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Services Trade Negotiations in the Doha Round: Opportunities and Risks for Pakistan

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Services Trade Negotiations in the Doha Round: Opportunities and Risks for Pakistan

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1. Introduction

In the Doha Round of services trade 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 plurilaterally. 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.[2]

Trade liberalization of goods by many developing countries in the 1990s has not fully delivered the promised fruits in the form of prosperity [Rodrick (2001)]. When domestic services sectors are insulated, simply lowering of tariffs on trade in goods promises only modest gains in aggregate welfare [Konan and Maskus (2006)]. Developments in the field of information technology have expanded the range of services that can be trade internationally [Primo Braga (1996)]. 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 in an economy.

The importance of the services sector to Pakistan's economy has substantially increased over the past four decades. Its share in GDP has gone up from 45 per cent in FY1970 to almost 58 per cent in FY2006 while services share in GDP growth has gone up to 68.3 per cent in FY2006 [Burki and Hussain (2007), GoP (2006)]. By

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[2]The founders of the General Agreement on Trade in Services (GATS) recognized the importance of various channels through which international delivery of services takes place and, therefore, four modes of supply were developed so that member countries could organize and schedule their MA and NT 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). At the least, the negotiations provide an indication of the specific sectors where there is substantial interest in FDI, and where trade and regulatory regimes are sought to be improved and locked-in.

contrast, the share of services in employment has not increased in this period, which reflects poorly on the poverty alleviation potential of services and indicates that growth has mostly occurred in knowledge-based sub-sectors. Pakistan is a small global service provider where imports are growing faster than exports.[3] Pakistan needs to explore ways through which comparative advantage in services could be tapped.

How liberalization of services affects economic productivity and competitiveness in Pakistan's economy although has a wider appeal, the contributions of the economics literature to analyze it are scant. 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 liberalizing 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.

The opportunities as well as risks of liberalizing trade in service largely depend on the relative comparative advantage. Hence, a major challenge for countries like Pakistan is to design a rational policy consistent with domestic policy objectives, as failure to do so is bound to adversely affect growth of service industries. In an ideal world, one may want to employ empirical investigation to make judgment on the consequences of services trade liberalization, but non-availability of services trade data by modes of supply remains a major impediment.[4]

This paper seeks to examine how locking-in of unilateral liberalization at the WTO/GATS and further liberalization of services would affect Pakistan's competitiveness. The paper 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.

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[3]Measuring services exports and imports is extremely difficult because of a) rapidly changing boundaries between services and industry; and b) ambiguous and outdated services classifications.

[4]Pakistan does not collect data under the four modes of supply of the GATS. Hence, it poses great difficulty for one to assess Pakistan's position in services trade.

The paper is organized as follows. Section 2 outlines the policy framework in some selected services and Section 3 provides a description of Pakistan's existing Uruguay Round commitments. Section 4 pertains to Pakistan's request/offer process in the Doha Round while Section 5 evaluates stakeholders' feedback on Pakistan's request/offer process. Section 6 discusses negotiation strategies for Pakistan in the Doha round. Finally, Section 7 concludes the paper.

2. POLICY FRAMEWORK IN SELECTED SERVICES SECTORS

2.1 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. Majority of registered contractors are small or medium firms who use primitive labour-intensive construction processes and have weak organizational structures and financial positions. Most of the registered contractors in Pakistan are illiterate who lack vision for growth and development of the construction industry. Mechanized 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.

Side-by-side some highly sophisticated public and private sector engineering firms also exist, 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, although larger firms have relative comparative advantage in mega projects. State of the art technology and specialization of these firms allows these companies to compete internationally, especially in the Middle East. Most engineering and construction firms generally provide project related services whereas only a few market players also have the capacity and resources to provide all services, e.g., NESPAK[5] and Frontier Works Organization (FWO) in the public sector, and Descon Engineering[6] 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.

Ironically, the policies relating to construction services come from various line ministries, departments and regulatory bodies. For example, the Ministry of Housing and Works[7] is mandated to oversee most construction and engineering related legislation and to initiate policies after inter-ministerial consultations.

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[5]www.nespak.com.pk
[6]www.descon.com.pk
[7]www.pakistan.gov.pk/ministries/index.jsp?MinID=23&cPath=272

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.[9] The foreign engineering consultancy service providers are also subject to the regulations of PEC.

The Pakistan Council of Architects and Town Planners (PCATP)[10] is another governing body established by the government to regulate the profession of architecture, which not only sets standard of conduct for its own members, but also advises government on architectural issues facing the industry. Even though there are no solely owned foreign architectural firms in Pakistan, JGC-Descon Engineering (Pvt) Limited [11] is a joint venture company of Descon Engineering with a leading Japanese company JGC Corporation, Japan produces engineering and architectural designs for the global market. Foreign architectural firms seeking MA into Pakistan are subject to the condition of registration with PCATP.

At another level, the 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 Authority[12] is mandated to regulate construction of highways and elevated highways all over the country.

2.2 Policies and Reforms in the Energy Sector

The oil and gas sector of Pakistan is largely controlled by the state through interventions in pricing, allocations, returns and other administrative controls. Market access through commercial presence is allowed to private and foreign investors in oil and gas sectors. While multinational companies (MNCs) are involved in oil and gas exploration, several state-owned or partially state-owned companies dominate the oil and gas sector. Most oil refineries are owned and operated by the private sector in which government is seeking further FDI. In marketing of petroleum products, although the state-owned PSO still holds a major market share, few other multinationals or private companies also compete in the market. Unlike in the oil sector, gas distribution is a state monopoly where no MA is present to private or foreign players. While partial privatization of the two state-owned companies is underway, it will however leave the control of the companies in the hands of the government.

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[10] www.pcatp.org.pk
[11] www.jgc-descon.com.pk
[12] www.nha.gov.pk

The challenge facing the oil and gas sector is that liberalization may not result in a competitive market structure. Although, huge infrastructural investments in oil distribution would serve as barrier to entry, yet gas distribution is a natural monopoly. The Oil and Gas Regulatory Authority (OGRA) [13] has been set up to oversee the oil and gas sector, which is a significant departure from what has been the case in the past. The OGRA faces a formidable challenge in whether privatization of natural gas distribution network brings about a competitive market structure.

The country's power sector is growing at the rate of 10-12 per cent per annum. Up until 1994, the power sector of Pakistan 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 1994 liberalized the power generation sector with the introduction of Independent Power Projects (IPPs). Under the 1998 privatization/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 MA limitations for commercial presence (Mode 3) to 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 one-window opportunity to the investors. But IPPs are not involved in transmission and distribution of electricity.

Market access limitations on private and foreign firms are still present in power transmission, although substantial reduction in MA limitations is on the cards in power distribution. Eight state-owned distribution companies, created after unbundling of WAPDA, are in the process of privatization. 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.

The power sector has an age-old infrastructure, which is in need of major investments. Moreover, electricity pricing is not based on cost of service, which has to change sooner than later. Cross-subsidization 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 that the institutional capacity of NEPRA is enhanced. Increased MA in generation and distribution is likely to provide further opportunities for FDI in this sector.

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[13]www.ogra.org.pk
[14]www.wapda.gov.pk
[15]www.kesc.com.pk
[16]www.nepra.org.pk

2.3 Environmental Policy and Regulatory Framework

Pakistan has an elaborate policy framework to deal with environmental services[17]. The national regulatory agencies dealing in this sector for the implementation of PEPA at the federal level are Pakistan Environmental Protection Agency (Pak-EPA)[18] , which was created as part of the Environmental Protection Act, 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 the policy formulation process. The provincial environment protection departments are Pak-EPAs counterparts in the provinces. Pak-EPA also serves to help local government, government agencies and other persons to implement schemes and to help increase compliance with the established environmental standards.

Uninterrupted supply of municipal services has always remained a major public policy objective, which is not likely to change in the foreseeable future. The reason being that ensuring 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, municipal services being a public good, most citizens do not internalize cost of cleaning. In effect, it presents a classic case of market failure justifying active government involvement and subsidy. Because the poor are even less likely than the rich to bear or internalize cost of cleaning services, it is not surprising to find that municipal services are often subsided to maximize welfare.

Likewise, most municipal services in Pakistan are delivered either 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 to deal with increasing urbanization, which has led to a virtual collapse of sewerage and solid waste management services in major cities. It is estimated that only 50 per cent of waste quantity generated in Pakistani cities is collected by government owned and operated services while for these cities to look cleaner at least 75 per cent of the solid waste should be collected.[19] See Brief on Sold Waste Management in Pakistan available at < (accessed on March 10, 2007) The estimates also show that about 55000 tons per day of solid waste is generated 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. While solid waste is mostly handled in a primitive fashion involving no weighing facility, sampling and analysis.

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[17]Some of the policies governing this sector include Pakistan Environmental Protection Act (PEPA) enacted in 1997, National Environmental Policy, National Sanitation Policy, National Drinking Water Policy and guidelines for solid waste management.

[18]www.environment.gov.pk

[19]See Brief on Sold Waste Management in Pakistan available at <www.environment.gov.pk/PRO_PDF/PositionPaper/Brief-SWM-%20Pak.pdf (accessed on March 10, 2007)

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 an ordinary waste. The proportion of waste collection also varies across municipalities depending upon their efficiency. The scavengers are also an important part of solid waste management because they are instrumental in separating recyclable materials.

At the federal level Planning and Development Division and at the provincial level Planning and Development Departments are the responsible bodies, which make plans and allocate resources. However, PEPA and provincial EPAs are responsible to regulate the sector in line with Pakistan Environmental Protection Act, 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 Administration (TMAs) are primarily responsible to collect, transport and dispose-off solid waste. The existing infrastructure needs major investment, but most city district governments are faced with severe financial constraints that hinder their efforts to improve the quality of these services. City district governments and TMAs may not be able to withstand the growing public pressure in support of demands of improved service quality in civic services. Private sector service delivery may provide solutions to these problems. An important policy issue in this regard is the pricing of these services. 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 its recycling[20]. These sub-sectors are not open to commercial presence of foreign firms. There is no move yet by Pak-EPA to formally initiate liberalization of these services even though several elected representatives of the civic bodies are forthcoming in forging 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.

[20]In this regard, a private waste management company Waste Busters has acquired significant stakes by forming joint ventures with city district government of Lahore. Similarly, Lahore Compost Plant is also a joint-venture between city district government Lahore and a private company for managing recycling of waste. Some private-public initiatives to build land fill sights are also in the offing.

In general, Pakistan has a strong import interest in most environmental services. While liberalization 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 due to the possibility of technology transfer. How the government should allow free market in a sector that has hitherto been closed remains to be explored.

3. PAKISTAN'S URUGUAY ROUND COMMITMENTS

The on-going request-offer process in services trade 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 MA and NT in some specific sectors to better understand the request-offer process in the existing round of negotiations.

3.1 Pakistan's Horizontal Commitments in the Uruguay Round

Pakistan has made certain specific horizontal commitments on MA and NT 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 MA, 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 unless a different percentage is inscribed against a particular sector or sub-sector."[21] 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 acquisition by non-Pakistani entities is subject to authorization depending upon the location and purpose of such acquisitions.

Horizontal Commitments on Presence of Natural Persons (Mode 4):

Under Pakistan's horizontal commitment on MA, 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 percent in superior categories (namely, Executives and Specialists) in an undertaking."[22]

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[21]See WTO document S/DCS/Pak dated 24 January 2003 at www.wto.org.

[22]By definition Executives are persons "who direct the management of the organization or establish goals and policies for the organization", and they are the one 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 organization "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]

3.2 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.[23] For the purposes of this paper, Pakistan's scheduled limitations on MA and NT in business services, and construction and related engineering services are particularly relevant, which are discussed next.

Uruguay Round Commitment in 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, hydal power and airports only; CPC 8673: Integrated engineering services; and CPC 8676: Technical testing and analysis services. In all these sectors, Pakistan did not make any MA or NT commitments regarding cross-border supply (Mode 1). Also for consumption abroad (Mode 2) no binding commitment was made in these sectors mostly for reasons of technical infeasibility, except CPC 8676 where Mode 2 (MA/NT) limitation was none.

In the Uruguay Round there are no MA or NT 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 commerce 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 NT on commercial presence of foreign firms in the three sectors. These sub-sectors are unbound on the presence of national persons (Mode 4) except as indicated under horizontal measures relating to movement of executives, consultants and specialists.

Uruguay Round Commitments in 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,

[23]Pakistan has no Uruguay Round commitments relating to the energy and environment 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 by far remains unbound.

harbours, dams and other waterworks. In these sub-sectors, while there are no MA or NT commitments on 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 per cent by foreign partnerships/joint ventures with Pakistani engineers or engineering firms. However, there are no NT limitations of Mode 3 in these sub-sectors.

4. THE REQUEST/OFFER PROCESS IN THE DOHA ROUND

In the Doha Round negotiations, Pakistan has received requests from Members to liberalize services in every major sector. In return, Pakistan submitted its initial offer in May 2005 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.[24] 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 to other members are considered to be recipients of that request as well. The key Members co-sponsoring requests to Pakistan in the selected sectors are European Communities (EC), Japan, US, Canada, Australia, Switzerland, the Republic of Korea, Norway, Malaysia, New Zealand, Mexico, Singapore, Turkey and Saudi Arabia. In this section, we summarize the request/offer process in the selected sectors in the on-going WTO negotiations on MA.

4.1 Requests Received by Pakistan in Selected Sectors

Construction and Related Engineering Services:

Pakistan has received a collective request sponsored by Japan to liberalize construction and related engineering services.[25] Apart from Pakistan, 18 other Members have also received this collective request.[26] In this request the Members specifically demand 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.

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[24]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.

[25]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 United States of America.

[26]The 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, United Arab Emirates.

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 request of the Members relate to commercial presence (Mode 3) where MA 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 request also deals with removal of some national treatment limitations pertaining to discriminatory registration and licensing procedures meant for foreign firms.

Architectural, Engineering and Integrated Engineering Services:

Pakistan has received collective requests to liberalize the architectural, engineering and integrated engineering services sectors.[27] 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 commitment 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 liberalize energy services was sponsored by the EC.[28] The request treats energy services, firstly, 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 plurilateral 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):

[27]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 plurilateral request.

[28]The other interested Members are Australia, Canada, the European Communities, Japan, Norway, the Kingdom of Saudi Arabia, Republic of Korea, Taiwan, Penghu, Kinmen and Matsu, Singapore, the United States. This collective request on energy services has also been received by 22 other members of the WTO.

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 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 reduction of MA 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 United States is not a requesting member, but is considered as a recipient.

Environmental Services:

Pakistan has received request to liberalize environmental services from the following Members: Australia, Canada, EC, Japan, Korea, Norway, Switzerland, Taiwan, Penghu, Kinmen and the US. Sponsored by the EC, this collected 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.

Cross-border (Mode 1) movement of environmental services has remained unbound in the past due to lack of technical infeasibility. There is growing evidence that environmental services can take place remotely from a second country, e.g., wastewater treatment plants, and pollution levels). 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 commitment 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; 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, 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 the environmental services either under sector heading or under the horizontal commitments to which the United States is not a requesting member, but is considered as a recipient.

4.2 Requests Co-sponsored by Pakistan

Pakistan has also co-sponsored four plurilateral requests seeking commitments from other Members to liberalize trade in computer and related services; movement of natural persons; cross-border supply; and MFN exemptions. Being a co-sponsor, Pakistan is also deemed to be a recipient of these requests. Here we summarize Pakistan's request in movement of natural persons, and cross-border supply.

Pakistan's Request on Movement of Natural Persons (Mode 4):

Sponsored by India, this request seeks Members to make commitments in providing effective market access on movement of natural persons (Mode 4).[29] The request

[29]This request is addressed to nine developed Members namely, United States, 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. See WTO document TN/S/W/31 at www.wto.org

highlights that the existing commitments in Mode 4 by Members are predominantly horizontal where the coverage if 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 recognizing "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 MA in Mode 4 namely, intra-corporate transferees; business visitors; contractual service suppliers – employees of juridical person; independent professionals; and other categories.

The request lists the MA and NT 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 MA 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.

Pakistan's Request on Cross-Border Supply (Mode 1 and Mode 2):

This request is also coordinated by India and seeks liberalization commitments in cross-border supply of services in Mode 1 and Mode 2 from twenty one WTO Members namely, United States, EC, Canada, Japan, 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 also have 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 of Members exist, which need to be plugged for better MA opportunities.

The request seeks 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).[30] The request identifies the need for flexibility for individual developing country members under Article VIX:2 of the GATS.

Due to uncertainty in classification of certain services delivered electronically as either Mode 1 or Mode 2, the 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.

4.3 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 a range of new sectors and sub-sectors with new and improved commitments. In the initial offer, Pakistan has signalled its intention of liberalizing fully by scheduling commitments in all modes of supply including Modes 1 and 2 in which Pakistan had not scheduled commitments at the end of the Uruguay Round.

Revised Horizontal Commitments:

Pakistan has revised its horizontal commitments on MA in the initial offer under Mode 3 whereby the maximum foreign equity participation has been increased from 51 per cent to 60 per cent 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 in 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.

[30]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.

Initial Offer in 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 liberalization 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 toward these sub-sectors, these restrictions have been removed in the initial offer. Similarly, as part of horizontal commitments in Mode 3, equity limit has been raised from 51 per cent to 60 per cent, which is subject to the limitation of partnership/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.

There is no existing policy in several other CPS classifications in which Pakistan has received request for liberalization 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 of construction and lower the cost of construction work.

Initial Offer in Architecture, Engineering & Integrated Engineering Services:

Pakistan has made new commitment in its initial offer toward CPC 8671: Architectural services by removing restrictions in Mode 2 and by setting limit on foreign firms' maximum equity of 51 per cent, 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 infrastructures; 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 per cent from the initial 40 per cent in both categories, subject to partnerships/joint ventures with Pakistani engineers or engineering companies. Moreover, in CPC 8673, the 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.

Initial Offer in 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 relate to CPC 8672 – 8673: Engineering and Integrated Engineering Services on 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 on which Pakistan may want to come up with a policy. The other sub-sectors on 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 the initial offer toward 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 liberalization of these services through Mode 1 and Mode 2.

There was no Uruguay Round commitment toward 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 toward 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. The first condition is that MA would be allowed subject to Economic Needs Testing (ENT), which includes need assessment of proposed locality being catered to by the supplier, and the second condition sets foreign equity limit at 51 per cent. Mode 4 is unbound except as indicated under the new horizontal commitments.

Initial Offer in Environmental Services:

Pakistan made an initial offer of commitments regarding liberalization 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 their 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 MA in commercial presence (Mode 3) is allowed when two conditions hold, a) foreign equity is not to exceed 51 per cent, and b) Economic Needs Testing of a foreign firm would be based on inquiry to gauge if direct or indirect government subsidy was being provided. With regard to Mode 4 commitments, Pakistan has already put forward categories of persons with appropriate time periods of stay in its horizontal section in its initial offer. 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.

5. STAKEHOLDERS' VIEW ON PAKISTAN'S REQUEST/OFFER

Theoretically, the views of the national stakeholders on Pakistan's request/offer should play a critical part in the positioning of Pakistan's stand in the multilateral negotiations in the Doha Round. By contrast, the feedback obtained from the 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 the regulators, the private sector, professional trade groups, civil society organizations, academia and the think tanks.[31] In this section we summarize the views of the stakeholders on the liberalization policy and the request/offer of Pakistan in the selected service sectors. The views of the stakeholders in respective sectors are provided in the specific backdrop of the existing policies of the GoP relating to liberalization in that sector and the requests for further openness put forward plurilateraly by groups of countries to the GoP. Although there was a degree of divergence between the public and the private sector stakeholders on the modalities and extent of liberalization there was however an emergent consensus on certain broad parameters which have been summarized below.

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[31]For a complete list of professionals and stakeholders who were interviewed for this study, see acknowledgements in Burki and Hussain (2007).

Firstly, it was suggested to 'lock in' each sub-sector, which has a stated policy, but, to include in the liberalization plan, under the stated conditions, the sub-sectors on which there is no existing policy. Thus the advice was to widen the coverage of liberalization and not to deepen the extent of 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, were the main proponents of a more conservative approach towards policies of liberalization. In the construction and engineering sector, for example, the major public sector firm was established with the primary objective of achieving self sufficiency and hence independence from foreign service providers.

The smaller players in the construction sector, which assume a major portion of the construction service industry of Pakistan, were also considered to be quite vulnerable to foreign competition and thus were naturally inclined to be averse to increased foreign investment in this sector. The noteworthy exception to the view of "locking in" the sub-sectors was the private stakeholders in the environment service sector, especially those in waste management services, who were fairly optimistic about the prospects of further liberalization. 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. There was thus no threat perception by the domestic players with regard to foreign competition in any way reducing their share of the market.

Secondly, there was a consensus on the conditions under which further liberalization is allowed. The general view was that liberalization should focus on joint ventures with local firms and where there exist 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 the local partners in Pakistan.

Thirdly, a consensus emerged across sectors and various types of stakeholders that there should be greater liberalization in regional service trade, especially with India. The potential gains of this would be in terms of transfer of appropriate indigenous technology and know how, access of 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 the private stakeholders and even in some instances 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 the service sector of Pakistan.

6. NEGOTIATING STRATEGIES FOR PAKISTAN

While multilateral liberalization of services achieved under the Uruguay Round of talks has been quite limited, unilateral and bilateral liberalization of services sector has been the hallmark of Pakistan's policy for the last one decade. During this period, Pakistan has made significant progress toward liberalization of key infrastructural or backbone sectors, e.g., financial market, telecommunication, energy, etc. The regulatory reforms in these sectors have been introduced in phases, which have gradually removed discrimination between domestic and foreign suppliers. Liberalization in these sectors has witnessed significant influx of foreign participation apart from local institutions.

These reform efforts provide a window of opportunity to Pakistan 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 liberalization, Pakistan must devise some broad guidelines to formulate its strategy for informed positioning in the negotiations. Keeping in view Pakistan's long-term development 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 appropriate regulatory framework.

We now turn to examine some specific requests of Members and propose negotiating strategies for Pakistan in some selected service sub-sectors in the light of broad parameters outlined above, stakeholders' feedback and initial offers made by Pakistan.

6.1 Strategy for Construction and Related Engineering Services

Pakistan has potential export as well as import interest in construction and related engineering services in multilateral negotiations. The construction sector of Pakistan represents a fundamental activity that permeates all economic sectors due to presence of strong backward and forward linkages. 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 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 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 organizational 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 strong financial positions to take up mega projects announced by the government. These constructors/operators have comparative advantage in small commercial buildings, small bridges and roads due to reliance on labour-intensive technology.

Only a few sophisticated firms exist in the construction and related engineering sector, which specialize in large earth works and large construction works for civil engineering. Specialization 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 emphasized that two most significant factors that may explain the success of Pakistani engineering companies in the Middle East are: a) acceptance of degrees and professional qualifications of engineers qualified from Pakistani institutions; 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 around the determinants of success of Pakistani engineering companies in the Middle East.

In response to the request made by the Members, Pakistan's initial offer signals liberalization commitment in MA 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 per cent, in addition to removing restriction on Mode 1 and Mode 2 commitments. The fact remains that these liberalization commitments offered by Pakistan do not significantly differ from the actual present policy on 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 presence of foreign firms has enhanced competition in bidding for mega projects, only the largest domestic firms had the capacity and resources to pre-qualify for such works. Therefore, Pakistan may conveniently want to lock-in in the Doha Round of talks at this level.

Pakistan has, however, maintained MA 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 comparative advantage in mechanized constructions with highly skilled work force.

While it is difficult to establish the extent of likely injury to small players from foreign 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 MA restrictions on commercial presence in the case of smaller building plans to shield small contractors, MA restriction 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, MA limitations on foreign equity remain, yet equity limit has been raised from 51 per cent to 60 per cent, 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 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 MA limitation may not materialize.

Besides, the negotiators should bear in mind that the requesting Members demand elimination of MA and NT 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 noted above, 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 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 they would have to use expensive labour and professional engineers of the advanced countries and thus loose their comparative advantage. On the contrary, service providers of the requesting countries would gain from this clause by using cheap skilled and un-skilled labour of Pakistan 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 Mode 4 clause is deleted. Pakistan may only gain from these negotiations if this deal is built around factors that determine success of Pakistani engineering companies, which obviously is associated with Mode 4. Although the Members are within their rights under the GATS to choose sectors and modes in which they want to make commitments, yet 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 liberalized would largely depend on the state of regulatory framework in this sector. At present the regulatory responsibilities are shared by more than one regulator. While PEC regulates professional engineers and all firms must be licensed by the PEC to operate in the country, there is no role assigned to the PEC in its byelaws to set up the equity requirements or conditions for profit repatriation. Therefore, it is imperative that the timing of liberalization in the construction sector is properly sequenced before these restrictions are phased-out. Pakistan may want to use the flexibility provided by the GATS to its Members to make tailor-made commitments to reserve enough cushion for strengthening the institutional framework in the construction sector.

6.2 Strategy for Architecture, Engineering and Integrated Engineering Services

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

To reiterate, Pakistan had made liberalization 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 per cent 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 equity limit from 40 per cent to 51 per cent, 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 maximum equity condition for CPC 8673. Pakistan has retained the condition of economic needs tests. There is also the limitation that the architects supplying service to Pakistan must have obtained certification from 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.

It is noteworthy that Pakistan's initial offer does not include commitments in cross border supply (Mode 1), which warrant 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 relative comparative advantage are likely to gain from liberalization commitments under Mode 1. The availability of a pool of cheap experienced professional engineers and architects is the source of comparative advantage to Pakistan 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.[32] Therefore, liberalization commitments under Mode 1 may be in line with Pakistan's export interests. These liberalization commitments in Mode 1 would also go well with Pakistan's co-sponsored request seeking Members to make full MA and NT 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 liberalizing 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 are attracted to Pakistan.

6.3 Strategy for 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 liberalization of key infrastructural and backbone sectors, Pakistan has undertaken reforms in electricity and oil and gas sectors to exploit its significant economy-wide gains. In this regard, Pakistan has followed unilateral liberalization of energy sector with most fundamental liberalization reforms occurring in electricity sector. 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 the 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 the electricity sectors.

Regarding the requests received from the Members, some of the requests overlap with those of construction and architecture, engineering and integrated engineering services, which 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 liberalization in some of the sub-sectors in which local capacity is not present. But, in general, it is difficult to comment on the feasibility of further liberalization in these services sub-sectors through commercial presence because no sector-specific study has yet been conducted to assess their market impacts. Moreover, appropriate regulatory framework is not present in these areas to

[32] Based in Lahore, the JGC-Descon joint-venture between Descon Engineering of Pakistan and a leading Japanese company is an example to such a potential, which is producing 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.

warrant liberalization forthwith. Therefore, Pakistan may want to use a more cautious approach in further liberalization of this sector.

6.4 Strategy for Environmental Services

In this sub-sector Pakistan has substantial import interest through 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 per cent, the municipal services have taken a lot of pounding. Revamping the whole sector needs a great deal of investment for which the government lacks funding. Private investment can provide solutions to these problems, but the institutional framework required for such investments is not in place. For example, there are no legal penalties for littering. The government needs to legislate and introduce laws that stop people from wasting the waste. When companies start operating the scale of operations would also be critical due to the economies associated with scale.

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

Waste collection and its recycling has 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 government, local governments or contracted out by them. Since most refuse disposal and sanitation services are under the control of CDGs this condition practically rules out presence of foreign investment. Therefore, further liberalization is 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 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). About 15 firms are involved in providing environmental services while even more firms are into environmental impact assessment services. Firms providing environmental consulting services are, however, few. Collaboration of these firms with foreign consultants is producing healthy results. Most collaborations are in 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 the tanneries and the textile sectors in recent years, which have increased demand for environmental services. Because the demand is more than the 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 jeopardize the interests of local players. Human capital constraints in the environmental services sector are acute. Due to dearth of qualified engineers in the country, many of the services are perforce contracted out to foreign consultants. Even though private stakeholders providing similar environmental services were very positive in their approach toward liberalization of this sector, the PAK-EPA was more cautious in their approach. The existing evidence shows that collaboration with foreign environmental consultants is producing healthy results and is also leading to technology transfer. Due to dearth of qualified engineers and excess demand in the local market, further liberalization commitments through Mode 1 and Mode 3 would be beneficial in terms of service quality, technology transfer and cleaner environment.

6.5 Strategy for Temporary Movement of Natural Persons

This is an area of most interest to Pakistan due to availability of a vast pool of trained and semi-trained workers. Pakistan could expect most benefit from such flows. From the human development perspective, Pakistan has interest in liberalization of movement of natural persons (Mode 4), which at present is considered as one of the least liberal areas of the GATS [Hasnain (2004)]. The existing commitments made by the Members are mostly horizontal where not only the coverage is narrow but also is 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 merchandize trade and trade in services, growth in labour flows has not seen a similar pattern of growth. The request made by Pakistan seeks commitments from the Members to recognize common categories, which are de-linked from commercial presence.

The flow of remittances to Pakistan has never remained stable since the early 1970s. While these flows peaked at around US$ 2 billion in mid-eighties, Pakistan witnessed a significant fall in flows in 1990s before their revival after 9/11. Presently, remittances to Pakistan are recorded at around US$ 4 to 5 billion. It is envisaged that due to availability of a large pool of trained and semi-trained workers Pakistan could expect most benefit from temporary movement of natural persons. Pakistan's success in removal of restrictions on movement of natural persons also has developmental and poverty alleviation angels. Therefore, Pakistan may want to use this window of opportunity by taking an informed position while bargaining with its negotiating partners.

7. CONCLUSIONS

Pakistan has received several requests from its trading partners in the Doha Round of talks for improved MA and NT of service providers. This paper examines how locking-in of unilateral liberalization at the WTO and further liberalization of services trade would affect Pakistan's competitiveness in construction and related engineering; architecture, engineering and integrated engineering; energy; and environmental services.

More generally our results indicate that the extent and pace of liberalization in the construction sector would largely depend on its current preparedness and the speed with which regulatory reforms could be introduced. Pakistan has maintained MA restrictions on Mode 3 in its initial offer in construction work for building, and renting services on equipment for construction and demolition of building. We have suggested that shielding all local players by giving them blanket cover may not be a wise policy. Similarly, commercial presence of foreign players in equipment renting services is likely to relieve local industry from making major investment. Given that the requesting Members have not included temporary movement of natural persons (Mode 4) in their request for the construction sector, it is reasonably well established that Pakistan would be unable to effectively compete in the absence of this clause. Success in removal of Mode 4 restrictions has developmental and poverty alleviation angels. Therefore, a great deal of caution is warranted by negotiators in negotiating a deal in this sector.

Architecture, engineering and integrated engineering is a sector of export interest to Pakistan where new commitments in Mode 2 and Mode 3 have been made in the initial offer, but liberalization commitments under Mode 1 have not been revised. Since architectural and engineering designs can be conveniently supplied through trans-border data flows (Mode 1), easing of liberalization commitments under Mode 1 would be in Pakistan's export interest because of presence of pool of cheap experienced professional engineers and architects. Moreover, Mode 1 benefits could be enhanced by rationalizing commitments under Mode 3.

Pakistan has substantial import interest in environmental services through Mode 3. More specifically, waste collection and its recycling have a lot of scope for commercial presence, but the initial offer in refuse disposal and sanitation services does not cover public works functions. This condition practically rules out presence of foreign investment. We have suggested that further liberalization in this sub-sector would be in Pakistan's interest. Due to dearth of qualified environmental engineers in the country and excess demand in local market for other environmental services further liberalization commitments under Mode 1 and Mode 3 would be beneficial in terms of service quality, technology transfer and cleaner environment.

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Abstract

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

JEL Classification: F13; F14; F53; N55; N75.

Keywords: Liberalization; Services; Regulation; Pakistan.

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