

**Trade in Services
Problems and Solutions for Pakistan**

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CAREC Workshop in Trade in Services

14-16 May 2012 at Almaty

Services Negotiations on Market Access and Rules.

- Services negotiations are focused in the areas of Market Access and Rules.
- To get markets access from trading partners Members are/were engaged in bilateral request offer process and tabled their initial offers but process was found slow and showed no tangible results.
- It was supplemented with the plurilateral request offer method. in which Members sharing common interests in certain services sectors sent joint requests to another group of Members in whose markets they were interested.
- A deadline of 31 July 2006 was agreed upon in Hong Kong for tabling revised or the re-revised offers.
- In November 2006 Members acknowledged that services negotiations would only take off after some tangible breakthrough in Agriculture and NAMA negotiations.

Services Negotiations on Market Access and Rules.

- Full-fledged negotiations began in end of Jan-Feb 2007.
- In April 2007 a round of plurilateral meetings was held in which delegations exchanged views on the progress made in domestic processes and their inability to meet certain requests and the reasons thereof.
- Since the Hong Kong Ministerial four rounds of plurilateral and six rounds of bilateral meetings have been held.
- In rules, negotiations were progressed in Article 6.4, for disciplines in domestic regulations.
- Members sought disciplines to ensure transparency of regulations and a balance between regulatory autonomy.
- Members felt that, qualification requirements and procedures, licensing requirements and procedures and international standards should not be used as disguised protection.

Services Negotiations on Market Access and Rules.

- In November 2007, a consultation process on **the elements needed to conclude** services negotiations in the context of the DDA single undertaking was started, for a possible multilateral text for adoption by Members.
- In April 2008 the demanders (Australia, Canada, EC, Japan, Korea, New Zealand, Norway, Chinese Taipei, Switzerland and the United States) said that they need a 'Services Signalling Meeting' at the Ministerial level.
- They declare that 'Services negotiations' are of paramount importance to them and they need a sufficient understanding at Ministerial level.

Services Negotiations on Market Access and Rules.

- The developing countries insist that the Hong Kong Ministerial Decision, Annex-C was a very comprehensive document and no new multilateral text is required.
- They agreed to negotiate such a text provided it recognized all the GATS flexibilities and adhered to Annex-C.
- The developed countries see 'services negotiations' as the third pillar of market access in the Doha round.
- Developing countries, say that 'services negotiations' are not market access alone; they are 'Rules and Domestic Regulations' negotiations too.
- Few developing countries felt that there was no need for a services text and the Annex-C a multilateral document is sufficient. They were unwilling for any addition in it.

Services Negotiations on Market Access and Rules.

- The developed countries seek commitments as per current regimes in terms of ambition while recognizing all flexibilities in GATS and other documents as negotiating guidelines.
- They are comfortable in recording commitments in regional arrangements but are reluctant to do so in their WTO offers in the same areas.
- They want a 'comparable level' of ambition in Agriculture, NAMA and Services.
- They wish to annex the '22' plurilateral requests to the proposed text.
- They proposed an annex to summary of current state of play in the market access negotiations.

Services Negotiations on Market Access and Rules.

- The developing countries are against to both annexes and mentioning 'comparability' in ambition as well as mentioning endeavors to make offers based upon the current state of liberalization.
- Few developing countries did not stress on comparability etc. They tried to have a workable text that would be largely acceptable.
- They stressed that the objective was to get an ambitious outcome in services.
- Brazil, India, China, Argentina, Pakistan and South Africa came up with a text that 'made Annex-C operational' while subscribing to all existing GATS elements like positive listing and maintaining other flexibilities.
- Other reiterated their demand for keeping Annex-C as the basis.

Negotiations on Rules

- **SUBSIDIES:** The 'negotiating guidelines' of the ongoing services negotiations state that Members should complete negotiations on services subsidies prior to the conclusion of the services market access negotiations.
- The progress has been slow with members still not having consensus on how to go about information exchange.

Negotiations on Rules

- **ESM: Emergency safeguard mechanism:**
The ASEAN Countries are strong proponents while other developing countries believe that such a mechanism could be used against developing countries by developed countries and by developing countries against each other. Others opine that a fire escape is necessary even if never used. Developed countries also do not favour an ESM.

Negotiations on Rules

- **Government procurement in services Article 13 of GATS:**
The European Communities are the proponents and presented a communication on the structure of an annex to the GATS on procedural rules for government procurement.
- A number of developing countries take the stance that the negotiating mandate under Article XIII did not entail market access issues and refuse to engage.
- Some developing countries also opine that since members have agreed not to have negotiations on the Singapore issue of transparency in government procurement how could negotiations on services government procurement go ahead.
- Others argue that the mandate is provided for negotiations in government procurement in Article XIII of GATS. No significant progress has been made.

Disciplines on domestic regulations

The General Agreement on Trade in Services (GATS) recognizes the right of members to regulate and introduce new regulations to meet national policy objectives like

1. Quality of service,
 2. Safety of consumers,
 3. Code of conduct etc.
- Such regulations must be reasonable, objectively and impartially enforced.
 - A balance is required between market access provided to service suppliers and the domestic regulations affecting the supply of that service/service supplier.
 - It should be ensured that market access recorded in schedules will not be rendered useless by excessively restrictive and burdensome regulations.

GATS Flexibilities

- Members should open sectors of their choice and to the extent they want with a positive list approach.
- Developing country flexibilities call for opening up of market access for sectors and modes of supply of export interest to them.
- They should be allowed to use their regulatory regimes for national policy objectives.
- These should also be provided for strengthening their domestic service capacity and efficiency through access to technology etc.

Four Rounds of Plurilateral Meetings Held in 2006-07

The first round of Plurilateral meetings was held in March-April 2006 and second in May 2006.

In all the requests a common chapeau had been agreed upon that specifies that all GATS flexibilities available to developing countries are recognized by requesting members and allow recipient developing countries to keep from making commitments in their sensitive sectors.

Members co sponsoring a request are deemed to be recipients of that request as well.

All members found the meetings useful in clarifying their queries and understanding the point of view of the requesting and requested members.

In the second round of meetings coordinators of only fifteen of the 20 groups decided to hold Plurilateral meetings in May 2006.

After the resumption of negotiations bilateral meetings were held in end January, early February and September 2007 in a full cluster of services meetings.

In April 2007 a full cluster of services meetings was held that included a round of plurilateral meetings as well as bilateral meetings where Members provided updates on the progress made in the process of consultations.

The information shared was based on what was 'doable' what was a 'must have' and what were their 'red lines'

Plurilateral Collective Requests:

A total of 20 requests have been made by WTO Members in the following sectors/areas:

1. Computer and Related Services,
2. Cross-Border Supply,
3. Telecommunications,
4. Education Services,
5. Audio visual Services,
6. Maritime Transport,
7. Air Transport,
8. Postal and Courier Services, including Express Delivery,
9. Distribution Services,
10. Logistics,
11. Mode 4,
12. Environment Services,
13. Construction Services,
14. Architecture and Engineering *Services*,
15. Legal Services,
16. Energy Services,
17. Mode 3,
18. MFN Exemptions,
19. Financial Services,
20. Services Related to Agriculture.

Enchilada process

- On the pattern of the Chair's 'fire side chats' in Agriculture, the Services negotiations (Special Session) Chair, Ambassador De Mateo of Mexico held 'Enchilada' meetings at the Ambassadorial level.
- In these meetings mainly all those delegations who received or co-sponsored plurilateral requests were invited and the Ambassadors discussed how far the requests can be met by each member.
- The EC, US and other demanders were of the view that the membership needs to give them some concrete assurance that the requests made bilaterally and plurilaterally will be met.

Pakistan's Position on domestic regulations

Any disciplines relating to the five elements vis-à-vis 1) qualification requirements And 2) procedures, 3) technical standards and 4) licensing requirements and 5) procedures

- Pakistan's opinion is that these disciplines should not constitute unnecessary barriers to trade in services and should not be more burdensome than necessary to ensure the quality of the service.
- In the case of licensing procedure, not in themselves a restriction on the supply of the services.
- Pakistan has offensive interests in disciplines on qualification requirements and procedures in domestic regulations to complement policy of seeking great Mode 4 market access which may be rendered ineffective through onerous domestic regulations
- Pakistan is expecting that Members will come up with draft disciplines in this area in the current round.
- Pakistan is a cosponsored of a paper with India, Thailand, Chile, Mexico on having less burdensome qualification requirements and procedures (**JOB(05)/50**)
- Pakistan is a strong advocate for balanced progress in rules and market access.

Pakistan's Position on domestic regulations

- On 24th May 2006, Pakistan and China tabled a joint paper on licensing requirements, procedures and standards etc (**JOB(06)/158**,
- Pakistan proposed that disciplines on Domestic Regulation Under Article VI.4 of the GATS) licensing requirements, procedures and standards should be used in a balanced manner to allow effective market access without compromising on regulatory objectives like consumer protection and quality of the service.
- Pakistan proposed that effective regulatory regimes should be prescribed as an indispensable requirement for successful liberalization of services sectors.
- Pakistan also proposed that regulatory bodies are essential to check market failures and need space for achieving social objectives.
- Pakistan stated that Members may apply licensing requirements, qualification requirements and technical standards in order to meet national policy objectives, including provision of essential services to general public and the development of rural areas and vulnerable, disadvantaged sections of population.
- Pakistan has shown valid concern that difficult domestic regulations may act as barriers to GATS scheduled market access.

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PAKISTAN'S INITIAL OFFER (TN/S/O/PAK) TABLED ON 24 MAY 2005

- GATS agreement recognizes 12 main sectors for the purpose of classification of services as follows:-
 - Business,
 - communication,
 - financial
 - construction/
 - engineering,
 - health,
 - tourism/travel,
 - distribution,
 - education,
 - environment,
 - recreation/culture/sporting,
 - transport and others.
- The WTO membership uses the W-154 classification with the 12 sectors and 160-subsectors (approx) & the Provisional Central Product Classification-1991 for making commitments since the Uruguay round.

Pakistan's Position on state of play:

- In the current round till the Hong Kong Ministerial, members used the bilateral request offer approach.
- 93 initial offers have been submitted and
- 54 revised offers, (counting EC as 25).
- Pakistan also submitted its initial offer on 24 May 2005.
- Pakistan stated that in order to expedite and ensure meaningful offers members should explore possibilities of using complementary approaches to supplement but not replace the request and offer approach.
- Pakistan at Hong Kong agreed upon to use the Plurilateral approach also mandated in GATS and the negotiating guidelines.
- Pakistan has suggested to limit participation in Plurilateral meetings to the requesting and requested members.
- Although negotiated between requested and requesting countries the results shall be extended on an MFN basis.

Pakistan is a co sponsored of four collective requests in the following areas

- Computer and Related Services,
- Cross-Border Supply,
- Mode 4
- MFN Exemptions[the general other sectors list]
- We have not co sponsored the audio visual or financial lists.
- Pakistan maintains seven MFN exemptions, Four in Finance and Three in Telecom.
- Many Members have also taken MFN exemptions for the movement of natural persons for all sectors.
- Such exemptions render market access ineffective for other members in Mode 4.
- Pakistan therefore co sponsored of a request for the removal of such exemptions for all sectors.

Pakistan has Received Requests from the following countries

- According to request-offer approach member countries have made their initial requests to other countries for opening up their service sectors.
- Pakistan received initial requests from 19 countries which are as follows: - United States, European Union, Australia, China, Japan, Korea, Switzerland, Hong Kong, Norway, Poland, Mauritius, Malaysia, Singapore, Canada, India, Malaysia, Mauritius, Egypt and Bahrain.

Pakistan has received requests in the following areas:

1. Telecommunications,
2. Maritime Transport,
3. Air Transport,
4. Logistics,
5. Environment Services,
6. Construction and related engineering Services,
7. Architecture integrated Engineering and Engineering *Services* (*clubbed together as one request*),
8. Energy Services,
9. Financial and Insurance Services,
10. Private education services,
11. Distribution services,
12. Mode 3,
13. MFN exemptions in financial services.

Pakistan's Approach

- Pakistan reserves the right to modify, extend, reduce and withdraw in whole or in part its initial conditional offer at any time prior to the conclusion of the current services negotiations.
- Pakistan reserves the right to make technical amendments to this offer and make corrections to rectify any errors or inaccuracies as well as to clarify and interpret the terms and conditions of this offer.
- This offer is not offering in any way the privatization of public undertakings or as preventing Pakistan from regulating public and private services in order to meet national policy objectives.
- Neither will this offer hinder Pakistan's right to establish, maintain, and fully enforce its domestic laws protecting, *inter alia*, consumers, health, safety, and the environment, as well as take actions that it considers necessary for the protection of its essential security interests.

Pakistan's Approach

- Pakistan is now well aware of the benefits of liberalization of the services sectors in terms of new entrants local as well as foreign and most of all the important gains likely to stem from increased competition and efficiency of production as Pakistan has experienced in its telecommunications and financial services sector.
- Secondly, the Government of Pakistan is following a conscious policy of liberalizing its trade and investment regimes to promote growth through increasing value added exports.
- No negative effects have been experienced as a result of autonomous liberalization in services sectors.
- In this scenario it is felt that by locking in our commitments in services sectors, the Government will be reinforcing its policy in both 'goods' and 'services' sectors and giving the green signal to International investors of its predictable, transparent and stable business environment.

Share of Services in Pakistan's GDP

- The share of services in GDP has gone up from 45 per cent in 1969-70 to almost 58 per cent in FY 2005-06. Services sector's contribution to GDP growth has gone up to 68.3 per cent in FY 2010-11 while the rest of the share goes to the commodity producing sectors.
- But services share in employment has not increased in this period, which reflects poor potential of services sector growth on the poverty alleviation.
- This means growth has mostly occurred in knowledge-based sub-sectors.

Problems to deal with Trade in Services

- Pakistan does not collect data under four modes of supply of the GATS, it makes very difficult to portray Pakistan's position in services trade.
- Rapidly changing boundaries between services and industry.
- The classification system used to collect data on services trade is obsolete, out-dated, based on ambiguous services classifications.
- Consultative Mechanism on Services Trade is absent.
- In the absence of such a mechanism the government officials are holding the major responsibility of taking positions on services trade issues.
- In effect, most national stakeholders are left out of the loop, except for the state actors.

Problems to deal with Trade in Services

- Only informal consultations are often made with elite representatives of peak national organizations on an ad hoc basis, or as and when input is needed by the government.
- There is no institutional set up to formulate effective trade negotiating strategies to maximize gains and to minimize risks of exploitation by negotiating partners.
- Absence of thorough sub-sector specific assessments of Pakistan's services trade remains a major constraint in developing foresight and effective participation in trade negotiations.
- Government machinery and professional associations both are short of resources to cope with the full range of trade issues.
- In-house capacity to conduct and evaluate sub-sector assessments is very poor

Problems to deal with Trade in Services

- Measuring services exports and imports is extremely difficult due to these problems /deficiencies.
- Despite these facts Pakistan being a small global service provider, its imports are growing faster than its exports.
- Therefore, Pakistan needs to explore ways by which comparative advantage in services could be tapped.

Solutions to the Problems

- Presence of a formal “bottoms-up” rather than “tops-down” consultative mechanism involving all national stakeholders on multilateral services trade issues is needed.
- Non-state actors such as private sector, academia and civil society should also be involved.
- A general advice coming from the stakeholders is that Pakistan should lock-in each sub-sector in which it has a stated policy.
- The stakeholders also advised that Pakistan should widen the coverage of liberalization but not to deepen the extent of it in each sub-sector.
- Another general message is that further liberalization should focus on joint ventures with local firms by maintaining domestic equity requirements
- Government should ensure that these collaborations do end-up facilitating technology transfer to local partners.
- Greater liberalization is also suggested in the regional perspective due to its greater potential for transfer of appropriate indigenous technology and know-how, especially with India.

Solutions to the Problems

- Technical sector specific studies on the likely implications of the new liberalization measures are also suggested to evaluate the market impacts of services liberalization.
- Pakistan must devise some broad principles to formulate its strategy for informal positioning in multilateral negotiations. Among others, these principles should focus on:
 - i) Medium-term development objectives
 - ii) Potential for technology transfer
 - iii) Potential for enhanced efficiency and service quality
 - iv) Potential for employment generation
 - v) Presence of appropriate regulatory framework
- These reforms may provide a window of opportunity to gain concessions from its negotiating partners by locking-in at its current level of commitments in multilateral negotiations.

Conclusion

- Pakistan has received several requests for improved market access and national treatment of service providers.
- Pakistan has also tabled requests on improved conditions for temporary movement of natural persons for purposes of supplying services and cross-border supply of services.
- Question in front of us is: How locking-in our unilateral liberalization at the WTO and to what extent further liberalization of services trade would affect our competitiveness.
- Another question is about the opportunities and risks of such liberalization regarding the outcome of regulatory reforms.
- The success or failure of negotiations in the Doha Round of multilateral negotiations would largely determine the future of services trade liberalization in Pakistan.