



## WTO NEGOTIATIONS ON THE GENERAL AGREEMENT ON TRADE IN SERVICES

### TRAINING PROGRAMME FOR TRADE OFFICIALS AND NEGOTIATORS FROM PAKISTAN

GENEVA, 27 JUNE TO 1 JULY 2005

#### Meeting report

#### Introduction

The EC-ITC services seminar, held in Geneva from 27 June to 1 July, focused on issues dominating the current GATS negotiations, described the state-of-play, highlighted negotiating and services marketing strategies for developing countries, and outlined possible outcomes. It was generally agreed that trade in services has great potential both in creation of jobs and technology transfer. World Bank statistics showed that the more liberalized the service sector, the higher economic growth rates. One driving force behind services growth is foreign investment, which will increase once barriers are removed.

Some countries have made it clear that no progress can be achieved in the services negotiations without major progress in other sectors, notably agriculture. At the same time, the establishment of the financial services and telecommunication protocols in 1997 under the WTO, illustrates that progress can be achieved, perhaps through a plurilateral, sector specific approach to negotiations.

Liberalization means phasing out specific barriers to trade, defining and providing transparency in domestic regulatory frameworks, strengthening competition policy, introducing credible and stable policies and using an appropriate sequence of reforms. Some countries have done this unilaterally or as a reflection of trade negotiations at the bilateral, regional, or multilateral level.

In the current negotiations, developing countries are apprehensive about making commitments under GATS as a result of confusion or a certain degree of suspicion regarding discussions on domestic regulation, emergency safeguards and subsidies. A major concern expressed during the meetings is that rules negotiations under GATS are lagging behind market access discussions, whereas the GATS negotiating guidelines call for conclusion of rules discussions before those on specific commitments.

Some claim the current talks on services are in crisis, i.e. nothing substantive is being achieved, perhaps due to the complexity of scheduling commitments under the GATS, with each country having the option of adjusting commitments according to specific concerns, and most adopting a sectoral approach that prevents the complete picture from emerging.

It was, however, generally agreed that much liberalization can be achieved through domestic reform and that commitments under GATS can be an effective tool towards achieving that goal.



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## Highlights of general issues raised during the training sessions

- *State-of-play* - Services have been traded for many years in the absence of any multilateral agreement, with trade facilitated by numerous bilateral and regional arrangements. Some speakers opined that the current GATS negotiations do not in fact liberalise, with the exception of newly acceding WTO members, beyond the prevailing state of affairs, rather they capture the reality of trade in services as it exists today. They noted written national commitments lend transparency to the process and inspire confidence that conditions for trade in services will not change with changes of government. It was the opinion of some speakers that only by identifying where a national interest lies can a Member really be involved in negotiations.
- *Definition of services* - Speakers pointed out that service exports/imports are difficult to negotiate in the absence of an intuitive definition, where the import/export does not take place at national borders and when the value of the service is apparent only after it has been completed. Restrictions on trade are, they noted, frequently difficult to assess, and not easy-to-identify border measures. A simple explanation of "service" advanced during the course of the seminar was: "anything you cannot drop on your foot". In some cases, for example, service sales to visiting business people, tourists, or students, the principal players are not aware that a service is being traded. In addition, noted speakers, statistics for trade in services are often understated.
- *Service modes* - For the purposes of negotiations, GATS Article I has defined trade in services as the supply of the service in four modes: cross-border, consumption abroad, commercial presence, and movement of natural persons. Some consider the 1st and 3rd modes as the principal interest of developed countries, with movement of natural persons the primary concern of developing countries. Thus, the general feeling was that the negotiations are likely to see developing countries making compromises on modes 1 to 3 in return for developed countries' commitments in mode 4. This despite the fact of growing South-South services trade between developing countries with documented obstacles in all modes of supply.
- *Role of services* - Services not only create wealth and growth in their own right, they are also indispensable to trade in commodities, agricultural and manufactured products, in particular transport, telecommunication, and financial services. In the business world, companies operate across all modes of supply. This is true even in developing countries. Close examination of service firm business models will demonstrate the importance of all modes from a commercial perspective. Understanding the GATS definition of trade in services into four modes of delivery is an important element in grasping rules that govern global services markets.

In the light of a request/offer process, which some speakers consider a standstill exercise, a proposal has been tabled to bind the status quo in priority sectors, commit mode-by-mode, and allow developing countries to commit in fewer sectors. Some speakers felt that this approach is fundamentally flawed and believe that the request/offer process has yet to run its course.

- *Infrastructure* - Seminar speakers highlighted the crucial role of infrastructure in a country's competitiveness with transport infrastructure, telecommunication, and civil aviation heading the list. (Civil aviation is excluded from current negotiations and governed by bilateral agreements.) India, with its exponential growth as a provider notably in call centres and back office services was frequently cited as an example of how investment in telecommunication and well-adapted policies and strategies contributed to its status as a force in current GATS negotiations. As another example of the importance of services infrastructure to trade, the poor quality and high cost of transport in Africa is, according to a World Bank study, more burdensome to trade than import duties or quotas, i.e. transport costs comprise a higher proportion of the retail price of products from Africa than import duties. In the worst cases, transport costs can erode any national benefits derived from preferential trade agreements, even when tariff levels are zero.

- *Caution* - According to many speakers, the current negotiating situation is far from being a level playing field, with some countries and regions, essentially in the developed world, having precise aims, and others, mainly developing countries, remaining unclear as to the advantages of the requests and offers tabled. This has led to a certain level of caution in negotiating positions and suspicion as to the motives of some offers. India's position as a demandeur of concessions in negotiations is in part due to significant growth in India's service exports. In fact services represent 50% of GDP in most developing countries and for the most part their service firms' face substantial market access barriers in neighbouring and regional markets.
- *Negotiating positions* - In developed countries, national negotiating positions are frequently the result of an institutionalized system of public private consultation through public hearings, advisory committees, and formal calls for advice from the private sector. The dialogue between the business community and government provides information on the services market and negotiating priorities to the public-sector, which may have limited knowledge of business concerns. A network of trade advocates, associations, and coalitions advise the public-sector of problems it faces in penetrating foreign markets. The briefings provide important market information to formulate national negotiating positions.

Some speakers mentioned that government-business dialogue frequently does not take place in the developing world as effectively as in the developed world. Consequently, negotiators are frequently not aware of the scope of their services market or the obstacles their firms face and therefore reluctant to engage in negotiations.

- *Market access/rules* - A major concern is that the negotiations on domestic regulation, subsidies, and emergency safeguards are lagging behind other areas, although GATS guidelines call for the rules negotiations to be completed first. While developed countries concentrate their negotiating efforts on market access, developing countries exercise caution in the absence movement on rules issues. Some speakers suggested that tactically developing countries slow down market access negotiations and emphasize the importance of rules negotiations.

In many countries, some sectors such as telecommunications and shipping are very well organized, while in others, such as audiovisual, major players have little idea of the barriers faced since most deliver products via a distributor. It was suggested therefore essential to conclude rules negotiations to avoid implementation problems at a later date. Market access was considered central to current negotiations in conjunction with negotiations on government procurement, subsidies and on emergency safeguard measures, the latter in response to an unforeseen problem from a commitment.

- *Role of associations* - Service providers are, frequently, small and medium-sized enterprises. A recent ITC workshop in Pakistan placed a spotlight on the precise difficulties businesses face in exporting their products. The workshop highlighted Pakistani service firms with clear export interests. The Pakistan Software Houses Association has been very successful in articulating its interests to the government and other associations can follow their model. PASHA's leverage in public policy is due in part to their members' success in the global outsourcing market.

Business can use a variety of means to make their views known to government. First by examining domestic and international market barriers to service exports and then conveying that information to the government through letters, the media, or via business associations. Clear and constant communication to government on specific business interests can help formulate appropriate domestic and international trade policy.

- *Regulatory regime* - Speakers agreed on the importance of an efficient regulatory regime. A regulatory regime should not be the pretext for erecting barriers once a market has been nominally opened. The regulatory framework should address: market failures, i.e. natural monopolies, asymmetric information between consumer and supplier, externalities, and obligations to provide universal service.
- *Subsidies* - Subsidies in the services sector are frequently hard to identify: some countries subsidise through tax breaks or other instruments. Attempts have been made to identify service sectors receiving subsidies, without much success. The speaker asserted that half of the world's R&D is publicly financed indicating that subsidies are an important issue for developing countries in the GATS negotiations.
- *Development* – Article IV of the GATS focuses on increasing participation of developing countries and calls for specific commitments to strengthen capacity in services, improve access to distribution channels and information networks, liberalize market access in sectors and modes of supply of export interest to developing countries as well as the establishment of contact points to provide market information. Article XIX on negotiation of specific commitments allows developing countries to attach conditions in line with their development goals and flexibility to open fewer sectors and liberalize fewer types of transactions.
- *Price and efficiency* - Speakers stressed that low-cost services should not be confused with efficiency. Efficiency derives from high quality service at reasonable cost. Price advantage is always temporary since a cheaper offer may always enter the market.
- *National positions* - The point was made that a high level of liberalization has been required in accession negotiations to the WTO.

According to some countries, progressive liberalization of trade in services will be achieved through the "positive list" approach (used in GATS negotiations), with clear indications of sequencing and transition times, establishment of an appropriate regulatory environment, respect for national objectives and safeguarding public services.

Some WTO members have undertaken research to help develop a strategy for negotiations. This included, for example, research sector by sector, review of domestic regulation, coordination and consultation with public entities, coordination and consultation with private sector, and identification of sensitive sectors. This exercise is useful in identifying strengths and weaknesses in specific services sectors.

In different fora, other countries have used a "negative list" approach to negotiations. They work to establish, throughout all sectors very specifically, which measures restrict trade in services. This approach, it was explained, entails a higher level of agreement between parties, since it covers all services, and consolidates existing measures for each service, while reserving areas where national law is incompatible. Some countries, it was noted, have made far more commitments in bilateral and regional agreements using a "negative list" approach than they have made within the context of GATS. The "negative list" is also credited with providing clarity in the commercial services market.

- *Offers/submissions* - Pakistan tabled its initial offer on 24 May 2005. Only 68 countries have yet submitted initial offers of commitments -- more than two years after the target date -- and only 24 have submitted the "improved" offers for which the target was end of May. Speakers suggested that some WTO members have taken into account different prevailing levels of development, covering all sectors and all modes of supply in their offers.

- *Mode 3* - According to seminar speakers, most developing countries already have fairly liberal regimes under Mode 3. They pointed to a need to bind the status quo, and then ensure that access conditions for foreign companies meet development objectives, which need to be identified and translated into a schedule. They suggested for example options for joint ventures with local companies, use of local services and use of the local workforce.
- *Mode 4* - It was noted, that this is the one area where developing countries have comparative advantage, by being able to provide competitive services at a lower price due to lower labour costs. However, Mode 4 trade in services, it was pointed out, are controversial due to concerns about temporary movement of service providers becoming permanent immigration.

Some countries have burdensome visa requirements, on travel and on foreign residence that might, according to some speakers, become trade restrictive and cancel out the benefits derived from GATS commitments. Similarly when nationals are allowed to travel abroad it would be inappropriate for a country to then impose severe currency restrictions.

In the face of current trends—notably offshoring and outsourcing—cross-border trade has great potential in promoting developing countries' comparative advantage in labour costs and available pool of highly qualified professionals. Weaknesses lie in Mode 4 supply's potential for "brain drain", a possible backlash in developed countries, a focus on highly skilled sectors, and unresolved qualification issues.

In any case, discussions concluded that more could be achieved in Mode 4 through negotiation than unilateral decision-making.

- *ITC tools* - ITC has a variety of tools available to help exporters define and market services, including export training for service providers with twelve modules that can be, for example, presented by TPO's once per month in seminars over a period of one year. Where SMEs are involved in one particular service sector, it might be a useful approach to consider how to bundle services for export. The services sector provides unique business opportunities for individual who are home-based, for example women with young children (women account for 75% of services in Africa) or disabled professionals. It is important to raise awareness of the domestic services economy and the export opportunities they represent.

### **Highlights of specific issues raised during the training sessions**

- *Domestic regulation* - Domestic regulations—such as consumer protection measures, licensing, technical standards, and qualification—reflect important aspects of GATS: promoting trade while protecting the regulatory right of governments. Mutual recognition agreements (MRAs) exist in some cases, but they are hard for developing countries to create and implement or accede to, in the last case when MRA's are pre-existing. Key words for domestic regulation are: necessity, transparency, equivalence, and international standards.

- *Transport - Maritime* (note: offshore oil rigs are included in maritime services). It was pointed out that things have moved very little in the maritime sector since WTO members failed to conclude a package of commitments in 1996. GATS, it was noted, has the advantage of offering a stable legal environment, with the objective of further commitments to achieve non-discriminatory market access, rather than liberalization only. It was further stressed that GATS reinforces values such as non-discrimination important in port services. For example, with commitments, national ships would not be given preference over foreign ships in docking allocations. Additionally, foreign ship-owners could enter into agreements with local transport suppliers, rather than face a potentially inefficient local transport monopoly.

Road, 90% of road transport is local/national, within a 50 km radius. The question is, theoretically, whether to open the market to foreign transport companies. The speaker suggested that Rail, in most countries is a public monopoly, and operated according to two different models in developed countries, thus it may not be in a mature state for negotiations. The speaker suggested that for pipelines, developing countries should carefully weigh commitments and not make concessions in pipelines, except in auxiliary services. Inland waterway transport is chiefly operational in Europe and North America, less applicable elsewhere. As mentioned previously, Air transport is not covered by the GATS, with the exception of auxiliary services such as computer reservation, selling and marketing and aircraft maintenance and repair, where there exists a high level of commitment.

- *Financial services* - GATS does not apply to monetary or exchange rate policies nor to social security or public retirement plans unless the latter is open to competition. It was suggested that commitments should be designed to protect the government component. The GATS specifically provides for prudential measures including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system; nevertheless, these measures cannot be used to evade commitments nor must they be scheduled.

Some are not comfortable with this structure. Members are free to recognize prudential measures through harmonization or agreement or arrangement with those countries concerned. Transparency in domestic regulation of financial markets is a key issue. Developing countries find controversial a proposal to allow the right to comment on WTO members' proposed national regulation -- many feel this is unacceptable interference in domestic policy development. The general sense is that negotiations are not delivering meaningful results, and, were they to stop, market access would remain the same.

- *Tourism* - Considering its importance in hard cash earnings, tourism according to the speaker appears to have little impact on policy making and plays a relatively minor role in current negotiations. It is a highly complex sector that has, nevertheless, achieved a significant degree of commitment from WTO members within the limited sectors of hotels & restaurants, travel agencies, tourist guides. In-depth discussions are, it would appear, taking place in fora other than the WTO.
- *Telecommunication* - Recent developments in telecommunication, notably the Internet, have played an important role in increasing the flow of cross border transactions. It has two roles: (1) as a facilitator in other sectors, and (2) as a directly traded product. Business needs a fully liberalized telecommunication market, with a strong, independent regulator to ensure interconnection at fair prices. Most countries impose a condition of Universal Service Obligation on providers. Typically, liberalization of the telecommunication market has dramatically reduced connection time for new customers, significantly reduced prices of services, and greatly enlarged the national telecommunication network.

- *E-commerce* - The 1998 WTO Ministerial Declaration adopted a Declaration on Global Electronic Commerce to examine trade related issues associated with global e-commerce. In Doha WTO members agreed to continue the moratorium on imposing customs duties on electronic transmissions (WT/Min (01)/Dec/1, para.34). According to speakers discussions on e-commerce have progressed little in the WTO since 2003, but in depth talks are taking place in other fora. They noted that the development agenda should make available hardware at reasonable costs, a low-cost, fully liberalized telecommunication service and trained personnel. Business Process Outsourcing (BPO) exemplifies how e-commerce can help developing countries grow, as demonstrated in India, although many recognize a potential political backlash in the developed world due to fears of job loss.

### **Business climate in Pakistan**

Pakistan has been going through a series of reforms, due to the fact it is geographically situated in a very competitive trading environment. Conformity to international banking standards means that books are better balanced but access to credit is more limited. Banks have been encouraged to help SMEs but this is unlikely to happen without regulatory backing. However, some lending institutions, based on participatory risk sharing, may prove to be the answer. Banks are reluctant to finance services due to the absence of physical collateral.

Currently imports are growing faster than exports, but significant sums are imported into the economy through expatriate workers. Deregulation, especially in telecommunication, has been a complete success story and the introduction of competition in banking has strengthened the sector.

It was deemed important to bind commitments since this provides stability. Government is always in search of new sources of revenue. Binding agreements mean no reversal of commitments. It is vital to take account of the views and interests of the business sector in establishing the negotiating position.

Historically, developing countries are on the defensive in trade negotiations. However, the example of India shows that a developing country can adopt an offensive agenda. For the future, it is important to continue with the task of bringing the business sector, consolidating the role of associations, providing support and help to service providers. The services sector needs government support and backing to maintain credibility.



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### WTO NEGOTIATIONS IN SERVICES

TRAINING PROGRAMME FOR TRADE OFFICIALS AND NEGOTIATORS FROM  
PAKISTAN

GENEVA, 27 JUNE – 1 JULY 2005

**Monday, 27 June 2005**

Hotel Etap

***WTO Day***

09:00 Welcoming of Participants at Hotel  
Mr. Eric Alvarez, *Chief, OAPLAC, ITC*

WTO

10:00 Special Session of the WTO Council for Trade in Services

13:00 Lunch break

15:00 Special Session of the WTO Council for Trade in Services

**Tuesday, 28 June 2005**

ITC – Room 4-40

09:30 Opening Remarks  
Mr. Hendrik Roelofsen, *Director, DTCC, ITC*

10:00 Introductions to the EC-ITC TRTA Project in Pakistan  
Mr. Eric Alvarez, *Chief, OAPLAC, ITC*



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### *Technical Assistance for Services Negotiations and Pakistan*

- 10:30 ITC's Assistance to Promote Trade in Services  
Ms. Doreen Conrad, *Head of Trade in Services Section, ITC*
- 11:15 Coffee break
- 11:30 Growth of Cross-Border Trade in Services in Neighboring Pakistan  
Ms. Shaista Sohail, *Economic Counsellor, Permanent Mission of Pakistan to the WTO*
- 12:15 Lunch break

### *Perspectives and Experiences of Some Key WTO Members*

- 14:30 Perspective and Experience of the United Arab Emirates  
Mr. Saeed Al Naseebi, *Director, WTO Division, Ministry of Economy and Planning, United Arab Emirates*
- 15:15 Perspective and Experience of Hong Kong - China  
Mr. Thomas Chan, *Deputy Representative, Hong Kong Special Administration of China to the WTO*
- 15:45 Coffee break

### *The State of Play of the Negotiations*

- 16:00 Current State of Play of the Services Negotiations  
H.E. Mr. Alejandro Jara, *Ambassador, Permanent Representative of Chile to the WTO, and Chairman of the Council for Trade in Services, WTO*

### *Perspectives and Experiences of Some Key WTO Members*

- 16:45 Perspective and Experience of the European Union  
Mr. Simon Knott, *Services Unit (G/I), Directorate General Trade, European Commission*

### ITC – Restaurant

- 17:30 Cocktail



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Wednesday, 29 June 2005

ITC – Room 4-40

### *The General Agreement of Trade in Services*

9:30 Introduction into the Structure of GATS and Review of Key Concepts  
Mr. Rudolf Adlung, *Senior Counsellor, Services Division, WTO*

10:45 Coffee break

11:00 The Rule-Making Agenda (Emergency Safeguards, Government Procurement and Subsidies)  
Mr. Martin Roy, *Economic Affairs Officer, Services Division, WTO*

12:00 Mode 4 (Presence of Natural Persons) and Related Issues  
Mr. Carlo Gamberale, *Legal Affairs Officer, Services Division, WTO*

13:00 Lunch break

14:30 Maritime and Other Transport Services  
Mr. Pierre Latrille, *Counsellor, Services Division, WTO*

15:15 Financial Services  
Mr. Juan Marchetti, *Counsellor, Services Division, WTO*

16:00 Coffee break

16:15 Domestic Regulation, Legal Services and other Professional Services (Architecture, Accountancy)  
Mr. Dale Honeck, *Counsellor, Services Division, WTO*

17:00 Tourism, Education and Health Services  
Mr. Dale Honeck, *Counsellor, Services Division, WTO*



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Thursday, 30 June 2005

ITC – Room 6-40

### ***Sector-Specific and Selected Issues***

9:45 Post Liberalization Telecom Issues  
*ITU Representative*

10:30 Developing Countries' Interests and Concerns on Professional Services,  
Educational Services and Mode 3  
*Ms. Gale Raj, Project Officer on Trade in Services, South Centre*

11:15 Coffee break

### ***Perspectives and Experiences of Other Key WTO Members***

11:30 Perspective and Experience of Mexico  
*H.E. Mr. Fernando de Mateo, Ambassador, Permanent Representative of Mexico to the WTO*

12:15 Lunch break

### ***Building Capacity in Services for Business in Pakistan***

14:30 Debrief on 31 May Services Symposium in Pakistan  
*Ms. Linda Schmid, Trade in Services Officer, ITC*

15:15 Implications for the Pakistani Business Community  
*Mr. Peter Naray, Senior Consultant, ITC*

16:00 Coffee break

16:15 The Financing of Products and Services in Pakistan  
*Mr. Carlo Cattani, Senior Advisor, ITC*

17:00 The Implications for Negotiators of the BPO and IT-Enabled Service Sector  
*Mr. Matthew Wake, Consultant, E-Trade Development Unit, DTSS, ITC*



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Friday, 1 July 2005

ITC – Room 4-40

### ***Other Selected Issues***

- 9:30 Developing Countries' Perspectives on Subsidies in Services  
Mr. David Vivas Eugui, *Programme Manager, Intellectual Property, Technology and Services, ICTSD*
- 10:15 Analysis of Revised Offers  
Ms. Sabrina Varma, *Team Leader on Trade in Services, South Centre*
- 11:00 Coffee break
- 11:15 Trade in Services and Development: Economic Issues  
Mr. Carsten Fink, *Senior Economist, World Bank*

12:00 Lunch

### ***Concluding Session***

- 15:00 Brainstorming, Discussions and Conclusions  
H.E. Dr. Manzoor Ahmad, *Ambassador, Permanent Representative of Pakistan to the WTO*

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### **Accommodation for participants:**

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