

ICTSD Trade in Services Series



Opportunities and Risks of Liberalising Trade in Services in Pakistan



By **Abid A. Burki**, Professor of Economics, Lahore University of Management Sciences
S.M. Turab Hussain, Assistant Professor of Economics, Lahore University of Management Sciences



International Centre for Trade
and Sustainable Development

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ACRONYMS

APCA	All Pakistan Contractors Association
CBR	Central Board of Revenue
CDG	City District Government
CPC	Central Product Classification
CY	Calendar Year
DHA	Defence Housing Authority
DISCO	Power Distribution Company
EBOPS	Extended Balance of Payments System
EC	European Community
ENT	Economic Needs Testing
FBS	Federal Bureau of Statistics
FDI	Foreign Direct Investment
FESCO	Faisalabad Electric Supply Company
FPCCI	Federation of Pakistan Chambers of Commerce and Industry
FY	Fiscal Year
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GENCO	Power Generating Company
GoP	Government of Pakistan
ICRIER	Indian Council for Research on International Economic Relations
IIFT	Indian Institute of Foreign Trade
IMF	International Monetary Fund
IPP	Independent Power Project
IT	Information Technology
KESC	Karachi Electric Supply Corporation
LCCI	Lahore Chamber of Commerce and Industry
MA	Market Access
MFN	Most-favoured Nation
MoC	Ministry of Commerce
MW	Megawatts
NBFI	Non-bank Financial Institution
NCAER	National Council of Applied Economic Research
NCB	Nationalised Commercial Bank
NEQS	National Environment Quality Standard
NT	National Treatment
OGDC	Oil and Gas Development Company Limited
OGRA	Oil and Gas Regulatory Authority
Pak-EPA	Pakistan Environmental Protection Agency
PCATP	Pakistan Council of Architects and Town Planners
PEC	Pakistan Engineering Council
PPIB	Private Power and Infrastructure Board
PPL	Pakistan Petroleum Limited
PSO	Pakistan State Oil Company
PTCL	Pakistan Telecommunication Company Limited
R&D	Research and Development
SBP	State Bank of Pakistan
SECP	Securities and Exchange Commission of Pakistan
SME	Small and Medium Enterprise

SOE	State-owned Enterprise
TMA	Town/Tehsil Municipal Administration
UNCTAD	United Nations Conference on Trade and Development
WAPDA	Water and Power Development Authority
WTO	World Trade Organization

FOREWORD

Eleven years after services were included in the multilateral trading system, the WTO's General Agreement on Trade in Services (GATS) remains an unfinished project. It continues to arouse scepticism among its original proponents - given the arguably low level of liberalisation attained so far - as well as deep concern among others with regard to the policy orientation of its provisions. In the context of international negotiations, the GATS was the result of a complex process of political *quid pro quos* that catapulted services to the forefront of the Uruguay Round negotiations. By and large, major service providers in the US and Europe acted as *demandeurs* for rules and for a process that would lead to global trade expansion in the services sector. Their counterparts in developing countries were confused, and their development concerns - omnipresent in the process - were ultimately left appallingly vague. The absence of data, commercial insecurity and a crippling perception of an unfavourably tilted playing field prevailed in development circles throughout the negotiations. Broad public policy issues remained off the negotiating table. Difficult tensions - arising, for instance, from the fundamentally different approaches of diverse public law traditions to the role of the state in the provision of certain services - permeated the discussions. The eight years of talks to design the GATS represented a hugely rich, creative and analytical effort, characterised by complexity, technicality and a high degree of politicisation.

The implementation of the Agreement has perpetuated the pattern. In the past few years - as we continue to move into the liberalisation phase mandated as a built-in agenda in the GATS - policy-makers in developing countries, academics, civil society analysts and advocacy organisations have expressed serious reservations about the potential implications of requiring developing countries to make greater market access concessions; the need to sequence liberalisation; the lack of adequate domestic regulatory frameworks; the imperative of universal access for essential services; and institutional reform and good governance. The unresolved discussion on whether liberalisation and further advancement of negotiations can proceed in the absence of the mandated impact assessment of implementation seems to be most troubling for practically all parties. Indeed, a comprehensive policy analysis of the implications of trade in services for sustainable development, and of the policy spaces available for implementing public policies, is still missing.

At the national level, the impact of services liberalisation on the local economy is among the most challenging and controversial issues. In many developing countries the services sector has grown in the last two decades to comprise roughly half of their gross domestic production. Yet trade in services continues to comprise only a small portion of total trade flow with most of the services being domestically generated and supplied. At the same time, the sector remains largely underdeveloped and the regulatory framework is inadequate.

At the international level, most developing countries have had difficulties articulating their negotiating positions beyond rhetoric and general statements. So far, only a small percentage of developing countries have submitted formal requests and offers. While it is true that there may have been posturing due to the perception of lack of progress in other negotiating areas, for some it is simply a lack of genuine understanding or familiarity with the GATS and the WTO negotiating context. For many, it is symptomatic of a lack of deeper, substantive knowledge of their interests in specific sectors and modes of supply and rules. However, as significant domestic support measures in agriculture non-tariff barriers, preference erosion and supply side constraints continue to hamper the exports of Least Developed Countries (LDCs) and many developing countries to the markets of developed industrialised countries, services trade is steadily gaining momentum over the years as an alternative channel for providing new opportunities for diversification and export oriented economic growth.

To address this concern, ICTSD has commissioned, as part of its programme on Trade in Services and Sustainable Development, a series of studies on the opportunities and risks of liberalising services trade in selected developing countries, including, Bangladesh, Egypt, Guatemala, Mozambique, Nicaragua, Pakistan, South Africa and Tanzania. These studies have been carried out in co-operation with local researchers and experts through a participatory process involving a wide range of domestic stakeholders. As such, they are not intended to be an academic exercise but rather a practical tool for policy-makers and non-state actors with an interest in services trade. They have been designed as a contribution to understanding the reality of developing countries' services economy and identifying both offensive and defensive negotiating interests.

Although facing institutional and capacity constraints as in many developing countries, Pakistan has been actively involved in the GATS negotiations by pursuing a strategy of "critical engagement" recognising the positive role that services liberalisation can play by improving the competitiveness of the goods sector and other services, as well as increasing export opportunities and improving the efficiency of domestic services. Pakistan has received several requests from its trading partners and has also tabled some. In order for Pakistan to strengthen both the multilateral and bilateral negotiating process for services, the study suggests the formalisation of a "bottom-up" consultation mechanism incorporating national stakeholders.

The present study, produced in collaboration with the Lahore University of Management Sciences, identifies construction and related engineering services, architecture, engineering and integrated engineering services, energy services and environmental services as priority sectors, and the temporary movement of natural persons (Mode 4) as a priority mode of supply for Pakistan. The construction sector, which represents a fundamental activity in Pakistan with strong forward and backward linkages, is seen to have potential import and export interest. Further liberalisation in the environmental services sector, including waste collection and recycling, would also benefit Pakistan. However, removal of existing restrictions on Mode 4 is seen to be of the greatest potential interest to Pakistan. This study comes at an opportune time for Pakistan in implementing concerted measures for macroeconomic stabilisation and structural reforms as its economy advances towards a higher degree of openness and export orientation. In this context, it provides a timely backstopping analysis for the definition of its negotiating interests in bilateral, regional and multilateral negotiations.

We hope you will find this pleasant and informative reading and an effective contribution to the debate.



Ricardo Meléndez-Ortiz
Chief Executive, ICTSD

EXECUTIVE SUMMARY

Overview

The services sector is becoming an increasingly important component of Pakistan's economy due to its major contribution to growth in GDP and its export potential. While multilateral liberalisation of services trade achieved under the Uruguay Round has been limited, the success or failure of negotiations in the Doha Round of multilateral negotiations will largely determine the future of services trade liberalisation in the country.

Pakistan has received several requests from its trading partners in the Doha Round negotiations for improved market access and national treatment of service providers. Among others, these requests relate to construction and related engineering services; architectural, engineering, and integrated engineering services; energy services and environmental services. Likewise, Pakistan has also tabled requests on improved conditions for temporary movement of natural persons notably for supplying services and cross-border supply of services.

This study seeks to examine how locking-in of our unilateral liberalisation at the WTO and further liberalisation of services trade would affect Pakistan's competitiveness. Moreover, the study also focuses on the opportunities and risks of such liberalisation and discusses possible options regarding the corollary regulatory reforms and other flanking measures that may be needed to achieve these goals. The sectors studied are (a) construction and related engineering services; (b) architecture, engineering and integrated engineering services; (c) energy services; and (d) environmental services.

Contribution of Services Sector to Pakistan's Economy

Because Pakistan does not collect data under the four modes of supply of the General Agreement on Trade in Services (GATS) it poses great difficulty for one to assess Pakistan's position in services trade. Part of the problem is that the classification system used to collect data on services trade is obsolete and urgently needs to be changed. The importance of the service sector in Pakistan's economy has substantially increased over the last three and a half decades with the share of services in GDP increasing from 45 percent in 1969-70 to almost 58 percent in fiscal year 2005-06. The contribution of the services sector to GDP growth has gone up to 68.3 percent in 2005-06 (with the remainder made up of the commodity producing sectors.).

Due to deficiencies in services statistics, measuring services exports and imports is extremely difficult due in part to:

- A) Rapidly changing boundaries between services and industry, and
- B) Ambiguous and outdated services classifications.

Nevertheless, available statistics indicate that despite Pakistan being a small global service provider, its imports are growing faster than its exports. Therefore, Pakistan needs to explore ways to tap its comparative advantage in services.

Although the share of the services sector in GDP has increased over time, its share of employment has not increased. This reflects poorly on the poverty alleviation potential of growth in the services sector and may be explained by the fact that growth has mostly occurred in knowledge-based sub-sectors.

Stakeholders' Views on Pakistan's Request/Offer

General advice coming from stakeholders was that Pakistan should lock-in each sub-sector in which it has a stated policy. Moreover, stakeholders also advised that Pakistan should widen the coverage of liberalisation rather than deepen its extent in each sub-sector. In general, the public sector involved in the provision of selected services, for obvious reasons, leaned towards a more conservative policy with respect to further liberalisation. However, the exception to this locking-in view were the private stakeholders in the environmental service sector who were fairly optimistic about the prospects of further liberalisation for the simple reason that the size of the domestic market was large and local players were unable to meet increasing demand.

Another general message coming out of interviews with stakeholders was the consensus on the conditions under which further liberalisation should be allowed by Pakistan. Specifically, it was observed that further liberalisation should focus on joint ventures with local firms by maintaining domestic equity requirements while the government should ensure that these collaborations facilitate technology transfer to local partners. Greater liberalisation was also sought for services trade at the regional level, especially with India, due to its greater potential for transfer of appropriate indigenous technology and know-how.

Lack of involvement in policy formulation and decision-making was an overriding concern of the majority of private and even some public sector stakeholders. Moreover, ambiguity and apprehensions regarding various government policies was cause for concern for many stakeholders.

Negotiating Strategies for Pakistan

Most stakeholders in Pakistan's selected services sectors are constrained by limited capacity and resources to contribute to the highly tricky issues that are being debated by Pakistan in the GATS multilateral negotiations. Absence of technical sector-specific studies on the likely implications of the new liberalisation measures make it even more difficult both for the public and private sectors to evaluate the market impacts of these proposals. Despite these constraints, Pakistan's negotiating team in Geneva needs guidance on the negotiating strategies to follow so that gains are maximised and adjustment costs are minimised when these proposals are implemented.

Unilateral liberalisation of the services sector has been the hallmark of Pakistan's policy. Significant progress has already been made toward liberalisation of key infrastructural sectors. These reforms provide a window of opportunity for Pakistan to gain concessions from its negotiating partners by locking-in at its current level of commitments in multilateral negotiations. Pakistan must devise some broad principles to formulate its strategy for informal positioning in multilateral negotiations. Among others, these principles should focus on:

- A) Medium-term development objectives;
- B) Potential for technology transfer;
- C) Potential for enhanced efficiency and service quality;
- D) Potential for employment generation;
- E) Presence of an appropriate regulatory framework.

Construction and Related Engineering Services

The construction sector is of potential import and export interest to Pakistan, as it represents a fundamental activity with strong linkages to other sectors. Growth in this sector is critical for growth in

national income and employment in the country. Hence its mainstreaming would help achieve national development goals.

The majority of constructors are small players with weak financial positions, out-dated labour-intensive technology and poor organisational structures and vision for growth and development. They are highly vulnerable to foreign competition. Most constructors have comparative advantages in small commercial buildings, small bridges and roads. Only a few sophisticated firms specialise in large earth work and large construction work for civil engineering. While modernisation of this sector with entry of foreign firms may enhance efficiency and service quality, the likely negative impact on small players represents a major challenge for negotiators.

The construction sector also includes some large sophisticated firms that can compete internationally, especially in the Middle East, due to specialisation and cost effectiveness. The comparative advantage of these firms mostly lies in cheap skilled and un-skilled labour, and experienced engineers who have previously worked for multinational companies in Pakistan or abroad. Two most significant factors that are linked to the success of these companies are: a) acceptability of qualifications for engineers educated in Pakistan and b) unrestrained flow of temporary movement of natural persons. If Pakistan is to gain from the on-going negotiations in the Doha Round, its stand in the construction sector should be built around these factors.

Pakistan's initial offer signals liberalisation commitment in market access in construction work for bridges, elevated highways, tunnels and subways (CPC 5132), and construction work for waterways, harbours, dams and other waterworks (CPC 5133) subject to equity/joint venture limit of 60 percent, in addition to removing restrictions in Mode 1 and Mode 2 commitments. These commitments do not significantly differ from the actual policy on the ground. Therefore, Pakistan may conveniently want to lock-in at this level.

Pakistan has maintained market access restrictions on Mode 3 in CPC 511 to CPC 518. These restrictions have been designed to protect small players from foreign competition and to avoid displacement of domestic construction workers since foreign players would have a comparative advantage in using more mechanised constructions with a highly skilled work-force. Shielding all local players (both small and large) from foreign competition by giving them a blanket cover may not be justified. While it may be feasible to restrict commercial presence in smaller building plans to shield small constructors, market access restrictions on larger building plans may have little justification, if any. Market access limitations are also maintained in the initial offer on renting services for equipment for construction or demolition of buildings (CPC 518), which is not in line with the position of the industry players who see in this an opportunity. Pakistan may want to revise its offer because commercial presence of foreign players is likely to benefit the industry by relieving them from making major capital investments.

Market access (MA) limitations on foreign equity remain, in spite of the fact that the equity limit has been raised from 51 to 60 percent, which restricts foreign direct investment (FDI) to joint ventures. Transfer of technology appears to be the motivation behind this limitation. If seen from policy on the ground, Pakistan appears to have kept a cushion in foreign equity requirement that it may want to use in its revised offer. The extent and pace of liberalisation in the construction sector would largely depend on its current preparedness and the speed with which regulatory reforms could be introduced. Therefore, the timing of liberalisation has to be appropriately sequenced to maximise the benefits and to minimise the adjustment costs to national stakeholders.

Finally, the negotiators should bear in mind that the Members have not included in their request for the construction sector the temporary movement of natural persons (Mode 4). Since Pakistan's

comparative advantage lies in cheap labour and its pool of experienced professionals, it may not be able to effectively compete on foreign turf in the absence of a Mode 4 clause, while service providers from requesting Members are likely to gain from this clause.

Architectural, Engineering and Integrated Engineering Services

In architectural, engineering and integrated engineering services, Pakistan has made new commitments in its initial offer in Mode 2 and Mode 3 and has raised the equity limit from 40 to 51 percent subject to participation of local players for architectural services (CPC 8671), engineering services (CPC 8672) and integrated engineering services (CPC 8673).

Since architectural and engineering designs can be conveniently supplied through trans-border data flows (Mode 1), countries having a relative comparative advantage are likely to benefit from liberalisation commitments under Mode 1. Pakistan has a pool of cheap experienced professional engineers and architects, which gives it a comparative advantage. Therefore, liberalisation commitments under Mode 1 would be in Pakistan's export interest. Pakistan may also want to further rationalise its commitments under Mode 3 to enhance benefits from Mode 1, because arguably it may be able to export more through Mode 1 by attracting more foreign firms or joint ventures in architectural, engineering and related engineering services.

Energy Services

Energy is an area of import interest to Pakistan where there is the opportunity to lock-in the reforms already introduced after the Uruguay Round.

Pakistan has not made any commitments on management consulting services and related services (CPC 865 + 866). Similarly, related technical consulting services (CPC 8675 partial) and maintenance of prefabricated metal products, machinery (CPC 8861 - CPC 8866) are other related services in which no commitments have been made. There is scope for Pakistan to consider liberalisation of construction work in some sub-sectors for which there is no local capacity.

In general, it is difficult to comment on the feasibility of liberalisation on management consulting and related consulting services due to the absence of sector-specific studies to assess their market impacts. An appropriate regulatory framework is also not present to warrant their liberalisation. Therefore, negotiators are advised caution in deepening the extent of liberalisation in these specific sub-sectors.

Environmental Services

Pakistan has substantial import interest in environmental services through Mode 3. Waste collection and recycling offer a lot of scope for the commercial presence of foreign firms through Mode 3. But Pakistan's initial offer in refuse disposal (CPC 9402) and sanitation and similar services (CPC 9403) does not cover public works owned by the government, local governments or those functions that are contracted out by them. Since most refuse disposal and sanitation services are under the control of city district governments (local governments), this condition practically rules out foreign investment. Therefore, further liberalisation would be in Pakistan's interest.

Similarly, Pakistan has no policy on cleaning services for exhaust gases (CPC 9404), noise-abatement services (CPC 9405), nature and landscape protection (CPC 9406) and other environmental services (CPC 9409). The existing evidence shows that collaboration with foreign environmental consultants

is producing healthy results and is also leading to technology transfer. Due to a dearth in qualified engineers and excess demand in the local market, further liberalisation commitments through Mode 1 and Mode 3 would be beneficial in terms of service quality, technology transfer and a cleaner environment.

Temporary Movement of Natural Persons

Temporary movement of natural persons under Mode 4 is one of the least liberal areas of the GATS, but potentially an area of most interest to Pakistan. Existing commitments are mostly horizontal and linked with commercial presence, which entails tough conditions on sectors of particular interest to Pakistan. Pakistan seeks commitment of common categories, which are de-linked from commercial presence.

While Pakistan's remittances at present are recorded at around USD 4 to 5 billion per annum, this flow has never remained stable. Due to the availability of a huge pool of trained and semi-trained workers, Pakistan could expect the most benefits from such flows. Success in the removal of Mode 4 restrictions on the movement of natural persons has both developmental and poverty alleviation aspects. The negotiators may want to take advantage of this window of opportunity by taking an informed position while bargaining with partners.

Consultative Mechanism on Services Trade

Pakistan still needs to set up institutional foundations that could help it formulate effective trade negotiating strategies on bilateral and multilateral fronts to maximise gains and to minimise risks of exploitation by negotiating partners. Our findings suggest that a formal "bottom-up" rather than "top-down" consultative mechanism involving all national stakeholders on multilateral services trade issues is direly needed.

While an elaborate consultative mechanism has been set up to formulate annual trade policy involving private sector and civil society actors, the consultative mechanism for negotiating bilateral and multilateral agreements on trade in services is more inward looking. In effect, most national stakeholders are left out of the loop (except for state actors) on services trade negotiations at the WTO. Our evidence shows that informal consultations are often made with elite representatives of key national organisations on an ad hoc basis, or as and when such an input is needed by the government. However, the government has yet to define a formal consultative mechanism for bilateral and multilateral services trade negotiations where non-state actors such as the private sector, academia and civil society are also involved. In the absence of such a mechanism, government officials have the main responsibility of taking positions on services trade issues.

Absence of thorough sub-sector specific assessments of Pakistan's services trade remains a major constraint in developing foresight and in effectively participating in trade negotiations at the WTO. Both the government and professional associations are under-resourced to cope with the full range of trade issues. They need to enhance in-house capacity to conduct and evaluate sub-sector assessments so that they can provide timely support to the Geneva-based negotiators.

Due to inadequate capacity, both the public and private sectors are not cut out to evaluate implications of the proposals being negotiated at the multilateral level. The problem is further compounded by feeble services trade statistics available in the country. Involvement of civil society organisations and academia has the potential to fill the void created by weak institutional capacity of public and private organisations, but they would also need a sound database on trade in services before their potential can be put to any use.

1. INTRODUCTION

With continuing liberalisation, trade in services has been growing rapidly in the world economy. Currently, services account for more than two-thirds of total foreign direct investment (FDI) inflows (UNCTAD, 2006). Traditional trade liberalisation of goods by many developing countries in the 1990s has not fully delivered the promised fruits in the form of prosperity (Rodrik, 2001). However, the evidence shows that when domestic service sectors are insulated, simply lowering tariffs on trade in goods promises only modest gains in aggregate welfare (Konan and Maskus, 2006). Services are the largest productive sector in any economy and many services are crucial inputs into products that compete in domestic and international markets. Indeed access to efficient (low cost) and productive input services are an important determinant of economic productivity and competitiveness for the entire economy. Thus, the purpose of liberalisation of services is not just to expand export in services trade, but also to help domestic producers gain a competitive advantage by accessing more efficient (low cost and high quality) and diversified producer services available on world markets.

The role of the services sector is crucial in sustaining the growth of Pakistan's economy, with a 57.5 percent share (including construction, electricity and gas distribution) of GDP and a 36 percent share of employment in fiscal year (FY) 2006. The services sector has been a major contributor to the overall growth in GDP with its remarkable real growth averaging 7 percent over the past four years reaching the rate of 8 percent or more in the last two years (GoP, 2006). Thus, services are assuming the role of a new growth powerhouse in the country by contributing 68 percent to GDP growth in FY2006 (GoP, 2006).

Pakistan is pursuing liberalisation of trade in services through unilateral liberalisation, reciprocal negotiations, regional integration agreements and bilateral free trade agreements. But, the most far reaching economy-wide impact is linked with multilateral liberalisation of services under the World Trade Organization (WTO). While

multilateral liberalisation of services achieved under the Uruguay Round has been quite limited, the future services trade liberalisation would largely depend on the success or failure of negotiations between the Member countries under the existing Doha Round of talks.

In the Doha Round of negotiations, Pakistan has received requests from its trading partners for improved market access (MA) and national treatment (NT) of foreign service suppliers either bilaterally or pluri-laterally. Pakistan has received a number of these requests, including in construction and related engineering services; architecture, engineering and integrated engineering services; energy services and environmental services. On the other hand, Pakistan has also tabled requests on improved conditions for the temporary entry of its natural persons for purposes of supplying services (Mode 4) and cross-border supply of services (Modes 1 and 2), among others. The negotiations provide an indication of the specific sectors where there is substantial interest in FDI or supply, and where trade and regulatory regimes are sought to be improved and locked-in.

In the wake of these developments, the opportunities as well as risks of liberalising trade in selected service sectors largely depend on the relative comparative advantage in respective sectors. Hence, a major challenge faced by countries like Pakistan is to design a rational policy consistent with domestic policy objectives; failure to do so is bound to adversely affect the growth of service industries.

Although the way in which liberalisation of services affects economic productivity and competitiveness in Pakistan's economy has largely remained unexplored, it still has a wider appeal. In a recent study, Saeed *et al* (2005) present information on services trade by modes of supply, operational constraints and export capacity in five service sectors of Pakistan including IT; financial services; construction and architectural services; professional services; and medical and health services. They note important forward and

backward linkages between the services sector and the major commodity producing sectors, and argue on the basis of interviews with the firms that there is significant on-going trade in services and scope in the export markets in all modes of supply in the selected sectors. However, they do not state the potential impact of liberalising trade in services in the post-Doha environment. In this regard, based on “informed judgment”, Mahmood (n.d.) has proposed that Pakistan should move away from its traditional policy focus on inward investment to export promotion, for example, by seeking outlets for foreign investment and by extending its interest to cross-border trade in services. In an ideal world, one may want to employ empirical evidence to judge the consequences of services trade liberalisation, but a lack of data on services trade by mode of supply remains a major impediment.

This study seeks to provide a snapshot of services trade in Pakistan with a specific focus on sectors and sub-sectors deemed critical to Pakistan’s trade and sustainable development. More specifically, the study seeks to examine how locking-in of unilateral liberalisation at the WTO and further liberalisation of services would affect Pakistan’s competitiveness. Moreover, the

study also focuses on the opportunities and risks associated with liberalising trade in selected services sectors or modes of supply and possible options regarding the corollary regulatory reform and other flanking measures that may be needed to achieve these goals. The sectors to be studied are: 1) construction and related engineering services; 2) architecture, engineering and integrated engineering services; 3) energy services and 4) environmental services.

The study is organised as follows. In Section 2, we describe four modes of supply developed as part of the General Agreement on Trade in Services (GATS) framework, while in Section 3 we discuss the role of the services sector in Pakistan’s economy. Section 4 outlines the role of the state in the services sector and Section 5 provides a description of Pakistan’s existing Uruguay Round commitments in the selected service sectors. Section 6 pertains to Pakistan’s request/offer process in the Doha Round of talks while Section 7 is about stakeholders’ feedback on Pakistan’s request/offer process. Section 8 contains discussion on negotiation strategies for Pakistan in the Doha Round. Finally, Section 9 concludes the study by evaluating Pakistan’s consultative mechanism on services trade.

2. MODES OF SUPPLY

The adoption of the GATS in the Uruguay Round of talks has extended the multilateral rules and disciplines to services trade. The founders of the GATS recognised the importance of various channels through which international delivery of services takes place. Therefore, at the time of developing the GATS, four modes of supply were also developed as part of the GATS framework agreement so that Member countries could organise and schedule their market access and national treatment commitments and obligations. These modes are: a) cross-border supply (Mode 1) for non-resident service suppliers (e.g., transportation services, trans-border data flows); b) consumption abroad (Mode 2) as with a consumer travelling to another country (e.g., tourism); c) commercial presence (Mode 3) (e.g., presence of one Member in another Member's territory for provision of services through FDI or representative offices and branches); and d) movement of natural persons (Mode 4) (e.g., entry and temporary stay of foreign personnel providing those services).

Most-favoured nation (MFN) is a basic obligation of all WTO Members seeking non-discrimination by trading partners requiring them to apply commitments equally to services and service providers from all other Member countries. Exemptions to MFN can be made under the GATS, but they are subject to negotiations. Market access and national treatment are obligations that are specific to the GATS. These commitments only apply to services that are specifically listed by Member countries in their schedule of commitments.

While liberalisation in the services sector is associated with country commitments in all modes of supply, Members are under no obligation to make commitments in all of the modes in respective sectors. They have complete freedom to choose sectors and modes in which they want to make commitments. Members are free to make commitments in all four modes in a particular sector, or selectively choose among them based on the readiness of their respective sectors.

3. THE ROLE OF THE SERVICES SECTOR IN PAKISTAN'S ECONOMY

3.1 Introduction

Developments in the field of information technology (IT) since 1990 have expanded the range of services that can be traded internationally. Many of the services that were considered non-tradable until the mid-1990s are now actively being traded. The growing interdependence between markets and production activities across countries is fundamentally explained by growth in service industries led by this IT revolution (Primo and Carlos, 1996).

While services comprise a wide range of economic activities, they have recently been characterised by the rapid expansion of knowledge-based industries, e.g., business

services, finance and insurance services, information and communication technology, modern healthcare and education services, environmental services, etc. Growing cross-border supply of these services is explained by marked reductions in communication costs associated with advances in IT. At another level, these developments have rapidly altered the traditional boundaries between services and industry whereby a large part of the services are now sold while embedded in the form of goods. Here we provide a brief sketch outlining the contribution of the services sector to GDP, services traded internationally and share of services in employment generation.

3.2 Contribution of the Services Sector to GDP

It should be stressed that Pakistan does not collect data under the GATS' four modes of supply, which makes it difficult to assess its position in trade in services. Like other developing countries, statistics for Pakistan's services sector have many deficiencies. Some of these deficiencies relate to obsolete classification systems while others have to do with the level of dis-aggregation with which the data collected on the services sector is reported. The Federal Bureau of Statistics (FBS) of the Government of Pakistan (GoP) and the State Bank of Pakistan (SBP) are two focal points for

collecting data on the country's service sectors. Even though the FBS follows the age-old tradition of data collection on services on the lines of the System of National Accounts developed by the United Nations, the SBP has taken the initiative to compile the data on the Balance of Payments Statistics adapted from the Fifth IMF Balance of Payments Manual. In this regard, SBP has started publishing statistics on the basis of extended balance of payments system (EBOPS), which also covers 11 service sub-sectors (SBP, 2006).¹

Table 1. Share of Different Sectors in GDP (at Constant Factor Cost)

	1969-70	2001-02	2002-03	2003-04	2004-05	2005-06
Commodity Producing Sector	61.6	47.9	47.1	48.4	48.7	47.7
1. Agriculture	38.9	24.1	24.0	22.9	22.5	21.6
2. Mining & Quarrying	0.5	2.4	2.5	2.6	2.7	2.6
3. Manufacturing	16.0	15.9	16.3	17.3	17.9	18.2
4. Construction	4.2	2.4	2.4	2.0	2.1	2.2
5. Electricity & Gas Distribution	2.2	3.0	2.4	3.7	3.5	3.0
Services Sector	38.4	52.1	52.3	51.6	51.3	52.3
6. Transport, Storage & Communications	6.3	11.4	11.4	10.9	10.4	10.5
7. Wholesale & Retail Trade	13.8	17.8	18.0	18.2	18.6	19.2
8. Finance & Insurance	1.8	3.5	3.3	3.4	4.0	4.6
9. Ownership of Dwellings	3.4	3.2	3.1	3.0	2.9	2.8
10. Public Administration & Defence	6.4	6.4	6.6	6.3	5.6	5.8
11. Other Services	6.7	9.8	9.9	9.7	9.5	9.5
GDP (constant factor cost)	100.0	100.0	100.0	100.0	100.0	100.0

Source: GoP, 2006.

As shown in Table 1, the importance of the services sector to Pakistan's economy has grown considerably during the last three and a half decades whereby the services' share (including construction; electricity and gas distribution) in GDP has increased from 44.8 percent in FY1969-70 to 57.5 percent in FY2005-06.² This increase is accounted for by a relative decline in the share of agriculture that has fallen from 39 percent in FY1969-70 to 22 percent in FY2005-06 while both the manufacturing and mining sectors have posted increases in the corresponding period.

Growth performance of Pakistan's economy slowed in the 1990s with real GDP growth dropping from an average of 6.1 percent in the 1980s to 4.6 percent in the 1990s (Table 2 below). Against this backdrop, Pakistan's economy has grown at an average rate of 7 percent per annum during the last four years and over 7.5 percent over the last three years. With this growth performance Pakistan rubs shoulders with the exclusive club of the fastest growing economies of the Asian region in recent years. As shown in Table 2, Pakistan's services sector has been a major contributor to the overall growth in GDP with its remarkable real rate of growth averaging 7 percent over the past four years, with significant growth occurring in the last two years at the rate of 8 percent or more.

Table 2. Growth Performance of Selected Sectors (% Growth at Constant Factor Cost)

	1980s	1990s	2002-03	2003-04	2004-05	2005-06
Commodity Producing Sector	6.5	4.6	4.3	9.2	9.2	4.3
1. Agriculture	5.4	4.4	4.3	2.3	6.7	2.5
2. Mining & Quarrying	9.5	2.7	6.6	15.6	9.6	3.8
3. Manufacturing	8.2	4.8	6.9	14.0	12.6	8.6
4. Construction	4.7	2.6	4.0	-10.7	18.6	9.2
5. Electricity & Gas Distribution	10.1	7.4	-11.7	56.8	3.5	-8.4
Services Sector	6.6	4.6	5.2	5.9	8.0	8.8
6. Transport, Storage & Communications	6.2	5.1	4.3	3.5	3.6	7.2
7. Wholesale & Retail Trade	7.2	3.7	5.9	8.4	11.1	9.9
8. Finance & Insurance	6.0	5.8	-1.3	9.0	29.7	23.0
9. Ownership of Dwellings	7.9	5.3	3.3	3.5	3.5	3.5
10. Public Administration & Defence	5.4	2.8	7.7	3.2	0.6	4.7
11. Services	6.5	6.5	6.1	5.6	5.9	6.5
GDP (constant factor cost)	6.1	4.6	4.7	7.5	8.6	6.6

Source: GoP, 2006.

Table 3 illustrates that, similarly to value added shares in Table 1, services are assuming the role of a new growth powerhouse in the country by contributing to the bulk of growth. More specifically, while the relative share of

services in growth has gone up, in FY2005-06 alone the services sector contributed 68.3 percent to GDP growth with the commodity producing sectors contributing the rest (31.7 percent).

Table 3. Sector Contribution to GDP Growth (% points)

SECTOR	2002-03	2003-04	2004-05	2005-06
Agriculture	1.04 [21.98]	0.55 [7.35]	1.54 [17.97]	0.55 [8.32]
Industry	1.01 [21.35]	3.84 [51.34]	2.91 [33.96]	1.54 [23.30]
Services	2.69 [56.87]	3.09 [41.31]	4.12 [48.07]	4.51 [68.23]
GDP (constant factor cost)	4.73	7.48	8.57	6.61

Note: Numbers in square brackets are percentage shares in real GDP growth.
Source: GoP, 2006.

The fastest growing services sub-sectors in Pakistan are finance and insurance; wholesale and retail trade; and transport and communications (see Table 2). Growth and efficiency gains witnessed in finance and insurance can be attributed to financial reforms and liberalisation initiated in the 1990s. The efficiency gains of banks and non-bank financial institutions (NBFIs) reflect the highly competitive conditions that encourage the rationalisation of their relative cost structure and the introduction of new financial products. This competitive environment in the financial market has in turn helped financial institutions to raise their profits in recent years. In other words, the economic benefits of financial liberalisation and reforms that were not as obvious in the adjustment period in the 1990s have now started yielding dividends. As an ancillary development, the insurance sector (both the non-life and life sectors) in Pakistan, after remaining stagnant for a long period of time, has also seen a sharp rise in activity as indicated by a 15 percent increase in its asset base during 2005. The growth in the non-life sector is attributed to enhanced international trade, commerce and bank borrowing, which has created substantial demand for non-life insurance.

Wholesale and retail trade; and transport, storage and communication services together contribute 57 percent of total services production in Pakistan (see Table 1). However, due to the highly labour-intensive nature of wholesale and retail trade, its contribution to the economy is even more important than suggested by its 36.7 percent share in total services trade. Given that the share of this sub-sector is gradually increasing

(Table 1), its higher growth is not only important for employment generation in the country, but is also critical for the efficiency of the economy because through forward and backward linkages it impacts on performance in agriculture, manufacturing and foreign trade sectors. The rationalisation of import tariffs, with the average rates coming down from 55 percent in 1995 to 17 percent in 2004, has obviously influenced the volume of international trade in the country (Schuler, 2004).

Another sub-sector where strong growth was witnessed is that of transport, storage and communication which provides a major contribution to value-added and which has linkages to production and foreign sectors. Transport covers roads, railways, air transport, port and shipping services, but moderate growth in this sector sometimes overshadows strong growth posted by communications that comprises telecommunications, IT and postal services. Strong growth momentum in the communications sector, like financial services, wholesale and retail trade, was triggered by liberalisation and reforms. For example, deregulation policy for this sector and market driven reforms created a huge demand for new products which were instrumental in attracting foreign investment by new telecom companies in cellular phones. With entry of two new cellular operators namely, Al-Warid and Telenor, competition in the cellular market segment has become even tougher leading to improvements in service quality and further reductions in tariffs to the advantage of consumers. Privatisation of the state-owned utility PTCL in 2006 has further augmented this competitive environment.

3.3 Services Sector Activities Traded Internationally Including Foreign Direct Investment

Measuring service exports and imports for countries like Pakistan is an extremely difficult task due in part to rapidly changing boundaries between services and industry, and due to outdated services classification systems. However, the SBP balance of payments statistics

being compiled from November 2003 on the basis of the "Fifth IMF Balance of Payments Manual" does provide statistics on services trade. As shown in Table 4, EBOPS covers 11 service sub-sectors.

Table 4. Services Exports and Imports (million USD)

SECTOR	FY2003-04		FY2004-05		FY2005-06	
	EXPORTS	IMPORTS	EXPORTS	IMPORTS	EXPORTS	IMPORTS
1. Transportation	864	1754	1062	2280	1066	2856
2. Travel	164	1198	177	1172	216	1401
3. Communication services	204	38	331	59	198	101
4. Construction services	12	18	24	6	16	143
5. Insurance services	19	81	25	101	29	127
6. Financial services	21	77	39	77	70	133
7. Computer and Information services	41	12	47	27	71	41
8. Royalties and licence fees	10	47	13	117	33	100
9. Other business services	202	534	285	2502	391	2943
10. Personal, cultural and recreational services	1	--	1	7	1	6
11. Government services, (not included elsewhere)	1106	201	1315	274	1657	298
All services receipts	2644	3960	3319	6592	3748	8149
Share in GDP	3.8%	5.6%	4.3%	8.6%	4.6%	10.1%
Share in total exports of goods and services	17.5%	26.2%	18.6%	37.2%	18.5%	40.2%

Note: Other business services refer to operations of missions/representations (foreign in Pakistan, Pakistani missions abroad), royalties, bank commissions and charges, technical/legal fees and sundry insurance payments.

Source: Calculated from SBP, 2006.

Due to the small scale of services trade, Pakistan is not only included in the small service providers/traders of the region, but also its imports of services (payments) are growing at a faster pace than its exports (receipts) of services. Total transactions in services had reached close to USD 10 billion in FY2005 (Table 4). Major exports in services are government services, transportation, communications and business services. Table 4 underlines the importance of services as tradable goods for which the country needs to explore ways to promote this comparative advantage rather than solely relying on commodity producing sectors. It goes without saying that remittances

of Pakistani workers abroad amounting to USD 3.87 billion in FY 2004 and USD 4.17 billion in FY2005 (see GoP, 2006) are not part of this data, which if included as part of Mode 4 transactions would greatly increase the services trade data.

Overall, the services sector accounted for some 60 percent of FDI in FY2004-05 (see Table 5 below). Communications and financial business services alone account for more than 50 percent of total FDI. While FDI increased by 60.5 percent as compared with FY2004, a large part of this increase was due to privatisation in the communication and financial sectors.

Table 5. Foreign Direct Investment (million USD)

	FY2003-04	FY2004-05	PERCENT	
			SHARE IN TOTAL	GROWTH
Food & Beverage	4.0	16.2	1.1	305.0
Textiles	35.4	39.3	2.6	11.0
Chemicals	15.3	51	3.4	233.3
Petroleum Refining	70.9	23.7	1.6	-66.6
Oil & gas exploration	202.4	193.8	12.7	-4.2
Pharma & over-the-counter products	13.2	38.0	2.5	187.9
Machinery & electronics	16.9	16.5	1.1	-2.4
Transport equipment	3.3	33.1	2.2	903.0
Power	-14.3	73.3	4.8	616.2
Construction	32.0	42.7	2.8	33.4
Trade	35.6	52.1	3.4	46.3
Communications	221.9	517.6	34.0	133.3
Financial Business	242.1	269.4	17.7	11.3
Others	70.6	157.3	10.3	122.8
Total	949.4	1524.0	100	60.5

Source: SBP, 2005.

3.4 Share of Services Sector in Employment Generation

Estimates show that Pakistan with 2.5 percent of the world's total population is ranked as the 6th most populous country in the world after China, India, USA, Indonesia and Brazil (see Table 6 below). Despite a declining population growth rate from 3.5 percent in FY1982 to 1.9 percent in FY2005, Pakistan is maintaining the highest population growth rate amongst the most populous countries. The projections to 2050 show that Pakistan will be ranked ahead of Brazil as 5th most populous country.

François and Reinert (1996) note that the share of services in GDP and employment rises with economic development and rising per capita income thus reflecting increased specialisation and market exchange through outsourcing of activities by the commodity producing sectors. While the services sector's share in Pakistan's GDP has increased with rising per capita income, the same increase has not occurred in the share of services in employment.

Table 6. Pakistan's Population Ranking in the World

YEAR	RANK	POPULATION (IN MILLION)
1950	14	33
1981	10	84
2001	7	143
2005	6	154
2050 (estimated)	5	295

Source: 2005 World Population Data Sheet, Population Reference Bureau, Washington, D.C.

This reflects poorly on the poverty alleviation potential of growth in the services sector as it offers limited scope for employment of labour in provision of these services. The disproportionate increase in the share of services to employment compared to its share in value-added to the economy seems to indicate that this growth has mostly occurred in knowledge-based service sub-sectors. In other words, service industries are increasingly relying on IT that makes them more dependent on capital equipment and human-capital inputs, which are more skill-intensive in nature.

The share of the services sector in employment, which remained stable at around 47.2 percent between 1995 and 2000, has consistently fallen in recent years. As shown in Table 7, the services sector share (including construction; and electricity and gas distribution) in employment has considerably fallen from 40.03 percent in FY1999-00 to 37.4 percent in 2003-04 and to only 35.7 percent in FY2005-06. Except for a marginal increase in the share of transport, storage and communications, employment share of all other services sub-sectors has decreased.

Table 7. Distribution of Employed by Major Industry

MAJOR INDUSTRY	FY2003-04	FY2005-06
Commodity Producing Sector	62.6	64.4
Agriculture, forestry, hunting & fishing	43.1	44.8
Manufacturing	13.7	13.7
Construction	5.8	5.9
Services Sector	37.4	35.7
Wholesale & retail trade	14.8	14.1
Transport, storage & communication	5.7	5.8
Community, personal & social services	15.0	13.8
Others	1.9	2.0
Total	100	100

Source: FBS, 2004.

The agriculture sector keeps absorbing about 45 percent of total employed labour force in the country despite the fall in agriculture's share in the value-added to the economy. Wholesale and retail trade; community, personal and social services; and transport, storage and

communication services are by far the leading service sectors when it comes to employing more of the labour force. The construction and agriculture sectors are the other two sectors where positive employment growth has occurred during the last two years.

4. THE STATE OF SERVICES IN A CHANGING POLICY ENVIRONMENT

4.1 Introduction

Pakistan's generic growth and development policy in the services sector is built around the knowledge economy where competition is the key strategy, firms have liberal operating rights and regulators are separate from operators. This policy towards the services sector is premised in the "Medium-term Development Framework 2005-10", which envisages a sustained average growth rate of 6.9 percent per annum in the combined output of services. The prerequisites for a vibrant service sector are good infrastructure, ability to plan and complete logistics chain; mobilisation of human resources and entrepreneurial capacity and communication skills. The physical convergence of all these activities is expected to take place at the level of small and medium enterprises

(SMEs), where employment generation takes place. There has been policy discussion on some new opportunities opening up or areas where Pakistan has a comparative advantage. However, it remains to be seen how Pakistan takes full advantage of the exciting new opportunities that are opening up in the services trade industry.

While services are still identified with line ministries and government departments, there is increasing recognition amongst policy-makers for improvements in skill levels in many sectors and for a departure from inward-looking policies. In view of the dramatic changes in the services sector, regulatory and policy issues have continued to gain importance in policy-making circles for the last 15 years.

4.2 State Intervention in an Historical Perspective

Pakistan has a long history of state intervention in the commodity and service sectors, where import substituting industrialisation was the hallmark of policies in the 1950s and 1960s. In this era, state intervention in goods and factor markets set the pace and structure of industrial and agricultural development in the country discriminating between large and small firms in the private sector, which was supported by a stringent regulatory regime consisting of macroeconomic (fiscal, monetary and exchange rate) and trade policies (Papanek, 1967; Lewis, 1969). However, there was a significant shift in the focus of state policies in the 1970s, away from large private sector firms towards the public sector. As part of the new policy, 10 big industries and all banks and insurance companies were nationalised in the early and mid-1970s followed by major public sector investment in capital-intensive intermediate and capital goods industries including manufacturing, energy, and the banking and insurance sectors.

After 1978, in an attempt to restore the confidence of the private sector in the market

place, some of the nationalised industries were returned to their original owners by the new government. While state intervention continued in the 1980s, the empirical evidence shows that interventions in factor markets had promoted allocative inefficiencies leading to higher cost of production for the manufacturing firms (Burki and Khan, 2004).³ Up until the early 1990s, incentive structures for the agriculture sector were also influenced by pricing, trade and the exchange rate policies leading to the highest incidence of indirect taxation of this sector.⁴

State involvement has also remained strong in Pakistan's services sector. Due to a large state presence in services, private or foreign participation has been non-existent or limited to a few sectors. Consequently, telecommunication services were often inaccessible and were of poor quality. Until 2003, Pakistan's telecommunications market for fixed-line services was a virtual monopoly in the hands of the Pakistan Telecommunication Company Ltd. (PTCL).

In the banking sector, five nationalised commercial banks (NCBs) dominated the scene in providing financial intermediation services from 1972 to 1990 and holding a 92 percent share in total banking assets with foreign commercial banks holding the rest (SBP, 2003). In transport, two state-owned organisations had near or complete monopoly in passenger or freight transport. Pakistan Railways had a near monopoly in passenger and freight transport while Pakistan International Airlines had a complete monopoly

on domestic air passenger and cargo traffic. All ports and airports were also state-owned and state-run. In the energy and mining sector, several state-owned or partially state-owned utilities dominated generation, distribution and marketing of electricity, oil and gas, and storage of petroleum and petrochemical products. All services relating to sanitation, sewage, refuse disposal and clean drinking water were owned and operated by federal, provincial, district and *tehsil* level governments or municipalities.

4.3 From State Intervention to Privatisation, Liberalisation and De-Regulation

Pakistan initiated a series of structural reforms starting from the early 1990s with key elements being privatisation of state-owned enterprises (SOEs), and liberalisation and deregulation of the factor and product markets. These measures seem to have paid-off in the long-run by benefiting the commodity producing sectors, services and utilities equally. Since then services and utilities have faced a series of reforms purely because of domestic structural problems.

framework and an enabling environment, but has moved at a much faster pace since 2000 with the strengthening of the legal authority granted to the privatisation commission. Under this programme, between January 1991 and April 2006, 160 units have been privatised with earnings of Rs.395.2 billion (or more than USD 6.5 billion in 2005-06 prices), of which 57 transactions amounting to Rs.337.9 billion (or USD 5.6 billion) were completed after 1999.

Privatisation in Pakistan has been used as an important economic reform policy tool since January 1991 when an independent privatisation commission was set up to minimise state involvement in commercial activities. Privatisation has also served as a tool for structural adjustment of the economy and to promote competition by removing unnecessary barriers. Along with deregulation and good governance, the privatisation process has been used to increase productivity in the economy by bringing the private sector at the forefront of this endeavour.

The initial mandate of the privatisation commission was only to privatise industrial units, but by 1993 this coverage was expanded to include power, oil and gas, transport (aviation, railways, ports and shipping), telecommunication, banking and insurance sectors. Some of the key producer services that have been privatised recently include transactions in banking, telecommunications, power, and oil and gas sectors. The privatisation of some huge state-owned entities in the oil and gas sector is currently in process including Pakistan State Oil Company (PSO), Pakistan Petroleum Limited (PPL), Oil and Gas Development Company Limited (OGDC) and Faisalabad Electric Supply Company (FESCO).

The privatisation process remained slow until 1999 due to the lack of both an adequate regulatory

4.4 Current State of Key Services and Liberalisation

Reforms in the banking and finance sectors

Since 1990, Pakistan's Central Bank, the State Bank of Pakistan, has pursued reforms in the country's financial sector with a focus on liberalisation, competition, privatisation of state-

owned banks and institutional strengthening (SBP, 2003). As part of liberalisation, new private and foreign banks have been granted permission to operate and extend operations. Competition has also been introduced through the privatisation of government-owned banks with transfer of

ownership and/or control to the private sector. There are no restrictions on the establishment and operations of foreign banks. As a result, mergers and acquisitions of private and foreign banks by existing or new groups have increased in recent years. These reforms have not only helped in promoting competition but also in deepening the financial sector.

The interest rate regime has been deregulated and prudential regulations and independent supervision have been strengthened. Due to the dynamic role of foreign and private banks, the share of state-owned banks in bank deposits has gradually declined from 93 percent in 1990 to only 56 percent in 2000 while the share of private banks has increased from zero to about 30 percent in the same period. More recently, the profits of the banking sector have increased after their venturing into consumer finance and housing finance. By changing the general business environment in which banks operate, the financial reforms have increased the efficiency and productivity of these banks. In particular, improved bank management practices due to enhanced competition and prudential regulations have been most significant in determining their comparative efficiency (Burki and Niazi, 2006). While the insurance sector is an important component of Pakistan's financial sector, it is facing problems relating to legislation, reinsurance and taxation.

Reforms in the telecommunications sector

Liberalisation and reforms launched in various telecommunications sub-sectors have enhanced private sector participation and contributed to faster growth of telecommunication activities in Pakistan. Since 1996, two state companies: National Telecommunication Corporation and Pakistan Telecommunication Company Ltd (PTCL), had monopoly control on fixed-line domestic and international services. The PTCL monopoly ended in 2003, while the management of the company was given in 2006 to the telecommunications giant of the United Arab Emirates, Etisalat, after it won the bid for 26 percent of shares of the state-owned PTCL.

Since 2000, Pakistan has experienced rapid growth in the telecommunications sector in terms of quality, variety and subscriber base. In effect, lower cost of telecommunications services, high quality and improved customer services have fuelled this growth. The private sector has been increasingly involved in development and expansion of mobile telephony, paging, card-operated telephone, internet services, wireless local loop and fixed local loop services. Reforms in this sector have effectively promoted a competitive market structure leading to increased consumer choices and a reduction in prices. The cellular mobile sector is thriving since liberalisation. About 1.6 million new cellular subscribers were being added each month. Mobile subscribers have continued to rise at an unprecedented pace reaching 30 million by April 2006. Similarly, the overall tele-density in the country has jumped from only 2.3 percent in 1999-2000 to 23.1 percent by April 2006, which is much higher than India's tele-density for example, which is at 12.8 percent. Rules concerning foreign investment in the telecommunications sector have been made fairly liberal allowing 100 percent foreign ownership of equity and repatriation of profits in all segments.

Policy framework in construction and architectural services

The construction sector represents a fundamental activity with strong forward and backward linkages. Growth in this sector is critical for faster GDP growth and higher employment in the country. The majority of registered contractors are small or medium firms who use primitive labour-intensive construction processes and have weak organisational structures and financial positions. Most of the registered contractors in Pakistan are illiterate and lack vision for growth and development of the construction industry. Mechanised and state-of-the-art construction processes are wilfully avoided by small players on account of cost considerations due to plentiful availability of cheap labour.

At the same time, some highly sophisticated public and private sector engineering firms also

exist in Pakistan, which are mostly involved in large earth works, civil engineering, commercial construction, real estate development, architecture, engineering and related engineering services. Small and medium firms are involved in small building plans, small bridges and roads, while larger firms have a relative comparative advantage in mega projects. State-of-the-art technology and specialisation of these firms allows these companies also to compete internationally, especially in the Middle East. Most engineering and construction firms generally provide project related services while only a few market players also have the capacity and resources to provide all services, e.g., NESPAK⁵ and Frontier Works Organization in the public sector, and Descon Engineering⁶ in the private sector.

Market access for commercial presence is fairly open to bid for government contracts. In this regard, several Chinese public or private sector companies, Turkish companies and Korean companies have from time to time operated in construction or civil engineering works. Entrance of foreign construction and engineering firms has enhanced competition in their bid for mega projects. Moreover, various foreign companies from the Middle East or South East Asia are also involved in developing real estate projects in association with some Pakistani companies due to joint venture restrictions.

Ironically, the policies relating to construction services come from various line ministries, departments and regulatory bodies. For example, the ministry of housing and works⁷ is mandated to oversee most construction and engineering related legislation and to initiate policies after inter-ministerial consultations. However, the Pakistan Engineering Council (PEC)⁸ is the regulatory body established by the Act of Parliament of Pakistan in 1976, which regulates engineering education, gives certification to professional engineers and advises government on all engineering and construction-related issues. Moreover, all construction and engineering related firms are required to be licensed by PEC to operate in the country. The Pakistan Engineering Council registers constructors and operators into three categories namely, C1, C2 and C3,

which are based on the minimum paid-up capital requirement indicating a firm's sound financial and technical capacity. Out of more than 24,000 constructors and 88 operators registered with PEC, only close to 600 qualify for the C1 category (largest contractors/operators) on the basis of a benchmark of Rs.20 million average annual value of work undertaken during the past three years (Saeed et al, 2005). The foreign engineering consultancy service providers are also subject to PEC regulations.

The Pakistan Council of Architects and Town Planners (PCATP)⁹ is another governing body established by the government to regulate the profession, which not only sets standards of conduct for its own members, but also advises the government on architectural issues facing the industry. Even though there are no solely foreign- owned architectural firms in Pakistan, JGC-Descon Engineering (Pvt) Limited¹⁰ is a joint venture company of Descon Engineering (49 percent equity) with a leading Japanese company JGC Corporation (51 percent equity) geared up to produce engineering and architectural designs for the global market. Foreign architectural firms seeking market access into Pakistan are subject to the condition of registration with PCATP.

At another level, construction and architectural services are subject to the by-laws of local governments. Hence each city district development authority has its own independent regulatory body to regulate construction plans and designs in their jurisdiction. But, there is no consistency in rules and regulations across cities due to lack of coordination between the federal and local governments. In addition to the above, the national highway authority¹¹ is mandated to regulate construction of highways and elevated highways all over the country. Furthermore, the Pakistan housing authority¹² in the ministry of works has been set up to construct low cost apartments for middle- and low-income families.

In sum, construction work processes are generally too primitive and need to change as soon as possible. Current regulations governing construction, engineering and architectural engineering services have several tiers. These

regulations are highly diversified and their implementation is mostly lax. Pakistan needs to revamp its multi-tiered regulatory framework in construction, engineering and architectural sectors in order to cope with the risks of liberalisation.

Policies and reforms in the energy sector

Pakistan's oil and gas sector is largely controlled by the state through interventions in pricing, allocations, returns and other administrative controls. Market access through commercial presence is allowed for private and foreign investors in the oil and gas sectors. While multinational companies are involved in oil and gas exploration, several state-owned or partially state-owned companies dominate the oil and gas sector. They include PSO which is involved in marketing, storage and distribution of petroleum and petrochemical products. Similarly, the Sui Northern Gas Pipelines Ltd and the Sui Southern Gas Company Ltd are involved in the transmission, purification and distribution of natural gas. Likewise, Pakistan Petroleum Ltd is the largest exploration and production company while Attock Refinery Ltd. and Pakistan Oilfields Ltd are two other state-owned companies.

Most oil refineries are owned and operated by the private sector in which the government is seeking further FDI. Although the state-owned PSO still holds a major market share in the marketing of petroleum products, a few other multinationals or private companies also compete in the market. Unlike in the oil sector, gas distribution is a state monopoly where there is no market access for private or foreign players. While partial privatisation of the two state-owned companies is underway, it will however leave the control of the companies in the hands of the government.

The challenge facing the oil and gas sector is that liberalisation may not result in a competitive market structure. On the one hand, huge infrastructural investments in oil distribution serve as a barrier to entry, on the other, gas distribution is a natural monopoly. The Oil and Gas Regulatory Authority (OGRA)¹³ has been set up to oversee the sector, an important improvement

compared to the past. The OGRA faces a formidable challenge in whether privatisation of the natural gas distribution network brings about a competitive market structure.

The country's power sector is growing at the rate of 10-12 percent per annum. Up until 1994, Pakistan's power sector was completely under state control. The Water and Power Development Authority (WAPDA)¹⁴, the Karachi Electric Supply Corporation (KESC)¹⁵, Karachi Nuclear Power Plant and Chashma Nuclear Power Plant were the four public sector entities involved in power generation, transmission and distribution of electricity. However, the power policy of 1994 liberalised the power generation sector with the introduction of independent power projects (IPPs). Under the 1998 privatisation/deregulation reforms WAPDA was vertically and horizontally unbundled into a) generation companies; b) transmission and dispatch companies; and c) distribution companies.

In power generation, there are no market access limitations for commercial presence (Mode 3) of private or foreign companies. International competitive bidding is being used to attract private power generating plants (GENCOs). The Private Power and Infrastructure Board (PPIB) provides a "one-window" opportunity to investors. More recently, investment procedures for GENCOs have been simplified. Presently, 16 IPPs are generating 6500 MW electricity under the power purchase agreement while the existing availability of power in the country is 13,500 MW. Independent power projects however, are not involved in the transmission and distribution of electricity.

Market access limitations on private and foreign firms are still present in power transmission, although they are expected to be substantially reduced in power distribution. Eight state-owned distribution companies, created after unbundling of WAPDA, are in the process of privatisation. The NTDC is the national grid company, which purchases power from the IPPs on behalf of eight distribution companies (DISCOs) by employing Economic Load Dispatch criteria on fuel prices.

Another state-owned company - KESC - involved in power generation, transmission and distribution in Karachi city was fully privatised in 2005. The KESC had been running into a monthly loss of roughly Rs.1 billion for more than a decade before the ownership of the utility was switched over from the state to the private sector. The management control of the KESC was handed over by the government to the new owners in November 2005 with government maintaining 73 percent. While the utility posted after tax losses totalling the staggering sum of Rs.11 billion (USD 4183 million) for the 15 month period from July 2005 to September 2006, the full year results for 2005 were even worse, which indicates that there is a brighter side to privatisation.

The power sector has an old infrastructure which is in need of major investment. Moreover, electricity pricing is not based on cost of service, something which has to change as a matter of urgency. Cross-subsidisation is also quite common. The National Electric Power Authority (NEPRA)¹⁶ is the sector regulator, which has limited capacity to withstand government pressure, especially on issues of electricity pricing. Moreover, severe human capital constraints also remain a major challenge for NEPRA. To promote more responsible and efficient use of energy resources in the country, it is imperative for NEPRA's institutional capacity to be enhanced.

There is an opportunity for better service quality after major infrastructural improvements through use of new technology. Moreover, increased market access in generation and distribution would provide further opportunities for FDI in this sector. Electricity consumers, including NEPRA, WAPDA/KESC, GENCOs and DISCOs are some of the stakeholders in this sector.

Environmental policy and regulatory framework

Pakistan has an elaborate policy framework to deal with environmental services. Some of the policies governing this sector include Pakistan's Environmental Protection Act (PEPA) enacted in 1997, the National Environmental Policy, the National Sanitation Policy, the National Drinking Water Policy and guidelines for solid waste

management. The national regulatory agencies dealing with this sector for the implementation of PEPA at the federal level are Pakistan's Environmental Protection Agency (Pak-EPA)¹⁷, which was created as part of the Environmental Protection Act of 1997. Pak-EPA plays a major role in framing environmental policy in the country by working closely with the GoP and the private sector in policy formulation. The provincial environment protection departments are Pak-EPA's counterparts in the provinces. Pak-EPA also serves to help local governments, government agencies and other persons to implement schemes and to help increase compliance with established environmental standards.

The uninterrupted supply of municipal services has always remained a major public policy objective, something which is unlikely to change in the foreseeable future since ensuring a cleaner municipal environment is not only costly, but it also generates a public good. Due to negative externalities associated with prolonged interruptions of these services, local governments often shy away from reliance on others. Moreover, most citizens would not internalise the cost of cleaning which is considered a public good. In effect, it presents a classic case of market failure, which justifies active government involvement and subsidisation. Because the poor are even less likely than the rich to bear any private cost of cleaning services, it is not surprising that such services are often subsidised to maximise welfare.

Likewise, most municipal services in Pakistan are either delivered free of charge or at a nominal fee. Some of these services include sewage services; refuse disposal services; sanitation and similar services and piped water facilities. One of the major challenges for civic bodies is dealing with increasing urbanisation, which has led to a virtual collapse of sewerage and solid waste management services in major cities. It is estimated that only 50 percent of waste generated is collected by government-owned and government-operated services in Pakistan's cities while in fact for the cities to look cleaner at least 75 percent of the solid waste should be collected.¹⁸ Further, the estimates also show that about 55,000 tonnes of

solid waste are generated per day in Pakistan, which is growing at a rapid pace due to social and economic development. If only half of this waste reaches final disposal sites, it poses a major health hazard to the urban population. Solid waste is mostly handled in a primitive fashion without any weighing facility, sampling or analysis. The physical composition of waste differs across cities based on the level of development. Cities with more traditional lifestyles generate much less waste than metropolitan cities. Another serious health hazard arises when hospital and industrial waste is treated just like ordinary waste. The proportion of waste collection also varies across municipalities depending upon their efficiency. So-called scavengers are also an important part of solid waste management because they are instrumental in separating recyclable materials.

The bodies responsible for making plans and allocating resources at the federal level are the planning and development divisions while at the provincial level it is the planning and development departments. However, PEPA and provincial EPAs are responsible for regulating the sector in line with Pakistan's Environmental Protection Act of 1997. Even though municipal governments are often responsible for collection and disposal of solid waste, they are becoming increasingly under-resourced to cope with the challenge of continuously increasing volumes of solid waste. After devolution of local government system, Town/Tehsil Municipal Administrations (TMAs) are primarily responsible for collecting, transporting and disposing of solid waste. The existing infrastructure needs major investment, but most city district governments are faced with severe financial constraints, which hinder their efforts to improve the quality of these services. City district governments and TMAs may not be able to withstand public pressure for improved service quality much longer. Private sector service delivery may provide solutions to these problems. However, an important policy issue in this regard is the pricing of these services. Moreover, the institutional framework required for such a transition is also not available.

In some metropolitan cities, there has been some selective sub-contracting of waste management services to the private sector, especially in waste collection and recycling. In this regard, a private waste management company, Waste Busters, has acquired significant stakes by forming joint ventures with the city district government of Lahore. Similarly, Lahore Compost Plant is also a joint-venture between the city district government of Lahore and a private company for managing recycling of waste. Some private-public initiatives to build land fill sites are also planned. However, these sub-sectors are not open to foreign firms. There is no move yet by Pak-EPA to formally initiate liberalisation of these services even though several elected representatives of civic bodies are keen to forge alliances with the private sector.

Unlike civic services, there are more than two dozen private firms involved in providing environmental services ranging from environmental impact assessment to environmental consulting services. Since the enactment of National Environmental Quality Standards (NEQS), the demand from the manufacturing industry for cleaner technologies and for other environmental services has sharply increased leading to a mis-match between demand and supply of these services. It is quite common for environmental consulting firms in Pakistan to collaborate with foreign consultants and firms. These collaborations are producing healthy results mainly because Pakistan is facing a shortage of qualified engineers who can provide environmental consulting services.

In general, Pakistan has a strong import interest in most environmental services. While liberalisation of this sector is important for the government to meet its various environmental objectives, it also offers opportunities in the form of better quality of service which in addition to its human capital value is also important for technology transfer. How the government should allow free market in a sector that has hitherto been closed remains to be explored.

5. PAKISTAN'S EXISTING URUGUAY ROUND COMMITMENTS

5.1 Introduction

The ongoing request-offer process in the Doha Round of negotiations builds on Pakistan's existing Uruguay Round horizontal and sector-specific commitments. In this section we highlight scheduled limitations to market access and national treatment in some specific sectors to

better understand the request-offer process in the existing round of negotiations. For this study the selected sectors are: construction; architectural, engineering and integrated engineering services; energy and environmental services.

5.2 Pakistan's Horizontal Commitments in the Uruguay Round

Pakistan has made certain specific horizontal commitments on market access and national treatment relating to commercial presence (Mode 3) and movement of natural persons (Mode 4). These commitments are described below.

Horizontal commitments on commercial presence (mode 3)

Under Pakistan's horizontal commitment on market access, commercial presence (Mode 3) is allowed in all sectors but it is subject to "incorporation in Pakistan with maximum foreign equity participation of fifty one per cent [51 per cent] unless a different percentage is inscribed against a particular sector or sub-sector."¹⁹ While foreign equity limitation does not apply to the representative offices

of foreign companies operating in Pakistan, all expenses of representative offices are to be met by remittances from abroad. Under national treatment commitment, all real estate acquisitions by non-Pakistani entities are subject to authorisation depending upon the location and purpose of such acquisitions.

Horizontal commitments on presence of natural persons (mode 4)

Under Pakistan's horizontal commitment on market access, presence of natural persons (Mode 4) is "unbound, except for measures concerning the entry or temporary stay of natural persons up to a maximum of fifty per cent in superior categories (namely, Executives and Specialists) in an undertaking."²⁰

5.3 Pakistan's Sector-Specific Commitments in the Uruguay Round

Pakistan also made sector-specific commitments in business services; financial services; communication services; health and related services; construction and related engineering services and tourism and travel-related services.²¹ For the purposes of this study, Pakistan's scheduled limitations on market access and national treatment in business services, and construction and related engineering services are particularly relevant and are discussed below.

Business services

In the business services, four sub-sectors that are scheduled with limitations are: CPC 883+5115: services incidental to mining and site preparation

work for mining; CPC 8672: engineering services for building infrastructures: harbours, dams, hydropower and airports; CPC 8673: integrated engineering services; and CPC 8676: technical testing and analysis services. In all these sectors, Pakistan did not make any market access or national treatment commitments regarding cross-border supply (Mode 1). Also for consumption abroad (Mode 2), no binding commitment was made mostly for reasons of technical infeasibility, except CPC 8676 where there was no Mode 2 (MA/NT) limitation.

In the Uruguay Round there are no market access or national treatment limitations on commercial presence (Mode 3) of foreign firms relating to

CPC 883+5115 (services incidental to mining and site preparation work for mining) and CPC 8676 (technical testing and analysis services). However, there are market access limitations on commercial presence in CPC 8672 (engineering services for building infrastructure) and CPC 8673 (integrated engineering services). These services are partially bound subject to limitations of “maximum of 40 per cent foreign shareholding in engineering consultancy companies; and subject to partnership and/or joint venture with Pakistani engineers or engineering companies.” But there are no limitations to national treatment on commercial presence of foreign firms in the three sectors.

As far as presence of natural persons (Mode 4) in these sectors is concerned, these sub-sectors are unbound except as indicated under horizontal measures relating to movement of executives, consultants and specialists.

Construction and related engineering services

Pakistan made very little Uruguay Round commitments in construction and related engineering sectors. The only sub-sectors that are scheduled with commitments are CPC 5132: construction work for civil engineering for bridges, elevated highways, tunnels and subways, and CPC 5133: construction for civil engineering for waterways, harbours, dams and other waterworks. In these sub-sectors, while there are no market access or national treatment commitments for cross-border supply (Mode 1) and consumption abroad (Mode 2) for reasons of technical infeasibility, there are market access limitations. Market access limitations on commercial presence (Mode 3) in these sub-sectors is partially bound subject to the horizontal commitments relating to maximum equity participation of 51 percent by foreign partnerships/or joint ventures with Pakistani engineers or engineering firms. However, there are no national treatment limitations of Mode 3 in these sub-sectors.

6. THE REQUEST/OFFER PROCESS IN THE DOHA ROUND

6.1 Introduction

In the Doha Round negotiations, Pakistan has received requests from Members to liberalise services in every major sector. In return, Pakistan has submitted its initial offers in most of these sectors. Among others these requests/offers relate to construction and related engineering services; architectural, integrated engineering and engineering services; energy services and environmental services.²² Moreover, Pakistan has co-sponsored four requests seeking commitments from other Members. It should be stressed that as part of the negotiation process,

all Members who co-sponsor a request by other Members are also considered to be recipients of that request. The key Members co-sponsoring requests to Pakistan in the selected sectors are the European Community (EC), Japan, the US, Canada, Australia, Switzerland, the Republic of Korea, Norway, Malaysia, New Zealand, Mexico, Singapore, Turkey and Saudi Arabia. In this section we summarise the request/offer process in the selected sectors in the on-going WTO negotiations on market access.

6.2 Requests Received by Pakistan in Selected Sectors

Construction and related engineering services

Pakistan has received a collective request sponsored by Japan to liberalise construction and related engineering services. The other requesting Members are Australia, Canada, Taiwan, Penghu, Kinmen and Matsu, the EC, Japan, the Republic of Korea, Malaysia, Mexico, New Zealand, Norway, Singapore, Turkey and the US. Apart from Pakistan, 18 other Members have also received this collective request in construction and related engineering services.²³

This request highlights the importance of construction and related engineering services in Pakistan which represents a fundamental activity that permeates all economic sectors and thus constitutes the single largest sector. Given the nature of construction services, this sector is of critical importance in creating employment and generating economic growth. Because strong linkages exist between construction services and engineering, architectural and integrated engineering services, the overall effect of liberalisation in construction services is expected to also depend on the extent of liberalisation in engineering and integrated engineering services.

The request covers sub-sectors from CPC 511 to CPC 518. It specifically demands the elimination of any limitation (market access and national treatment) in Mode 1, Mode 2 and Mode 3. The request, however, does not cover movement of natural persons (Mode 4) limitations in the construction sector.

In terms of UN CPC classifications the request covers CPC 511: pre-erection work at construction sites; CPC 512: construction work for buildings; CPC 513: construction work for civil engineering; CPC 514: assembly and erection of pre-fabricated constructions; CPC 515: special trade construction work; CPC 516 installation work; CPC 517: building completion and finishing work; CPC 518: renting services related to equipment for construction or demolition of buildings or civil engineering works with operators.

More specific requests of Members relate to commercial presence (Mode 3) where market access limitations on foreign equity, restrictions on type of commercial presence (e.g., subsidiaries, branches and representative offices) and limitations of joint venture are of particular concern. Moreover, the requests also deal with removal of some national treatment limitations pertaining to discriminatory registration and licensing procedures for foreign firms.

Architectural, engineering and integrated engineering services

Pakistan has received a collective request to liberalise the architectural, engineering and integrated engineering services sectors. Sponsored by Canada, the other requesting Members are Australia, Chile, the EC, Japan, Korea, Mexico, New Zealand, Norway, Switzerland and the US. Twenty-six other Members have also received this collective pluri-lateral request.

The coverage of this request and the sub-sectors are: CPC 8671: architectural services; CPC 8672: engineering services and CPC 8673: integrated engineering services. In Mode 4 the request is for commitments in all categories with a special emphasis on contract service suppliers. Finally there is a request for removal of limitations regarding economic needs tests (ENTs) (across all modes) and MFN exemptions.

Energy services

The collective request to Pakistan to liberalise energy services was sponsored by the EC with the other interested Members being: Australia, Canada, Japan, Norway, the Kingdom of Saudi Arabia, Republic of Korea, Taiwan, Penghu, Kinmen and Matsu, Singapore and the US. This collective request on energy services has also been received by 22 other WTO Members.

Liberalisation of energy services in the ongoing negotiations is important because Members need to provide varied energy sources at competitive prices for them to compete in the international market and because there is a high correlation between efficient energy use and economic growth and development. Moreover, firstly, the request treats energy services as the means to develop energy resources in an environmentally sound manner and in ways that promote responsible and efficient development and use of energy resources. Secondly, the request is neutral with respect to energy source, technology and whether offered onshore or offshore. Finally the request does not extend to the ownership of energy resources, which is outside the scope of GATS negotiation.

The services covered in the pluri-lateral request for energy services are CPC 8672-8673: engineering and integrated engineering services; CPC 865-866: management consulting services and services related to management consulting; CPC 8676 (partial): technical testing and analysis services (excluding services related to medical devices, food and food products), CPC 883: services incidental to mining; CPC 8675 (partial): related technical consulting services; CPC 8861-8866 (partial): maintenance and repair of prefabricated metal products, machinery etc.; CPC 5134-5136: construction work for civil engineering: for long distance pipelines, for local pipelines, for construction for mining; CPC 518: renting services related to equipment for construction or demolition of buildings or civil engineering works with operator; CPC 62271: wholesale trade in services of solid, liquid and gaseous fuels and related products (excluding electricity and town gas) CPC 66327: retailing services of fuel oil, bottled gas, coal and woods.

The requesting Members have asked Pakistan (along with other recipients of this request) to make commitments with the widest possible coverage of sectors by scheduling new or improved commitments because these activities are closely integrated.

In the cross-border (Mode 1) supply of these services, the requesting Members demand substantial reductions in market access limitations and removal of existing requirements of commercial presence. The commitment on consumption abroad (Mode 2) of energy services is requested where technically feasible. Because commercial presence (Mode 3) is an essential mode of supply for most energy services, the request is made for removal of foreign equity limitations; elimination of joint venture/joint operation requirements for foreign service providers; removal of economic needs tests and discriminatory licensing procedures in the energy services. Finally, the request is also made for horizontal commitments for movement of natural persons in the energy sector (Mode 4) to which the US is not a requesting Member, but is considered as a recipient.

Environmental services

Pakistan has received requests to liberalise environmental services from the following Members: Australia, Canada, the EC, Japan, the Republic of Korea, Norway, Switzerland, Taiwan, Penghu, Kinmen and the US. Sponsored by the EC, this grouped request on environmental services has been received by 23 Members including Pakistan. This request does not cover water for human use (i.e., collection, purification and distribution of natural water).

The WTO Services Sector Classification (WTO Document W/120) defined environmental services into four sub-sectors of activity: 6.A sewage services; 6.B refuse-disposal services; 6.C sanitation and similar services and 6.D other environmental services. However, the provisional UN CPC 94 classification includes several new classifications for environmental services not currently listed in W/120. The Members have requested that Pakistan undertake commitments in all environmental services sub-sectors by using provisional CPC classifications.

The activities covered in the request include: CPC 9401 sewage services; CPC 9402: refuse disposal services; CPC 9403: sanitation and similar services; CPC 9404: cleaning services of exhaust gases; CPC 9405: noise abatement services; CPC 9406: nature and landscape protection services and CPC 9409: other environmental services not elsewhere classified.

6.3 Requests Made by Pakistan

Pakistan has also co-sponsored four pluri-lateral requests seeking commitments from other Members to liberalise trade in computer and related services; movement of natural persons; cross-border supply and MFN exemptions. As a co-sponsor, Pakistan is also deemed to be a recipient of these requests. Here we summarise Pakistan's requests on the movement of natural persons and cross-border supply.

Cross-border (Mode 1) movement of environmental services has remained unbound in the past due to lack of technical feasibility. There is growing evidence that environmental services can take place remotely from a second country (e.g. wastewater treatment plants and pollution control). Therefore, the Members request Pakistan (along with other recipients) to schedule Mode 1 commitments in environmental services as much as possible as "none." The Members also request Pakistan to make full commitments for all sectors on consumption abroad (Mode 2).

Since commercial presence (Mode 3) is a predominant mode of supply of environmental services, the request is made for removal of barriers to commercial presence including foreign equity limitations; joint operation requirements and types of legal entity for foreigners such as joint ventures. The supply of environmental services in Pakistan is largely subject to public monopoly and exclusive rights. For instance, federal, provincial, local and *tehsil* governments control most of the environmental services in a highly protected environment. The requesting Members seek that to the extent that Pakistan "awards exclusive rights to environmental service suppliers, foreign service suppliers should be able to participate in the supply of the services."

Finally, the request is also made for horizontal commitments for movement of natural persons (Mode 4) in environmental services either under sector heading or under the horizontal commitments to which the US is not a requesting Member, but is considered a recipient.

Movement of natural persons (Mode 4)

Sponsored by India, this request asks Members to make commitments in providing effective market access on movement of natural persons (Mode 4).²⁴ This request is addressed to nine developed Members namely, the US, the EC, Australia, Canada, Japan, New Zealand, Switzerland, Norway and Iceland. The requesting

Members belong to developing countries and consist of the following: Argentina, Brazil, Chile, China, Colombia, Dominican Republic, Egypt, Guatemala, India, Mexico, Morocco, Pakistan, Peru, Thailand and Uruguay.

The request highlights that the existing commitments in Mode 4 by Members are predominantly horizontal where the coverage is not only narrow but also restricted to personnel movement in relation to commercial presence (Mode 3). It is also noted that when de-linked from commercial presence, the coverage of the categories in Mode 4 is extremely low. Therefore, the request urges the recipients to make commitments by recognising “common categories of movement both linked to as well as de-linked from commercial presence in the horizontal commitments to Members.”

The request defines five common categories of interest in which the Members can link market access in Mode 4 namely, intra-corporate transferees; business visitors; contractual service suppliers - employees of juridical person; independent professionals and other categories.

The request lists market access and national treatment limitations for each of the defined category to which the Members have been asked to schedule removal commitments. More specifically, the Members have been asked to address specific market access conditions such as qualifications, period of employment, duration of stay, removal of economic needs tests and transparency in such tests and removal of wage parity, etc.

Cross-border supply (Mode 1 and Mode 2)

This request is also coordinated by India and seeks liberalisation commitments in cross-border supply

6.4 Initial Offers Made by Pakistan

Pakistan submitted its conditional initial offer to the WTO Council for Trade in Services on 24 May 2005. The initial offer not only revises Pakistan’s horizontal and sector-specific commitments made in the Uruguay Round, but also comprises

of services in Mode 1 and Mode 2 from twenty-one WTO Members namely, the US, the EC, Canada, Japan, the Republic of Korea, China, Malaysia, Philippines, Indonesia, Brazil, Argentina, Egypt, South Africa, Peru, Colombia, Uruguay, Brunei Darussalam, United Arab Emirates, Australia, Norway and Thailand. The request has been put forward by Chile, Hong Kong China, India, Mexico, New Zealand, Pakistan, Switzerland, Singapore, Taiwan, Penghu, Kinmen and Matsu. The requesting Members are also deemed to be recipients of this request.

Technological innovations in IT not only have extended the range of services that can now be traded internationally, but have also increased the importance of cross-border supply in a wide array of service sectors. Whether or not there are actual restrictions on the ground for cross border supply of services, the fact remains that gaps in current commitments exist and need to be plugged for better market access opportunities.

The request asks Members to make full market access and national treatment (new/improved) commitments in Mode 1 and Mode 2 in sectors/sub-sectors of interest where gaps in commitments do exist in Members’ schedules (a list of such sectors/sub-sectors is also circulated with the request).²⁵ The request identifies the need for flexibility for individual developing country Members under Article XVI:2 of the GATS.

Due to uncertainty in the classification of certain services delivered electronically as either Mode 1 or Mode 2, Members are requested to make similar commitments for both modes of supply. However, in situations where the two types of service supply can be differentiated, different commitments are warranted in Mode 1 and Mode 2.

a range of new sectors and sub-sectors with new and improved commitments. In the initial offer, Pakistan has signalled its intention of liberalising fully by scheduling commitments in all modes of supply including Modes 1 and 2 in which it had

not scheduled commitments at the end of the Uruguay Round.

Revised horizontal commitments

Pakistan has revised its horizontal commitments on market access in the initial offer under Mode 3 whereby the maximum foreign equity participation has been increased from 51 to 60 percent for all sectors included in its schedule unless otherwise specified against a particular sector. The national treatment clause pertaining to restrictions on acquisition of real estate by non-Pakistani entities has also been removed from the initial offer.

The initial offer has also revised Mode 4 commitments by re-defining categories for intra-corporate transferees, business visitors, professionals, independent professionals and other skills in order to facilitate the temporary entry of service suppliers. To facilitate temporary visit and stay of these natural persons, periods of stay for each category have also been defined.

Construction and related engineering services

Pakistan did not make any change in its initial offer over and above its Uruguay Round commitment, toward CPC 5115: site preparation work for mining. However, Pakistan signalled its liberalisation commitments toward this sector by easing market access and national treatment limitations in its initial offer toward CPC 5132: construction work for bridges, elevated highways, tunnels and subways and CPC 5133: construction work for waterways, harbours, dams and other water works. While Mode 1 and Mode 2 were unbound in the Uruguay Round commitments due to lack of technical feasibility in these sub-sectors, these restrictions have been removed in the initial offer. Similarly, as part of horizontal commitments in Mode 3, the equity limit has been raised from 51 to 60 percent and is subject to the limitation of partnerships/joint ventures with Pakistani engineers or engineering companies. There are no further Mode 4 commitments in the initial offer except re-definition of categories of natural persons as part of horizontal commitments.

No government policy exists for several other CPS classifications in which Pakistan has received requests for liberalisation in the Doha Round viz, CPC 511: pre erection work at construction sites; CPC 512: construction work for buildings; CPC 513: construction work for civil engineering; CPC 515: special trade construction work; CPC 516: installation work; CPC 517: building completion and finishing work and CPC 518: renting services related to equipment for construction or demolition of buildings or civil engineering works with operator. It is generally viewed by the government that openness and therefore competition in these sub-sectors may improve the standard and lower the cost of construction.

Architecture, Engineering and Integrated Engineering Services (grouped together as one request)

Pakistan has made new commitments in its initial offer toward CPC 8671: architectural services, by removing restrictions in Mode 2 and by setting a limit on foreign firms' maximum equity of 51 percent, subject to a) participation of local partners, b) economic needs tests based on inquiry that no government subsidy is being provided and c) fulfilment of requirements and conditions applicable to foreign investors/juridical entities. Pakistan's Mode 4 commitments in this regard are unbound, except as indicated in the horizontal commitments.

Moreover, there was also a change in policy in the initial offer on Pakistan's commitment in Mode 2 and Mode 3 under the limitation on market access and national treatment on CPC 8672: engineering services for building infrastructure and CPC 8673: integrated engineering services. The commitment on Mode 2 for both the sub-sectors was changed from unbound to none. In Mode 3, the percentage of foreign shareholding was relaxed to a maximum of 51 percent from the initial 40 percent in both categories, subject to partnerships/joint ventures with Pakistani engineers or engineering companies. Moreover, in CPC 8673, foreign firms were exempted from maximum equity and local partnership limitations if these were registered with the Securities and Exchange Commission of Pakistan (SECP). Mode 4

was unbound except as was indicated under the revised horizontal measures.

Energy services

Some of the requests in the energy services overlap with those for construction services and architecture, integrated engineering and engineering services. The first such overlapping request relates to CPC 8672 - 8673: engineering and integrated engineering services for which Pakistan's initial offer has already been discussed above.

Pakistan has yet to make a commitment on CPC 865 - 866: management consulting services and services related to management consulting. This sector is also part of the EC's bilateral requests for which Pakistan may want to come up with a policy. The other sub-sectors for which Pakistan has yet to make a commitment are: CPC 8675 (partial): related technical consulting services; CPC 8861-8866 (partial): maintenance and repair of prefab metal products, machinery etc.; CPC 5134-5136: construction work for civil engineering: for long distance pipelines, for local pipelines, for construction for mining; CPC 518: renting services related to equipment for construction or demolition of buildings or civil engineering works with operator.

Pakistan has improved its commitment in its initial offer for the category CPC 8676 (partial): technical testing and analysis services (excluding services related to medical devices, food and food products). The only change in this category from its Uruguay Round commitment was in Mode 1 where from an unbound commitment in both MA/NT, Pakistan has moved to "none" or no limitation.

No improvement was made in Pakistan's initial offer for CPC 883 + 5115): services incidental to mining and site preparation. While there are no MA/NT limitations on Mode 3, Pakistan may want to consider liberalisation of these services through Mode 1 and Mode 2.

There was no Uruguay Round commitment for CPC 62271: wholesale trade in services of solid,

liquid and gaseous fuels and related products (excluding electricity and town gas) and CPC 66327: retailing services of fuel oil, bottled gas, coal, and woods. Pakistan has made some new commitments for these sub-sectors in its initial offer. Under limitation on MA/NT, Mode 1 is unbound while there is no limitation in Mode 2. In Mode 3 there are two conditions attached: first, that market access should be allowed subject to Economic Needs Testing (ENT), which includes need assessment of proposed locality being catered to by the supplier, and second, foreign equity should be below 51 percent. Mode 4 is unbound except as indicated under the new horizontal commitments.

Environmental services

Pakistan made an initial offer of commitments regarding liberalisation of environmental services. The offer focused on CPC 9402: refuse disposal and CPC 9403: sanitation and similar services. It was, however, explicitly stated by Pakistan that its offer does not include, public works functions owned and operated by federal, provincial, district, tehsil level government or municipalities or contracted out by them.

Market access in cross border supply (Mode 1) and consumption abroad (Mode 2) is unbound, that is, there is no previous or current policy commitment. Market access pertaining to presence of natural persons (Mode 4) is also unbound except as indicated in the horizontal commitments. However market access in commercial presence (Mode 3) is allowed when two conditions hold, a) foreign equity is not to exceed 51 percent and b) economic needs testing of a foreign firm would be based on inquiry to gauge if direct or indirect government subsidies were being provided. In the horizontal section of its initial offer, under Mode 4 commitments, Pakistan has already put forward categories of persons and their appropriate durations of stay.

Currently there is no policy on CPC 9404: cleaning services of exhaust gases; CPC 9405: noise abatement services; CPC 9406: nature and landscape protection services and CPC 9409: other environmental services not elsewhere classified.

7. STAKEHOLDERS' FEEDBACK ON PAKISTAN'S REQUEST/OFFER

7.1 Introduction

Theoretically, the views of national stakeholders on Pakistan's request/offer should play a critical part in positioning Pakistan in the multilateral negotiations in the Doha Round. By contrast, the feedback obtained from stakeholders tells a different story on the nature of their involvement and capacity to understand the complex set of services trade issues. To get feedback on Pakistan's request/offer in the Doha Round of negotiation, we conducted detailed interviews with stakeholders from the government (including regulators), the private sector, professional trade groups, civil society organisations, academia and think-tanks. In this section we outline the views of stakeholders regarding the liberalisation policy and the request/offer of Pakistan in the selected service sectors.

The views of stakeholders in respective sectors is provided within the framework of existing government policies relating to liberalisation in that sector and the requests for further openness put forward pluri-laterally to the GoP by groups of

7.2 Stakeholders' Views

In the first part we analyse the opinions of stakeholders within the construction, architectural, engineering and integrated engineering services, and energy services. The reason behind grouping these sectors together is the commonality of sub-sectors for which the pluri-lateral requests have been put forward. In the second part, we elaborate the views of key players within the environmental service sector.

Views on construction and related engineering, architecture, integrated engineering and energy services

i) The Public Sector

The following are the views of representatives of a large semi-autonomous public sector firm in Pakistan which offers consultancy services in construction and related engineering,

countries. In order to capture the various facets of liberalisation and its perceived impact, the views of stakeholders roughly cover the following key areas: a) Involvement of the stakeholder in the policy-making framework; b) opportunities for regional trade in the service; c) assessment of the currently existing regulatory framework, d) impact of liberalisation reforms and e) views on further liberalisation in the context of the specific pluri-lateral requests received.

Stakeholders in each of the service sector have been broadly divided into three categories. The first is the government or public sector engaged directly or indirectly in the provision of a particular service. The second is the regulatory body, if any, instituted by the government in the wake of privatisation and liberalisation within the sector. The final category is the private sector, which includes both the non-governmental bodies and associations linked with the particular service and the private corporation engaged in the provision of the service.

architecture, engineering, related engineering and energy services. The firm was established with the primary objective of achieving self sufficiency in these sectors and therefore to reduce the high level of dependency on foreign service providers. A secondary objective was to provide services to the government in projects which were considered to be classified. The firm enjoys a monopoly share in government projects. Its presence in the private sector is relatively low except for construction supervision where it is engaged by large private sector consultants.

Today the firm has a significant share of the domestic market and also exports its services to 34 different countries. Almost 30 percent of its revenues are generated from the export of services.²⁶ However, the countries to which these exports are directed are all part of the developing world. According to the firm, the main hindrance

in service provision in the developed world (US and EC) is faced in Mode 3 (commercial presence) and Mode 4 (movement of natural persons). These barriers to entry range from the rejection of qualifications from Pakistani engineers/consultants to paucity of financial resources and lack of credibility required to successfully bid for contracts in the developed world.

Although this semi-public firm is not directly involved in the policy-making framework, it does provide input to government queries whenever these arise. Consultations also take place at various meetings organised by the government.

The Pakistan Engineering Council is the statutory regulator for construction and engineering sectors in Pakistan.²⁷ The PEC revised its rules and regulations in 2003 in accordance with the WTO guidelines. Presently, all firms (both construction and engineering) must be licensed by the PEC to operate in the country. According to a representative of this semi-public firm, the rules require foreign companies in the construction sector to enter into a joint venture with a local firm before the bidding process i.e., foreign firms in the construction sector can own up to 70 percent of the venture, thus, local firms must own at least 30 percent. It was also claimed that foreign firms are exempted from entering into a joint venture if these agree to transfer technology during the duration of the project in Pakistan. It was further pointed out that the PEC had no conditions on profit repatriations (such conditions were said to come from other ministries or divisions of the federal government).²⁸

Regarding the engineering sector it was stated that the schedule of commitments in the WTO state that foreign firms can own up to 40 percent of the joint venture projects. According to this firm, the PEC had no such condition imposed on foreign firms. However it was claimed that the percentage of profit repatriation is based on the non-availability of certain technical capacities within the country.²⁹

The overall opinion of this public sector firm regarding liberalisation was very clear. Complete liberalisation was considered to be against the

central objective of self-sufficiency under which the firm was established. It was opined that Pakistan could potentially benefit from liberalisation if more sub-sectors within construction and related engineering services were opened up to foreign investors under the existing conditions of joint ownership and transfer of technology. Further relaxation of conditions in any of the sub-sectors was not recommended by this important player. Thus the suggestion was to widen the scope of conditional liberalisation across different sub-sectors rather than deepening the extent of it within a particular sector.

ii) The Private Sector

According to most of the players in the private sector, the over-arching problem common to the construction and related engineering, architecture and engineering sector was the outdated technology in operation within the country. This was manifested, especially in the construction sector, by a lack of knowledge of modern techniques and methods and lack of mechanisation operations.³⁰ Moreover, particularly in the construction sector, the following areas were also identified as weak and thus in need of immediate attention: a) organisational structure; b) quality of engineers and c) finances.

The private stakeholders expressed an urgent need to improve and revamp the functional capacity of the sector (construction, architecture and engineering). This improvement, according to the players, could be successfully brought about through better training institutions that would produce quality engineers and draftsmen. Therefore, almost all of the private stakeholders were of the opinion that Pakistan needs to invest in both engineering education and in vocational training institutes in order to compete internationally and locally with foreign companies.

It was also pointed out that there was an absence of a proper consultative process or mechanism through which the private sector could put forward its views to the GoP relating to future policy formulation and feedback on existing policies. Some of the larger stakeholders

indicated that they were regularly invited to relevant ministerial meetings, however, the general appreciation of these players was that even when the GoP accepts policy advice from the private sector during such meetings it consistently fails to take any concrete actions based on the recommendations it receives. Even though within the construction sector there are representative bodies, these play a minimal role in policy-making. For example, the All Pakistan Contractors Association (APCA), a representative body of small and medium-scale construction contractors, plays a fairly prominent role in the Lahore Chamber of Commerce and Industry but the association has never been consulted by the government in the policy-making process.³¹

With reference to existing foreign competition it was indicated that the construction and engineering sectors are financially weak rendering relatively smaller players more vulnerable to foreign competition.³² As a result of financial and capacity limitations, an average Pakistani company cannot bid for the pre-qualification of any major government project which is therefore, inevitably taken up by foreign companies. It was stressed however that the services of these foreign companies are generally limited to design and architectural consultancy while construction work is outsourced to local companies. In the opinion of the largest private sector engineering consultancy firm in the country, liberalisation in the sector would not harm their interests or those of larger players but would have an adverse impact on the smaller contractor in the construction sector.

It was also indicated by the private sector that there was considerable potential for foreign investment in real estate development within Pakistan - as this sector has experienced unprecedented levels of growth in recent years. It was indicated that the main reason why this has not materialised is primarily because of the risks involved with buying land in Pakistan. It was suggested that the government should form a “land bank” to facilitate foreign investment in this area in order to reduce the risks involved with land acquisition and encourage real estate development in the country.

Within the real estate sector, it was further claimed, that Pakistan could be a significant market for low-cost housing solutions. However, since Pakistani companies do not have the necessary expertise for developing low cost housing foreign investment is regarded as essential to “kick start” this sub-sector.

Regarding existing regulations or conditions on foreign companies some of the players in the private sector noted that while the current PEC regulations require Pakistani companies to have at least a 30 percent share if these enter into a joint venture with a foreign company, in practice foreign companies only enter into joint ventures “on paper”.

On the existing policy and the impact of further liberalisation within these sectors, some of the stakeholders felt that it was not just the degree or extent of liberalisation that was stopping foreign companies from investing in Pakistan. In fact the source of the hindrance was the type of concessions these foreign firms were demanding, i.e., waiver of visa restrictions for their workers, removal of restrictions on moving equipment in and out of the country and no requirement of either a joint venture with a local company or local registrations.³³

Finally there was a consensus on the benefits of further liberalising regional trade within these sectors. Trade with India in these services was highlighted not just as a source of appropriate indigenous technology but also of potential engineers - a resource, which according to almost all the players, Pakistan seriously lacks.

Views on environmental services

i) The Regulator

The Pakistan Environmental Protection Authority (the environmental regulator) covers relevant areas in health, sanitation and population sectors. It also includes ensuring imports of environmentally-friendly industrial inputs, regulates and oversees the treatment of waste and enhances or promotes biodiversity. This important stakeholder’s view on Pakistan’s

existing and future policy on liberalisation in the sector is summarised below.

According to the regulator a complete or unbound liberalisation of the environment sector could have adverse effects on Pakistan's economy simply due to the very "sensitive" nature of the sector. Market access to foreign firms/consultants in the field of environment might open a "Pandora's Box", that is, it could expose the extent of industrial pollution in the country which, if publicised by the media, would not be in the country's economic interest. The regulator gave the example of the textile sector which was cited as the major contributor to industrial pollution.

The regulator was of the view that although National Environmental Quality Standards (NEQS) are in place, their strict implementation would harm the industry in Pakistan, in particular, the small and medium enterprise sector. Due to financial constraints, this sector would be unable to adopt expensive environment-friendly technology. In this context the regulator stressed the potential benefits of liberalising regional trade, especially with India, which apparently has made headway in indigenous and cost effective environment-friendly technology for small and medium-scale enterprises.

Although the regulator was opposed to an "across the board" liberalisation in the sector it however indicated that there were some sub-sectors where conditional liberalisation would be beneficial. These were waste water treatment³⁴, emission cleaning technologies and sewerage and waste disposal services.³⁵

Recycling of organic waste was cited as a key area where foreign investment could be profitable and worthwhile for the country. In particular, the scope of establishing waste recycling plants such as compost (organic fertiliser) plants in various parts of the country was highlighted.

The regulator was of the view that due to increasing urbanisation, the sewerage and waste disposal services in the country's major cities had virtually collapsed. It was pointed out

that the city district governments were a key stakeholder in this sub-sector. Lack of resources, compounded with inherent administrative and operational inefficiencies, were the main reasons behind government failure in this area. Given these serious resource and capacity constraints, the solution was the involvement of the private sector. However due to their own vested interests, the local municipal authorities under the city district government were opposed to the entry of the private sector (domestic or foreign firms) in services such as refuse collection.³⁶

According to the regulator this opposition from the government service provider was not the only obstacle towards privatisation or liberalisation. The extent and quality of the service provided by domestic firms were also constrained because of a lack of specialised equipment required for waste disposal.³⁷ The regulator warned that if the private sector invests in these technologies the cost of service provision to the public could greatly increase, thus reducing broad public access to the service.³⁸

The regulator further stated that the entry of foreign firms, which in all likelihood would employ state of the art mechanised equipment, would potentially displace a large number of sanitary workers. Also, foreign firms would not find it economical to enter into the sector unless the size of the market available for provision of the service was large enough to ensure economies of scale.³⁹ The regulator suggested the integration of waste collection with waste disposal services and public-private partnerships in order to overcome some of these obstacles towards liberalisation. The possibility of joint ventures involving foreign companies and city district governments was thought to be a win-win situation by the regulator. For experimental purposes, the regulator recommended pilot projects in large cities such as Lahore and Karachi.

Thus the stance of the regulator on the degree of liberalisation and its terms and conditions was quite cautious and conservative. Liberalisation, in its view, should not be without certain conditions, that is, market access to foreign investment should not be unrestricted. The

government, according to the regulator, should instead encourage foreign investors to enter into joint ventures with local firms by restricting their equity share in investments in the environment sector. The main reason for this conditionality was that it would eventually result in knowledge and technology transfer. Although on paper the current policy in refuse disposal and sanitation services restricts foreign ownership to no more than 51 percent, the view of the regulator was that currently foreign companies are allowed to operate with 100 percent ownership of their investments. These two conflicting views can be reconciled by the fact that the GoP does allow complete ownership if the foreign firm registers with the Securities and Exchange Commission of Pakistan (SECP), making it thus technically a domestic or local entity.

ii) The Private Sector

Private sector stakeholders interviewed ranged from waste collection and recycling companies to private environment consultants and non-governmental organisations directly dealing with environment issues. The views summarised below pertain to the government's liberalisation policy in this sector.

Given the current policy of the GoP which allows foreign investment in some sub-sectors under conditions⁴⁰ such as joint ventures with local enterprises, the general view of private stakeholders was as follows.

Firstly, it was indicated that joint ventures between local and foreign firms are restricted only to cases where a foreign or a local service provider is involved in a large scale government project. Secondly, although collaboration is conditional upon the restriction that the foreign firm must provide minimum input into the project, these firms deliver the component of the project which local firms cannot because of lack of appropriate technology and/or insufficient knowledge in that area. Even with this restriction, foreign firms end up taking 20-30 percent of long-term government projects. Thus the private sector was of the view that liberalisation in other sub-sectors under conditions of joint ventures could lead to greater

opportunities both in terms of more business and enhanced technology transfer.

Regarding the waste disposal sub-sector the unanimous view of the private sector was that collection and disposal by city municipal authorities was inefficient and poor. As the public sector lacks the capacity and resources to deal with the increasing scale of waste in the country it was considered inevitable by both the public and private sectors that the latter would have to step in to fill this widening gap in the provision of this service. According to a pioneering private waste collection and disposal enterprise, the private sector was effectively sharing the burden of local government/municipal authorities and thus was gradually becoming a significant player in waste management services in Pakistan. Given the size of the market and potential economies of scale, this private waste management firm was in favour of foreign companies entering the market independently or in joint venture with local private companies and/or the public sector.

Another issue raised by the private sector was the lack of proper legislation or of a regulatory framework which has contributed to making the existing state of the waste management service even more dismal. According to some of the players interviewed, the approximate value of the waste collection and disposal market in a city like Karachi could be as much as a phenomenal one million US dollars per day. However regardless of market size, it was stated that liberalisation in this sub-sector requires certain key pre-requisites to be met for it to be successful. For instance, in order to liberalise the waste-collection service it is imperative for the government (federal or provincial) to declare dumping of waste an illegal activity. This is necessary as dumping of waste by a customer means loss of revenue to the waste-collector. This requires either formulating a new regulatory mechanism or changing the existing set-up to address such specific concerns.

Overall the private sector did not perceive further liberalisation as threatening as long as conditions were equitable for all players. Furthermore, the private sector was of the opinion that the government should facilitate the bringing in and

transfer of foreign technology. It should also help in improving and developing local methods of waste collection and processing. It was pointed out that the Engineering Development Board in particular could play a positive role in developing technology such as waste recycling locally while also ensuring that no sub-standard plants or inappropriate technology come out of these efforts.⁴¹

Thus the overall view of the private sector regarding liberalisation was fairly positive. The following statement by a local environment consultancy firm aptly summarises the opinion of the private sector:

Environmental services market in Pakistan is currently ripe for foreign investment. Liberalisation can lead not only to technology transfer but also transfer of knowledge that can help us develop technology locally.

7.3 Analysis and Discussion of Stakeholders' Views

The main issues raised by stakeholders regarding further liberalisation and their opinions on the existing policy of the GoP were outlined in detail above. Although there was a degree of divergence between public and private sector stakeholders on the modalities and extent of liberalisation, there was however an emergent consensus on certain broad parameters which are summarised below.

Firstly, it was suggested to “lock in” each sub-sector which has a stated policy, but to include in the liberalisation plan, under the stated conditions, the sub-sectors for which there is no existing policy. Thus the advice was to widen the coverage of liberalisation rather than deepen it in each sub-sector. However, it has to be stated that the public sector involved in the provision of the relevant services, for fairly obvious reasons, was the main proponent of a more conservative approach towards liberalisation policies. In the construction and engineering sector, for example, a major public sector firm was established with the primary objective of achieving self sufficiency and hence independence from foreign service providers.

Also, the smaller players in the construction sector, which make up a major portion of Pakistan's construction service industry, were considered to be quite vulnerable to foreign competition and thus were naturally inclined to be averse to increased foreign investment in this sector. These construction firms as mentioned before do not have any legal access to credit and thus are effectively marginalised by the GoP.

The scale of operation, low levels of technology and financial constraints of such firms act as major impediments to their growth and thus ability to compete in an open and an increasingly competitive environment.

The noteworthy exception to the view of “locking in” the sub-sectors were private stakeholders in the environmental services sector, especially those in waste management services who were fairly optimistic about the prospects of further liberalisation. The main reason behind this positive attitude towards increased foreign investment was the sheer size of the potential market for waste management services and the acknowledged inability of the public sector to meet the increasing demand for the service. Thus domestic players did not perceive in any way foreign competition as being a threat to their market share.

Secondly, there was a consensus on the conditions under which further liberalisation is allowed. The general view was that liberalisation should focus on joint ventures with local firms and where there are existing equity requirements, these should be maintained. Also, it was a widely held opinion that the GoP should ensure that joint ventures are such that these facilitate the transfer of know-how and technology to local partners in Pakistan.

Thirdly, a consensus emerged across sectors and various types of stakeholders that there should be greater liberalisation in regional service trade, especially with India. The

potential gains would be in terms of transfer of appropriate indigenous technology and know-how, access by Pakistani service providers to the large Indian market, and, finally, it would be a potential source of human capital (i.e., trained engineers). The latter benefit would relax one of the major constraints within construction, engineering and architecture, that is, of appropriately or adequately trained personnel.

Finally, the overriding concern of a majority of private stakeholders (and even in some instances of public sector players) in the services sector was firstly, their lack of involvement in the policy formulation and decision-making process and secondly, ambiguity and confusion regarding the existing policies. Therefore the presence of a proper consultative process which is “bottom-up” rather than “top-down” is direly needed in Pakistan’s service sector.

8. NEGOTIATING STRATEGIES FOR PAKISTAN IN THE DOHA ROUND

8.1 Introduction

It is obvious that just by looking at stakeholders' views it would be extremely difficult to formulate a comprehensive well-designed national strategy aimed at maximising gains and minimising adjustment costs. Part of the problem is that most stakeholders are at a disadvantage due to limited capacity, knowledge and foresight to evaluate the implications of a wide canvas of proposals being negotiated. Furthermore, absence of in-depth sector-specific assessments make it more difficult, both for public and private groups, to analyse the market impacts of current Doha Round negotiations on Pakistan's economy.

Despite these constraints, Pakistani negotiators would like to know the offensive and defensive trading interests and strategies to be pursued with Pakistan's negotiating partners. In this regard, Pakistan needs to single out some key determinants of its strategy for promoting trade in services and sustainable development in the country.

While multilateral liberalisation of services achieved under the Uruguay Round of talks has been quite limited, unilateral and bilateral liberalisation of the services sector has been the hallmark of Pakistan's policy for the last decade. During this period, Pakistan has made significant progress toward liberalisation of key infrastructural sectors, e.g., financial market, telecommunications, energy, etc. The regulatory reforms in these sectors have been introduced in phases, which have gradually

removed discrimination between domestic and foreign suppliers. Liberalisation in these sectors has witnessed a significant influx of foreign participation.

These reform efforts provide Pakistan with a window of opportunity to gain concessions from its negotiating partners by locking-in at its current level of commitments in bilateral and multilateral negotiations. Apart from using the cushion available due to unilateral liberalisation, Pakistan must devise some broad guidelines to formulate its strategy for informed positioning in the negotiations. Keeping in mind Pakistan's long-term developmental goals, it would be fair to say that general guidelines for a successful strategy, among other things, should focus on:

- a) national development objectives;
- b) potential for technology transfer;
- c) potential for enhancing efficiency and service quality;
- d) potential for employment generation; and
- e) presence of an appropriate regulatory framework.

In the light of the parameters outlined above, stakeholders' feedback and initial offers made by Pakistan, we now turn to examine specific requests from Members for liberalisation of services trade received by Pakistan in the Doha Round in some selected/prioritised service sub-sectors with the objective to give direction to Pakistan's negotiating strategies.

8.2 Construction and Related Engineering Services

Pakistan has potential export as well as import interest in construction and related engineering services in multilateral negotiations. Its construction sector represents a fundamental activity that permeates all economic sectors. Likewise growth in more than one dozen other industries/sectors is directly or indirectly

linked with growth in the construction sector. Due to pervasive labour-intensive technology, the employment-generating potential of the construction sector is also immense. Therefore, mainstreaming construction services would help achieve the national development goals of high GDP growth and employment generation.

A dominant majority of contractors in Pakistan's construction and related engineering sector consists of small players mostly made up of illiterate people lacking vision for growth and development. Because small contractors have weak financial positions, pervasive outdated labour-intensive technology and weak organisational structures, they are highly vulnerable to foreign competition.

With the exception of a few large firms, most big players in construction and related engineering industry do not have the financial solidity to take up mega projects announced by the government. However, these constructors/operators have a comparative advantage in small commercial buildings, small bridges and roads due to their reliance on labour-intensive technology.

Only a few sophisticated firms exist in the construction and related engineering sector, which specialise in large earth works and construction works for civil engineering. Specialisation and cost effectiveness of these firms enable them to compete internationally, especially in the Middle East where firms of Pakistani origin thrive on their comparative advantage largely vested in cheap skilled and un-skilled labour. An additional valuable resource for these companies is experienced engineers who have previously worked for multinational companies either in Pakistan or in the Middle East.

It should be emphasised that two significant factors that may explain the success of Pakistani engineering companies in the Middle East are: a) acceptance of the professional qualifications of Pakistani engineers and b) unrestrained flow of temporary movement of natural persons de-linked from commercial presence, and without any entry and stay restrictions on service providers. If Pakistan is to gain from the present round of multilateral negotiations, its negotiating stand in the construction sector should build on the determinants of success of Pakistani engineering companies in the Middle East.

In response to requests made by Members, Pakistan's initial offer signals liberalisation

commitment in market access in construction work for bridges, elevated highways, tunnels and subways (CPC 5132) and construction work for waterways, harbours, dams and other water works (CPC 5133) subject to equity/joint venture limit of 60 percent, in addition to removing restrictions on Mode 1 and Mode 2 commitments. The fact remains that these liberalisation commitments offered by Pakistan do not significantly differ from the present policy on the ground. For instance, a number of foreign construction companies, especially those of Chinese and Turkish origin have won government contracts in free bidding for construction of bridges, highways, tunnels, harbours and dams. Even though the presence of foreign firms has enhanced competition in bidding for mega projects, only the largest domestic firms have the capacity and resources to pre-qualify for such works. Therefore, Pakistan may conveniently want to lock-in at this level.

Pakistan has, however, maintained market access restrictions on commercial presence (Mode 3) in pre-erection work at construction sites (CPC 511), construction work for buildings (CPC 512) construction work for civil engineering (CPC 513), assembly and erection of prefabricated constructions (CPC 514), special trade construction work (CPC 515), installation work (CPC 516), and building completion and finishing work (CPC 517). These restrictions have been designed to protect small players from foreign competition, and to avoid displacement of construction workers since foreign players would have a comparative advantage in mechanised constructions with highly-skilled labour.

While it is difficult to establish the extent of likely damage to small players from commercial presence in these classifications, giving blanket cover to all local players, both small and large may not be justified. While it may be feasible to maintain market access restrictions on commercial presence in the case of smaller building plans to shield small contractors, market access restrictions on larger building plans may have little justification, if any.

Market access and commercial presence limitations are also maintained in Pakistan's initial

offer on renting services related to equipment for construction or demolition of buildings or civil engineering works (CPC 518). However, this is not in line with the stated position of industry players. Pakistan may want to revise its initial offer because commercial presence of foreign players in this sub-sector would benefit the industry by relieving them from major capital investments.

Although market access limitations on foreign equity remain, the equity limit has been raised from 51 to 60 percent, which effectively limits foreign investment to a joint venture. Pakistan seems to have maintained this limitation to encourage transfer of technology to local firms, although the policy on the ground indicates that Pakistan may have kept some cushion in foreign equity requirement that it may want to use in its revised offer. Moreover, as alleged by some private stakeholders, if foreign firms enter into joint ventures only “on paper”, then the expected benefits of this market access limitation may not materialise.

Besides, the negotiators should bear in mind that requesting Members demand elimination of market access and national treatment limitations in this sub-sector in Mode 1, Mode 2 and Mode 3, but their request does not cover temporary movement of natural persons (Mode 4). Since all Members who co-sponsor a request are also considered a recipient of the request, elimination of this clause should be a serious concern to Pakistan as discussed below.

Pakistan’s comparative advantage in construction services essentially lies in its cheap labour and its pool of experienced professionals who hold engineering degrees and qualifications from Pakistani institutions. With the elimination of the temporary movement of natural persons (Mode 4) clause from commercial presence (Mode 3), and by maintaining entry and stay restrictions

on workers as envisaged in the request, Pakistan may not be able to effectively compete on foreign turf simply because it would have to use expensive local labour and professional engineers and thus lose its comparative advantage. On the contrary, service providers of the requesting countries would gain from this clause by using Pakistan’s cheap skilled and un-skilled labour while operating in Pakistan. Likewise they would use their comparative advantage in capital intensive constructions while operating in their home countries.

Hence it would be in Pakistan’s economic interest to stay away from a deal in which the Mode 4 clause is deleted. Pakistan may only gain from these negotiations if this deal is built around factors that determine the success of Pakistani engineering companies, which obviously is associated with Mode 4. Although, Members are within their rights under the GATS to choose sectors and modes in which they want to make commitments, Pakistan is also free to selectively choose sectors on the basis of comparative advantage.

Finally, it needs to be stressed that the extent to which the construction sector can be liberalised will largely depend on the state of the regulatory framework in this sector. At present regulatory responsibilities are shared by more than one regulator. While the PEC regulates professional engineers and all firms must be licensed by it to operate in the country, there is no role assigned to the PEC in its by-laws to set up the equity requirements or conditions for profit repatriation. Therefore, it is imperative that the timing of liberalisation in the construction sector be properly sequenced before these restrictions are phased-out. Pakistan may want to use the flexibility that the GATS provides its Members to make tailor-made commitments to reserve enough cushion for strengthening the construction sector’s institutional framework.

8.3 Architecture, Engineering and Integrated Engineering Services

Since architectural, engineering and integrated engineering services are of potential export interest to Pakistan, negotiating strategies need to match the requirements. Therefore, Pakistan may want to reconsider its current negotiating stand by repositioning itself to obtain maximum gains from multilateral negotiations.

As noted above, Pakistan had made liberalisation commitments in the Uruguay Round on engineering services for building infrastructure (CPA 8672) and integrated engineering service (CPC 8673) subject to a maximum of 40 percent foreign shareholding and partnership/joint ventures with local firms. Adding to these commitments, Pakistan in its initial offer in the Doha Round has signalled new commitments in consumption abroad (Mode 2) and commercial presence (Mode 3) and has also raised the equity limit from 40 to 51 percent, subject to participation of local partners for architectural services (CPC 8671), engineering services (CPC 8672) and integrated engineering services (CPC 8673). Foreign firms opting to list in domestic stock exchanges are, however, exempt from the maximum equity condition for CPC 8673. Pakistan has retained the condition of economic needs tests. There is also the limitation that architects supplying services to Pakistan must have obtained certification from the PCATP. The purpose of this certification requirement is to make sure that local and foreign architects are familiar with local building codes, which differ across cities.

8.4 Energy Services

Energy services are more likely to be of import interest to Pakistan where there is the opportunity to lock-in reforms already introduced after the Uruguay Round. As part of liberalisation of key infrastructural sectors, Pakistan has undertaken reforms in electricity and oil and gas to exploit its significant economy-wide gains. In this regard, Pakistan has followed unilateral liberalisation of the energy sector with fundamental reforms occurring in electricity. Until 1994, the power sector was completely under state control

It is noteworthy that Pakistan's initial offer does not include commitments in cross-border supply (Mode 1), which warrants further analysis. Technological innovations in IT have extended the range of services that can be supplied cross-border. Because architectural and engineering designs can be conveniently supplied through trans-border data flows (Mode 1), countries having a relative comparative advantage are likely to gain from liberalisation commitments under Mode 1. The availability of a pool of cheap experienced professional engineers and architects is the source of Pakistan's comparative advantage in this sub-sector. For the same reason, Pakistan has already begun to attract foreign capital from advanced countries for joint ventures into these sub-sectors.⁴² Therefore, liberalisation commitments under Mode 1 may be in line with Pakistan's export interests. These liberalisation commitments in Mode 1 would also go well with Pakistan's co-sponsored request seeking Members to make full market access and national treatment commitments in cross-border supply (both Mode 1 and Mode 2).

Finally, to further enhance potential benefits under Mode 1, it would be prudent if Pakistan also considers liberalising its commitments even more in these sub-sectors under Mode 3. This is because arguably the possibility of increasing exports under Mode 1 would increase if more foreign firms or joint ventures in architectural, engineering and related engineering services were attracted to Pakistan.

involving power generation, transmission and distribution of electricity. Power generation was liberalised in 1994 while privatisation of WAPDA - the state-owned monopoly - was initiated in 1998 for vertical and horizontal unbundling to separate generation, transmission and distribution. International competitive bidding is used to attract private power producers. Moreover, privatisation of distribution companies is on the cards while the KESC has been privatised. The petroleum sector is highly regulated through

interventions in pricing, returns and other administrative controls. The same is true for the gas sector, which is largely controlled by the state. Oil and gas exploration is open to private investors. Both state and multinational companies are involved in oil exploration and gas generation. Two independent regulators are involved in rule-making for the oil, gas and electricity sectors.

Some of the requests received from Members overlap with those of construction and architecture, engineering and integrated engineering services and will not be discussed here. Pakistan has not made any commitment on management consulting services and services related to management consulting (CPC 865 - 866). Similarly, related technical consulting services (CPC 8675 partial), maintenance and

repair of prefab metal products, machinery, etc. (CPC 8861-8866 partial) construction work for civil engineering (CPC 5134-5136) are other related services in which no commitments have been made.

There is scope for Pakistan to consider liberalisation in some of the sub-sectors in which there is no local capacity. But, in general, it is difficult to comment on the feasibility of further liberalisation in these services sub-sectors through commercial presence because no sector-specific study has yet been conducted to assess their market impacts. Moreover, there is no appropriate regulatory framework in these areas to warrant their rapid liberalisation. Therefore, Pakistan may want to use a more cautious approach in further liberalisation of this sector.

8.5 Environmental Services

In this sub-sector Pakistan has substantial import interest through the commercial presence of foreign firms. Municipal services in Pakistan have come under a great deal of stress because of continuous influx of people migrating to cities. At a sustained annual migration rate of 4-5 percent, municipal services are overstretched. Revamping the whole sector requires significant investment for which the government lacks funding. Private investment can provide solutions to these problems, but the institutional framework required for such investment is not in place. For example, there are no legal penalties for littering. The government would have to legislate and introduce relevant laws. When companies start operating, the scale of operations would also be critical due to the economies associated with scale.

Presently, two types of organisational set-ups deal with waste management services, which include city district governments and defence housing authority (DHA) or cantonment boards. They do not allow infringement in each other's territory. Private sector firms involved in waste management services only operate when they are invited by the city district government or DHAs.

When it comes to waste collection and recycling there is a lot of scope for commercial presence of foreign companies through Mode 3. But Pakistan's initial offer in refuse disposal (CPC 9402) and sanitation and similar services (CPC 9403) does not cover public works functions owned by the government or local governments, or contracted out by them. Since most refuse disposal and sanitation services are under the control of City District Governments (CDGs), this condition practically rules out the presence of foreign investment. Therefore, further liberalisation would be in Pakistan's interest. While in refuse disposal services only a few private companies are operating with the permission of CDGs these companies were highly supportive of a policy that favours the commercial presence of foreign firms.

Similarly, Pakistan has no policy on cleaning services of exhaust gases (CPC 9404), noise abatement services (CPC 9405), nature and landscape protection services (CPC 9406) and other environmental services (CPC 9409). In Pakistan about 15 firms are involved in providing environmental services while even more firms offer environmental impact assessment services. Firms providing environmental consulting services are, however, few. Collaboration of these firms

with foreign consultants is producing good results, with the majority focusing on wastewater treatment plants, chrome recovery plants for leather tanneries, eco-labelling and energy conservation. Demand for environmental services from bigger firms has increased since enactment of National Environmental Quality Standards (NEQS). Huge investments have been made by tanneries and the textile sectors in recent years, which have increased demand for environmental services. Because demand is greater than supply, it is envisaged that the entry of foreign firms would be beneficial for the industry. Due to excess demand, entry of foreign firms is unlikely to jeopardise the interests of local players. Due to a dearth of qualified engineers in the country,

many of the services are performed contracted out to foreign consultants. Human capital constraints in the environmental services sector are acute.

Even though private stakeholders providing similar environmental services were very positive in their approach toward liberalisation of this sector, the PAK-EPA was more cautious in their approach. Evidence suggests that collaboration with foreign environmental consultants is producing positive results and is also leading to technology transfer. Further liberalisation commitments through Mode 1 and Mode 3 would be beneficial in terms of service quality, technology transfer and a cleaner environment.

8.6 Temporary Movement of Natural Persons

Temporary movement of natural persons is an area of great interest to Pakistan due to the availability of a vast pool of trained and semi-trained workers. Pakistan could expect significant benefits from such flows. From the human development perspective, Pakistan has an interest in the liberalisation of movement of natural persons (Mode 4), which at present is considered as one of the least liberal areas of the GATS (Hussain, 2004). The existing commitments made by Members are mostly horizontal where the coverage is not only narrow but also restricted to this movement in relation to commercial presence. The sectors of particular interest to Pakistan are software services, health services, legal and accounting services in which horizontal commitments attach rather tough conditions. While in the wake of globalization there has been tremendous growth in merchandise trade and trade in services, growth in labour flows has not seen a similar pattern. The request made by Pakistan seeks commitments from the Members to recognise common categories, which are de-linked from commercial presence.

The flow of remittances to Pakistan has never remained stable since the early 1970s when significant temporary migration flows started from Pakistan to the Middle East mainly due to the boom in construction activity fuelled by the first oil price hike of the seventies. While these flows peaked at around USD 2 billion in the mid-eighties, there was a significant fall followed by a revival after the attacks in the US of 11 September 2001. Pakistan witnessed a significant increase in remittances during the last few years. Presently, remittances to Pakistan are recorded at around USD 4 to 5 billion. It is envisaged that due to the availability of a huge pool of trained and semi-trained workers, Pakistan could expect most benefit from temporary movement of natural persons. Pakistan's success in removing restrictions on the movement of natural persons also has developmental and poverty alleviation dimensions. Therefore, Pakistan may want to use this window of opportunity by taking an informed position while bargaining with its negotiating partners.

9. PAKISTAN'S CONSULTATIVE MECHANISM ON SERVICES TRADE

9.1 Overview

Dialogue between the government and various stakeholders is crucial in building capacity in a country to effectively participate in multilateral trade negotiations on market access and national treatment of foreign service suppliers. Countries where effective consultative mechanisms are in place for making national decisions on trade issues are well prepared to accurately identify the challenges and risks of opening up their economies to foreign competition. Presence of an effective policy consultation mechanism, involving key stakeholders, improves the capacity of a country not only to effectively negotiate, but also, to implement trade policy reforms leading to enhanced competitiveness in the global arena.

Pakistan has made significant progress in recent times in formulating well-defined rules of business

for the government to prepare the annual trade policy, and to regulate and legislate trade in services through relevant line ministries. A similar well-defined consultative mechanism on bilateral and multilateral services trade negotiations is not yet present that could help negotiators take concrete positions on key liberalisation and restructuring issues being debated. In effect, negotiators and policy-makers are seriously constrained to identify the market impacts of a policy change. In what follows, we present a critique of the present consultative mechanism and highlight some of the impediments facing stakeholders in the public and private sectors to effectively contribute to the dialogue aimed at formulating effective negotiating strategies on services trade issues being debated at the WTO.

9.2 Consultative Mechanism on Annual Trade Policy

The trade policy consultation mechanism in Pakistan appears to be inclusive because it recognises formal inter-ministerial consultations with relevant ministries and specialised government ministries, chambers of commerce and industry, business and manufacturers' associations, missions abroad, provinces and international donors. However, in reality the consultation process omits civil society organisations, labour unions and academic institutions.

To prepare the annual trade policy, Pakistan has evolved an elaborate consultation mechanism for decision-making. However, other than the government machinery, the process is limited to trade bodies, producer groups, exporters and international donors (ITC, 2006; Saeed et al, 2005).⁴³ The political economy of trade policy suggests that some groups benefit from policy change while others are negatively affected. Therefore, an effective trade policy needs expert advice to gauge the market impacts of these policy

changes on the interrelated interests of capital versus labour, producers versus consumers, and big versus small businesses, to name a few. The interests of labour, consumer groups and small businesses are not well represented in this otherwise elaborate consultative mechanism.

There is further concern that the ministry of commerce does not have a permanent structure or even the human resources to formulate policies or to analyse the merit of the opinions and proposals coming from various stakeholders. Due to inadequate research and development facilities, the ministry of commerce is not well-equipped to assess Pakistan's sector-wise competitiveness vis-à-vis its major competitors. For the same reason, professional lobbies that have the capacity, knowledge and the insights to take firm positions are more likely to prevail upon the ministry of commerce, which at times may lead to distortions across industries, producing sub-optimal results for the economy.

9.3 Consultative Mechanism on Trade in Services

While a limited number of private sector entities are consulted formally or informally when formulating day to day policies impacting services trade in the country, ironically most non-state stakeholders are left out of the loop while negotiating bilateral and multilateral agreements, which are likely to have long-term implications on the economy. Part of the reason is that although, the GoP has well defined rules of business for the purposes of legislation in trade in services, these rules are yet to be framed to define a formal consultation mechanism for bilateral and multilateral negotiations.

To illustrate, there is a complex inter-ministerial consultation process stipulated by the GoP to formulate policies on services trade. For example, there are twenty-eight divisions/ministries, several federal agencies and provincial departments that are directly or indirectly associated with services trade activities in the country (Saeed *et al*, 2005; ITC, 2006). Similarly, there are about 50 registered chambers of commerce and industry, a Federation of Pakistan Chambers of Commerce and Industry (FPCCI) and more than 200 registered (with FPCCI) and non-registered industry associations, many of which are responsible for trade in services activities in the country (Saeed *et al*, 2005). While the information technology and telecommunications division is formally mandated by the government to coordinate with the private sector, the other divisions involved in regulating other services do not have a formal mandate to do so. However,

informal consultations are often made with senior representatives of key national organisations on an ad hoc basis, or as and when such an input is needed by the government.

Consultations are also made with the members of parliament through such bodies as the WTO Council (consisting of ministers of related ministries), the WTO Taskforce (consisting of the members of the national assembly including the commerce minister) and standing committees of the national assembly and the senate (oversight committees) (Saeed *et al*, 2005). However, due to the highly technical nature of services trade issues and lack of capacity, these parliamentary bodies only play an oversight role without having much to contribute in policy formulation, legislation or in devising negotiating strategies for the services trade.

In this “top-down” strategy, the government maintains a firm control on legislation and policy formulation at the top level of government. A “top-down” policy, as ITC (2005) points out, “may reduce the opportunity for rent-seeking by private interests by offering limited private sector access ... and it may be more efficient because it reduces the opportunity for disruptive debates about policy directions.” However, with such a tight grip on policy, the government is often constrained to identify the market impacts of a policy change and the capacity of the country to effectively negotiate further trade policy reforms in bilateral and multilateral negotiations.

9.4 Constraints in the Negotiating Process and the Way Forward

Lack of understanding and foresight on services trade issues within both the public and the private sectors is a major constraint for Pakistan to effectively participate in trade negotiations at the WTO. There are more than three dozen line ministries, divisions and government departments dealing with policy-making and legislation for the services sector. The research and development facilities and procedures at the ministry of commerce and other relevant ministries and divisions are extremely inadequate. Due to a

heavy bilateral trade agenda and expanding negotiations for free trade areas with trading partners, the government machinery seems increasingly under-resourced to cope with the full range of issues. The bureaucracy is ill-equipped and therefore lacks relevant expertise to handle highly technical trade-related issues. Therefore, the ministry of commerce urgently needs to enhance its in-house capacity to conduct sub-sector assessments by strengthening its research units and the team of legal experts so that they

can provide timely support to the Geneva-based negotiators.

A major constraint for the private sector and their professional groupings is the limited institutional capacity and knowledge to evaluate the implications of the proposals being negotiated. Even though organisations such as the FPCCI can play an active role in putting forward the viewpoint of the service industries, they also need to enhance the capacity of their research department before they are able to meaningfully contribute to negotiation strategies. At the same time, several service sector groupings are not even registered with the FPCCI. Some of them do not even have representative professional groups that could enable all their members to be satisfied. How such groups could be brought on-board in a national consultative mechanism remains a rallying cry, but also makes it difficult for policy-makers to identify true market impacts of a policy change in those sub-sectors.

Another constraint with respect to creating such capacity is the availability and quality of data on services trade. A lack of reliable data on most service sectors has been a major constraint for pursuing a meaningful research agenda. Published statistics on services trade is deficient because Pakistan does not collect data under the four modes of supply of the GATS. This problem is further enhanced by the obsolete classification system and the highly aggregated nature of the data collected. Except for the banking and energy services where high quality data is often available, lack of reliable data in most other service sectors has been a major constraint for either the government or the private sector pursuing a meaningful research agenda.

It should be emphasised that a policy that is aimed at minimising costs and maximising gains from services trade liberalisation should be inclusive and transparent. A consultation strategy that is broadly representative should not only include all levels of government, but should also include formal representation of business groups, labour groups, civil society organisations and academia. While the inter-ministerial consultation process in Pakistan may be strong, the representative character of the other groups is quite weak.

If civil society organisations and academic institutions are involved in the consultative process, they are more likely to effectively fill the void created by the weak institutional capacities of public and private sector organisations. For instance, some civil society organisations have lately been very active in raising awareness on several trade-related issues through media campaigns. Some of them also have their research and analysis departments on the WTO. Similarly, while no consultative role has been assigned to independent academic institutions and think tanks, they have the capacity and resources to undertake careful analysis of alternative trade strategies. In this regard, our neighbouring countries, India and Bangladesh, have made considerable progress toward involving academic institutions and think-tanks in the negotiation process.⁴⁴ Proposals for government-academia collaboration on research on trade-related issues have frequently been discussed between the ministry of commerce and a few leading private academic institutions in Pakistan, but no breakthrough has been reached yet. Even if such initiatives do bear fruit in the near future, the paucity of services trade data due to the above mentioned constraints would pose a serious challenge.

9.5 Conclusion

All in all, Pakistan still needs to set up institutional foundations that could help it formulate effective trade negotiating strategies on bilateral and multilateral fronts to maximise the gains and minimise the risks of exploitation by its negotiating partners. The analysis suggests that the presence of a formal mechanism which is “bottom-up” rather than “top-down” to hold consultations with national stakeholders is direly needed. While Pakistan has recently evolved an elaborate mechanism to involve private sector and civil society actors in formulating annual trade policy and legislation in trade in services, the consultative mechanism for negotiating bilateral and multilateral agreements on trade in services is more inward looking. Most national stakeholders (except state actors) are left out of the loop when it comes to important issues on services trade under negotiation at the WTO. The ministry of commerce’s WTO wing is mainly responsible for trade negotiations through Pakistan’s Geneva

Mission. However, given the ever expanding bilateral and multilateral trade related issues, the in-house capacity of the ministry to deal with highly complex issues, especially to conduct thorough sub-sector specific assessments, is a major constraint. The government has yet to define a formal consultation process for services trade negotiations like the one for the annual trade policy for bilateral and multilateral services trade negotiations where non-state actors, such as the private sector, academia and civil society, are also involved. In the absence of such a mechanism, top government officials have the major responsibility of taking positions in services trade negotiations. Not only does a tight grip on services trade negotiations constrain the ability of the government to identify the market impacts of a policy change, but it also hinders the capacity to effectively negotiate further trade policy reforms in bilateral and multilateral negotiations.

ENDNOTES

- 1 For further details on sectors covered under EBOPS, see Table 4.
- 2 Data on the FBS national accounts only gives aggregated statistics for Pakistan's services sector.
- 3 Prior beliefs suggest that stringent state regulatory regime in a country results in misallocation of scarce resources. Consistent with these beliefs, Burki et al (1997) show that before 1992 manufacturing firms in Pakistan over-utilised scarce capital and under-utilised abundant labour. Moreover, misallocation of resources increased cost of production for firms at the rate of one percent per annum thus putting them at a competitive disadvantage (Burki and Khan, 2004).
- 4 For example, Schiff and Valdes (1992) have noted that by maintaining pre-determined output prices well below border-parity prices, Pakistan has been able to maintain one of the highest rates of indirect taxation of the agriculture sector in the world.
- 5 www.nespak.com.pk
- 6 www.descon.com.pk
- 7 www.pakistan.gov.pk/ministries/index.jsp?MinID=23&cPath=272
- 8 www.pec.org.pk
- 9 www.pcatp.org.pk
- 10 www.jgc-descon.com.pk
- 11 www.nha.gov.pk
- 12 www.pha.gov.pk
- 13 www.ogra.org.pk
- 14 www.wapda.gov.pk
- 15 www.kesc.com.pk
- 16 www.nepra.org.pk
- 17 www.environment.gov.pk
- 18 See "Brief on Solid Waste Management in Pakistan" available at: www.environment.gov.pk/PRO_PDF/PositionPaper/Brief-SWM-%20Pak.pdf (accessed on March 10, 2007).
- 19 See WTO document S/DCS/Pak dated 24 January 2003 at www.wto.org.
- 20 By definition executives are persons "who direct the management of the organization or establish goals and policies for the organization", and they are the ones who "receive only general supervision or direction from higher level executives, or the Board of Directors." Similarly,

the specialists are defined as those persons in an organisation “who possess knowledge at an advanced level of expertise” and they “possess proprietary knowledge of the organization’s products, service, research equipment, techniques and management.” (WTO document S/DCS/Pak dated 24 January 2003 at www.wto.org).

- 21 Pakistan has no Uruguay Round commitments relating to the energy and environmental sectors because Members did not negotiate them as separate sectors. Therefore, Member country commitments in the energy sector were only subject to general obligations of the GATS rather than to market access and national treatment provisions. Similarly, in the environmental sector, Pakistan has no prior commitments or limitations on market access and national treatment, which remains unbound.
- 22 Other sectors covered in these requests are telecommunications; maritime transport; air transport; logistics; financial services; private education services; distribution services; Mode 3 and MFN exemptions in financial services.
- 23 Members who have been requested to open their construction sectors are Argentina, Brazil, Chile, The People’s Republic of China, Egypt, Hong Kong China, India, Indonesia, Israel, Kuwait, Malaysia, Nigeria, Pakistan, Peru, Qatar, The Philippines, South Africa, Thailand and the United Arab Emirates.
- 24 See WTO document TN/S/W/31 at www.wto.org
- 25 List of sectors/sub-sectors where specific commitments in Modes 1 and 2 are sought broadly cover professional services; computer and related services (at two-digit level); real estate services; rental/leasing services without operators; other business services; telecommunication services; distributional services; environmental services; financial services; all insurance and insurance-related services; banking and other financial services; tourism and travel related services; recreational, cultural and sporting services, and services auxiliary to all modes of transport.
- 26 The firm claims to have a comparative advantage in the construction of roads, small commercial buildings and small bridges.
- 27 The Pakistan Engineering Council (PEC) came into existence by an act of parliament in 1976. The PEC through a set of by-laws regulates the engineering sector (engineering consultancies and engineering /construction services) and provides accreditation to engineering universities in the country.
- 28 According to a member of the governing body of the PEC the joint venture clause and the equity requirement introduced by the government have nothing to do with the PEC by-laws. However it was indicated that there is a three member committee to deal with such issues. The members were the PEC, the ministry of works and the client.
- 29 In the initial offers under limitation on market access (May 2005) the only change in policy since the Uruguay Round on CPC 8672 (engineering) and 8673 (integrated engineering) was in Mode 3. The percentage of foreign shareholding was relaxed to a maximum of 51 percent in both categories. Moreover, in CPC 8673, foreign firms were exempted from both conditions if these were registered with the Securities and Exchange Commission of Pakistan (SECP).

- 30 Liberalisation in CPC 518 (Renting services related to equipment for construction or demolition of buildings or civil engineering works with operator) would relieve this major constraint in the construction sector. The representative of the PEC interviewed was also in favour of liberalisation in renting services equipment albeit with some regulatory provisions.
- 31 The representative of the PEC interviewed was also of the opinion that the ministry of commerce needs to set up sub-committees in the construction sector for consultation with relevant stakeholders. The ministry of commerce does not always involve the PEC for policy formulation.
- 32 The smaller players in the construction industry do not enjoy credit financing facilities, severely limiting their scale of operation and future growth prospects.
- 33 These concessions are in fact part and parcel of what constitutes greater liberalisation.
- 34 The pluri-lateral requests received however state the non-inclusion of services related to water for human use, that is, collection, purification and distribution of natural water.
- 35 These services categorised as CPC 9402, 9403, and 9404, are included in the pluri-lateral requests.
- 36 The “vested interest” here is primarily in terms of the large labour force employed by the municipal authorities for waste collection and disposal services which, in the course of liberalisation or privatisation, would face possible unemployment.
- 37 There is only one private waste collection firm in the city of Lahore. Their service provision is limited to a few middle and high income residential areas.
- 38 The standard “equity versus efficiency” debate was invoked here.
- 39 A suggestion was to follow the principle of “one city one company”. Thus the existence of economies of scale suggests that this service is essentially a natural monopoly. Therefore the efficiency gains from privatisation or liberalisation become somewhat ambiguous.
- 40 In refuse disposal (CPC 9402) and sanitation and similar services (CPC 9403) market access in Mode 3 (commercial presence) is allowed under two conditions. The first is that foreign equity was not to exceed 51 percent. The second condition states that entry of a foreign firm would be based on “inquiry to gauge if direct or indirect government subsidy was being provided.”
- 41 According to some of the key players within the private sector, appropriate technology lies at the heart of all solutions in Pakistan. These can be obtained only through indigenous R&D. An interesting example put forward to enumerate this point was Pakistan’s 1973 energy policy aimed at popularising biogas in the villages. Some 10,000-20,000 plants were imported from Germany, however, all of them failed because the inlet for putting in cow-dung and other organic waste was much higher than the average height of Pakistani men and women. This is a classic example of inappropriate technology ruining any prospects of delivering environmental services.
- 42 For example, JGC-Descon, based in Lahore, is a joint-venture between Descon Engineering of Pakistan and a leading Japanese company. It produces engineering and architectural designs for the global market by using Pakistani engineers and architects. These designs are supplied to international clients through cross-border data flows under Mode 1.

- 43 The trade policy is announced by the federal commerce minister every year in the month of June or July. The formulation of the trade policy involves extensive consultations within the ministry of commerce, inter-ministerial consultations, consultation with specialised government agencies, provincial governments, representatives of the federation and its constituent chambers of commerce and industry, trade and industry associations, exporters in all sectors, donors and international agencies, and academia and research organisations. Written proposals are also sought from these stakeholders by the ministry of commerce. The chambers of commerce and industry formulate proposals through their sub-committees by holding sector meetings, while donors and international agencies give their recommendations based on their research studies. These proposals are then discussed in a big stakeholder meeting held in April. Subsequently, a draft trade policy is formulated internally after considering the stakeholders' viewpoints. The trade policy is finalised in an internal trade policy workshop, which is also attended by SBP and the Central Board of Revenue (CBR). The final document is then taken to the prime minister and the federal cabinet for approval before its announcement by the commerce minister.
- 44 India has recently involved the National Council for Applied Economic Research (NCAER), the Indian Institute of Foreign Trade (IIFT), the Indian Council for Research on International Economic Relations (ICRIER) and the RIS in the consultation process (ITC, 2005). Similarly, Bangladesh has set up an advisory committee in the ministry of commerce to consult all the stakeholders, including the private sector, academia, civil society and related ministries through constitution of five working groups on separate topical issues including trade in services.

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- Identify and clarify key sustainable development issues and prospects in relation to the agenda on trade in services;
- Assess systemic issues of interest for developing country policy makers and influencers in the GATS legal architecture;
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