Mapping the Universe of Services Disciplines in PTAs
The Indian Contribution

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Abstract

The growth of output in the service sector in India has been spectacular in recent times which got reflected in a higher contribution in the GDP. As a consequence of this, along with its move in the WTO GATS negotiation, India has also plunged into Comprehensive Economic Cooperation Agreement (CECA) through signing the India-Singapore CECA. Of late, its attempt to convert India-Sri Lanka FTA into another CECA and negotiation attempts with partners like Australia, EU, Japan, South Korea and Malaysia clearly shows its inclination to include services in the new agreements. The structure of the paper is as follows. Initial section will focus on introduction and an overview of some select RTAs having special attention towards service sectors. Section 2 provides a brief overview of India's performance in the services sector, followed by a more detailed examination of the contribution of the service sector to growth, and the composition of services trade in Section 3. In particular, we'll discuss the change in pattern of trade from the traditional goods sector to services. Section 4 and 5 examine India's involvement in various regional trade blocs keeping an eye on services sector. Several potential RTAs with services focus are discussed in section 6. The paper will make an attempt to develop a negotiating format for some of the important services understanding the current status of services in the partner countries as well as in India. While doing so, it will make an attempt to identify major barriers faced by India in some of the exportable services. These issues will be discussed in section 7. Section 8 will provide conclusion and induction from the major findings.

Summary

1. Introduction

The proliferation of preferential trade agreements (PTAs) has emerged as a durable and structuring element of modern trade diplomacy. It is both a natural expression of accelerating worldwide economic and political integration commanding natural “neighbourhood” responses as well as a potential line of fracture for the multilateral trade order embedded in the WTO. The rapid spread of regionalism and its growing dominance in the trade liberalisation that is actually being implemented – both of tariffs and of other areas (including the ones not yet subject to multilateral disciplines) means that regionalism is an essential element of international trade regulation. The fact that most of it is taking place outside the WTO’s ambit makes it one of the most important elements to be addressed in the quest for policy coherence. The dual facetted nature of regionalism, which the protracted state of the Doha Development Agenda has without doubt fuelled, has confirmed in the minds of many researchers the analytical need to deepen our understanding of the economic and political motivations behind PTAs, their contrasting substantive nature, their effects on trade and investment activity and the systemic impacts that the continued spread of PTAs may exert on the future of international trade regulation.

Traditionally, these Agreements have focused on the liberalization of merchandise trade among members. However, new trends show inclusion of services in RTAs which can have a systemic impact. In a world where competitiveness is driving economic development, services play a vital role in ensuring a competitive economy. Service industries provide the infrastructure allowing modern economies to function by linking geographically dispersed economic activities or supplying crucial inputs into products competing in the domestic and global markets. The contribution of services in income generation, employment creation and foreign exchange earnings has significantly increased over the last two decades across countries. Since 1990, the share of services in GDP has grown from 65 to 72 per cent in developed countries and from 45 to 52 per cent in Developing Countries. Services now account for over 70 per cent of employment in developed countries and about 35 per cent in Developing Countries (DCs) (Eschenbach and Hoekman, 2006). Since 1990, world services trade has nearly tripled to reach $2.4 trillion. Service exports from developing countries have grown at an average annual rate of 8 per cent as compared with 6 per cent for developed countries. Annual growth in world services exports has further accelerated over the past five years, with an annual average growth rate of 12 per cent and 13 per cent for developed and DCs respectively (World Bank, 2006).

Services exports are concentrated in a small number of developing countries. DCs in Asia account for 75 per cent of all DCs’ services trade while 10 per cent and 15 per cent are attributable to Africa and to Latin America and the Caribbean respectively. Over half of developing country services exports originate in only six countries, and the top 15 developing country services exporters account for 80 per cent of all DC services exports. LDCs continue to be marginalized from international flows of services, with their share in world service exports being about 0.8 per cent. However, in recent times many DCs are taking steps to increase their service exports unilaterally or through regional agreement on services. Travel and transport continue to represent the major proportion of developing country services exports, while business services, including ICT, financial and insurance services, now account for one third. FDI inflows into DCs increasingly target the services sector (Chaisse & Gugler, 2009). The share of FDI inflows into the services sector in DCs rose from 35 per cent in 1990 to nearly 50 per cent in 2004. Currently, at about $1.2 trillion, FDI inward stock in DCs' services sector is now twice the value of FDI inward stock in their manufacturing sector, and represents 20 per cent of total world FDI inward stock in the services sector. DCs themselves have become a major source of those investments. Total FDI outflows to DC's services sectors rose from only $2 billion in 1990 to nearly $30 billion in 2004. A major share of those outflows is at the regional level, through mergers and acquisitions (Kulkarni, 2006).

While motivations for engagement in services RTAs vary across countries, several factors may be identified which act as drivers for this endeavor. Services liberalization may be more easily negotiated between a limited set of participants, particularly with economies at similar levels of development with geographical proximity and cultural ties, as they enable a greater degree of reciprocity between regional partners, thus reducing the free-rider problem. Moreover, most of the cases, services negotiations are based on positive list and through request and offer approach (though negative list approach is not uncommon). Developing countries find the approach more comfortable as harsh side of negotiations is generally out of bound in case of services negotiation. Further recognizing the critical importance of services trade for growth and development, many countries accelerated regional initiatives in the search for services export opportunities and greater investment attraction. Services liberalization would be progressive, in principle based on the positive list approach, adapted to the level of development of the countries and regions concerned in overall terms and in terms of their services sectors and subsectors, and to their specific constraints, and underpinned by the principles, asymmetry and positive regional discrimination. A sound regulatory framework is considered important. Parties would retain the right to regulate, and to introduce new regulations on the supply of services within their territories in order to meet national policy objectives.

The potential of RTAs in promoting liberalization of the temporary movement of services suppliers is particularly significant and hence thereby increases the scope of employment. Regulatory cooperation on mutual recognition or harmonization of professional qualifications, licensing certification, technical standards, competition, and provisions for labour mobility, are viewed to bring transparency in the regional market for services. Furthermore, regional services trade offers a supportive environment for national firms by accelerating learning curves, building supply capacities and enhancing international competitiveness. Regional services trade also plays a catalytic role in generating employment and furthering the development of growing regional services industries and firms. By allowing for economies of scale in the production of services, RTAs may support the development of regional infrastructure in key sectors such as transportation, communications and energy, environment protection, etc. However, the biggest challenge in services negotiation is the lack of knowledge about the real market structure of services. In developing countries, there exist lack of information about the markets and that creates uncertainty about taking up any commitments and offering market access.

2. Contemporary Variations in PTAs Practice

Different RTAs have adopted different approaches to services liberalization. RTAs have adopted distinct approaches in respect of (i) scope; (ii) modalities for liberalization; (iii) depth of commitments; (iv) regulatory cooperation; and (v) other areas of cooperation. Regarding the scope of the agreements, sectoral and modal coverage, existing RTAs mostly provide universal sectoral coverage, with the exclusion of sensitive sectors such as air and maritime transport, audiovisual services etc. Liberalization may be based on a progressive approach with an implementation period, especially for DCs. In some sectors, liberalistaion are offered in some segments and that may be through only some modes. For example, in maritime services cargo handling may be liberalized and that may be through only FDI (Mode 3). With regard to liberalization modalities, RTAs generally follow either a negative or a positive list approach. The negative list approach was adopted in NAFTA-type RTAs (CARICOM), Europe Agreements and EU–Mexico, while the positive list approach was adopted in EU–Chile, ASEAN, MERCOSUR, Japan–Singapore and United States– Jordan. The definition of rules of origin for services providers is important in determining the level and depth of regional services liberalization. As regards to the depth of commitments, countries' regional commitment as well as general and sectoral disciplines provided under an RTA would affect the extent to which RTAs can generate effective services liberalization. Liberalization commitment may result either in standstill or rollback of restrictive measures. This is important, since RTAs can go beyond GATS commitment to provide preferential market access conditions for regional partners. Regarding the regulatory cooperation, measures on domestic regulation such as qualification requirements also determine the level of liberalization as it is deemed to be entry barriers in some cases, for example trade in professional services. Harmonization and mutual recognition are pursued under some RTAs (MERCOSUR, NAFTA (accountancy, architecture, engineering), CARICOM), but often on a best-endeavor basis. RTAs can contain market access commitments in government procurement in services, monopoly and competition policy.

Through the extension of the coverage, RTAs generate increased intraregional services trade. A recent study by the OECD[1] indicates that intraregional services trade accounts for most of DCs' South–South services trade, and intraregional services trade accounts for 57 per cent, 71 per cent and 94 per cent of South–South services trade for Africa, Latin America and the Caribbean, and Asia and Oceania respectively. Intraregional services trade is particularly significant in Asia and Oceania, since as much as half of its total services trade is directed to the region. For DCs, much of regional trade reflects trade in commercial services such as freight transportation, tourism, construction and business services. However, the scope of traded services, and correspondingly the magnitude of services trade flows, is expanding rapidly as countries progressively privatize and liberalize those services traditionally performed as a government function.

3. Indian Treaty Practice: Preferential Trade Policy and Services Negotiations

3.1 The Architecture of Indian Preferential Trade

PTAs really began coming into their own in the 1990s. Prior to 1970, there were virtually no such agreements and less than fifty by 1990. This suggests that greater reduction in trade barriers -- initially tariffs and increasingly non-tariff ones since the Kennedy Round -- was achieved in the earlier rounds of the GATT, which precluded the need for countries to resort to PTAs (Chaisse, Chakraborty, Nag, 2011). Also import-substitution continued to be the guiding motives of many non-member countries up to the 1980s -- thereby reducing their urge for multilateral or preferential trade reform. Once, however, this initial thrust via the

[1] 'South-South Trade: Vital for Development', OECD Policy Brief (2006)

multilateral route was saturated countries took recourse to other avenues for expanding their trading opportunities.[2]

Observed in many regions of the world, this scenario can also be applied to India as well. Although India was not part of the regionalization drive during the 1990s, since mid-2003 (*i.e.*, the post-Cancun Ministerial period) it has initiated the process of entering into a number of PTAs around the world. There is a need to evaluate the actual as well as potential benefits for India from this activity given the worldwide trend towards PTA formation. In other words, while India stands to gain market access in major trade partners, it nonetheless still has to compete with other PTA partners in the countries involved -- *e.g.*, with Japan and Korea in the ASEAN market.[3] Moreover, the overlapping PTAs make the application of the rules of origin (ROOs) provision very cumbersome, which may lead to future trade disputes.[4] For example, India and Sri Lanka are connected with number of agreements such as ISLFTA, SAFTA, APTA etc. and each have different product coverage along with different RoO. However, this is important to note that, India took longer time initially to understand the nuances of trade negotiation but of late it has signed number of agreements and many of them contain a strong commitment in services.

Table 1 summarizes India's current participation in major PTAs and Comprehensive Economic Cooperation Agreements (CECA) using official data of the Government of India obtained from the Ministry of Commerce.[5] In addition, India also extends various forms of trade preferences to some Asian neighbors, *e.g.*, Afghanistan,[6] Bangladesh,[7] Bhutan,[8] Mongolia, and Nepal.[9] The operational PTAs currently involve Asian and Latin American partners, while negotiations are currently taking place with several partners located in Asia and Africa. With EU also India is currently engaged in negotiation.

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2. *See generally* Jagadish Bhagwati 'Termites in the Trading System: How Preferential Agreements Undermine Free Trade (2008)

3. The Bangkok Declaration united the ASEAN Member Countries in a joint effort to promote economic cooperation and the welfare of the people in the region. *See generally* RODOLFO C. SEVERINO, ASEAN (Saw Swee-Hock ed., Southeast Asia Background Serves, no. 10 2008). *See also* Debashis Chakraborty & Dipankar Sengupta, *Integration Experience and Trade Performance of the Indo-ASEAN FTA: Learning By Doing to Live Up Great Expectations*, *in* COMPETITIVENESS OF ASEAN COUNTRIES: CORPORATE AND REGULATORY DRIVERS (Philipe Gugler & Julien Chaisse eds., 2010).

4. *See* Debashis Chakraborty & Nag Biswajit, Regionally Sharpening the Multilateral Agenda? India's Recent Involvement in Trade Blocs, presented at the UNCTAD Seminar on 'International Competitiveness and Inclusive Development' CDS, Trivundram, 20-21 October, 2008.

5. *Gov't of India Ministry of Commerce & Indus. Dep't of Commerce*, TRADE AGREEMENTS, COMMERCE.NIC.IN, http://www.commerce.nic.in/trade/international_ta.asp?id=2&trade=i (last accessed on April 27, 2011).

6. Under the agreement, Afghanistasn provides preferential tariff for 8 products, while India provides the same for 38 products. Preferential Trade Agreement Beween the Republic of India and the Transitoinal Islamic Satate of Afghanistan, India-Afg., treaty source, http://www.commerce.nic.in/trade/international_ta_indafg.asp (last vistited April 27, 2011).

7. *Trade Agreement Between India and Bangladesh*, India-Bangl., Mar. 21, 2006, treaty source, *available at* http://www.commerce.nic.in/trade/n, dia_Bangladesh_Trade_Agreement.pdf (last accessed on April 27, 2011).

8. *Agreement on Trade, Commerce and Transit Between the Government of the Republic of India and the Royal Government of Bhutan*, India-Bhutan, July 29 2006, source, *available at* http://www.commerce.nic.in/trade/bhutan.pdf (last accessed on April 27, 2011).

9. *Revised Indo-Nepal Treaty of Trade*, India-Nepal, Oct. 27, 2009, source, *available at* http://www.commerce.nic.in/trade/nepal.pdf (last accessed on April 27, 2011). The transit provision in the agreements with Nepal and Bhutan is also important, given the fact that these two countries are land-locked economies.

Table 1: India's Current PTA Involvements

Asia/Europe	Africa	Latin America
Operational		
Indo-Lanka FTA[10] SAFTA[11] Bangkok Agreement (now APTA)[12] India-Thailand FTA[13] India-Singapore CECA[14] India-ASEAN FTA[15] India-South Korea CEPA[16] India-Malaysia CECA[17] India-Japan CEPA[18] India-Finland ECA[19]		Indo-Chile PTA[20] Indo-MERCOSUR PTA[21]
Ongoing Negotiations		
India-GCC Framework Agreement on Economic Cooperation BIMSTEC FTA	India-SACU CFTA India-	

10. There are 429 products in India's negative list, while there are 1180 products in Sri Lanka's negative list. *Free Trade Agreement Between the Republic of India and the Democratic Socialist Republic of Sri Lanka*, India-Sri Lanka, source, *available at* http://www.commerce.nic.in/trade/international_ta_indsl_1.asp (last accessed on April 27, 2011).

11. Here the non-LDC countries are supposed to reduce their tariff in the range of 0-5 percent. *Agreement on South Asia Free Trade Area*, COMMERCE.NIC.IN, http://www.commerce.nic.in/trade/safta.pdf (last accessed on April 27, 2011).

12. Here the tariff preference is in line with the economic performance of the countries. For instance, Bangladesh, China, India, South Korea and Sri Lanka provide concessions to 209, 1697, 570, 1367 and 427 commodities respectively. *Asia-Pacific Trade Agreement*, *available at* http://www.commerce.nic.in/trade/bangkok_agreement.pdf (last accessed on April 27, 2011).

13. 82 product groups at HS 6 digit level has been selected during the early harvest programme. *Framework Agreement with Thailand*, India-Thai., source, *available at* http://www.commerce.nic.in/trade/international_ta_framework_thailand_1.asp (last accessed on April 27, 2011).

14. *Comprehensive Economic Cooperation Agreement Between the Republic of India and the Republic of Singapore*, India-Sing., source, *available at* http://www.commerce.nic.in/trade/international_ta_framework_ceca.asp (last accessed on April 27, 2011).

15. The two sides signed the FTA on August 13, 2009 after a prolonged negotiation. *India Signs FTA With ASEAN Amidst Protests*, BILATERALS.ORG (Aug. 14, 2009), http://www.bilaterals.org/article.php3?id_article=15734.

16. The two sides entered into the Partnership Agreement in 2009. *India Korea Comprehensive Economic Partnership Agreement*, India-S. Kor., Aug. 7, 2009, source, *available at* http://commerce.nic.in/trade/INDIA%20KOREA%20CEPA%202009.pdf (last accessed on April 27, 2011).

17. The two sides entered into the Cooperation Agreement on 27 October 2010. *Comprehensive Economic Cooperation Agreement between The Government of The Republic of India and The Government of Malaysia*, http://commerce.nic.in/trade/IMCECA/title.pdf (last accessed on April 27, 2011).

18. The Agreement was signed on 25 October 2010. *Comprehensive Economic Partnership Agreement between The Republic of India and Japan*, http://commerce.nic.in/trade/IJCEPA_Basic_Agreement.pdf (last accessed on April 27, 2011).

19. The Agreement was signed on 26 March 2010. *Agreement on Economic Cooperation between The Government of the Republic of India and The Government of the Republic of Finland*, http://commerce.nic.in/trade/India%20Finland%20AGR.pdf (last accessed on April 27, 2011).

20. India provides tariff preference to Chile for 178 tariff lines at the 8 digit level, while Chile reciprocates for 296 tariff lines. *Preferential Trade Agreement (PTA) with Chile*, COMMERCE.NIC.IN, http://www.commerce.nic.in/trade/international_ta_indchile.asp (last accessed on April 27, 2011).

21. MERCOSUR offered tariff concession for export of 452 products from India at HS 8-digit level, while India is reciprocating the same for 450 products. *India-MERCOSUR PTA*, COMMERCE.NIC.IN, http://www.commerce.nic.in/trade/international_ta_indmer.asp (last accessed on April 27, 2011).

Indo-Israel PTA India-EU	Mauritius CECPA	
Analysis Stage		
Australia, China, Indonesia, New Zealand[22],		

Compiled by the authors from Ministry of Commerce (Government of India) data and WTO PTAs database, March 2011

Analysing India's recent drive towards negotiating PTAs with more number of countries it can be argued that, India is now trying to achieve a balance between internal and external drivers for growth. Better market access will help to export more and thereby give a positive boost to 'terms of trade'. On the other hand, a closer cooperation is expected to help India to get resources, intermediary goods much cheaper along with better quality investment. These will energies the domestic economy as entrepreneurial activity will flourish and economy will achieve better 'allocative efficiency' in terms of output, revenue to the government and employment. The pattern of negotiation in the initial agreements is reflected in the rigidity of the text, lack of depth in the liberalization. Also, it has been noticed that in manufacturing sectors India's RTA partners utilized the RTA routes better than Indian exporters (Jha, 2010). Later on, as part of India's 'look east policy' it engaged itself in negotiation more aggressively with Asian economies and signed number of agreements. Starting from India-Singapore CECA in almost all recent agreements India focused in goods, services and investment. India's desire to enter into CECA / Comprehensive Economic Partnership Agreement (CEPA) with Singapore, South Korea, Japan, Australia etc, with specific focus on technology cooperation, is proof of India's attempts to seize on this opportunity. Possibility of Indian investment in some manufacturing and services sector is also an issue which India wants to explore while negotiating economic partnership agreements with Sri Lanka, Malaysia, etc. Outside Asia especially in Africa and Middle East, India would like to remain connected with ethnic Indians who are into international business in those countries. Moreover, access to minerals and other natural resources is also an agenda along with achieving market access in those countries. Negotiation with blocs such as SACU, GCC, and Mauritius etc. is a reflection of this. Same argument can be put forward for India's interest in Latin America also. With EU, India is inclined in developing more intimate collaboration in trade, investment, joint research and in services.

3.2. India as a Rising Services Oriented Economy

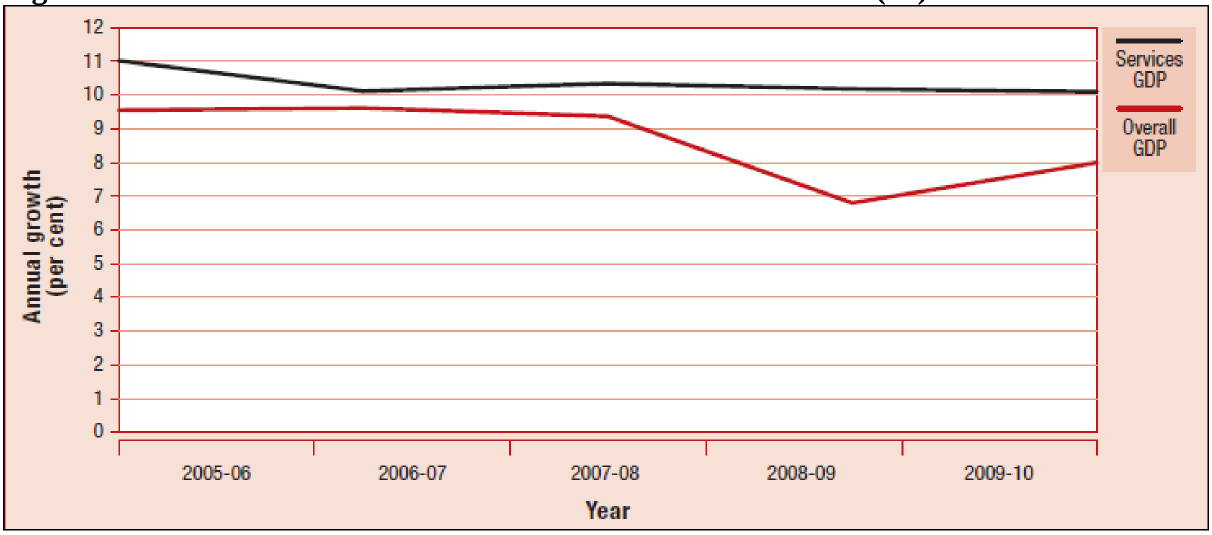
The world economy has fast turned into a 'service economy' since the 1990s. Services revolution across the globe has changed the business map and the way business is conducted. Phenomenal growth of services sector has outstripped the growth in real GDP in a number of economies from Asia. While developed countries still account for the lion's share of services in world GDP and trade, developing countries have recently started to carve out an increasingly larger share of the pie for themselves (Karmakar 2005).

Like many other developing countries service sector has undoubtedly become the most important sector in the Indian economy. This can be attributed to the contribution of different

[22]. In cases of Australia, China, Indonesia and New Zealand, the Joint Study Groups are either expected to submit their reports shortly, or have just submitted a report, recommending formation of a PTA. *Agreements in the Pipeline (As on: 01/06/2009)*, COMMERCE.NIC.IN, http://www.commerce.nic.in/trade/international_ta_pipeline_details.asp#b5b (last accessed on April 27, 2011).

sub-sectors of services to the nation's GDP growth, employment creation and generating export revenues, thereby contributing to the overall development of the economy. India now ranks among ten fastest growing economies in the world, with average economic growth at over 7 per cent a year during the past decade (and over 8.5 per cent in the last four years), and the services sector has been the key driver of this growth for over a decade. Figure 1 below explains the buoyancy of India's service sector. This is noteworthy that services sector maintained a steady growth of around 10% in last 5 years despite that overall GDP dropped during the time of recession. India's service sector has 55.2% (excluding construction[23]) share in the country's GDP, provides a quarter of the total employment and one third of total export which itself is growing by 27.4% in 2010-11[24]. The share of the four sectors combined (pure services [financial and nonfinancial], computer hardware and software, telecommunications, and housing and real estate), in FDI equity is around 44% of total FDI inflow (in April –Dec 2010). If construction is included then the share rises to 51 per cent. The financial and non-financial services sector which falls purely in the services category is the largest recipient of FDI equity inflows with a 21 per cent share.

Figure 1: Growth Rate of India's GDP and Service Sector GDP (%)



Source: Economic Survey 2010-11, Govt. of India

Sectoral growth of different sectors is described in Table 2. Since, ninth five year plan, highest growth is consistently achieved in telecommunication sector. In 2009, there has been around 544 Greenfield FDI projects approved. Compared to tenth plan (2002-07) period there are several new services sectors which have come up in terms of growth rate viz. public administration, banking and insurance, storage, other services, etc. This indicates that the service sector growth is gradually becoming broad based which was earlier mainly concentrated in IT and software industry (business services).

[23] Including construction the share is 63.4%

[24] Economic Survey 2010-11, Govt. of India, pp. 237

Table 2: Growth Rates within the Services Sector (%) at constant prices

	Eighth Plan	Ninth Plan	Tenth Plan	2007-08	2008-09	2009-10
Trade	9.1	7.3	9.3	9.7	6.5	7.2
Hotels & Restaurant	11.2	9.3	9.0	13.1	-3.1	2.2
Railways	1.9	4.7	7.7	9.8	7.6	9.4
Other Transport	8.4	6.0	11.4	8.7	5.2	7.0
Storage	2.4	2.2	5.6	3.4	10.5	10.7
Communications	14.1	21.8	22.1	25.4	25.8	32.1
Banking & Insurance	8.2	9.0	9.3	16.7	14.0	11.3
Real Estate & Business Services	6.1	7.2	8.3	8.4	11.2	7.5
Public Administration	3.9	8.5	5.2	7.6	20.2	13.0
Other Services	7.0	7.0	7.6	6.3	7.4	10.9

Source: For growth rates in various plans data taken from National Accounts Statistics, Government of India; several years, for other years Economic Survey 2010-11, Govt. of India

Share of different services sub sector in Indian GDP is given in the Table 4. Trade occupies a significant position followed by business services and transport. This is important to note that communication despite having very high growth still occupies a tiny share in GDP. This indicates that this sector is yet to grow further.

Table 3 Share of different services categories in GDP at factor cost (current prices)

	2004-05	2005-06	2006-07	2007-08	2008-09@	2009-10*
Trade, hotels & restaurants	**16.1**	**16.7**	**17.1**	**17.1**	**16.9**	**16.3**
Trade	14.6	15.1	15.4	15.4	15.4	14.9
Hotels & restaurants	1.5	1.6	1.7	1.7	1.5	1.4
Transport, storage & communication	**8.4**	**8.2**	**8.2**	**8.0**	**7.8**	**7.8**
Railways	1.0	0.9	0.9	1.0	0.9	1.0
Transport by other means	5.7	5.7	5.7	5.5	5.5	5.2
Storage	0.1	0.1	0.1	0.1	0.1	0.1
Communication	1.7	1.6	1.5	1.4	1.4	1.5
Financing, insurance, real estate & business services	**14.7**	**14.5**	**14.8**	**15.1**	**16.1**	**16.7**
Banking & insurance	5.8	5.4	5.5	5.5	5.7	5.4
Real estate, ownership of dwellings & business services	9.0	9.1	9.3	9.6	10.4	11.4
Community, social & personal services	**13.8**	**13.5**	**12.8**	**12.5**	**13.3**	**14.4**
Public administration & defence	5.9	5.6	5.2	5.1	5.8	6.3
Other services	8.0	7.9	7.6	7.4	7.5	8.1
Construction	**7.7**	**7.9**	**8.2**	**8.5**	**8.5**	**8.2**
Total Services (excluding Construction)	53.0	52.9	52.9	52.7	54.1	55.2
Total Services (including Construction)	60.7	60.8	61.1	61.2	62.6	63.4
Total GDP	**100**	**100**	**100**	**100**	**100**	**100**

@ provisional estimates * quick estimates

Source : Economic Survey 2010-11, Govt. of India, pp. 240

In recent years, India's merchandise exports to the rest of the world crossed the 1 per cent mark (global ranking 28th as exporter), growing at an average 25 per cent over the last 3 years, although the net merchandise trade balance is negative. But India's invisible (net) inflows continue to offset the growing trade deficit to a large extent; in 2005-06, India’s commercial service exports constituted around 37 per cent of the country’s global exports (goods and services). Indian export of commercial services has been among the fastest growing globally in the past 15 years, and grew at over 17 per cent per annum in the 1990s as compared to the world average of 5.6 per cent.

Table 4: Exports of Commercial Services

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Global Exports (US$ billion)	1,493.8	1,498.0	1,607.8	1,842.2	2,210.9	2,451.9	2,710.8	3466.01	3888.79
India’s Exports (US$ billion)	16.0	16.8	19.1	23.1	37.2	54.4	72.8	86.96	102.94
RoG (y-o-y) of India’s exports (%)		4.8	13.8	20.7	61.0	46.4	33.8	19	18
India’s Share in World Exports (%)	1.1	1.1	1.2	1.3	1.7	2.2	2.7	2.5	2.5

Source: International Trade Statistics, WTO, several issues.

Between 2001 and 2008, India’s exports of commercial services grew at over 500 per cent as opposed to the world growth of 160 per cent. In 2008, India exported US$ 103 billion of commercial services, equivalent of 2.5 per cent of global commercial service trade (estimated at around US$ 4 trillion). Though developed countries are major export destinations of India’s services exports, India is now inclined to explore the possibilities of exporting the variety of services to developing countries. Its interest towards developing Comprehensive Economic Cooperation Agreement (CECA) and Economic Partnership Agreement (EPAs) are result of this. Also important to note, the growth of services exports primarily came from IT sector. However, growth performance of several other services sector such as banking, communication, transportation etc are also noteworthy but India is yet to draw benefit from the export potentiality it has in these sectors. RTAs in services provide an opportunity to explore this possibility.

4. India-Singapore as a Model Framework for India’s PTAs?

During the GATS negotiations in the Uruguay Round, India and most other developing country members listed minimal commitments in their services schedules. As the GATS negotiations progressed in subsequent rounds, India came forth as a demander in services negotiations, largely led by its consistent and improving performance in global services trade. Consequently, the revised GATS offer in August 2005 attempted to narrow the gap between the 1994 GATS schedule and the autonomous level of liberalization. Meanwhile, India started to explore alternative route to seize the opportunities available in service sector through negotiating services issues in PTA. India-Singapore CECA is one of the first such attempts.

4.1. The CECA as a Second best

For countries like India, which intend to further their market access in select services, exploring alternative opportunities, such as the CECA, appears to be the second best strategy. The India-Singapore CECA has followed the GATS-type positive list approach wherein each country schedules the sectors it wishes to liberalize. The architecture of the CECA services agreement is similar to that of GATS. It comprises the definitions and scope, specific commitments and general obligations, and finally the denial of benefits clause. All the four key objectives of GATS – namely, market access, national treatment, disciplining domestic regulation and transparency – are as detailed in the CECA as they are in GATS. Further, the CECA also adopts almost all the general obligations of GATS, namely, disciplines on domestic regulation, recognition and transparency among others. Market access and national treatment continue to be specific commitments in the CECA, which are liberalized on a sector-by-sector basis, similar to GATS. The market access objective aims to reduce limitations on the number of service suppliers, value of service transactions, quantity of services output, number of persons that may be employed in a particular service sector and establishment of commercial presence. The national treatment objective aims to provide equal treatment to local service suppliers and suppliers from the other contracting party. The domestic regulation objective attempts to ensure that measures or policies affecting services trade will be applied in a fair and objective manner. The transparency objective requires that all relevant measures affecting the services trade must be made known to the RTA partner within a reasonable period of time, including through prompt publication, maintenance of enquiry points, and fair judicial review. The extent of liberalization in the CECA also bears some relation to the degree of competitiveness. For instance, India has completely liberalized computer related services in GATS as well as within the India Singapore CECA in Modes 1, 2 and 3. On the other hand, legal services are neither liberalized in GATS and the CECA nor autonomously. The first case reflects the confidence of domestic stakeholders and policy makers, given India's competence in information technology services. On the other hand, protectionist tendencies are evident amongst domestic constituencies in the legal services sector, and hence it is not liberalized in the CECA. Select niche service sectors – namely, library services, archive services, technical testing services, biotechnology research services and advertising services – are not listed in the GATS schedule but are liberalized in the CECA. From the Indian perspective, with its membership of ASEAN and APEC, Singapore is seen as an important bridge in the expansion of economic relationships with the ASEAN countries, including China. Several other features of the Singapore economy too have played a role. Singapore has the attributes of excellent education and infrastructure, intellectual property protection and aggressive government promotion of the IT and services sector. All these serve to reinforce the choice of Singapore as a regional hub for high-end services activities for MNCs with Asia-Pacific operations. Indian service sector companies, in order to sustain their high rates of growth, are expected to use the Singapore route to enter the ASEAN market. Bilateral trade flows also attest to the growing economic links between the two countries with Singapore emerging as India's largest trade and investment partner in the ASEAN.

4.2. The key Issue of “Commercial Presence”

The trend of increasing outward investment from India has fetched the relevance of Mode 3 particularly in services, makes it incumbent on policy makers to explore avenues for providing secure investment routes. This issue is addressed in the CECA by incorporating an advanced degree of protection for investors of both countries. The CECA includes three separate instruments which contain comprehensive investment provisions. Since, Singapore is the first country with which this agreement has been signed, such a comprehensive level of protection is not available with any other country. Also, while India has a positive list schedule in investment, Singapore has a negative list schedule wherein it has listed horizontal and sectoral reservations. Thus Singapore has bound its current level of substantially liberalized FDI regime with few reservations. India has included infrastructure, housing and construction in its investment schedule. In addition, most of the clauses of the Investment Chapter are applicable for scheduled services sectors for Mode 3.

India has opened mode 3 for services like accounting, architectural, engineering, medical, planning, R&D, consulting, etc with some conditions. For banking services, Singapore banks have limited access in mode 3. In case of maritime cargo handling, India has put restriction even in mode1. On the other hand, Singapore has opened most of the services under first 3 modes but mode 4 has been kept unbound. Some services like urban planning, medical services, other business services, geological services, mode1 has been kept unbound. National Treatment has also limitation for surveying activities. In transport and retails mode 3 is unbound. Courier services are highly protected in Singapore as both mode 1 and 3 are unbound. Telecommunication services are subject to equity restrictions in Mode 3. Financial service in Singapore is also subject to protections under mode 1 and 3. Hospital services are also protected under mode, 1, 3 and 4. It is clear that some labour intensive services (both skilled and unskilled) India could not get much market access such as courier sector. In sectors like urban planning, geological services, skilled Indian professionals and firms can not access Singapore Market even through Mode1. However, gain is substantial in tourism, audiovisual services etc. The agreement has been made on the basis of reciprocity in the same sector. Sectors like financial services, legal services etc are protected from both side.

In this background, the Indo-Singapore CECA has been the most successful framework, which the Indian negotiators may refer to from time to time during future negotiations. This PTA is the most modern in nature (*i.e.,* going beyond trade in goods and even WTO negotiations, because since it includes services as well as investment). The agreement provides for investment liberalization commitments on the part of India on a positive list basis (*i.e.,* in sectors India expressly listed). This Indian initiative can be compared to the existing PTAs of the US, EU and Japan. It is perhaps not mere coincidence that shortly after conclusion of the Indo-Singapore CECA, the country entered into the CECA negotiations with Indonesia, Malaysia, and South Korea -- the conclusion of the CEPA with South Korea is proof of the growing PTA negotiation confidence on India’s part. The plea to engage Indonesia, Malaysia, and Singapore through CECA can also be considered as part of a long run Indian initiative to engage entire ASEAN market through CECA.

5. Other PTAs with Services Chapter

5.1 India-Korea CEPA

India and Korea Rep signed the Comprehensive Economic Partnership Agreement (CEPA) in 2009 and it is operational since January 2010. The agreement has been notified to the WTO. The agreement is expected to have significant impact on both the economies in goods as well as services. Korea's CEPA with India is the first free trade agreement with a member of the fast growing BRIC (Brazil, Russia, India and China) nations. For India also, it is the first such agreement with a member state of the Organization for Economic Cooperation and Development (OECD). In case of services, this is more exhaustive compared to India Singapore CECA. The agreement gives special emphasis on many issues and includes them in the text as chapters or part of chapters. In case of services this includes movement of natural persons, financial services, telecommunication etc. The agreement allows Indian professional in areas such as IT, English teaching etc to temporarily move to Korea for delivering the services. The India-Korea CEPA allows the temporary movement of professional workers, such as computer programmers and engineers, to Korea and India. This is the first time that Korea has agreed to such a commitment in its bilateral free trade agreements and this will open up opportunities for Indian English teachers and software engineers to work in Korea. Both India and Korea made horizontal commitments considering the investment and other existing laws of the land. Korea has restricted acquisition for new companies and in areas such as energy, aviation etc. In general mode 4 is unbound in the horizontal commitments in both cases. India has not made any offer in legal services but Korea has made restricted offer. Korea’s offer in accounting services is more restricted compared to India’s. India has offer in mode 1 and 2 of architectural services, engineering service, urban planning etc and in some cases with little restriction in mode 3. Among other professional services, India has fairly open offer with some restriction in mode 3 considering the public services offered in many areas and existing FDI norms. Mode 4 is mostly restricted. Korea has much detailed offer in software and IT areas which are mostly open in mode 1-3 but unbound in mode4. Mode 3 of Real Estate service is also open in Korea. In many services, Korea has linked mode 1 and 3 entering the text ‘local presence required’. Both the countries made detailed offer in telecommunication highlighting the domestic laws and licensing system in case of mode3. India’s offer in mode 1 is unbound in some communication services. India has biggest opportunity in audiovisual services as Korea has offered entry in all modes (with some restriction in mode 4) in production of movies, video recording and distribution of that. India is looking for more foreign participation in construction services and made liberal commitment but Korea has restricted offer. Similarly in education services, India has made conditional offer but Korea has kept the sector as unbound. Interestingly India has opened environmental services such as waste disposal etc but it is unbound in case of Korea except technical testing areas. Financial service is mostly unbound in both cases. Both sides have offered with detailed commitments in different types maritime services. This is important to note that in case of India-Singapore CECA, Singapore opened many sectors and restricted few strategic sectors and that too in mode 1 and mode 2 primarily and mode 3 in some cases. However, for India-Korea CEPA, Korea has restricted large number of sectors while India has opened many sectors in line with India’s unilateral liberalization strategy. Through this, India would like to send a message about its commitment in liberalizing the services.

5.2 India-Japan CEPA

India-Japan CEPA has been signed in February 2011 and it is yet to be operational. Like India-Korea CEPA, this one also has a detailed chapter on movement of natural person. There are also special annexes for telecommunication and financial services. Similarly, as in case of India-Korea CEPA, India has opened largely most of the professional services except in case of mode 4. Construction, distribution, environmental, tourism and hospital services are mostly open. Telecommunication and financial services are unbound. In case of Japan's offer India has received detailed commitment in legal services with some restriction mostly as 'exception'. Medical services are kept unbound but in most of the other services India has been able to obtain large concessions including commitments for providing greater market access. Japan has also committed to cover the whole range of engineering services like computer engineers, mechanical, electrical, industrial, design engineers and project management specialists. Significantly, first time, Japan has agreed to grant additional category of instructors for yoga practitioners, classical musical and dance practitioners, chefs and English language teachers. It is important to note that gradually India is becoming more prudent in negotiating services issues and it is able to derive better commitments from partners.

5.3 India-Malaysia CECA

India and Malaysia singed Comprehensive Economic Co-operation agreement (CECA) on 18the February, 2011. The agreement will come into force from 1st July 2011. The agreement is a very ambitious one and stress on liberalisation of both goods and services trade between the two economies. The agreement aims to enhance the competitive investment environment and provide stimulus to FDI between the two partners. In last few years mutual investment in each other's economy has increased significantly. In services sector India received investment from Malaysia in areas telecommunication, tourism and human resources. India also invested in IT , advertisement, audio-visual sector and allied financial services. The Joint study group (JSG) also anticipates that investment will be there in other areas such as medical, healthcare and diagnostic services, advertising, audio visual services, construction and engineering services, distribution services, and accounting and taxation services. India's horizontal commitment is very cautious regarding mode 4 and contractual & independent services providers require to have services contract for delivering the service in India. For most of the professional services, India's commitment is slightly more restrictive compared to India-Korea and India-Japan CEPA. For example, most of the services under R&D are unbound or subject to conditions. However, India has opened up the real estate sector for Malaysian investment. Indian audio visual sector is kept as unbound and other services such as telecommunication provide conditional and restrictive entry. India has opened up environmental services but in hospital sector it offered entry with equity cap. Malaysian horizontal commitment explicitly put up the condition related to mergers and acquisition, use of real estate, use of incentives provided by the government etc. Though in most of the professional services Malaysia has offered a commitment, it has put up conditions on both mode 3 and mode 4. Malaysia has opened up medical services and expects that specialized

services will be offered by natural person. In many cases as in case of India –Korea CEPA local representation is required for offering the service in Malaysia. In telecommunication, Malaysia has offered a liberal commitment but for investment purpose only an existing company can be acquired. This is true in case of audio visual and hospital services also. It is noteworthy that Malaysia's commitment in tourism sector is also restrictive as there are equity cap and through locally incorporated JVs. However, for 4 and 5 star hotels these restrictions are not there.
Comparing India's recent economic partnership agreements it can be said that India got good offer from Japan and Singapore. For Korea, there are restrictions in sectors in their offer and in case Malaysia's offer we have noticed restrictions are there even in mode 3. India has maintained its position by offering more number of sectors but however, other countries are not reciprocating equally. Hence in services, India's gain from these FTAs will also vary widely.

6. Why does India favour Services Negotiations in PTAs?

India in its current attempt has shown its inclination towards bringing services sectors for FTA negotiation. In several cases, India is willing to develop directly CECA and in some cases would like to convert an FTA into CECA. For example, both India and Sri Lanka is now engaged in converting existing FTA into an economic partnership agreement. Several services sectors are already being liberalized bilaterally as a predecessor to comprehensive agreement. For other countries, such as with EU, Israel, GCC, Malaysia, Japan, Korea, Mexico, etc, India has varying degree of interest in services sectors.

Studies have clearly mentioned that in which sectors India has strong comparative advantage and must seek for market access (such as IT and ITES, Health services, etc.). However, the market access limitation in the destination countries requires in-depth study. There may be scope of negotiation in some other sectors in which India may not have strong advantage in the short run but in the medium run it may derive some gains. Technological cooperation and related services, tourism services, financial, architectural, construction and education services are few of them to mention. Investment in services (Mode 3) and movement of natural persons (Mode 4) are the key issues in all those sectors. It has been noted above that India's potentiality in many new sectors is being consolidated as internally some of these sectors are registering high growth. Hence, increasingly, India will seek market access in many services sector not limiting itself to IT sector only.

Indian investment in Sri Lanka is increasing significantly which has paved the way for services cooperation. TATA (Taj Hotels), VSNL, Jet Airways, ICFAI, ICICI have already entered Sri Lankan market with large investment[25]. Sri Lanka concentrated mainly in the export of transshipment services as port of Colombo is a major hub port for India and tourism. India however focused in the export of both traditional services (construction, engineering, tourism) and knowledge based services (software, education, health)[26]. In case of maritime services, the negotiation has been on the basis of request and offer approach on the four modes. Following Sri Lanka's request, India has made commitments but some limitations are there. In case of maintenance and repair services India made full commitment

[25] Taneja,N.; Mukherjee,A. ;Jayanett, S.; Jayawardane,T. / Indian Council for Research on International Economic Relations (ICRIER) ,2004.
[26] Nag (2006): A Review of India-Sri Lanka Trade Cooperation; Occasional paper 24; Indian Institute of Foreign Trade

in mode 1, 2 and 4. In case of civil aviation, Sri Lankan airlines can now travel to many places in India but high fuel charges in India is a matter of concern. In case of tourism investment is invited in hotels/motels in India from Sri Lanka and hence mode 3 route is being utilized. In case of health services, India is keen in negotiating the movement of health professionals and hence brought the issues like residency permits of doctors and application of long term registration of medical professional. Cooperation is also sought in case of alternative medicines as both the countries are quite strong in these areas. In case of technical cooperation also, mutual recognition of various degree has been found to be the key issues. In audio-visual services, Indian companies are seeking market access for developing joint TV programmes, animation films, etc. Sri Lanka wants to look into mode 3 and mode 4 holistically as Indian investment will be associated with Indian Professional but India is inclined to de-link commercial presence from movement of natural persons[27].

India and China have moved forward with possible agreement both in goods and services. However, the progress has remained uneven so far. In a study[28], it has been mentioned that there are several province wise barriers in services sector of China. Hence, in-depth study is required to understand the nuances of MFN exemptions. Regulatory structures are also sometimes have positive discretion towards state owned firms (such as in telecom). Some of the sectors where Indian investment may of profitable in future are entertainment industry including TV programmes, cinemas and media where India has a distinct comparative advantage. Apart from this, sectors like construction, retail, freight forwarding etc provide lot of opportunities to Indian players. Currently, China is engaged in English training drive. Indian skills may be optimally utilized for this purpose. Also many Chinese companies willing to take advise for IPR related issues where Indian legal expertise can export their services. As a result, there is a need to make visa rules and policies more user friendly. Exploration (such as petroleum) sector has also opportunity for cooperation. India-China cooperation should focus towards medium and long term benefit rather than short run adjustments. From this context, the possible areas of cooperation including R&D and collaborative researches among universities may be encouraged.

India has now shown its interest in other countries for developing CECA or agreement involving trade in services. Israel is a lucrative market for India to negotiate an agreement of trade in services. India can import lots of sophisticated services such as high-end technology for medical services, security services, irrigation services etc. In return, India can negotiate for IT and ITes, consultancy, engineering, and architectural services. Education and Construction services are also important from India's point of view. Israel does not have much barrier in mode 1 and 2. In case of mode 3 especially IT and other growing sectors hindrances are very limited. However, in Mode 4 restrictions are relatively high. Mutual Recognition Agreement is an important issue which India must seek from Israel as this allows flow of Indian human capital smooth in Israel. Various economic need tests criteria are there for presence of natural persons. Emerging areas in the services sector for India also includes audio-visual services. Indian movies and TV programmes are quite popular in Israel. Demand is high for producing, creating animations and post-production activities. Israel can outsource many of these services to India instead of USA. Collaboration may be encouraged in pharmaceuticals especially bio-technology, agro-technology, environment services and

[27] Nag (2006)

[28] Harnessing India's Economic Potential in China: Strategies for Cooperation and Synergy; IIFT Research report 2007

chemicals apart from high-tech sectors such as IT, medical devices and security instruments. India's negotiating stance in case of Israel must be in importing best quality technology and technological cooperation rather than bargaining hard for market access. As the Israeli market is small India's gain will be small in most of the services. However, in some niche areas our gain may be substantial. In case of Gulf cooperation Council (GCC) and other Middle East countries India's main interest in Mode 4 as most of the services is protected by various economic need tests. Apart from this there are restrictions in mode 3 also which are protected by various ownership criteria, citizenship criteria etc. India's interest lies in construction, engineering, education, health and tourism sector apart from IT/ITes. Though India has interest in financial services but the sector is protected in case of restrictions in commercial presence. India requires aggressive negotiation strategy while negotiating with GCC. India is also contemplating developing agreements with Malaysia, Thailand etc. In these cases, Mode 3 and 4 are again are the most important negotiating issues. Two ways investment in several services sectors will be the negotiating objective for developing trade agreements with South East Asian countries. Tourism, IT, transport are the main services for negotiation. As India is looking east for increasing its trade in goods, to facilitate this service sector should be equally equipped and negotiation should be seen from this angle. Learning from India-Singapore CECA in this context is important while preparing the negotiation strategy with other South East Asian countries. India is also currently engaged in developing a comprehensive agreement with the EU which includes service sector. India must look for importing technology and related services from EU especially in health, environment, telecom etc, where Mode 3 and 4 are important. At the same time attracting European tourists in India in Mode 2 must be looked into. India must seek market access in developing EU members in number of services it can offer including health and construction services. Audiovisual sector is quite protective in the EU and India needs a market access in the sector also. An analysis of EU's bilateral services agreements (such as with Chile) revels that EU is looking for a transparent and well regulated market which may be clearly spelt out in the offer document. Services in EU are having numerous layers of barriers such at the EU level and at the national level. Most of the services are covered by some Directives which provides information about regulatory environment and movement of liberalization. However, national regulations go beyond the EU Directive and EU has limited success till now in streamlining national regulatory structure of its Members. Hence, negotiation with EU needs to be done cautiously only looking at the market structure of the target EU countries. Also looking at EU's strategy, India needs to develop a skill to draft the offer document in such a way so that it can provide transparency as well as incentives to the sectors for their growth with adequate competition and quality.

7. Challenges Ahead

7.1. Analysis of Sector wise issues of concern

Banking Sectors

In general there exists entry barrier in most of the countries. Apart from this, several regulations especially related to authorisation, equity limit, barriers on day-to-day transactions, limit on expansion, limit on lending etc. act as barriers to foreign banks. In many countries, branches are treated as foreign entities. In EU access to fund is more costly for foreign banks. There are also restrictions on banks in expanding to other financial services. Indian banks are now taking up the strategy to go abroad and developing countries with large population of Indian origin are the immediately preferred destinations. Hence, as a part of the negotiation strategy Mode 3 issues may be negotiated especially for issues like number of branches, their legal entity, etc. India may seek better harmonisation of rules like minimum capital requirement, etc. Visa and work permit related issues may also be negotiated.

Accountancy Services

Issues related to MRA (requirement of various accreditations), Licensing requirement, movement of professionals etc. are of major concerns. In some countries, citizenship and residency criteria is also in place which act as potential barrier. Increasing Finance and Accounting Outsourcing (FAO) opens the opportunity in Mode1 also. As Indian accountants need to clear domestic professional requirements in most of the countries, strategy should be made to avoid articleship of Indian Accountants in foreign countries. India must concentrate on Mode1 and 4 only.

IT/ITes

The major areas concerns are visa requirements (longer time to get work permits), investment regulations, tax discrimination, data protection and labour market regulations. Indian companies interested in investment abroad are unable to bring sufficient number of Indian workers. India's interest lies in mode 1, 3 and 4. Issues require aggressive negotiation strategy as India's competency in this field is well known.

Health Services

Opportunities are there in tele-medicines (bio-informatics), clinical trials and research, medical tourism, collaborative research, back office support (transcriptions, coding, etc.). Several interrelated regulatory issues are matter of concern from Indian perspective which are mainly MRA, data protection, visa requirements, etc. Several countries would like to see mode 3 and 4 together but India wants to view and negotiate them separately. In some countries Registration and work permits to be taken separately. For Indian doctors it is a matter of concern. Insurance issues for international patient are also matter of concern in case of mode 2. Several countries are not so inclined to share medical history of patients with Indian companies understanding that data protection laws are not so strong in India. This creates problems for Indian companies in supplying services (such as tele-medicines, online transcriptions of medical reports, preparation of pathological reports, etc) through Mode 1. India is interested in all four modes. In several countries, limitation on mode 3 needs to be negotiated. Beyond this, there is a great demand of Indian nurses, technicians, para-medical professionals in the Middle East, USA, Canada, etc. Mode 4 issues in this case are also very important for India.

Telecommunication

Role of regulators in telecom is very important. The International Telecommunication Union, for instance, sets global standards for the telecommunication sector (Bailey, 2005. In other services sectors, national standards are still prevailing. However, it remains inconsistent in many countries especially in case of spectrum allocation, pricing and bundling of services. Restrictions are there in the form of licensing, equity limits, limit on resale, etc. Markets are often fragmented. Large investment is required and hence Govt. needs to understand the benefit of commercial presence of Indian players outside. VSNL is now present in Sri Lanka, EU. Their experience needs to be analysed. Indian companies may not be very interested in basic telephony. However, an exploratory exercise may be carried out in some value added services.

7.2. Issues in Rules of Origin

The degree of trade preferences depends critically on the rules of origin adopted by a RTA. In the case of goods trade, rules of origin typically lay down in a rather detailed way which levels of transformation good needs to undergo in the partner country in order for it to be exported to another FTA partner at a preferential tariff (Roy et al, 2007). In goods RTAs, rules of origin are used to ensure that non-members do not benefit from the RTA by routing their exports through an RTA member country. Rules of origin (RoOs) list the parameters relating to the minimum amount of domestic content that must be present in goods to qualify as domestic goods and benefit from preferential tariffs in the RTA. Denial clauses in services are similar to such RoOs in goods. Denial clauses set the parameters which a company needs to satisfy to benefit from the RTA. In the case of services FTAs rules of origin based on value added criteria are not used. This may be the case because the concepts of imported service inputs and domestic transformation are conceptually and statistically not well-developed in the case of services trade. Based on the guiding principle that RTAs should facilitate liberalization of trade and not result in reducing the trade prospects of non-RTA countries, GATS has included a disciplining provision for ensuring that denial clauses are framed in a liberal fashion, thereby benefiting non-members also. Article V on Economic Integration mandates that denial clauses cannot prohibit service suppliers of any other member if they are a juridical person of a party to the RTA and are engaged in 'substantive business operations' which implies that if an Indian company has substantial operations in Singapore and is registered in Singapore, it can benefit from the Singapore US FTA. However, GATS text also provides for loopholes to make the denial clauses more restrictive. For instance, by expanding the ambit of parameters, a company may require to qualify as being engaged in 'substantial business operations'[29]. Indeed, it is not clear whether a transformation rule could be meaningfully applied in this area. In the case of modes 1 and 2, rather than using a value added criterion, services RTAs merely stipulate that liberalization measures apply to services that are supplied from or in the territory of another party. It is not clear from to what extent services relying on imported services inputs would be eligible for trade preferences. In the case of modes 3 and 4, RTAs do not provide for any rule of origin for services. Instead of focusing on the origin of services, RTA provisions have mainly sought to delineate the origin of service providers. Indeed, the need for physical proximity between services suppliers and consumers implies a strong link between the service and its supplier, whether in the form of a juridical or natural person.

8. *In Lieu* of Conclusion

Regional trade agreements operate alongside global multilateral agreements under the WTO. RTAs are providing opportunities to countries to go beyond GATS as many developing countries are involved in deeper integration through RTAs in services. They can be attractive because it may be easier for a small group of neighbouring countries with similar concerns and cultures to agree on market opening in a particular area than to reach agreement in a

[29] Article V.6 of the GATS states: 'A service supplier of any other Member that is a juridical person constituted under the laws of a party to an agreement referred to in paragraph 1 shall be entitled to treatment granted under such agreement, provided that it engages in substantive business operations in the territory of the parties to such agreement.'

wider forum such as the WTO. They can also offer new approaches to rule-making and so act as stepping stones on the way to a multilateral agreement. Also regional services agreements are quite important to develop regional infrastructure and common regulations in related services of transport, communication, energy etc. Liberalisation process in services go hand in hand with several barriers which are mainly in the form of quota, licenses, investment barriers, equity limits, restrictions of movement of people and regulatory framework. Most services agreements focus on transparent business environment along with liberalisation. RTAs in services is not only helping developing countries to access foreign markets but also developing capacities in institution building which is required for deeper integration.

Apart from services such as IT/ITes, Health, etc India has varied degree of opportunities in several countries with which currently it is negotiating/intends to negotiate trade agreements. Some of the other services where India has opportunities are transport, engineering, construction, tourism, accounting etc. Mode 4 is an important issue only when there is large demand of skilled manpower in the destination countries. Apart from this, India must look into mode 1 of several services which can be provided through internet or telecommunication. India's interest in mode 3 lies in several services such as in hotels, financial services, health and education where big Indian players are willing to incur large investment abroad. However, India must look into the employment generation in the SME sectors through economic linkages mainly in tourism, logistics, courier etc. Market access issues in these sectors must be seen from this angle. For different destinations, India's interest lies on different sectors. Market Access exemptions and National Treatment limitations need to be tuned according to the threat and opportunity lies in each country. India may seek for phased market access in some of the protected sectors asking its RTA partners for timeline of some of the market access exemptions.

Last but not least, as the developed country markets are getting saturated, more opportunities are lying in relatively advanced developing countries and RTAs can work as a major instrument to India in negotiating the market access of potentially exportable services.

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