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TRADE IN SERVICES FROM A DEVELOPMENT PERSPECTIVE

Discussion paper

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Senator Ibikunle Amosun (Nigeria)

1. The GATS or General Agreement on Trade in Services applies to measures by Members of the WTO affecting trade in services. The increasing participation of developing countries in trade in services and the expansion of their services export through, inter alia, the strengthening of their domestic services capacity and its efficiency is underscored in the Agreement.

2. There are four modes of supply of services namely;

- (i) Mode 1: Cross border supply
- (ii) Mode 2: Consumption abroad
- (iii) Mode 3: Commercial presence
- (iv) Mode 4: Movement of natural persons

Among the four modes of supply of services listed above, developing countries have comparative advantage in mode 4. Unfortunately, developed countries have tied movement in this mode to commercial presence and as such, developing countries have not been able to reap any benefits from their comparative advantage in this mode.

Progressive liberalisation

3. The GATS has been acknowledged as being development friendly because of the concept or principle of progressive liberalisation. Article XIX of the GATS calls for achieving progressive higher liberalisation and promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations. The mandate further states that negotiations shall take due regard for national policy objectives and the level of development of individual members, both overall and in individual sectors. It also states that there shall be appropriate flexibility for individual developing countries for opening fewer sectors, liberalising fewer types of market transactions, progressively extending market access in line with their development situation and flexibility of attaching market access conditions to foreign service suppliers. So the GATS is supposed to be development friendly to all, especially developing countries.

Development perspectives

4. The GATS is supposed to be development friendly and developed countries are expected in the course of the negotiations to take measures to promote the participation of developing countries by, among others, opening up sectors and modes of supply of export interests to developing countries. The situation unfortunately is not encouraging and sectors and modes of supply of export interests to developing countries including mode 4 have not been opened-up. This has created a situation where developing countries are not fully participating in services trade and not reaping much benefits from it. This has to be addressed in the current round of services negotiations at the WTO.

Conditions/measures to promote the participation of developing countries in trade in services

5. There are some conditions that in my view could promote the participation of developing countries in services trade namely;

- (i) Opening of sectors and modes of supply of export interests to developing countries by the developed countries;
 - (ii) Provision of targeted technical assistance to address some of the capacity constraints facing many developing countries in trade in services;
 - (iii) Assisting developing countries in the preparations of their Initial Offers and Revised Offers;
 - (iv) Any recommendations from the Services Council of the WTO (CTS) to the TNC, General Council and the Sixth Ministerial Conference should contain concrete measures to assist developing countries in participation on trade in services;
 - (v) The pace of negotiations on services in WTO should be managed in such a way to take into account the needs and constraints of developing countries;
 - (vi) There should be balance between market access and rule making components of the negotiations in WTO;
 - (vii) The problem of subsidy accorded to some service suppliers by the developed countries can be an obstacle in achieving a level playing field between service suppliers from developed and developing countries. This has to be addressed in the negotiations under rule making on subsidies;
 - (viii) Emergency Safeguards should also be developed in the negotiations to provide safety valves or nets by developing countries to deal with high influx in services provided by developed service suppliers or to deal with threat or material injury to domestic service industry;
 - (ix) Exploring the possibility of having or developing a GATS visa to deal with visa and other administrative problems facing movement of natural persons to provide their services across national borders. There is also the need for closer cooperation between trade and immigration authorities;
 - (x) There is also the need to have in place Mutual Recognition Agreements (MRAs) regarding qualifications and standards which can serve as obstacles to trade in services;
 - (xi) The need to conduct studies on the impact of liberalisation undertaken by developing countries to assess the impact of past liberalisation and the need for additional ones. I am of the view that taking these measures could make GATS more development friendly and enhance more benefits for developing countries.
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Ms. Ann McKechin, Member of the House of Commons (United Kingdom)

The WTO has evolved trade principles such as non-discrimination, most favoured nation and national treatment, which were correctly derived in the context of trade in goods, but there is no clear evidence or political consensus that the application of those same principles to areas other than trade in goods will lead to positive development outcomes. Just about every developed country expanded initially on the basis of special treatment for its own industries and Government procurement. The benefits of investment and procurement liberalisation are not likely to outweigh the disadvantages unless there is sufficient strength within the domestic economy itself and sufficient capacity to regulate foreign investment and adequately to enforce that regulation.

Should the WTO change its GATS agreements to ensure that development priorities are integral to the processes' mechanisms? Should the focus change from seeking to prevent "trade distorting measures" to incorporate an over-riding requirement that measures should not be "development distorting" and respect human rights to food, shelter and employment?

How can freer regulation to permit Foreign Direct Investment (FDI) be balanced against a nation's wish to achieve growth in its own domestic industries?

Shri Rupchand Pal, Member of Lok Sabha (India)

The General Agreement on Trade in Services is the first and only set of multilateral rules governing international Trade in Services. In the backdrop of huge and fast growth of the economy over the past three decades and tremendous potential gains from trade in services brought about by the communications and digital revolution by this time GATS has been established with the objective of expansion and progressive liberalisation of such trade as a means of promoting economic growth of all trading partners and further growth in developing country.

The General Agreement on Trade in Services has assumed great importance both in the Doha and post-Doha negotiations.

Services as such represent about 60% of Global output and about one third of Global Employment and are about a fifth of Global trade.

Liberalization of Trade in Services opens possibility to strengthen essential domestic services for export competitiveness.

After the Uruguay round, negotiations on Trade in Services officially started early 2000 under the council for Trade in Services established for negotiating guidelines and procedures.

The Doha Declaration reaffirms negotiating guidelines and procedures and set up time table including a deadline for concluding the part of 'a single undertaking' by 1 January 2005.

In the emerging international economic environment, Services is assuming a crucial role in global trade. There are tremendous potential gains for both developed and developing countries in a successful round of negotiations.

Countries like India with strong stakes in the Trade in Services are committed to a successful conclusion of the negotiations. They have strong competitive advantages in Services.

For countries like India cross border supply Service (Mode 1) and Movement of Natural Persons (Mode IV) have assumed great significance, given the availability of technology, skilled labour and the cost differentials between developed and developing countries. India expects greater commitments in Mode IV from the developed countries ensuring easier access for movement of natural persons particularly skilled professionals and facilitating increased provisions of remote services through electronic means. Related issues such as recognition of qualifications and standards, economic needs tests (ENTS), administrative procedures relating to visas (like number of days required for grant of visa, some

transparency in the matter, reply for rejection of visa, etc.), mutual recognition agreements (MRAS), Social Security contributions etc., need to be addressed in the current negotiations.

In keeping with this avowed objective WTO members are bringing about progressive liberalization in trade in services and increasing the participation of developing countries in the world trade. All members must work together to enable service providers to supply services in overseas markets either from remote locations (Mode I) or through the temporary movement of service personnel (Mode IV).

The General Agreement on Trade in Services and the Guidelines and Procedures for Negotiations make reference to the need to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports.

It is in keeping with this objective that special flexibility has been provided for developing and least developed countries in undertaking specific commitment and the special attention is mandated for the sectors and modes of supply of export interests to developing countries. This aspect needs to be addressed adequately if the shared objective of development for all is to be achieved.

The General Agreement on Trade in Services (GATS) provides a high degree of flexibility both within the framework of rules and also in terms of commitments.

The General obligation and discipline covers areas like Banking, Tele-communications, Tourism, Professional services, etc., and four ways (Modes) of trade in services have been defined i.e. Cross Borders supply (Mode I), Consumption abroad (Mode II), commercial presence including through branches, etc. (Mode III) and Movement of Natural persons (Mode IV), i.e. individual travelling from their own country to supply services to another. The Most Favoured Nation concept is part of all services. Bilateral negotiations form and influence negotiations in general and those agreed to bilaterally are multilateralised later.

The market access commitment and market access limitation are also discussed and incorporated in the services provision of the agreements.

GATS require sufficient transparency in domestic regulations, since they are significant in exercising control over supply of Services.

GATS say that Government should regulate the services reasonably, objectively and impartially.

Negotiations to further liberalize in trade in services started in early 2000 as mandated in GATS (Article 19) and as per Doha 'Framework of Agreement' expected to be concluded before January 2005.

In order to successfully meet the core objective of the WTO to bring about progressive liberalization in trade in services all Members need to work together.

The basic goal and philosophy behind the GATS and the guidelines and procedures for negotiations underscore the need to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports.

Services have already emerged as a major area of comparative advantage for developing countries. Movement of natural persons Mode IV is of substantial benefit to developing countries like India.

In a 'Framework of Agreement' adopted by the General Council of WTO on 1 August 2004 at Geneva it was decided to conclude the negotiations in respect of agricultural, non-agricultural market access, progress on service negotiations and other issues mentioned in the Doha Declaration.

Let us all look forward to a successful conclusion of the above negotiations in the interest of both developing and developed countries.

Ms. Paddy Torsney, Member of the House of Commons (Canada)

- Improved market access for services providers can be an important tool for economic growth; developing countries therefore have much to gain from the services negotiations under the WTO's Doha Development Agenda

Services and developing countries

- Services have become a major source of economic activities in countries at various stages of development. On average, services accounted for 52% of GDP in developing countries in 2001. (*UNCTAD World Investment Report 2004*)
- In 2003, the value of commercial services exports and imports totalled \$1.8 trillion each, an expansion of 13% from the previous year. Among the world's leading exporters and importers of commercial services were developing countries such as India, South Africa, Mexico, Malaysia, Thailand, and Indonesia. (*International Trade Statistics, 2004*)
- The structure of foreign direct investment (FDI) has shifted towards services, accounting for 60% of world FDI stock in 2002 and 2/3 of total FDI inflows during 2001-2002. As many services are not tradeable on a cross-border basis, FDI is an important way by which services can be produced and consumed in foreign markets. The share of developing countries in global outward FDI in services climbed to 10% in 2002. Developing countries now account for 25% of inward FDI stock in services. (*UNCTAD World Investment Report 2004*)

The GATS and developing countries

- The General Agreement on Trade in Services (GATS) and ongoing multilateral trade negotiations in services are vital tools for opening markets and ensuring fair and equitable access for service providers.
- Increasing the participation of developing countries in services trade is a key goal of the GATS. The agreement recognizes that liberalization is to take place with due respect for national policy objectives and the level of development of individual members.
- GATS is development friendly as it allows for flexibility in scheduling – in line with their development situation, developing countries can target the services sectors of greatest interest to them when making commitments.

In the current round

- Improved access to foreign markets will allow for economies of scale and employment generation. Increased domestic competition in services will encourage investment and lead to lower prices, wider selection, and better quality services for consumers and businesses.
- Developing countries are engaged in the negotiations. From their requests, developing countries have indicated a particular interest in the temporary entry of service providers (Mode 4), professional services, and tourism. Many see commitments in Mode 4 as test of developed country commitment to the development round.
- As negotiations proceed, more developing countries are recognizing that they have interests in all modes of supply. For example, interests in cross-border trade (including, for example, "outsourcing") can be served through commitments in Mode 1. Given their increased participation in FDI in services, Mode 3 commitments should also be of value.
- There are still some key developing country service traders that have not submitted any offers to date. We encourage them to do so as their engagement is critical to advancing the negotiations.

Canada, the GATS, and developing countries

- Canada fully supports increasing the participation of developing and least-developed countries in the GATS negotiations. Issues and concerns related to development remain a priority for Canada.
- Canada will give special consideration to any market access request received from developing and

least-developed countries. Canada's initial GATS offer includes the three areas of interest to developing countries – Mode 4, professional services, and tourism. Meanwhile, Canada is making no requests for liberalization of least-developed countries during the current round of GATS negotiations.

- Canada recognises the special economic situation and the capacity difficulties faced by developing countries and LDC members, especially when attempting to assess their own services economies in preparation for the GATS negotiations. Canada continues to support developing countries in many ways, including through Trade Related Technical Assistance (TRTA). Canada made a practical TRTA contribution to the International Trade Centre in 2003 to assist developing countries with the GATS negotiations.

Role of parliamentarians in advancing progress of negotiations

- Governments, parliamentarians and civil society must engage to shape the future we want in the current globalization environment, where greater integration and interdependence blur the traditional lines that separate domestic and international policy areas.
- By engaging the citizenry, parliamentarians not only ensure that governments and international organizations' trade negotiations reflect the views and aspirations of global publics, but help create greater awareness of the challenges and opportunities of international trade.
- Parliamentarians have a role to play in helping strengthen the understanding of, and the support for, ambition in the Doha round in general and in services negotiations in particular.
- Parliamentarians can foster discussions on services trade liberalization and opening domestic markets to foreign competition.
- Parliamentarians can continue to serve as an effective link between governments and citizens to ensure that any revised offer reflects domestic interests, while fostering a level of ambition that is key to a successful round of negotiations.