL) to provide basic telephony, data transmission, payphone, voice mail and facsimile	(1) None (2) None (3) Two operators' licences. Duopoly will be guaranteed for five years. In addition SLT will be permitted to provide WLL services in 800 MHz Band. Foreign equity participation in these enterprises determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	
Public payphone services	(1) None (2) None (3) Five service providers. This number will be reviewed on economic needs criteria. Foreign equity participation in these enterprises determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	
Radio paging services	(1) None (2) None (3) Five operators' licences. Changes based on economic needs criteria. Foreign equity participation in these enterprises determined per the horizontal section.	(1) None (2) None (3) None	

	(4) Unbound except as indicated in the horizontal section.	(4) Unbound except as indicated in the horizontal section.	
Data Communication Services	(1) None (2) None (3) Six operators' licences. No new licences for facilities-based operators until 1998. Foreign equity participation as per horizontal section. (4) Unbound except as indicated in horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	
Other: Satellite-based services: GMPCS services supplied through own gateways	(1) Unbound (2) None (3) Issuing of licences is under consideration. Foreign equity participation in these enter-prises determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.	(1) None (2) None (3) None (4) Unbound except as indicated in the horizontal section.	
7. FINANCIAL SERVICES			
I. Direct Insurance A. Life	(1) Unbound (2) Unbound (3) New establishments are subject to licences approved by the Government of Sri Lanka (GOSL). Foreign equity participation, in this sector is determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section.	
B. Non-life	(1) Unbound except in the case of insurance of freight, where insurance is taken by the buyer or seller in accordance with contract. (2) Unbound (3) New establishment is subject to licence approved by the Government of Sri Lanka (GOSL). Foreign equity participation in this sector	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section.	

	determined per the horizontal section. (4) Unbound except as indicated in the horizontal section.		
II. Re-insurance and retrocession	(1) Reinsurance can be taken with foreign reinsurers to the extent of the residual uncovered risk after obligatory or statutory placement with National Insurance Corporation. (2) Reinsurance can be taken with foreign reinsurance to the extent mentioned above. (3) Unbound (4) Unbound except as indicated in the horizontal section.	(1) Unbound (2) Unbound (3) None (4) Unbound except as indicated in the horizontal section.	

Banking and Other Financial Services (excluding insurance)*

General Conditions

1. The terms of the offer in the banking and other financial services (excluding insurance) sub-sector are in accordance with GATS, the Annex on Financial Services and the Understanding on Commitments in Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations and the terms and conditions of the Central Bank of Sri Lanka, the Board of Investment, the Securities and Exchange Commission and any other competent authority in Sri Lanka, as the case may be, which are consistent with Article VI of the GATS and paragraph 2 of the Annex on Financial Services.
2. Financial Services in the form of operations identified at sub-paragraphs (a) to (l) in the Schedule can be carried out in Sri Lanka through a locally incorporated company or a branch of a commercial bank incorporated outside Sri Lanka.

   2.1 (a) Only a licensed commercial bank, a licensed specialised bank or a registered finance company may accept deposits.

   (b) Only a licensed commercial bank may accept deposits which are repayable upon demand.

   2.2 Approval, registration and licensing relating to banks and other financial institutions will be subject to an economic needs test.

   2.3 The total foreign shareholding in any institution providing financial services is limited to 49 percent of the issued share capital.

* This part of the schedule deals only with Section B. Section A which covers insurance and insurance related services is contained in a separate part of the schedule.

(a) Acceptance of deposits and other repayable funds from the public. (b) Lending of all types, including, inter-alia, consumer credit, mortgage credit, factoring and financing of commercial transactions. (c) Financial leasing (d) All payment and money transmission services. (e) Guarantees and commitments (f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: • money-market instruments (cheques, bills, certificates of deposits, etc.) • foreign exchange • derivative products including but not limited to futures and options • exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc. • transferable securities other negotiable instruments and financial assets, including bullion.	The commitments listed below apply to all services listed under B (a) to (j). (1) Unbound (2) Unbound (3) As specified in the General Conditions. (4) Unbound	The commitments listed below apply to all services listed under B (a) to (j). (1) Unbound (2) Unbound (3) As specified in the General Conditions. (4) Unbound except as specified in the horizontal commitments.	
(a) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues. (b) Money broking. (c) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services. (d) Settlement and clearing services for financial services, including securities, derivative products, and other negotiable instruments.	The commitments listed below apply to all services listed under B (k) to (l). (1) None, except as provided in the General Conditions. (2) None, except as provided in the General Conditions. (3) As specified in the General Conditions. (4) Unbound except as specified in the horizontal commitments.	The commitments listed below apply to all services listed under B (k) to (l). (1) None, except as provided in the General Conditions. (2) None,except as provided in the General Conditions. (3) As specific in the General Conditions. (4) Unbound except as specified in the horizontal commitments.	

(e) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services. (K) Advisory services on all the activities listed in subparagraphs (a) to (k).			
TOURISM AND TRAVEL RELATED SERVICES			
<u>A. Hotel and Lodging Services</u>	(1) Unbound*[*] (2) Unbound (3) None except horizontal measures specified above. (4) Provisions of labour, immigration and customs laws.	(1) Unbound* (2) Unbound (3) None (4) None	
<u>B. Travel Agency and Tour Operation Services</u>	(1) None (2) Unbound (3) None except horizontal measures specified above. (4) Provisions of labour, immigration and customs laws.	(1) None (2) Unbound* (3) None (4) None	

[*] Unbound due to lack of technical feasibility.

REFERENCE PAPER

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

(a) are exclusively or predominantly provided by a single or limited number of suppliers; and
(b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

(a) control over essential facilities; or
(b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;
(b) using information obtained from competitors with anti-competitive results; and
(c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

(a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
(b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

(a) at any time or

(b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and

(b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

SRI LANKA - LIST OF ARTICLE II (MFN) EXEMPTIONS

Modes of supply:1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
2.C. Telecommunication services - International services	Measures including the application of different accounting rates for different operators/ countries covered by International Telecommunication Services Agreements between Sri Lanka Telecom Limited and various foreign operators.	Countries covered by International Telecommunication Services Agreements between Sri Lanka Telecom Limited and foreign operators.	Indefinite	On account of bilateral agreements between Sri Lanka Telecom Limited and various foreign operators dealing with various aspects of cooperation.
2.C. Telecommunication services - International services	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of Sri Lanka with governments.	Neighbouring countries of the South Asian Association for Regional Cooperation (SAARC), viz. Bangladesh, Bhutan, India, Maldives, Nepal and Pakistan.	Indefinite	On account of bilateral agreements with governments of neighbouring countries.

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This report shows particularities about the subject that distinguished the TRIPs (Trade Related Aspects of Intellectual Property Rights) negotiations from other agreements that make up the Uruguay Round results. It also analyses the way in which the TRIPs Agreement was actually negotiated and handled.

The author finds that many of the lessons that can be drawn from India's experience with the TRIPs negotiations are the same as those that can be drawn from the negotiations more generally and true for many other countries. It goes beyond a narrow analysis of events relating strictly to the negotiations during the Uruguay Round and looks at the negotiating context in which these negotiations took place.

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The latest report of CUTS on Multilateral Environmental Agreement, Trade and Development, examines the role of provisions for technology and financial transfer as well as capacity building as an alternative to trade measures for improving compliance and enforcement. It acquires specific significance in the light of the fact that the WTO members for the first time, in the trade body's history, agreed to negotiate on environmental issues at the fourth Ministerial Conference of the WTO at Doha.

This study also examines pros and cons of Carrots and Sticks approaches, and analyses incorporation of these approaches in three major MEAs, the Montreal Protocol, The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Basel Convention, to find out which approach has been more successful in ensuring enforcement and compliance.

A must read for different stakeholders involved in this process, as this study would provide useful inputs towards trade and environment negotiations.
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15. Market Access Implications of SPS and TBT: Bangladesh Perspective

As both tariffs and other traditional trade barriers are being progressively lowered, there are growing concerns about the fact that new technical non-tariff barriers are taking their place, such as sanitary and phytosanitary measures (SPS) and technical regulations and standards.

The poor countries have been denied market access on quite a number of occasions when they failed to comply with a developed country's SPS or TBT requirements or both. The seriousness of this denial of market access is often not realised unless their impact on exports, income and employment is quantified.

In this paper, the author focuses on the findings of a 1998 case study into the European Commission's ban of fishery products from Bangladesh into the EU, imposed in July 1997.

This research report intends to increase awareness in the North about the ground-level situation in poor and developing countries. At the same time, it makes some useful suggestions on how the concerns of LDCs can be addressed best within the multilateral framework. The suggestions are equally applicable to the developing countries.
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16. Voluntary Self-regulation versus Mandatory Legislative Schemes for Implementing Labour Standards

Since the early 1990s, globally there has been a proliferation of corporate codes of conduct and an increased emphasis on corporate responsibility. The idea is that companies voluntarily adopt codes of conduct to fulfil their social obligations and although these companies are responsible only for a fraction of the total labour force, they set the standards that can potentially lead to an overall improvement in the working conditions of labour.

These voluntary approaches are seen as a way forward in a situation where state institutions are weakened with the rise to dominance of the policies of neo-liberalism, and failure of the state-based and international regulatory initiatives.

Given this background, this paper examines how the failure of 1980s codes, regulated by international bodies, resulted in the proliferation of corporate codes of conduct and an increased emphasis on corporate social responsibility.

This paper further tries to explore whether voluntary codes of conduct can ensure workers' rights in a developing country like India.
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17. Child Labour in South Asia Are Trade Sanctions the Answer?

South Asian Countries have the highest rates of child labour practices in the world.

As a result of the advocacy by powerful political lobbying groups supported by Europe and the US, the trade sanction approach to encounter the issue of child labour has gained influence since the nineties.

These sanctions were exercised to alleviate the problem of child labour by US policy-makers and also by some countries in the EU. But, the question arises – Have the trade sanctions imposed by these countries in any way helped eliminate this problem? This research report of CUTS Centre for International Trade, Economics & Environment tries to address this question.

It has explored the impact of these trade sanctions and finds that these sanctions resulted in the contradiction of the basic objective, elimination of child labour. By banning the import of those goods in the production process of which child labour was used wholly or partly, the developed countries have aggravated the sufferings of child labour and their families.

Besides highlighting the causes of child labour, the report makes some very useful recommendations on how the issue of child labour can be addressed best at the domestic as well as international level.
(Rs.100/US$25) ISBN 81-87222-82-4

18. **TRIPs and Public Health: Ways Forward for South Asia**
Trade Related Aspects of Intellectual Property Rights—or TRIPs—has always been one of the most contentious issues in the WTO. Several studies have been conducted on the political economy of TRIPs *vis-à-vis* WTO, the outcome of which are crucial to the policymakers of the developing economies more than those in the rich countries. Increasing realisation of the poor countries' suffering at the hands of the patent holders is yet another cause of worry in the developing and poor countries.

This research document tries to reach the answer to one specific question: what genuine choices do policymakers in South Asian developing nations now have; more so after the linkage between the trade regime and pharmaceuticals? Starting with a brief overview of the key features of the corporate model of pharmaceuticals, the paper provides some insight into the challenges faced by the governments in South Asian countries. The aim is to anchor the present discussion of public health and the impact of TRIPs in the socio-cultural environment of this region.
(Rs.100/US$25) ISBN 81-87222-83-2

19. **Putting our Fears on the Table Analyses of the proposals on investment and competition greements at the WTO**
Let them put their fears on the table and that should guide the negotiations." The UNCTAD Secretary General, Rubens Ricupero, made this comment just after the Doha ministerial meeting of the WTO held in November 2001.

He was referring to India's stand at Doha on the 'Singapore issues' and arguing that it was pointless in just opposing the 'new' issues at the WTO without putting forward constructive arguments.

"Putting our Fears on the Table" is the title of a recently published report of the CUTS Centre for International Trade, Economics & Environment. It provides analyses of the proposals on investment and competition agreements at the WTO, especially in the areas taken up and/or proposed at Doha for possible future negotiations.

This volume is a product of comprehensive research and dialogue of leading international experts, practitioners and other stakeholders. It will really help developing countries to comprehend and deal with the issues in the WTO context.
(Rs. 300 for India/US$25 for OECD Countries/$ 15 for other) ISBN 81-87222-84-0

20. **Bridging the Differences Analyses of Five Issues of the WTO Agenda**
This book is a product of the project, EU-India Network on Trade and Development (EINTAD), launched about a year back at Brussels. CUTS and University of Sussex are the lead partners in this project, implemented with financial support from the European Commission (EC). The CUTS-Sussex University study has been jointly edited by Prof. L. Alan Winters of the University of Sussex and Pradeep S. Mehta, Secretary-General of CUTS, India.

The five issues discussed in the book are Investment, Competition Policy, Anti-dumping, Textiles & Clothing and Movement of Natural Persons. Each of these papers has been co-authored by eminent researchers from Europe and India.
(Rs.350/US$50) ISBN 81-87222-92-1

21. **Dealing with Protectionist Standard Setting: *Effectiveness of WTO Agreements on TBT and SPS***
Sanitary and Phytosanitary Safeguards (SPS) and Technical Barriers to Trade (TBT) Agreements—enshrined in the WTO—are meant to keep undesirable trade practices at bay. These Agreements try to ensure adherence to standards, certification and testing procedures, apart from technical protection to the people, by countries while trading in the international arena.

During the recent past, however, SPS and TBT have been used by certain countries to the extent of indiscreet misuse. This is a fallout of the built-in lacunae in the two measures: first, their loose drafting, and next, the manner in which these Agreements are interpreted by the big economies.

This research report is a sincere attempt to fathom the relevance of SPS and TBT Agreements, their necessity in the present global economic scenario and, of course, the development of case law related to the Agreements, along with a brief description of the impact of this case law on developing countries.
(Rs.100/US$25) ISBN 81-87222-68-9

DISCUSSION PAPERS

1. **Existing Inequities in Trade - A Challenge to GATT**
A much appreciated paper written by Pradeep S Mehta and presented at the GATT Symposium on Trade, Environment & sustainable Development, Geneva, 10-

11 June, 1994 which highlights the inconsistencies in the contentious debates around trade and environment. (10pp, #9406, Rs.30/US$5)

2. **Multilateralisation of Sovereignty: Proposals for multilateral frameworks for investment**
The paper written by Pradeep S Mehta and Raghav Narsalay analyses the past, present and future of investment liberalisation and regulation. It also contains an alternative draft International Agreement on Investment.
(#9807, Rs.100/US$25) ISBN 81-87222-14-X

3. **Ratchetting Market Access**
Bipul Chatterjee and Raghav Narsalay analyses the impact of the GATT Agreements on developing countries. The analyses takes stock of what has happened at the WTO until now, and flags issues for comments. (#9810, Rs.100/US$25)

4. **Domestically Prohibited Goods, Trade in Toxic Waste and Technology Transfer: Issues and Developments**
This study by CUTS Centre for International Trade, Economics & Environment attempts to highlight concerns about the industrialised countries exporting domestically prohibited goods (DPGs) and technologies to the developing countries that are not capable of disposing off these substances safely and protecting their people from health and environmental hazards. (90pp, #0106) ISBN 81-87222-40-9

EVENT REPORT

1. **Challenges in Implementing a Competition Policy and Law: An Agenda for Action**
This report is an outcome of the symposium held in Geneva on "Competition Policy and Consumer Interest in the Global Economy" on 12-13 October 2001. The one-and-a-half-day event was organized by CUTS and supported by the International Development Research Centre (IDRC), Canada. The symposium was addressed by international experts and practitioners representing different stakeholder groups viz. consumer organisations, NGOs, media, academia, etc. and the audience comprised of participants from all over the world, including representatives of Geneva trade missions, UNCTAD, WTO, EC, etc. This publication will assist people in understanding the domestic as well as international challenges in respect of competition law and policy.
(48pp, #0202, Rs.100/US$25) ISBN 81-87222-54-9

MONOGRAPHS

1. **Role and the Impact of Advertising in Promoting Sustainable Consumption in India**
Economic liberalisation in India witnessed the arrival of marketing and advertisement gimmicks, which had not existed before. This monograph traces the the impact of advertising on consumption in India since 1991. (25 pp, # 9803, Rs.15/US$5)

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9. ABC of the WTO

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This second monograph – and more – is about the World Trade Organisation (WTO) which has become the tool for globalisation. This monograph is an attempt to inform the layperson about the WTO in a simple question-answer format. It is the first in our series of monographs covering WTO-related issues and their implications for India. Its aim is to create an informed society through better public knowledge, and thus enhance transparency and accountability in the system of economic governance.
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10. ABC of FDI

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GUIDES

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A Quarterly Newsletter covering developments relating to competition policy and economic regulations. The purpose of this newsletter is to provide a forum, in particular to civil society, to understand the issues clearly and promote a healthy competition culture in the world. Contributions are welcome: Rs.150/US$ 30 p.a.

BRIEFING PAPERS

Our Briefing Papers inform the layperson and raise issues for further debate. These have been written by several persons, with comments from others. Re-publication, circulation etc are encouraged for wider education. They are available for free, but contributions towards postage (Rs.20/US$ 5) are welcome.

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CUTS Centre for International Trade, Economics & Environment

Mission

Pursuing economic equity and social justice within and across borders by persuading governments and empowering people

Goals

Enable and empower representatives of the civil society, from developing countries in particular, to articulate and advocate on the relevant issues at the appropriate fora.

Create a questioning society through empowerment of civil society representatives thus ensuring transparency and accountability in the system.

Promote equity between and among the developed and developing countries through well-argued research and advocacy on the emerging and relevant issues.

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