Chapter 4

South Asian Agenda for Services Negotiations *Commonalities & Differences*

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I. Introduction

The General Agreement on Trade in Services (GATS) along with the Agreement on Agriculture (AoA) and the Agreement on Trade Related Intellectual Property Rights (TRIPs) formed the three main pillars of the World Trade Organisation (WTO) . These three agreements also proved to be the main distinguishing features of the WTO from its predecessor General Agreement on Trade and Tariffs (GATT). The GATS is the first multilateral agreement, which covers trade in services. The signing of GATS as a part of WTO agreement was one of the major achievements of Uruguay Round of trade negotiations, from 1986 to 1993. This happened almost after 50 years of the establishment of GATT in 1947.

Over the past two decades, the service sector has expanded rapidly and has come to play an increasingly important role in national economies and in the international economy. Services now account for a substantial and rising share of output and employment in the economy. Between 1990 and 2000, growth of world services output was 2.9 percent, double that of agriculture which was only 1.4 percent. As a result, the contribution of the service sector to world gross domestic product (GDP) was 64 percent in the year 2000, compared to 57 percent in 1990. Services account for close to 70 percent of production and employment in Organisation for Economic Cooperation and Development (OECD) area. Not only in developed countries, but also in the case of many developing country regions such as Eastern Europe, Central Asia, Latin America and Caribbean, Middle East, North Africa, South Asia and Sub-Saharan Africa, the sector account for approximately 50 percent or more of GDP (World Bank, "World Development Indicators" 2001/2002).

However, the growing importance of services in national economies has not translated into a very significant increased share in world trade. Services, at present, account for only one-fifth of total trade (merchandise plus commercial services). In the last two decades there has been considerable expansion in trade and foreign direct investment (FDI) in services. Between 1990 and 2002, world trade in services expanded by 155 percent in comparison to 97 percent for manufacturing products and 40 percent for agriculture. The structure of FDI too shifted towards services. According to UNCTAD's World Investment Report 2004, on average, services accounted for two-thirds of total FDI inflows during 2001-02, valued at some US$500bn.

The decade of 1990s saw a new group of developing countries emerge on the global services trading landscape. These developing countries are India, Philippines, Thailand, South Africa, China etc. The gap between developed and developing countries in the share of total services trade is rapidly closing. While OECD countries still dominate trade in services, 21 developing countries feature in the list of top 40 services exporters

for 2003 with five (China, Hong Kong, South Korea, Singapore and India) ranked in the top 10.[1]

The trend in South Asia is no different. Its contribution in GDP varies from 40 percent in case of Nepal to 57 percent in Sri Lanka. The sector is second most important after agriculture in providing employment in South Asian countries. Historically, remittances from people living abroad have played an important role in almost all South Asian countries in addressing their perennial problem of balance of payment deficits. At present, the region is the second largest remittance recipient area (20%), after Latin America and Caribbean countries combined together. This is the main reason why South Asia countries are pushing for greater liberalisation of trade in services under Mode 4 – temporary movement of natural persons.

The structure of the paper is as follows. Section II briefly describes the transformation which is taking place in services trade. Section III outlines the growing importance of services sector in South Asia – both in the national economy and international trade. Section IV identifies the major areas of strength and export interest of South Asian countries. Section V lists the major barriers under different modes of service supply, the South Asian countries are facing at present including the problems of LDCs. Section VI highlights how services trade liberalisation is a win-win situation for all WTO Members. Section VII provides the current status of services trade negotiations under GATS. Section VIII gives an account of approach the South Asian countries have adopted in Doha Round *vis-à-vis* services negotiations. The final Section IX recommends some future negotiating strategy for South Asian countries.

2. Global Trade in Services

For long services were considered to be non-tradable. However, the sector is undergoing a profound transformation. Technological developments, budgetary pressures, and regulatory changes have greatly expanded the range and scope of trade in services. They have introduced competition into sectors formerly considered to be natural monopolies (telecommunications, energy); created additional possibilities for cross-border trade (business and computer services); and increased private sector participation in services where, in many countries, the public sector had traditionally played a major role (health, education, environmental services). The growth in services trade is also underpinned by widespread liberalisation of FDI regimes over the past decade.

Although OECD countries dominate global trade and investment in services, many developing countries are highly specialised in – and dependent on – services exports as a source of foreign exchange earnings. Developing countries as a group has been able to increase its overall share in world services exports during the last one-and-a-half decade. Its share in total world services exports has increased from 14 percent during 1985-89 to 22 percent in 2003. In 2004, faster growth in commercial services trade has been experienced in the Asian economies than in the North American and European economies. While the North American region's commercial services export expanded by 11 percent in 2004, Asia's commercial services export increased by 21 percent in the same year.[2]

Developing countries have been particularly successful in a number of sectors, such as audiovisual, port and shipping, construction and health services. Technological advances in telecommunication and computer industries have enabled developing countries endowed with well-educated and cost-competitive workforce to produce and export computer and related services worldwide. The spectacular Indian performance of the past decade is the most notable and documented case, but is far from being the only one.

At the same time, the information technology revolution has made it possible for a wide range of services to be provided electronically – a means of delivery, which is increasingly important for developing countries. They are capturing a growing share of the world market for outsourcing of services ranging from remote call centres to sophisticated software development. This can lead to cost savings for companies in the range of 30-35 percent, or up to 50 percent over the long term. The relatively low cost of highly skilled labour and improvements in telecommunications means that this is clearly an area for potential future growth.

3. Services Sector in South Asia

South Asia is home to approximately 1.3 billion people, of whom 70 percent live in rural areas. Therefore, it is quite natural that agriculture or the primary sector has dominated most of the South Asian economies in the latter half of 20th century. The growth strategy pursued by the respective South Asian countries over the last fifty years has emphasised industrialisation and reducing their dependence on agriculture. As a result of these concerted efforts the share of agriculture in GDP did decline but this space was not occupied by industry.

The service sector has emerged as the major contributor of income in South Asian countries accounting for as much as 49 percent of the region's GDP. While the high share of services in economies where tourism plays an important role, viz. Maldives, Sri Lanka and Nepal can be expected, it is striking to find that even economies of Bangladesh, Pakistan and India have been dominated by the service sector. Here it is worth mentioning that not only the service sector accounts for a predominant share of GDP but the sector has been contributing an ever increasing proportion of growth. Except for Bhutan and Nepal, the service sector contributed for more than half of total GDP growth during the 1995-02 period in each of the South Asian countries (See Table 1).[3]

Table 1: Contribution of Different Sectors to Output Growth of South Asian Countries (Percent)

	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	S Lanka
Agriculture							
1985-90	26.12	34.37	29.01	9.6	51.57	22.73	21.41
1990-95	19.48	37.85	26.32	n.a	32.75	26.27	14.86
1995-02	17.62	30.29	21.37	7.2	39.23	22.34	21.36
Industry							
1985-90	20.78	31.18	30.41	13.0	17.16	28.61	27.72
1990-95	28.79	42.97	26.77	n.a	28.70	22.65	28.85
1995-02	27.87	39.17	23.76	20.8	20.77	21.17	24.73
Services							
1985-90	53.10	34.75	40.58	77.40	34.11	28.61	50.87
1990-95	53.73	22.80	46.91	n.a	41.45	51.08	56.13
1995-02	54.57	33.57	54.87	72.0	43.89	56.49	53.99

Source: South Asia Development and Cooperation Report 2004, RIS, New Delhi

3.1 South Asia in Global Services Trade

In terms of services sector contribution to the national GDP, the South Asian countries follow the global pattern. However, the export of services from South Asia has not been uniform across all the countries of the region (see Table 2). While India did exceedingly well and improved its rank among WTO members in exports of commercial services, the other nations of the region are lagging far behind. In 1995, India ranked 34th in the world (WTO member countries) in exports of commercial services, which improved to 21st in the year 2003. As per the WTO 2004 International Trade Statistics, except India no other South Asian nations fall in the world's top 40 exporters of commercial services.

South Asia as a group has been able to almost quadruple its exports of commercial services between 1993 and 2003. The total exports of commercial services from SAPTA (South Asia Preferential Trade Agreement) increased from US$7.9bn in 1993 to US$29bn in 2003.[4] However, the hidden fact is that a larger part (approximately US$25bn) of it came from India's services revolution. The exports of commercial services from the other four South Asian nations, namely, Bangladesh, Pakistan, Nepal and Sri Lanka have either remained constant or increased marginally between 1993 and 2003 (see Table 3).

The low growth of exports of commercial services from other South Asian countries may be attributed to substantial underestimation of the real flows as probably up to half of the remittances are not through official channels. A study in Bangladesh showed that 40 percent of remittances to Bangladesh are through illegal *hundi* sources, 4.6 percent through friends and relatives, 8 percent are carried by hand by migrants when they return and 46 percent go through official sources.[5] According to the World Bank estimates based on household survey, in Bangladesh only 46 percent of the total remittances come through formal channels.[6] The *hundi/hawala*[7] system, common in the Middle East and the Indian subcontinent, is a transfer or remittance from an expatriate worker in one country to a nominated person in his/her country of origin without a formal transfer of money or use of formal financial institutions. It usually involves intermediaries (*hawaladars*). In Pakistan, senior bankers estimate the real flow at US$8-10bn of which only US$1bn is actually through official channels.[8]

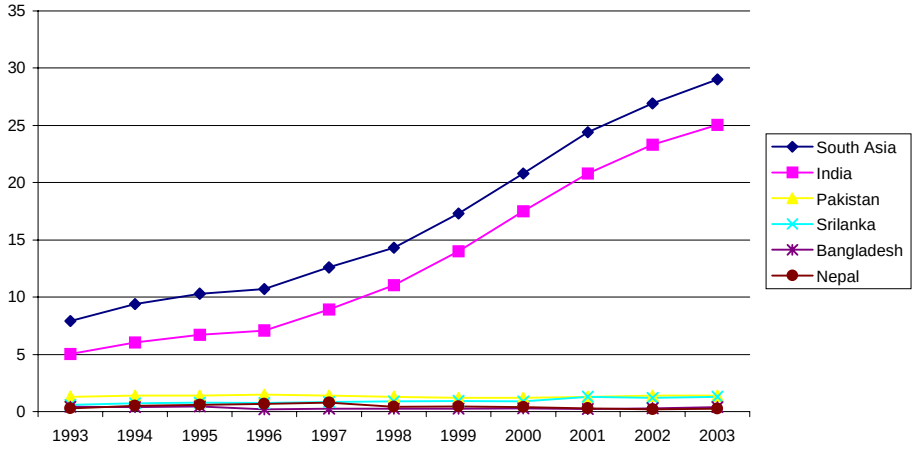
Table 2: South Asia: Share of Services (%) in GDP and Total Exports*, 2003

Country	Share in GDP	Share in Total Exports
Bangladesh	>50	5.49
India	>50	30.90
Nepal	>40	28.74
Pakistan	>50	11.06
Sri Lanka	>50	21.27

**Total exports are merchandise and services together, world average is 20 percent.*

Table 3: South Asia: Services[9] Exports (in US$mn) and its Share in World Services Exports		
Country	**1993**	**2003**
Bangladesh	435 (0.04)	404 (0.02)
India	5034 (0.53)	25043 (1.39)
Nepal	284 (0.03)	267 (0.01)
Pakistan	1330 (0.14)	1485 (0.08)
Sri Lanka	619 (0.06)	1385 (0.07)
Source: International Trade Statistics 2004, WTO; Figures in brackets indicate percentage share in world services export.		

Fig 1: Exports of Commercial Services (in US$bn) from South Asia



Source: Based on International Trade Statistics 2004, WTO.

4. Services Trade: South Asia's Major Strength

Although South Asia as a region has not been able to raise its share in global services trade, international migration from this region to both developed and developing countries is a well-known phenomenon. South Asia as a group is the second largest recipient of remittances in the world after Caribbean countries. According to the World Bank Global Economic Prospects 2006, in the year 2005, the region received US$32bn as workers' remittances, an increase of a whopping 67 percent over the 2001 figure. This shows that this region has been traditionally one of the most important exporters of services through movement of natural persons, i.e., Mode 4 of GATS. The four main countries of South Asia, namely, Bangladesh, Pakistan, India, and Sri Lanka, all have large endowments of labour at all skill levels, and have a comparative advantage in exporting services through this mode of supply.

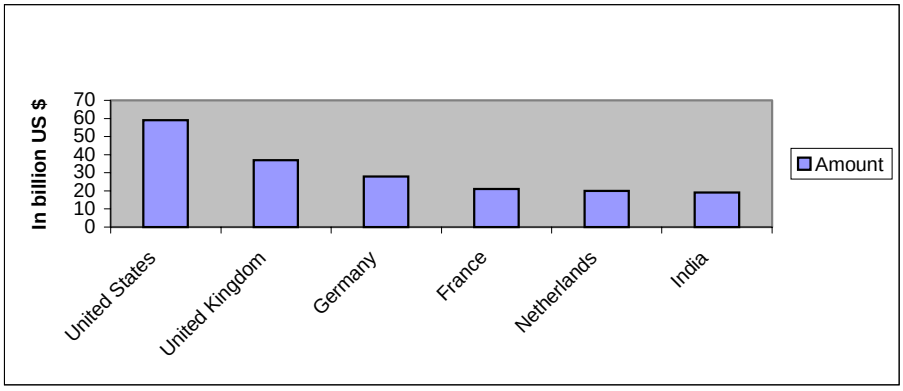
Besides, a country like India is fast emerging as an attractive destination of global outsourcing of jobs. Beginning from early 1990s, a large number of multinational firms had started shifting work of back office supply jobs (such as payroll, invoicing and accounting) to countries where they could be provided at lower cost. Furthermore, with the arrival of broad bandwidth lines at low costs and the increased digitilisation of information in all sectors (in particular services), the attraction of a significant cost reduction in the production of goods and/or services was becoming irresistible for any firm in a competitive environment.[10] India along with a few other developing countries having a large English speaking population, a good telecoms infrastructure and a large pool of IT professionals, reaped significant employment and income gains from these new possibilities.

4.1 Business Process Outsourcing: India an Emerging Force

Cross-border trade in business services, especially the so-called "IT-enabled services" is today among the fastest growing areas of international trade. Traditionally, developed countries have dominated trade in this category but the past decade has seen the emergence of some developing countries as the most dynamic exporters. India's name obviously comes at the top. India, a country that has received the most media attention as a recipient of outsourcing, is ranked at 6th place (US$18.6bn).

However, the biggest recipients of global outsourcing are still developed nations. Amiti and Wei (2004), using the IMF data in two categories – computer and information services and other business services, found that in dollar terms, the top five recipients in 2002 were the United States (US$59bn), the United Kingdom (US$37bn), Germany (US$28bn), France (US$21bn), and the Netherlands (US$20bn) (see fig. 2).

Fig. 2: World's Biggest Insourcers (2002)



Source: Based on IMF data.

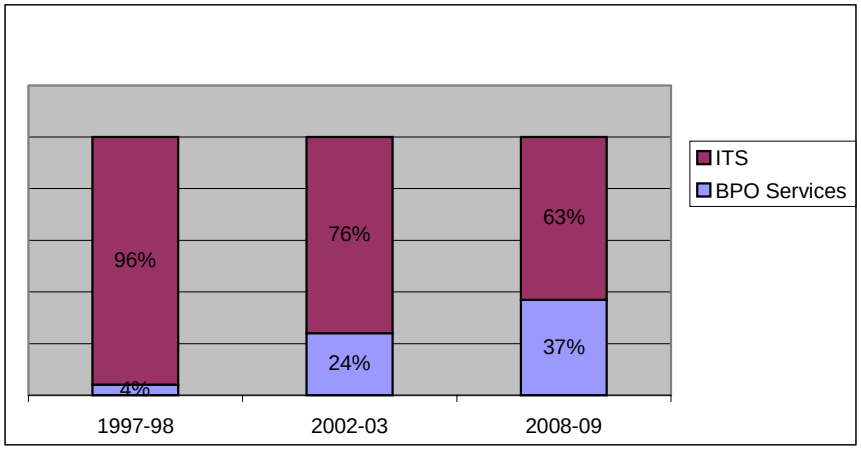
What caused this revolution? First, advances in technology have made cross-border trade possible in a number of services that were previously only tradable through the movement of service providers. Second, substantial investments in education in a number of developing countries have created a relative abundance of skilled labour, and the absence of commensurate employment opportunities has ensured its availability at a relatively low wage. Finally, innovations in business practice have led to the out-location of service activities by multinational enterprises in the manufacturing and services industry to offshore operational units or their outsourcing to foreign third-party services suppliers.

Among South Asian countries, except India other nations do not have any significant presence on the global outsourcing map. In India, the software exports have expanded from US$1.8bn in 1997-98 to over US$7bn in 2001-02 – at an average annual rate of 46.3 percent per year. India's strong comparative advantage in services is due to its high Revealed Comparative Advantage[11] index of IT sector (See Table 5). Further, there appears to be a major shift underway in the exports of IT and business process outsourcing (BPO) services in terms of the composition and mode of delivery of exports. As recently as 1997-98, nearly 96 percent of all software exports from India were in the form of information technology services (ITS), like custom application development, application outsourcing, packaged software installation and support, network infrastructure management, IT training and education, network consulting and integration, and hardware installation and support. On the other hand, BPO services, comprising data entry, data conversions, medical transcriptions, insurance claims, call centres, database services, etc., were only 4 percent of total exports. In a short span of four years, the BPO services category has grown to 24 percent of total software exports, registering an average annual growth rate of more than 100 percent in the last five years.

Table 5: India's Revealed Comparative Advantage in Services			
Category	**1990**	**2002**	**% Change**
Transport	0.95	0.81	-15
Travel	1.17	0.71	-39
Insurance & Finance	0.47	0.32	-32
Computer, Information, Communication & other business services	1.35	3.40	152
Source: WTO Staff Working paper ERSD 2004-06			

As the bulk of BPO services are processed in India, unlike ITS which involve some site visits to clients' sites, this has had a major impact on the mode of delivery of software exports. In 1993-94, nearly 62 percent of all software exports from India were carried out at the clients' location, i.e. "on-site". Only one out of every five dollars of export orders were carried out within India, i.e., "off-shore". By 2002-03, off-shoring became the dominant mode of delivery of software exports, accounting for almost 58 percent of total exports.

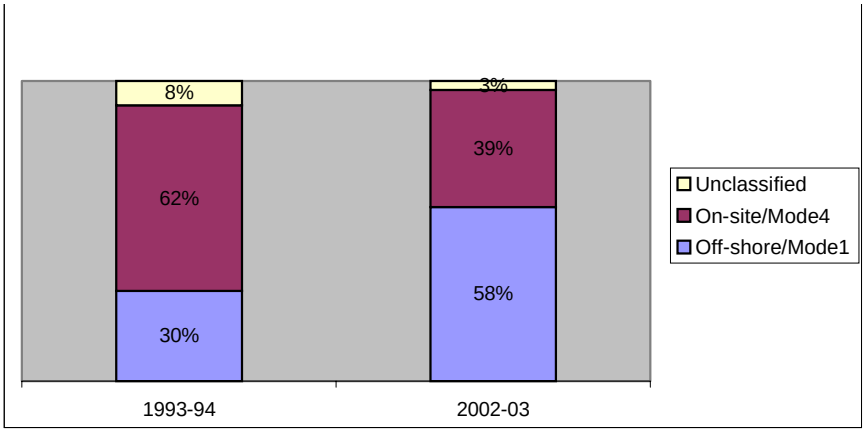
Fig. 3: Changing Composition of Indian Software Exports



Source: "Sustaining India's Services Revolution", The World Bank, South Asia Region: India, 2004.

There are no signs that this growth will slow down. According to a report by NASSCOM and McKinsey, exports of information technology related services from India are expected to increase from US$7.9bn in 2001-02 to US$57bn by 2008-09, growing at an average annual rate of 38 percent (ITS and BPO). A study by Deloitte Research shows that the global market in off-shore financial services could be as large as US$356bn by 2008-09 of which a large share would go to India.

Fig. 4: Changing Delivery Model of Software Exports



Source: "Sustaining India's Services Revolution", The World Bank, South Asia Region: India, 2004.

India's domination in the offshoring sector will continue, as other countries with English-speaking labour find it difficult to compete with India's huge pool of talent and cutting edge technology.

Strengths

- Growing reputation worldwide in providing high quality competitively priced software products and services.
- Compared to most parts of the developed world, India has a relatively young, well-educated, English speaking population. A plethora of software engineers and a pipeline of 60,000 professionals entering the system every year.
- Entrepreneurial, innovative and professional workforce with high aspirations, strong work ethic, in an environment that encourages risk taking.
- Adoption of state-of-the-art technologies with the flexibility to adapt to new technologies, critical in a world of continuous technological obsolescence.
- Reliability of service, meeting delivery schedules and exceeding customer expectations on both small and large projects.
- Use of satellite links for offshore development backed by world-class infrastructural support and research and development facilities.
- The proliferation of software technology parks and government funded national task forces. Support from every political party on all IT related initiatives has given the industry an unassailable mandate to succeed.
- The infrastructure and resources to train a huge pool of talent in new niche technologies quickly and efficiently.
- The resources to keep a pool of "Shadow" staff (buffer team) to provide back up and assistance to projects at short notice, because of the worldwide shortage of IT staff, the ability to have this buffer on any project adds a great deal of comfort.

- A large and growing domestic economy that will require significant IT and software investment which will spur competition and lead to further strengthening of the software and IT industry.
- A raft of educational centres of excellence with strong engineering and management training capabilities.

These strengths together with opportunities can bring huge dividends for India in the coming years. Opportunities are emerging across the complete spectrum of IT services and software products. Worldwide IT spending will exceed US$1tn during the next decade and within India local demand will soar to US$20bn over the same period (see Table 4). Indian companies with their high quality human resources at a competitive price are well placed to take a big bite of this IT and software services pie.

Table 4: WORLDWIDE IT SPENDING (US$BN)

CATEGORY	YEARS		CAGR(%)
	1998	2008	
Financial Services	53.6	209.4	13.2
Discrete Mfg.	56.8	127.3	9.1
Public Admin	48.8	121.4	7.2
Prof Services	27.8	102.6	12.6
Retail & Distb'n	33.7	98.6	10.3
Process Mfg	26.2	81.4	10.9
Communications	15.5	70.2	14.7
Health	18.9	61.1	11.2
Insurance	14.7	52.7	12.3
Utilities	9.9	29.1	10.3
Other	21	56.7	9.4
Total	326.9	1010.5	

Source: Dataquest, McKinsey & Co.

4.2 Movement of Natural Persons: A Common South Asian Countries' Interest

South Asia is one of the poorest regions of the world. Economic migration from this region has played a major role in providing livelihood to many people. In this new era of open multilateral trading system it is being seen as a possible tool to promote development and reduce poverty in the region. Migration for resettlement out of South Asia has been mostly to Europe, Australia or North America (see Table 6); contract labour migration has been to the Middle East, Southeast Asia and elsewhere.

Table 6 : South Asia Populations in OECD Countries (2001)						
	Europe/Japan 1999	Australia 2001	US 2001	Canada 1996	New Zealand 2001	Total
Bangladesh	84,800	9,078	104,000	12,405	1,185	211,468
India	248,800	95,452	1,024,000	240,560	20,889	1,629,701
Nepal	NA	2,628	NA	540	NA	2,753
Pakistan	932,568*	11,917	241,000	41,085	1,317	1,211,902
Sri Lanka	167,000	53,460	NA	72,355	6,168	298,983

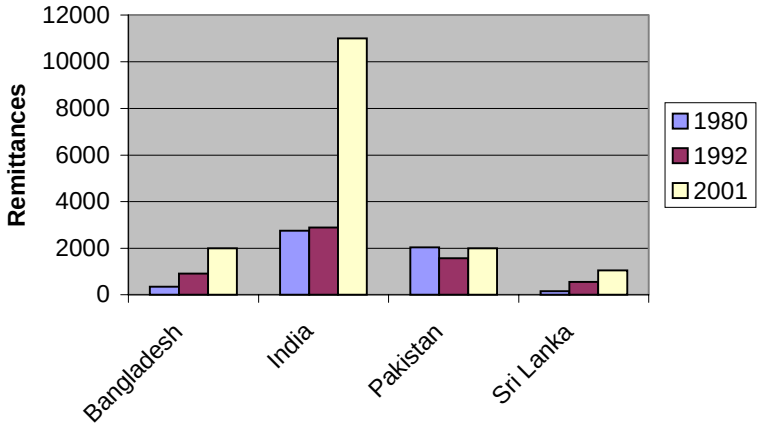
*1997

Source: World Migration 2005, International Organisation for Migration

One major indicator to prove this fact is the huge amount of remittances the South Asian economies are receiving annually. Despite the data limitations, in countries like the Bangladesh, Pakistan, India and Sri Lanka, remittances represent a substantial ratio to exports. About 20 percent of the annual global international remittances (close to US$100bn in 2004) flow into South Asia. India accounts for 78 percent of this, which makes it the world's largest remittance receiving country. Bangladesh accounts for 12 percent of the remittances flowing into South Asia; a notable 2 percent of the global remittance flows (Kuddus, 2003). The government of Sri Lanka has openly stated that overseas remittances have now become the backbone of the country's economy.[12] Around a million overseas contract workers, 60 percent of them women working as domestics, remitted Rs 100 bn in 2001 and Rs 115bn in 2002 (US$1.2bn).[13]

The World Bank annual report Global Economic Prospects 2006, which was released recently, has put three South Asian countries viz, India, Pakistan and Bangladesh among the top 20 remittance-recipient countries of 2004. Of the other South Asian countries, Sri Lanka's remittance receipts were larger than its tea exports, and in case of Nepal, the remittances accounted for 12 percent of its GDP in 2004.

Fig. 5: Worker's Remittances (in US$mn)



Source: Based on data from International Organisation for Migration, Geneva

Reliable data on movement of natural persons are difficult to calculate. Some governments have official figures, but many migrants remain unrecorded. It means the actual number of migrants far exceed official estimates. Further, there are no agreed criteria to distinguish temporary migrants from permanent ones. Data are also not disaggregated by gender or skills, and methods of collection vary across countries.

4.2.1 India

The Indian diaspora population around the world is estimated at some 20 million – the largest of the region, and the third largest in the world, after China and the UK. A large number of Indian professionals migrated to the industrialised West. Currently, there are 1.7 million Non Resident Indians (NRIs) in the US. They are considered as one of the highest earning, best educated and fastest growing ethnic groups of the US. Indian Americans are one of the two most successful ethnic groups in the Silicon Valley. In Canada, NRIs constitute almost 3 percent of its total 30 million population. There are about a million Indians in the UK. Indians have achieved eminence in business, information technology, engineering, medicine, media, music etc. in the UK. The Indian community has its presence in the political arena as well, with four elected members in the House of Commons and 11 in the House of Lords.

Information technology and healthcare are the two categories of workers, which have dominated the migration from India to overseas. Industry sources in India estimate that out of a supply of 132,986 new IT professionals in 2001-02, about 64,350 left India to provide on-site services that year. Migration for on-site work accounted for 15 percent of the total stock of 428,636 IT professionals in 2001-02 (Chanda, 2004).

Unlike the movement of Indian IT professionals, which is a recent phenomenon starting in the 1990s, movement of Indian healthcare workers to industrialised countries and to the Gulf region has been a long-standing phenomenon, going back to several decades. While the movement of Indian healthcare workers to the Middle East and Gulf countries has mainly been under short-term arrangements, their movement to the industrialised countries has been mostly long-term in nature. The majority of Indian physicians, who are abroad, are settled in Commonwealth countries. There are an estimated 60,000 and 35,000 doctors of Indian origin in the UK and the US, respectively (Chanda, 2004).

4.2.2 Bangladesh

Every year some 200,000 or more Bangladeshis leave the country officially to work elsewhere. In the last 29 years 3.8 million temporary labour migrants have been recorded. In addition, more than one million Bangladeshis living permanently outside the country and the extent of emigration becomes apparent. Most of these migrants send part of their earnings home on a regular or irregular basis. Together this amounted to more than US$2bn annually between 2000 and 2002 and even US$3bn in 2003 (Siddiqui, 2003; BMET; Bangladesh Bank and IMF figures).

Bruyn and Kuddus (2005) in their joint study for the International Organisation for Migration (IOM) show that the number of officially recorded labour migrants has steadily increased in the last 29 years, from around 6,000 annually in 1976 to more than 200,000 annually at the end of the 1990s and beginning of the 21st century. This represents about 4 percent of the total workforce. The most preferred destination has been Middle

East and South-East Asia. In Middle East, Saudi Arabia is the most popular destination, as half of all Bangladeshi migrant workers have migrated to this country in the last 29 years. In South-East Asia, Malaysia has been the main destination country with officially more than 250,000 Bangladeshi labour migrants during the same 29-year period.[14]

Siddiqui (2004) in his study tried to estimate the number of Bangladeshi migrants living in industrialised countries. According to an educated guess of government officials and migration experts, almost 1.2 million Bangladeshis live in industrialised countries. These include undocumented and documented migrants. Altogether some 500,000 Bangladeshis live in the UK and about the same number in the USA. Government officials estimate that Italy, Canada, Japan, Australia, and Greece each host more than 10,000 migrants.

4.2.3 Pakistan

Export of manpower occupies a central and important place for the economy of Pakistan, for example it now ranks second in terms of foreign exchange earnings. For the year 2002-2003, exported manpower generated US$4.28bn in foreign exchange earnings, and the large scale of the phenomenon of increased foreign exchange remittances has not only improved the economic situation in the country, but has also opened up huge opportunities for the employment of unskilled and skilled workers (Ahmad, 2000).

Estimates from the government indicate that there were 3,180,973 Pakistanis abroad in 1999. More recently, the number of legal Pakistanis registered with the Overseas Pakistani Foundation has been put at 4 million. Temporary migration from Pakistan has mainly been to the Middle East, for contract-based work. By the mid 1980s, there were an estimated 2 million Pakistanis in the Persian Gulf States, making up the largest group of foreign workers, and remitting more than US$3bn every year to Pakistan, or nearly half of Pakistan's foreign exchange earnings (Chanda, 2004).

Pakistan have also been exporting labour to developed industrialised countries. According to International Labour Organisation's migration statistics for the period 1986-2001, in 1998, there were an estimated 934,068 Pakistani nationals working in Europe, of which 7,20,000 were in the UK. There were 605,000 Pakistanis working in the US, close to 73,000 in South East Asia, Australia, and the Far East.

4.2.4 Sri Lanka

An estimated 1.2 million Sri Lankan workers are living abroad. Out of this approximately 70 percent of them is in the Middle East and over 60 percent of this stock of workers consists of female migrants. This is one of the most distinct features of labour flows from Sri Lanka to foreign countries. Besides, Middle East countries, other countries of destination for Sri Lankan workers are – Australia, South East Asia, Canada, the US and the UK (Jayanetti, 2003).

Exports of labour from Sri Lanka consist of both skilled and unskilled categories of workers. In the year 2001, skilled workers constituted 20 percent of total migration from Sri Lanka. An important occupational group within skilled workers has been nursing, with a large number of Sri Lankan nurses going to the Middle East, the UK, and Canada. The unskilled category, which essentially includes construction and production workers, is large, at over 33,000 in 2001, accounting for 18 percent of all migrant workers. If we add

the housemaid category of workers in this, then the total number comes out to be more than 130,000, which is over 70 percent of all migrant workers.[15]

4.3 Other Areas of Strength: Health Tourism, Tourism etc.

Besides cross border trade through business process outsourcing, movement of professionals, there are other sectors as well which have been helping South Asian countries in earning foreign exchange. Tourism is one such sector, which makes almost every nation, including least developed countries (LDCs), earn some foreign exchange. Today, tourism is the fastest growing industry in the world. International tourism receipts represented in 2003 approximately 6 percent of worldwide exports of goods and services (as expressed in US$). When considering service exports exclusively, the share of tourism exports increases to nearly 30 percent. The total tourist arrivals worldwide are expected to grow at an annual average rate of 4.1 percent per annum during the period 1995-2020 (see Table 7).

As regards South Asia, traditionally, Sri Lanka, Nepal and India have been attracting the bulk of the tourists in the region. The tourist arrivals in South Asia as a whole are expected to grow at rates of over 6.2 percent per year, compared to the world average of 4.1 percent during the period 1995-2020. The year 2003 was prosperous for South Asia in terms of tourist arrivals, which went up to 6 million and receipts from them touched US$7bn.

Table 7: Forecasts of Worldwide Tourists Arrival – 1995-2020 (in Million)

	Base Year	Forecasts		Market Share (%)		Av. Annual Growth Rate (%)
	1995	2010	2020	1995	2020	1995-2020
World	565	1006	1561	100	100	4.1
South Asia	4	11	19	0.7	1.2	6.2

Source: Tourism 2020 Vision, World Tourism Organisation

Today medical or health tourism has become a common form of vacationing, and covers a broad spectrum of medical services. It mixes leisure, fun and relaxation together with wellness and healthcare. The reasons patients travel for treatments vary. Many medical tourists from the United States are seeking treatment at a quarter or sometimes even a 10th of the cost at home. From Canada, it is often people who are frustrated by long waiting times. From UK, the patient cannot wait for treatment by the National Health Services but also cannot afford to see a physician in private practice.

Countries that actively promote medical tourism include Greece, South Africa, Cuba, Costa Rica, Hungary, India, Israel, Jordan, Lithuania, Malaysia and Thailand. South Africa specialises in medical safaris-visit the country for a safari, with a stopover for plastic surgery, a nose job and a chance to see lions and elephants. India is a recent entrant into medical tourism. The inflow of foreign patients per year has crossed 150,000 in India, up from 10,000 five years ago.

Health care for foreign patients will deliver Rs. 100bn (US$2.3bn) a year to Indian hospitals by 2012, according to a report by New York–based consulting firm McKinsey & Co. and

the New Delhi–based Confederation of Indian Industry (CII), the nation's biggest business group. The market in 2003 was US$333mn according to the Gurgaon-based India Brand Equity Foundation, a partnership between the CII and India's Ministry of Commerce.

India could earn more than US$1bn annually and create 40 million new jobs by sub-contracting work from the British National Health Services. Apollo and Escort Hospitals in India can carry out operations at a fraction of what they would cost in the United States and the UK. Medical tourism is likely to be the next major foreign exchange earner for India as an increasing number of patients, unwilling to accept long queues in Europe or high costs in the US, are travelling to the country to undergo surgery.

Table 8: Cost Comparison of Medical Services

Procedure	Cost (US$)			
	USA	Thailand	India	UK
Heart Surgery	40,000	7,500	6000	23,000
Bone Marrow Transplant	2,50,000	—-	26,000	1,50,000
Liver Transplant	3,00,000	—-	69,000	2,00,000
Knee Replacement	20,000	8,000	6,000	12,000
Cosmetic Surgery	20,000	3,500	2,000	10,000

Source: Escorts Heart Institute and Research Centre Limited, New Delhi

Seeing the vast potential to earn foreign exchange through this sector, the government of India introduced some new policies. India's National Health Policy 2002, for example, says:

"To capitalise on the comparative cost advantage enjoyed by domestic health facilities in the secondary and tertiary sector, the policy will encourage the supply of services to patients of foreign origin on payment. The rendering of such services on payment in foreign exchange will be treated as 'deemed exports' and will be made eligible for all fiscal incentives extended to export earnings".

Recently, in an effort to make India a global hub for medicare, the government of India introduced a medical visa for foreigners seeking specialty treatment for extended periods. The new medical visa will be open to residents of all countries including Pakistan, Bangladesh, China and Sri Lanka, those availing of the medical visa - with a validity of one year that can be extended for another year. Until now, such patients had to enter the country on a tourist visa, valid for barely six months and subject to extension by the Union Home Ministry alone, causing them tremendous inconvenience in case an extended treatment was needed.

5. *Market Access: Major Barriers*

5.1 Barriers in Cross-Border Trade

The growing business of outsourcing is creating a more efficient global division of labour and bringing significant welfare gains, but simultaneously it is bound to affect the structure of employment in a number of importing countries and impose adjustment costs. This led to big concerns and apprehension in the US and the UK about the IT job loss. This alarmed some unions and politicians in the industrialised countries and made political opposition visible.

The outsourcing of services to India received a huge amount of attention in the media and political circles as well. There were 2,634 reports in US newspapers on service outsourcing, mostly focusing on the fear of job loss. UK published 380 reports on outsourcing in its newspapers during the same period. Newspapers in Australia have also expressed the same concern. Besides newspapers, there were reports of lobbies by Australian software companies to restrict (other) Australian firms' ability to outsource software designs to India. In Britain, three of the trade unions geared together for countrywide protests for the projected job loss by outsourcing of jobs to India.

Till the first three months of 2005, as many as 112 anti-outsourcing bills are coursing their way through 40 states in the US. The different bills that have been proposed in the different states broadly cover issues like:

a) The US Congress included in the fiscal 2004 omnibus spending bill a provision that prohibits federal agencies from outsourcing some kinds of work to private companies that use workers abroad.

b) Public procurement and other public contracts be performed within the United States, some even further require that only persons authorised to work in the United States perform the contract.

c) Prohibits a company from receiving state or local contracts, grants, loans, or bonds, if the company has a net loss of employees in the state during the prior calendar year caused by the company relocating jobs from the state to a site located outside the United States.

d) Only individuals who are either United States citizens or authorised to work in United States can perform state contracts. Some proposed legislation incorporates this provision into call centre restriction bills to restrict the status of call centre employees.

In Europe also there were legal norms designed to protect workers in outsourced deals known as TUPES (Transfer of Undertakings and Protection of Employees), which also have an inhibiting effects. The European Union (EU) even gave wide ranging directives that aimed to safeguard the privacy of personal data of EU citizens and prevent its misuse worldwide. It backed power to cut data flows to countries that the EU judges not to have adequate data protection.

All these could turn into future barriers for cross-border trade in services. It is, therefore, desirable to take pre-emptive action and lock in the current state of openness. The current GATS negotiations under the aegis of Doha round of trade negotiations offer us a valuable opportunity to secure openness.

5.1.1 Stakeholder Views on Existing and Future Barriers

In order to get first hand information on the controversy generated on so called job loss in the developed country and the demand for legislation to ban outsourcing of jobs, CUTS conducted a field survey in select cities of India. The overall survey was on the Mode 1 of service trade which includes the cross-border trade of service of the Business Process Outsourcing (BPO) industry in India. The object of the survey was: (1) to find out the different trade related problems that the industry is facing for getting the outsourced works from the clients in the UK and US; (2) different policy measures that the industry needs at the domestic and international levels for future growth.

Back Lashing

The majority of the Indian BPO companies trade with the non-government sector in the UK, and the US. They did not face the back lashing problems directly till now. Most of the companies were sceptical in commenting on the back lashing and other questions, as they feared that any comment could have an adverse impact on their company's position. However they all express the view that if the anti-outsourcing movement goes on, and the bills are passed it will have an adverse impact on the growing industry for getting contract from the clients in the UK and US. During the election year Unify, the US's largest union that have political connections influenced government to bring political pressure as much as possible to restrict outsourcing there's some words missing in this last sentence.

Data Security

Data security is the major problem that the companies are facing right now. Almost all companies that have proper data protection tools have faced continuous pressure from clients to upgrade data secrecy and privacy maintenance systems to protect the clients' information. The US has also classified safe country and non-safe country based on the data protection measures taken by the countries. Companies need to get certified from foreign bodies. Since there is no Indian certification till now they have to get HIPPA certified from US. Companies also need to go for British Standards 7799 and other prevailing standards. Most of the companies have installed IT security measures to protect the data, but still they have to invest a huge amount in protecting the clients' data. Constant pressure on the data security issue is raising the cost of operation of the company, which is also a major concern for the companies. Rising cost is also impacting the cost advantage of the companies and leading to loss of contract.

Taxation and payment problems

Most of the companies trade with US based firms, and have not faced any specific tax related problem. But the companies which trade with UK expressed the concern on value-added tax (VAT). In UK, market VAT is at 12-18 percent. There is no specific schedule on the application of VAT on offshore BPO. Tax rules are not clear if outsourced to India. A decision was passed by the European Court of Justice (3 to 4 months before), which ruled against Accenture and IBM – both of them provided intermediary services from India to the insurance companies in UK and were not paying VAT.

Providing more integrated service

When asked whether the companies have moved up the value chain to provide more value-based service, most of the stakeholders prompted that their area of work has expanded more in depth and job enrichment. They have achieved domain expertise and provide more end-to-end solutions. For instance, some of them used to do medical transcription work earlier. But presently they are doing even medical billing and health insurances services. Others also cited their new areas of work.

Policy support at national level

Almost all the companies voiced the concern that the government should lay down specific IT rules and regulations in line with the US and UK standards in the country. Although there are various IT rules presently prevailing in the country but the regulatory bodies must emphasise making rules and regulations for data security, data secrecy of the companies. There should also be easy and quick redress for any such breach of security issues. We have to spend a huge amount of money and time to train the workers for providing services.

Policy support at the international level

The government should make a body to promote the Indian BPO industry worldwide. At present the industry is wholly dependent on the US and UK economy. Political uncertainty, economic turmoil or other country centric problem is influencing the Indian BPO industry adversely. It becomes too difficult to do business solely dependent on one country. Government should try to influence other countries to outsource their works to India. In that case the companies will have a steady flow of work and do not have to depend on one or two clients.

Domestic concerns

Attrition rate is high in the industry. Stakeholders are of the opinion that the workers are very young, just out of colleges, and are not serious about their career. So they take the job for easy pocket money. There is also a gap between the total workers required and total workers available. So the supply shortage has pushed up the wages in the industry. Workers take the opportunity of the prevailing high wages in the industry and migrate to the company who provide the higher wage. There is also high demand of workers from the multinationals corporations who have just started their operations and luring the workers by giving high wages. Concentration of so many companies in the same region is leading to a rise in wage level. The high wage rate is raising the cost of operation for the companies. This is a major concern for the Indian industry.

International Competition

All the stakeholders are well aware of the competition but none has faced any potential threat from any country till now. According to them India has the potential advantage of low cost and high level of English speaking workers. Also they expressed the view that the country has established the credibility of providing quality service to the clients. The companies are also trying to reduce cost to the greatest extent possible. They expressed the view that the Indian companies' service process domain expertise etc. will help us to retain the advantage.

5.2 Barriers for Temporary Movement of Natural Persons

At present, movement of professionals under Mode 4 is subject to a range of restrictions, which include wage-parity requirement, strict visa procedures, Economic Needs Tests (ENTs), non-recognition of professional qualifications, imposition of discriminatory standards or burdensome licensing requirements, payment of social security without corresponding benefits, requirements of registration with or membership of professional organisations. Besides, in the aftermath of the 9/11 terrorist attacks many Americans became hostile toward immigration because he terrorists who perpetrated the attacks exploited gaping security holes in the U.S.

Mutual Recognition Agreements

Mutual recognition of qualification is considered to be the main obstacle affecting trade in professional services. Commitments on market access and national treatment are not always sufficient for a foreign service supplier to be able to supply a market because if a profession is regulated, no one can practice it without a license. Some professions – such as law, health care, engineering, architecture, and accountancy — fall into the category of "accredited" or "regulated" professions in most countries. Mutual recognition of academic and professional qualifications is of particular relevance for accredited professions.

Developing countries are particularly affected adversely by the perception of their having low or inadequate professional standards. They often suffer from lack of recognition of their professional and academic qualifications. The regulatory and certification authorities in developing countries find it difficult to meet technical and procedural criteria as established and followed by developed countries. However, when developed countries face labour shortages in certain professions, they either waive the recognition requirement or expedite the process of recognition of qualifications obtained in developing countries. In addition, intra-corporate transfers are usually not subject to restrictions relating to recognition of qualifications.

Article VII of GATS allows Members to enter into mutual recognition agreements (MRAs), enabling them to recognise the education or experience obtained, requirements met, or licenses or certifications granted in one or several other countries. The article further requires that negotiations to such agreements be open to all Members that can demonstrate that their qualifications are equivalent. However, to date, the number of MRAs and their impact on services trade have been rather limited.

The WTO Guidelines on Mutual Recognition in the Accountancy Sector are an example of the efforts by WTO Members under GATS Article VII.5. However, despite some initial efforts to extend the Guidelines to other professions, no concrete results have so far been achieved. Moreover, the Guidelines have not been effectively implemented to provide developing countries with easy access to existing MRAs, and this has an impact on most favoured-nation benefits.

Economic Needs Tests

The concept of ENTs arises in GATS agreement only in Article XVI. The term ENTs is not defined in the GATS. Nor does the term have a well-defined meaning in standard dictionaries or in economic literature. These tests are in the form of labour market tests, management needs tests, manpower planning requirements and some other types of tests and conditions. ENTs are most prevalent in the context of Mode 4 of GATS. In case of professions like doctor, lecturer, and engineer the host country employers have to prove the absence of a suitably qualified national for the job concerned. The worst sufferers from ENTs are some lower skilled occupations such as construction workers, tour operator services and taxi services.

These tests are adding unpredictability to trading opportunities available to developing countries' service suppliers and undermine any progress in liberalising market access. However, these tests normally do not apply to skills that are in short supply. For example, ENTs do not always apply to IT professionals in most of the OECD countries. In case of entry of highly skilled workers into Canada; for key skilled activities in Australia; for work in firms of a certain size and for IT professionals in France; for IT, construction workers and nurses in Ireland; for engineers and specialists in Japan; for IT workers in Netherlands; and for H-1B and NAFTA skilled categories in the United States, the ENTs generally do not apply (UNCTAD, 2003).

The main problem with ENTs is their lack of objective criteria and procedures for application, making them unpredictable, non-transparent and arbitrary barriers to Mode 4. These tests vary considerably from country to country. For instance, in Australia, the ENTs are conducted by advertising the position in newspapers and employment agencies. Employers must provide information on who responded to the advertisement and why the applicants were not hired. Similarly in the UK, employers must demonstrate that the post cannot be filled by a UK or EEA national by proving that the post has been advertised widely in the previous six months and nom satisfactory response has been received.

Economic needs or labour market tests are found in 50 cases. They are mostly scheduled as part of horizontal commitments (sector-specific ENTs appear in medical, dental and hospital, entertainment and financial services). 23 countries have made commitments that, for certain categories of natural persons, ENTs will not apply (generally those related to Mode 3 establishment, and to persons holding management positions or experts with specialised knowledge of the company). While the criteria for ENTs should be included in WTO Members' schedules, few countries have actually done so (OECD, 2003).

Problems Related to Entry Visa and Work Permits

Procedures related to granting entry visa and work permits to natural persons are very stringent. The problem arises because such procedures do not distinguish temporary from permanent movement of labour. The temporary service providers are generally subject to the same immigration legislation and labour market conditions, which apply to migrant workers. Such regulations are often quite cumbersome, non-transparent, costly and arbitrary. These administrative and procedural barriers include strict eligibility conditions for work permits/visa, cumbersome procedures for actual application and processing of these visas and permits, limitations on the length of stay and transferability of employment in overseas market. All these restrictions raise the direct and indirect costs of entering the foreign market, thereby often eroding the cost advantage of the foreign service supplier and curtailing the scope for trade in services under Mode 4 (Chanda, 2004)

Wage Parity Requirements

Another condition often attached to entry, especially for contractual and employment-based service providers, is wage parity. It is required that wages paid to foreign service providers be at par with those that would be paid for a local person in the same position and with similar qualifications. The principle underlying the wage parity requirement is that overseas nationals are to be hired to address the shortage of suitably qualified service providers in the host country and not to save money by hiring cheap labour from abroad. However, the wage parity requirement undermines the comparative advantage upon which Mode 4 trade should be based.

The proponents of wage-parity condition cites provision of the "UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families", which calls for migrant workers not to be treated less favourably than nationals of the host country regarding pay and conditions of work and terms of employment. At present over 50 WTO Members have included the wage-parity requirement in their Mode 4 commitments (Dommen, 2005).

Differential Treatment of Foreign Natural Persons

Foreign nationals living in a country normally do not have access to the host country's subsidised services such as medical or pension insurance schemes, education, and housing, or to preferential income tax treatment. In some cases, they are not allowed to bring spouses or other family members with them. On the contrary, they are made to contribute to a host country's social security system. Further, if they simultaneously contribute to their home country's social security scheme, they are being subject to double taxation (UNCTAD, 2003). Not only this, in some developed countries migrants are in fact net positive fiscal contributor to the economy (see Box 1).

Box 1: Fiscal Effect of Migrants on Host's Economy
• A research study of the UK's Home Office estimated that in 1999/2000 migrants in the UK contributed £31.2bn in taxes and consumed £28.8bn in benefits and state services, a net fiscal contribution of approximately £2.5bn. This is equivalent to around 1p on the basic rate of income tax. • The RWI Economic Institute (Rheinisch-Westfälisches Institut für Wirtschaftsforschung) has estimated that migrants in Germany are contributing about seven per cent (DM250 billion) to annual GDP. From this it is roughly estimated that foreigners are paying DM100 billion in taxes and contributions and receiving approximately two-thirds of these payments (DM60 billion) in monetary transfers from the state and public goods. According to these calculations, migrants in Germany are making a net fiscal contribution of DM40 billion, or £12.3bn. • A study by the Instituto de Migraciones y Servicios Sociales (IMERSO) at the Universidad Pontificia de Comillas calculated that in 1998 migrants in Spain made a net fiscal contribution of 187 million pesetas (£0.7mn), contributing 335 million pesetas in taxes and receiving the equivalent of 148 million pesetas in government
Source: Home office research, Research, Development and Statistics Directorate, UK

Post-9/11 Policies

In the aftermath of the 9/11 terrorist attacks many Americans became hostile toward immigration because the terrorists who perpetrated the attacks exploited gaping security holes in the US's immigration system. Border security became both an immediate and long-term concern, as the borders with Canada and Mexico were closed for days. President Bush also ordered consular offices to tighten their scrutiny of all visa applicants. Some in Congress are pushing for further action. They would like to see the US perform extensive background checks on potential immigrants as well as a tamperproof visa containing biometric data such as facial screens or thumbprints to prevent impostors from gaining entry. They also want the border and immigration services to move ahead with two major technology initiatives, an automated entry-exit system at border crossings and a Student Exchange Visitor Information System, also known as SEVIS, an Internet-based system that will make it easier for universities to monitor their foreign students more closely.

5.3 Special Problems of South Asian LDCs

LDCs constitute approximately a quarter of the total WTO membership. The situation of LDCs in terms of their share in world commercial services trade is no different from its miniscule share in world merchandise trade. LDCs as a group constitute only 0.4 percent of total world exports of commercial services (with a value of US$7036mn in 2002). LDCs' imports of commercial services as a group are about one percent of world share. However, despite their small global share, services as a share of total trade in individual LDC countries remain of substantial importance. For example, LDCs' commercial services exports, as a share of their total trade is 18 percent on average, which compares favourably with the world average of 20 percent. Similarly, commercial services imports into LDCs,

constitute 26 percent on average, which is higher than the developing country average of 17 percent and even the world average of 18 percent.

Furthering LDCs' interests in services trade negotiations holds an immense importance for the South Asian region as well. Four out of the seven countries of the region have LDC status in the WTO. The trend of services trade from the four LDCs is no different from the general pattern of LDCs' services trade as a group. All the four LDCs of the region are net importer of services. While Bangladesh has a comparative advantage in exporting low-skilled professionals, Nepal, Maldives and Bhutan traditionally are major attractions of international tourists. From the South Asian region Bangladesh has emerged as one of the leading exporters of services among the LDCs.

From South Asian LDCs only Bangladesh and Nepal are members of the WTO at present. As regards their export interests, together they are strong in tourism and movement of low-skilled independent professionals. While Nepal earns a sizeable amount of foreign exchange through tourism, Bangladesh is the second largest recipient of remittances after India in the region. They have not been able to diversify their services exports after the signing of the GATS as increasingly they are facing challenges at both domestic and international fronts. Some of the major challenges reported are a lack of international recognition and a weak profile. Their own governments are not aware of what their capacity is.

Another challenge is the inability to travel abroad due to barriers to temporary movement of natural persons. Because of weak demand for the services at home, private suppliers (and professionals in particular) have to travel abroad, network, attend conferences, work on projects and so on, in order to display their capabilities. However, stringent, expensive and time consuming visa procedures and requirements for temporary entry limit the ability of business persons and professionals to engage in time sensitive appointments and travel. These visa and entry procedures can take several weeks or even months and often involve the requirement of an invitation; the deposit of a financial surety; proof of foreign exchange and travel bookings — even months before the date of expected travel. This involves making a substantial financial commitment without the guarantee that a visa will be granted (Manduna, 2004).

Services firms in LDCs also face very high operating costs because of underdeveloped telecommunications and transport infrastructure, that is, the networks through which these services are exported. Today, the advancement in information technology and e-commerce have significantly increased the scope and the number of services that can be traded cost effectively, creating numerous export opportunities. In cases where they have equivalent qualifications – whatever competitive advantage LDCs may have in terms of lower costs can be easily eroded in the digital economy, due to weak communications infrastructure. Hence, getting access to international marketing and distribution networks and efficient domestic infrastructure are key challenges for services suppliers in LDCs.

An issue of concern to many LDCs is anti-competitive practices. Anti-competitive practices can take many forms, such as the exclusive use or abuse of the Global Distribution System (GDS) and Computer Reservation System (CRS); de-racking

(removing brochures of small hotels from shelves by large tour operators in an attempt to negotiate larger commissions); and price-fixing through monopoly of access.

Another economic concern of the LDCs is the so-called "leakage" problem, particularly in tourism sector, an important sector of export interests to South Asian LDCs. Again due to information technology revolution overseas operators offering tourism services keep most of the income generated by tourism in their own country by offering pre-packaged tours, chain hotel bookings, and cruise boat trips. Although the tourists are physically in the destination country, a significant share of revenue and profit are kept in the originating countries. The governments of destination countries are, however, the ones to bear the cost of tourist infrastructure building and maintenance of the tourist sites. This situation hampers LDCs from achieving the goal of developing a sustainable economy through growth in tourism services .[16]

To achieve the goal of developing a sustainable tourism, a strong "linkage" of the tourism sector with the development of the local economy is needed. Destination countries, particularly LDCs need to ensure that tourists consume locally and the sector must generate profits for local people. Thus, LDCs can utilise local profits to invest in or stimulate other sectors of the economy. If the "leakage" problem continues and "linkage" is not established, the sheer flow of tourists will not allow the LDC destination countries to achieve the desired economic development. On the contrary it will have negative impact on the local people as tourist concentrated cities will suffer from price inflation and conflicts with local residents for the consumption of local resources.

5.3.1 Modalities for the Special Treatment of LDCs

The LDC Members of the WTO put a request at the March 2002 Special Session of the CTS for the inclusion of a specific agenda item on the establishment of modalities for the special treatment of LDCs. These modalities, as those for the treatment of autonomous liberalisation, are mandated by Article XIX.3 of GATS. The LDC group also produced an initial document that outlined the main features that the modalities should take in order to ensure a balanced and sustainable outcome for them in the negotiations. Following this, the WTO Members in September 2003 adopted a Document entitled "Modalities for the Special and Differential Treatment for Least-Developed Countries (LDCs)".[17] This decision strengthens the special treatment provided for by the General Agreement on Trade in Services (GATS) for LDCs. In addition, the decision recommends that requests and offers, presented in accordance with paragraph 15 of the Doha Declaration, be commensurate with the level of development and institutional capacity of LDCs (See Box 2).

However, the progress so far on implementation of LDCs' modalities has been inadequate. It has remained merely a set of good words. Realising the poor implementation, the LDC Group in June 2005 submitted a communication suggesting a four-step process for operationalising the modalities through 1) information gathering of programmes/ initiatives; 2) assessing the collected information; 3) adjusting the programmes/initiatives on the basis of the assessment; and 4) instituting mechanisms to ensure and monitor the effective implementation. The paper suggested that Members should report regularly on the specific actions they had undertaken towards implementation of the provisions of the modalities on providing effective market access to LDCs, in particular under Mode 4.[18]

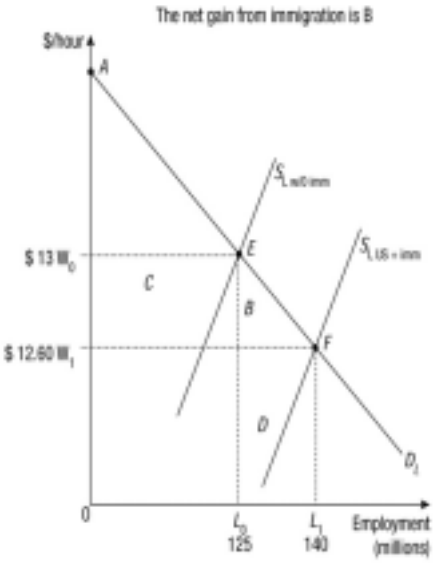
Box 2: Key Features of LDC Modalities
• Members shall exercise restraint in seeking commitments from LDCs in view of their special economic situation. • LDCs shall not be expected to offer full national treatment, nor are they expected to undertake additional commitments under Article XVIII of the GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities. • Members shall, as provided for in Articles IV and XIX of the GATS, give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs. • Members shall take measures, such as strengthening programmes to promote investment, development of infrastructure, reinforcing trade promotion programmes, improving the access of LDCs' services and service suppliers to distribution channels, aimed at increasing the participation of LDCs in trade in services. • Members shall to the extent possible, and consistently with Article XIX of the GATS, consider undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in their requests. • Targeted and coordinated technical assistance and capacity building programmes shall continue to be provided to LDCs in order to strengthen their domestic services capacity, build institutional and human capacity, and enable them to undertake appropriate regulatory reforms.
Source: WTO Document TN/S/13

In its submission the LDC group stated that due to insufficient trade assessment and the lack of targeted technical assistance many LDCs are finding it difficult to identify sectors of their export interest. Nevertheless, they recalled that interest was expressed repeatedly by LDCs regarding sectors such as tourism, construction, professional services, all types of occupations and categories of natural persons.[19] One area of export interest that has been collectively identified by all LDC Members of the WTO is temporary movement of natural persons under Mode 4. This has been stated in the 2004 Dakar Declaration made by LDC trade ministers and is recognised in the July Framework Agreement as well.

6. Services Trade Liberalisation: A "Win-Win" Situation

Economic theory proves that labour movement of all types from lower to higher-wage countries results in allocation of scarce labour resources to their highest value use and allows maximal global production. For example, the wage and employment changes in the US due to an influx of migrant workers in the mid-1990s are illustrated in Figure 1. Without migrant workers, the US would be at E, with 125mn US-born workers earning US$13 an hour. In fact, the US had 15mn migrant workers, which shifted the labour supply to the right, to 140mn at F, and lowered average hourly earnings by 3 percent to US$12.60, according to the National Research Council (Smith and Edmonston, 1997).

Fig 6: The Net Economic Effects of Migration



In Fig 6 the movement from E to F creates two rectangles, C and D, as well as triangle B. Rectangle C represents the reduced wages paid to US workers. These reduced wages do not disappear into thin air, but are transferred to the US' owners of capital and land in the form of higher profits and rents. Because of immigration, the US economy expands by rectangle D and triangle B, with migrant workers getting most of the benefits of this expansion in the form of their wages (D).

The net gain from immigration is triangle B, and its size can be estimated in percentage-of-national-income terms as 0.5 X the estimated 3 percent decrease in US wages due to immigration X 11 percent immigrant share of US labour force X 70 percent share of labour in US national income, or 0.5 X 0.002 = 0.001, which means that US national income was about 1/10 of 1 percent or about US$8bn higher in 1997 because of immigration (Smith and Edmonston, 1997).

The findings of several studies indicate that services is one such sector where trade liberalisation could result in a "win-win" situation. Whether it is greater mobility of temporary workers, the offshoring of services, increased foreign direct investment or

tourism, all have potential to bring benefits for both service suppliers and recipients' nations. At present a larger part of services trade is taking place through foreign direct investment, which in GATS parlance we call trade through commercial presence (Mode 3). Since foreign direct investment requires flow of capital, it has largely benefited the developed North, which has abundant capital. The share of services trade through temporary movement of workers is miniscule. This mode is likely to bring benefits to developing countries as well. Outsourcing is fast emerging as one of the most dynamic sectors of the world economy, giving rise to new trade opportunities for developing and developed countries.

Mode 1 – Cross-Border Trade

There are several reasons, which are being cited behind this "win-win" scenario. Globalisation is increasingly putting pressure on firms worldwide to look for various cost-cutting methods to enhance their competitiveness. The enterprises in developed countries are finding outsourcing as one of the most convenient ways to save costs by taking advantage of low-wage countries. Some studies have attempted to assess the implications of outsourcing on a sector- and country-specific basis. In the case of professional services, an industry study conducted for the USA shows that, of the approximately US$1.45–1.47 of value derived from every dollar spent offshore, US firms receive US$1.12-1.14, while supplying firms receive 33 cents of the value.[20]

Savings from outsourcing can be significant as wages for software developers and data entry agents in India can be a tenth of those in the US. The attraction for companies is clear. For instance General Electric saves about US$350mn a year through outsourcing to India; GlaxoSmithKline expects to save around 35 percent a year on its ICT budget; and the US banking industry has saved US$2bn per year in the last four years. Services quality does not suffer, and productivity can rise by 15-25 percent, as these jobs attract skilled, motivated workers in developing countries.

The study, conducted by Global Insight, found that worldwide sourcing of IT services and software generated an additional 257,042 net new US jobs in 2005, a number that is expected to rise to 337,625 by 2010. With low inflation and high productivity, global sourcing also increased real hourly wages in the US by US$0.06 in 2005. The report added that worldwide sourcing contributed US$68.7bn in real US GDP. The total cost savings from outsourcing of computer software and services will grow from US$8.7bn in 2005 to US$20.4bn in 2010, much of which will be reinvested in the US. Global sourcing contributed $5.1bn to US exports in 2005 and is expected to grow to US$9.7bn by 2010.[21]

The study found that raising barriers to worldwide sourcing would adversely impact US workers and US firms. If all global sourcing of software and IT services terminated completely, the impact would slow the US economy and actually reduce the number of new jobs available to American workers.

A similar study done by US consultancy firm McKinsey Global Institute exploded a number of myths associated with offshoring of white-collar jobs to India. The report argues that given the strength of the US services industries, increased trade in services is even more likely to be a substantial plus for Americans. The US has always and continues to run a trade surplus in services, even with India. It has the most productive

and developed service sector of any country in the world, and unlike manufacturing, it continues to hold a comparative advantage in these knowledge-based industries.

The report further counters the argument that low-wage nations are taking American jobs. The fact is that many of the jobs in India today are viable only in a low-wage environment and would not exist in the United States. That half a million people are now employed in India's outsourcing industry does not mean that there could be 500,000 more jobs in the US. Critics frequently point out that more than two million American jobs have been lost since 2000. But nearly all jobs lost were actually in manufacturing, not service sectors. Moreover, employment in IT, which is supposedly one of the hardest hit by offshoring, has actually grown since 1999. While it is true that 70,000 computer programmers have lost their jobs, most of these losses were due to the bursting of the IT bubble. In addition, more than 115,000 higher-paid software engineering jobs were created during that period. Jobs for computer support specialists and systems analysts and administrators grew by roughly 83,000.

Box 3: IT Outsourcing and the US Economy

- Worldwide sourcing of IT services and software increases total employment in the US. This activity generated an additional 257,042 net new U.S. jobs in 2005; by 2010, net new jobs will total 337,625;
- With inflation kept low and productivity high, worldwide sourcing will increase real hourly wages in the U.S. by US$0.06 in 2005, climbing to US$0.12 in 2010;
- Worldwide sourcing contributes significantly to real U.S. Gross Domestic Product, adding US$68.7bn in 2005. By 2010, the real GDP will be US$147.4bn higher than it would be in an environment in which offshore IT software and services outsourcing does not occur;
- Spending for global sourcing of computer software and services will grow at a compound annual rate of 20 percent, from approximately US$15.2bn in 2005 to US$38.2bn in 2010. Total spending on software and services will also continue to increase in the U.S. During the same time period, total cost savings from worldwide sourcing of computer software and services will grow from US$8.7bn to US$20.4bn, much of which will be reinvested in the U.S.;
- Demand for U.S. exports increases due to global sourcing. Countries can buy more because they can sell more; the U.S. has more to sell through increased investment in new products and services, better productivity and lower inflation. Global sourcing contributed US$5.1bn to U.S. exports in 2005, growing to US$9.7bn by 2010.

Source: Global Insight (2005), *The Impact of Offshore IT Software and Services Outsourcing on the U.S. Economy and the IT Industry*

Box 4: Offshoring: Gains to the US Economy
• ***Corporate Savings:*** For every dollar of corporate spending that moves offshore, the US economy saves 58 cents. • ***Additional Exports:*** For every dollar of corporate spending that moves offshore, suppliers of offshore services buy five cents worth of goods and services from the US. Exports from the US to India stood at US$4.1bn in 2002, compared with less than US$205mn in 1990. • ***Repatriated Profits:*** Many Indian outsourcing firms are owned in whole or in part by US companies such as GE and EDS, which repatriate their earnings back to the US. Such companies generate 30 percent of the revenues of the Indian offshore industry. In this way another four cents of every dollar spent on outsourcing returns to the US economy. • ***Productivity and New Jobs:*** The direct benefits to the US from corporate savings, new exports, and repatriated profits total $0.67 per single dollar spent on outsourcing. This is twice the benefit ($0.33) to India.
Source: McKinsey Global Institute (2004), "Exploding the Myths About Offshoring", McKinsey & Company

Mode 4 – Temporary Movement of Natural Persons

As regards temporary movement of natural persons, the need arises primarily because of two main reasons - changing demographic composition of developed countries and poor preferences among locals for some low-skilled jobs. The demographic and economic trends from 2000 to 2050 are projected to reduce labour supply in many of the major developed countries such as the US, Australia and Germany. The factors likely to affect the future low skilled labour supply in developed countries are – early retirement, aging population, falling birth rate, increase in affluence of population, growth/productivity in cities, and time spent in higher education of young population (McDonald and Kippen, 2001)

According to the UN demographic projections the Big 4 EU countries—France, Germany, Italy, and the UK—include two-thirds of EU residents and received about 88 percent of EU immigrants in 1995. If the Big 4 wanted to maintain their 1995 populations at current fertility rates, they would have to triple immigration levels, from 237,000 a year to 677,000 a year, with the greatest increase in Italy. To maintain their 1995 labour forces, the Big 4 would have to increase immigration to 1.1 million a year. Finally, to "save social security," to keep the ratio of persons 18 to 64 years old to persons 65 and older stable, the Big 4 would have to increase immigration 37-fold, to almost 9 million a year, largely because people are living longer but assumed to retire at 65.[22]

The majority of OECD countries seem to be suffering from nurse shortages. Some countries have published estimates of how many headcounts or full-time equivalent nurses per year over the next decade would be needed to match demand for and supply of nurses. Australia reports a shortage of around 6,000 registered nurses (around three percent of practicing registered nurses) (Access Economics, 2004, and O'Hagan, 2002). Conservative estimates of Canada's shortage of registered nurses put the number in the

range of 16,000 (Canadian Nursing Advisory Committee, 2002) or 6.9 percent of the present workforce. The Netherlands has reported a shortage of 7,000 nurses (one percent of the practicing registered nurse workforce). The shortage of nurses in Norway has been estimated at 3,300 full-time equivalents or about 5.4 percent of practicing nurses (Askildsen et al., 2003). There are 3,000 (4.6 percent) fewer generalist nurses in Switzerland than required (Irwin, 2001). The US government reported a shortage of 110,700 registered nurses (five percent of the practicing registered nurse workforce) in 2000 (National Centre for Health Workforce Analysis, 2002).

Indian nurses are in great demand in the United States where the present requirement of nurses is 126,000 which is expected to touch 200,000 next year and cross the one million mark by 2015, an organisation involved in hiring nurses for that country claimed. Every year an average of 1,000 Indian nurses make to the US to fill in this critical demand.[23]

Last year the Australian and the New Zealand governments placed accounting professionals on an official list of skills that are in short supply. "The recruitment industry doesn't create a new population, so a lot of work we do is to look outside the traditional group. Right now, we are simply moving people around the industry without the net number increasing, so we have to look at alternative populations," says Graham Doyle, regional director for Hays Recruitment in Sydney. The government is being urged to relax its visa regulations for foreign graduates. Some organisations are outsourcing a number of accounting functions, and have established subsidiaries in India to handle their outflow. In addition to alleviating the skills shortage, this cuts costs. This kind of arrangement is likely to become more formalised over the next few years, with plans afoot for some firms to establish Indian centres that will provide accounting services to Australian companies, as they do now with Information Technology.[24]

OECD countries may soon face the shortage of school teachers as student enrolment levels rise while older teachers retire and not enough younger people join the profession, according to the 2003 edition of the OECD's Education at a Glance. In 15 out of 19 OECD countries for which data are available, most primary school teachers are at least 40 years old, the report says. In Italy and Germany almost half of secondary teachers are aged over 50 and in Sweden, Iceland, the Netherlands, Norway, Finland and New Zealand still more than one third.

These countries will face particular challenges in recruiting new teachers to avoid future shortages in teaching staff. Compared with 1998, the average proportion of teachers aged 50 years or over increased on average by 1.8 percentage points in secondary education and in Finland, Germany, Ireland and the United Kingdom by more than 4 percentage points, according to the OECD's annual compendium of comparative educational statistics.

7. Current Status of Commitment under GATS

The Uruguay round of trade negotiations achieved limited liberalisation on trade in services. Most of the members were apprehensive of undertaking larger commitments under GATS, as they were not sure about the future benefits. A total of only 96 members made commitments in services. A close analysis reveals that countries at best bound the status quo and in fact in many cases there was a roll back from the existing regime. In movement of natural persons (Mode 4), where many developing countries including India has comparative advantage, the commitment level from developed countries is very low.

The fresh negotiations on services started in the year 2000 with a new approach of "requests and offers". However, till recently, only six proposals were tabled relating to Mode 4, by the United States, the EU, Japan, Canada, India and Colombia. The proposals reflect a wide variety of ambitions, from enhancing the transparency of the current regimes to securing market access, including the abolition of economic needs tests and the introduction of a GATS visa.

An analysis of the commitment schedules show that the sectoral coverage was poor and countries were more willing to open up less controversial sectors and modes of delivery of services. A large number of commitments were in sectors such as tourism while social sectors such as health and education received very few commitments. Commitments by modes of supply show that 50 percent of the members undertook full commitment in Mode 2, 30 percent in Mode 1, 20 percent in Mode 3 and virtually none of the countries scheduled sector specific commitments in Mode 4 (Mukherjee, 2005).

There has been an increase in cross-border exports of commercial services from US$760bn in 1995 to US$1500bn in 2004. The rates of growth of cross border exports have risen sharply from 5.4 percent in 1995-2000 to around 10 percent in 2000-2004 and this growth has been uniform for both developed and developing countries. However, existing commitments under GATS are much lower in Mode 1. It has the largest share of "Unbound" entries partly because of an original lack of technological feasibility, a situation which is largely no longer true, as many such activities are now becoming increasingly commercially viable and technically feasible.[25]

The situation has not changed drastically with the Initial Offers by Members in spite of above-mentioned developments. Mode 1 continues to have the largest share of unbound entries. Foe example, more than 40 percent of new sectoral entries leave Mode 1 unbound. Less than 30 percent of existing sectoral entries have been improved in Mode 1. However, at the same time it has also been experienced clearly that access regimes are relatively

liberal in reality. All this seems to suggest the need for locking in such liberalisation through wider commitments.[26]

In the run-up to the July Framework Agreement many members, developed and developing alike, were interested in ensuring that the services area would be given adequate prominence and the idea was raised to send recommendations from the negotiating group on how to proceed with the GATS talks. The recommendations, laid out in a report to the Trade Negotiations Committee, expressed that 1) Members, which had failed to submit initial offers must do so as soon as possible; 2) a date should be established for the submission of revised offers; 3) the rules negotiations should be concluded in accordance with the respective mandates and deadlines; and 4) the negotiating body shall review progress in the services talks before the Hong Kong Ministerial Conference and provide a full report with possible recommendations.

The General Council Decision was finalised and adopted on 31st July 2004 with annexes on agriculture, non-agricultural market access, services and trade facilitation. The decision reaffirmed the Doha Ministerial Declarations and Decisions, emphasised the resolve of Members to complete the Work Programme fully and conclude the negotiations started at Doha successfully. It prolonged the negotiations beyond the original deadline of 1 January 2005, but did not set a new end-date for the round. Following the July Decision, Members fixed May 2005 as a target date for the submission of revised services offers. Members were urged to make high quality offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to LDCs.

8. South Asia's Approach in Doha Round

The approach of South Asian countries, especially India, towards services negotiation was significantly different from their stance in the Uruguay Round. This change in position resulted from the fact that India, which is the main player in South Asia, has experienced a robust growth in services sector in the 1990s. During the 1990s, the Indian service sector grew at an average annual rate of 9 percent, contributing to nearly sixty percent of the overall growth rate of the economy. At the same time, India's exports of services displayed one of the fastest rates of growth in the world – over 17 percent per annum in the 1990s – and grew two and a half times faster than the domestically focused part of the services sector.[27]

A year before the launch of the Doha Round of trade negotiations, India made one of the most comprehensive submissions **(**S/CSS/W/12**)**[28] on the movement of professionals before the Council for Trade in Services (Special Session). India through its submission has tried to make an assessment of the nature of liberalisation that has taken place in Mode 4 under the existing GATS framework and the extent to which the objectives of Article IV of GATS have been operationalised through liberalisation in this mode, of significant export interest to developing countries. This paper then identifies the key barriers to the movement of professionals and the specific problems with the existing commitments undertaken by Member countries. Finally, it suggests possible strategies and approaches to achieving meaningful liberalisation in this area, which is of great relevance to many developing countries and could contribute to effective implementation of Article IV of GATS.

Immediately after the launch of a new round of trade negotiations in Doha in November 2001, Pakistan and Sri Lanka along with some other developing countries made a comprehensive submission (S/CSS/W/131)[29] before the Council for Trade in Services (Special Session), calling for effective implementation of Article IV of GATS. The proposal outlined the important elements of Article IV, in the context of the broad special & differential treatment for developing countries and suggested practical means to implement the objectives given in the preamble of the GATS.

Article IV is mandated to provide special & differential treatment to developing countries, with special priority for the LDCs through specific commitments, mainly by developed country Members. This must leads to tangible increase in the participation of developing country Members in world trade in services. This can be achieved through liberalisation of market access in sectors and modes of supply of export interest to developing country and also through access to information, distribution channels and technology.

Ever since the launch of Doha round of trade negotiations in 2001 India has been one of the most vocal chords advocating for services trade liberalisation, particularly under mode 1 and mode 4. Prior to the Cancun Ministerial Conference, India and Pakistan along with some other developing countries in July 2003 made a first collective proposal (TN/S/W/14)[30] on mode 4, regretting the lack of substantial improvements in the offer submitted at that time (26 in total), and proposed the following approach:

- Use of common categories of persons, both linked and de-linked from commercial presence in the horizontal section of Members' schedules. Such categories are: (a) Intra-corporate Transferees; (b) Business Visitors; (c) Contractual Services Suppliers; and (d) Independent Professionals.

- Further sector specific commitments to allow for deeper liberalisation, particularly at (lower) skill levels not covered in broad horizontal commitments.

- Establishment of a separate visa or separate sub-set of procedures for temporary movement.

- Additional commitments under Article XVIII GATS regarding transparency and procedural aspects affecting temporary entry and stay. These additional commitments could cover procedures for verifying a foreign service provider's competence to provide the service. The idea would be to introduce a hierarchy of measures with the burden of proof being placed on the domestic regulator to move from a less burdensome measure to a more burdensome one. For example, it may be considered that administering a test of the foreign service provider's competence and/or educational attainment to verify the foreign service provider's competence is the least burdensome measure. Only where it was *necessary* would a foreign service provider be required to make up objectively verifiable deficiencies in their education, training and experience.

- Elimination of Economic Needs Tests applicable to the common categories identified above.

- Development of disciplines under Article VI:4 of GATS covering the areas of qualification requirements and procedures, licensing requirements and procedures and technical standards.

- Strengthening the framework for Recognition Agreements under Article VII of GATS through (i) compliance with notification and consultation requirements; and (ii) development of possible multilateral guidelines and principles guiding the establishment of such Recognition Agreements, with a view to including them as Additional Commitments under Article XVIII GATS.

The period since the failed Cancun Ministerial witnessed more active participation by developing countries in services negotiations. From South Asia, India and Pakistan made several joint submissions along with other developing countries suggesting ways to accelerate the GATS negotiations and also expressed the concerns of developing countries. The proposals from developing countries intended to initiate a discussion in

the Council for Trade in Services in its Special Session about the extent to which Article IV of the GATS is being implemented in the on-going negotiations. In addition, in February 2005, India and Pakistan along with ten other developing country members of the WTO made a submission (TN/S/W/31)[31] before the Council for Trade in Services Special Session seeking broadening of coverage of categories of Natural Persons under the horizontal commitments.

Mode 1, i.e., cross border trade, is fast emerging as an important mode of delivery of a wide range of services especially through electronic means. India, which has a major stake in trade under this mode of service supply, has made quite a few submissions along with Mexico, Chile, Hong Kong China, and Australia, highlighting the poor level of commitments and emergence of certain protectionist backlash. In their submission (JOB(04)/87)[32] to the Council for Trade in Services Special Session urged WTO Members to lock in the current liberal regimes in Mode 1, thereby preventing future protectionist actions.

The same group of countries made two more submissions before the Council for Trade in Services Special Session in 2005. In their submission (JOB(05)/90), they demanded discussions to focus on the following issues in Mode 1:

- Developing a possible list of commercially meaningful and clearly specified sectors/ sub-sectors/activities including those, which capture the emerging business opportunities for purposes of taking commitments. The issue of how best to take into account newly emerging services without unnecessarily getting bogged down in classification debates could also be considered;
- Possibility of collective understanding on nature of commitments that can be taken across any such list;
- Possibility of supplementing the Request-Offer process to achieve effective commitments within this round - use of Model Schedule, Understanding, etc.;
- Regulatory concerns specific to cross-border supply and their relationship with any possible disciplines under Article VI:4.

The group made another submission (JOB(05)/214)[33] in September 2005, in which they attempt to provide greater focus and specifity to the issues mentioned in previous communication.

9. *Possible Future Negotiating Strategy*

The current Doha round of trade negotiations has entered into a crucial phase. India being the leader of developing countries and also the largest country in the South Asian region needs to protect the interests of a larger group of developing countries. Among South Asian countries, obviously Mode 4 is one common area of interest. South Asian LDCs viz, Bangladesh and Nepal have also supported India's stand on Mode 4. From LDCs perspective, the major challenge is how to operationalise modalities for their special treatment agreed in September 2003. In addition, for India in particular there is a need to lock in the current liberalised trade of services under Mode 1, especially business process outsourcing.

On Mode 4, what is immediately required is easing of restrictions on existing commitments. At present, while many schemes facilitate the mobility of the highly skilled, relatively few cover the moderately or low skilled workers of interest to developing countries. While intracorporate transferees enjoy relatively easier conditions for mobility, groups that are more important to developing countries (particularly South Asia) such as contractual or independent service suppliers face several restrictions. Keeping in view of this fact, South Asian countries must ask for expansion of commitments in categories delinked with commercial presence (Mode 3). Elimination of economic needs tests will help low-skilled and independent professionals.

The GATS negotiations are slowly getting complex as USA and other developed countries are raising security issues. As per the July framework, developed countries were supposed to improve their Mode 4 offers substantially. But, both the USA and the EU disappointed developing countries by not improving the quality of their offers. The USA also debarred its USTR from negotiating visa related matters under GATS as it touches upon immigration issues.

Undoubtedly security concerns are important for any country. We need to find out solutions within the GATS framework. That is why the concept of GATS visa was proposed by India and other developing countries. Some of the legislations which are pending before the US Congress in fact support the concept of temporary workers visa. South Asian countries may also demand for a stand alone agreement on Mode 4 having features like short-term GATS visa, no requirement of ENTs, strict provisions for return migration etc. These provisions will address the concerns of both developed and developing countries.

From LDCs perspective the two issues of utmost importance are – implementaion of Article IV of GATS and fuller operationalisation of LDCs' modalities adopted in September 2003. Article IV forms the cornerstone of S&DT provisions for developing countries,

especially LDCs. WTO Members, particularly developed country members must take the appropriate actions on the lines suggested by different groups/alliances of developing countries in their submissions (S/CSS/W/131, JOB(05/114 & TN/S/W/16)) to the CTSSS. Some of the urgent steps required on behalf of developed country Members are providing meaningful access in the identified sectors and modes of supply of export interest to individual developing countries, particularly LDCs. Besides, the rich country should also take effective actions to facilitate developing country service providers' access to technology, distribution channels and information networks. As regards implementation of LDCs' modalities, the recent submission by LDC group could be a good beginning point and Members must follow the recommendations seriously.

Market access to sectors and modes of service supply of export interest to LDCs is common in both Article IV and LDCs' modalities. Categories of natural persons as classified in ISCO-88 (International Standard Classification of Occupations – 88) could be considered for providing special treatment to LDCs in market access negotiations. The ISCO-88 has in place many categories of low skill occupations, ranging from waiters to hairdressers. The ISCO-88 is an internationally adopted classification of occupational groups. It holds the same status as the UN CPC classification on service sectors, which is used by Members to schedule sectoral commitments. Thus there is no barrier to utilising the ISCO-88 categories of occupations in offers for commitments in mode 4. India, way back in 2000 submiited a communication which included incorporating ISCO-88 within the WTO Services Sectoral Classification List (MTN/GNS/W/120) as a possible strategy or approach to increasing liberalisation in mode 4.[34]

On Mode 1, i.e., business process outsourcing, the immediate priority should be to lock in the current liberal regime of trade using the ongoing negotiation under GATS. Realising that this is not a common interest area of all South Asian countries, India has been pursuing this issue along with other countries, such as Mexico, Chile, Philippines etc. who have similar interest in business process outsourcing. India, so far has not been hit negatively by several of the protectionist initiatives in the US and some other developed countries as these measures mainly involve government procurement contracts. But, it reopens the debate on government procurement, currently excluded from the GATS rules, which enable countries to discriminate. It would also force many WTO Members to reassess their current position on disciplines on government procurement in GATS.

Endnotes

1 See International Trade Statistics 2004, WTO

2 See World Trade Report 2005, WTO

3 South Asia Development and Cooperation Report 2004.

4 See International Trade Statistics 2004, WTO

5 See Independent Bangladesh, 7 January 2002

6 See Global Economic Prospects 2006

7 Hawala and Hundi are terms that can be used interchangeably for informal cash transactions, typically hawala is used in the context of the Middle Eastern countries, and hundi is usually connected with South Asia.

8 See Dawn, 23 February 2002.

9 Commercial services is defined as being equal to services minus government services, n.i.e Commercial services is further sub-divided into transport, travel and other commercial services, which include communication, construction, insurance, financial, computer & information, audiovisual services etc.

10 See World Trade Report 2005, WTO

11 An RCA index with value greater than unity indicates a comparative advantage in the concerned sector, while a value less than unity indicates a comparative disadvantage.

12 See Asian Migration News, 31st August 2001

13 See Asian Migration News, 16-31st January 2003

14

15 See Statistical Handbook on Migration, 2001, Bureau of Foreign Employment, Sri Lanka.

16 See South Centre Analytical Note SC/TADP/AN/SV/8, November 2004.

17 WTO Document TN/S/13

18 WTO Document JOB(05)/114

19 Ibid

20 Chamber of Commerce of the United States, "Jobs, Trade, Sourcing and the Future of the American Workforce", April 2004.

21 See Global Insight (2005), The Impact of Offshore IT Software and Services Outsourcing on the U.S. Economy and the IT Industry

22 See, United Nations, "Replacement Migration: Is It A Situation to Declining And Aging Population?"

23 "Wanted: 1.26 lakh nurses in US" http://in.rediff.com/money/2005/oct/17nurse.htm, Website visited on 2005.10.17

24 "Australia and New Zealand Lack Accountants", Financial Times, 2005.05.05

25 See WTO Document JOB(05)/90, Communication from Australia, Chile, Hong Kong China, India, Mexico and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

26 Ibid

27 See World Bank (2004), "Sustaining India's Services Revolution", The World Bank, South Asia region, India.

28 Communication from India to the Council for Trade in Services Special Session, 24 November 2000

29 Communication from Cuba, Pakistan, Senegal, Sri Lanka, Tanzania, Uganda, Zambia, and Zimbabwe, 6 December 2001

30 Communication from Argentina, Bolivia, Chile, The People's Republic of China, Colombia, Dominican Republic, Egypt, Guatemala, India, Mexico, Pakistan, Peru, Philippines, and Thailand, 3 July 2003

31 Communication from Argentina, Bolivia, Brazil, Chile, Colombia, India, Mexico, Pakistan, Peru, Philippines, Thailand and Uruguay, 18 February 2005.

32 Communication from Chile, India and Mexico, 28 June 2004

33 Communication from Chile, Hong Kong, China, India and Mexico, 29 September 2005.

34 South Centre Analytical Note SC/TADP/AN/SV/12, February 2005

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Annexure 1

Questionnaire
Stakeholder Perception Survey on Outsourcing
(Mode1 of Service Trade)

A. Identification of the Respondent

Name: _____

Name of the Company: _____

Address: _____

Telephone No: _____ Fax No: _____

Email Address: _____ Website: _____

Date of Response: _____

B. Service Trade Information

1. Trade with: **Government Company** ☐ **Non Government company**

2. Name of the outsourcing company:

3. Country where Service is exported:

4. Type of job Outsourced:

   a) Information technology services: **Yes** ☐ **No** ☐
   Name of the Service:

   b) Business Process Outsourcing:

      i. Customer Interaction Service: **Yes** ☐ **No** ☐

      ii. Back Office Operation: **Yes** ☐ **No** ☐

      iii. More Independent professional /Business Service: **Yes** ☐ **No** ☐

5. Name of the Service Provided: _____

6. No of Years in Operation: _____

C. Trade related information

1. Is the service you are providing directly specified in the GATS sectoral classification list?

_____

_____

_____

2. If not, are you facing any trade relate problem due to the inadequate legislations of the service?

_____

_____

_____

3. Do you get full access to the importing country's market for the service you are exporting?

_____

_____

_____

4. What are the different tariff/non-tariff protectionism measures used by the importing country to restrict trade in service?

_____

_____

_____

5. Is your service graded as per the universal grading standards?

_____

_____

_____

6. Do you export the same services or have moved up the value chain to provide more integrated web enabled and expert based services?

_____

_____

_____

7. Do the anti outsourcing bills passed /pending has any impact on your export earning?

_____

_____

_____

8. Back lashing from trade unions/ political opposition has in any way influenced the outsourcing of jobs to your company?

_____

_____

_____

9. Do you face any discrimination as Foreign Service provider in the importing country?

_____

_____

_____

10. Have you faced any back lashing due to lack of adequate data protection?
Yes ☐ **NO** ☐

11. If yes how do you tackle the back lashing?

_____

_____

_____

12. How much the taxation Policy of the importer country affects your trade?

_____

_____

_____

13. Do you thing India should also liberalise all the service sector as demanded by the other countries?

_____

_____

_____

14. Outsourcing the jobs to you, how it has influenced the employment decision of the outsourcing company?

_____

_____

_____

D. ***Competition related information***

1. On what areas are you facing competition from other countries?

_____

_____

_____

2. How this competition has influenced your competitive advantage in service trade?

_____

_____

_____

3. Which factor has more impact on your company's trade performance (Arrange in 1 to 6 preference scale)?

   i. Rising wage rate ☐

   ii. Government taxation policy ☐

   iii. High attrition rate ☐

   iv. Communication language ☐

   v. Poor Infrastructure ☐

   vi. Any other factors ☐

Other factors?

Why?

5. How are the Indian governments' trade legislations on Service influencing the revenue generation pattern of your company?

_____

_____

_____

6. What type of policy support do you expect from the government for the Outsourcing industry both at:

a. National level: _____

b. International level: _____