

**WTO  
NEGOTIATIONS  
ON  
TRADE IN SERVICES**

*(A BACKGROUNDER)*

**GENERAL AGREEMENT**

**ON TRADE IN SERVICES -**

**A BRIEF GLANCE**

## Introduction

The creation of the GATS was one of the landmark achievements of the Uruguay Round, whose results entered into force in January 1995. The GATS for the first time extended internationally agreed rules and commitments into the rapidly growing area of international trade viz., service, which was never done before.

The GATS was based on the same objectives as that of GATT of creating a credible and reliable system of international trade rules; ensuring fair and equitable treatment of all participants (principle of non-discrimination); stimulating economic activity through guaranteed policy bindings; and promoting trade and development through progressive liberalization.

Further negotiations for progressive liberalisation commenced by 1.1.2000, as mandated under GATS.

The Doha Ministerial Conference has given a further direction to these negotiations by mandating that members should submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003. According to the paragraph 15 of the Ministerial Declaration, there is an agreement on

*“... negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons.*

*“... with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.”*

To take stock of the progress of the Doha Round of trade talks, a Ministerial meeting was held in Hong Kong from 13th-18th December, 2005, in which the following timelines were agreed to:

- a) 28th February, 2006, for submitting plurilateral requests;
- b) 31st July, 2006, for submitting the second round of Revised Offers; and
- c) 31st October, 2006, for submitting the draft final schedule of commitments

The Hong Kong Ministerial declaration provided guidance to WTO Members to take forward the Services negotiations as per the provisions included in Annex C of the declaration. In a sense, Hong Kong was a watershed in the Services negotiations in a number of aspects, some of which are:

- Guidance on the various Modal targets aimed at making services trade less restrictive and more transparent
- Agreement to begin plurilateral negotiations, which would be complementary to the bilateral Request-Offer process
- Agreement on developing disciplines in domestic regulations before the end of the current Round

In pursuance of the Hong Kong Ministerial Declaration, the plurilateral process has begun in Geneva. 21 plurilateral groups have been formed in various service sectors and two plurilateral group meetings have been held so far.

Presently the negotiations are suspended. The Revised Offers by the Member countries will be submitted once the negotiations are resumed.

## **Importance of Service Sector**

Broadly defined, a service is a product of human activity aimed to satisfy a human need, which does not constitute a tangible commodity. There are many types of services, ranging from heart surgery to road construction, electricity transmission to education, and childcare to water purification.

Services are important for employment and employment growth. This is because many traditional services, including distribution, education and social services, are labour intensive. In many services sectors it has also proved more difficult to substitute capital for labour than in manufacturing.

The expansion of services and the emergence of new services have been driven by income-related demand shifts, technological developments, falling costs of communications and the increased presence of transnational corporations. In particular, the new information and communication technologies and the incessant compulsion on companies to cut costs have led to the growth of outsourcing of services. In recent years this outsourcing is now being off-shored to low-cost countries such as India, Philippines etc.

Services are coming to dominate the economic activities of countries at virtually every stage of development, making services trade liberalization a necessity for the integration of the world economy.

In the high-income industrialized economies, the value added by services generally exceeds 60 per cent of total output.

In many developing economies, even allowing for the fact that governments are major service providers (education, healthcare, sanitation, etc.), the commercial market for services is huge and

growing and the trend is clear: as national economies develop and incomes rise, the commercial service sector accounts for an ever-larger share of GDP.

It is widely recognised that liberalisation of trade in Services has manifold benefits. Some of them can be listed as the following,

- Freer trade in services enables countries to better enjoy the benefits of globalization and improves economic efficiency just as freer trade in goods does. It contributes to job creation, higher incomes, more consumer choice, downward pressure on inflation, and a better quality of life.

- More, better and lower cost services are important because services are the "enablers" that permit economies to function and prosper. Some form essential infrastructure - transport, communications, finance, information. Capital markets, for example, cannot function efficiently without abundant, high-quality information that can be quickly and frequently communicated. Other services are critical to the success of manufacturing and agriculture.

- For some manufacturers, services provide a large second source of revenues and contribute significantly to company growth and job creation. The manufacturing process and the business of running manufacturing industries are infused with services functions from beginning to end: research and development, inventory management and control, transport, marketing, advertising, insurance, and "backroom" functions, such as accounting and legal services.

- Liberalization of trade in services is an important means to encourage the continued rapid expansion of foreign direct investment, to integrate national economies more effectively and to reduce income and other disparities among countries. Because services production and consumption normally are proximate and simultaneous, services trade usually entails a significant transfer of technology and know-how from country to country. This is critical, especially for developing and emerging markets, which can acquire state-of-the-art skills relatively quickly and inexpensively through trade - at least in comparison with the time and expense that would be required to develop them *de novo*.

## Domestic Services Sector

India's services trade has witnessed consistently high levels of growth in recent years.

Over the past two decades, the service sector has replaced agriculture as the dominant sector in India. The share of service sector in GDP has risen from 38 percent in 1980's to around 54.1 per cent in 2005-06. The average annual growth rate of the sector increased from 7 per cent in the 1980's to 8 per cent in the 1990's making it one of the driving forces of the Indian Economy.

The Services sector also contributes to improving efficiencies in the manufacturing sector in addition to playing a significant role in employment generation. India's comparative advantages and strengths are in Mode 1 (Cross border trade) and Mode 4 (Movement of natural persons).

### Recent Policy Reforms and issues under consideration:

Economic reforms are taking place in India in a number of Services sector such as Financial Services, Telecom Services, Air Transport Services, Education Services, Health Services, Postal Services, Professional Services. Brief details of some of the recent developments in this regard are indicated below: -

Financial Services	<ul style="list-style-type: none"><li>- RBI road map for liberalizing presence of foreign banks in India.</li><li>- Reforms undertaken by IRDA: Foreign equity upto 26% permitted in Insurance sector.</li></ul>
Telecom Services	FDI limit raised to 74% in recent policy reforms
Postal	Amendment to the Indian Postal Act proposed with the objective to regulate

Services	Courier Services.
Air Transport Services	<ul style="list-style-type: none"> <li>- Private sector participation in Delhi and Mumbai airports clears</li> <li>- Air Transport Regulatory Authority proposed</li> </ul>
Education Services	Foreign Education Providers Bill under consideration of the Government
Health Services	<ul style="list-style-type: none"> <li>- MRAs being proposed with Singapore</li> <li>- Proposal mooted to raid various private hospitals</li> </ul>
Professional Services	<ul style="list-style-type: none"> <li>- Limited Liability Bill proposed and domestic consultations are under way.</li> <li>- Amendments to the ICAI, ICWAI and ICSI Acts effected to enable the accounting professionals to compete effectively with their foreign counterparts as and when they come in.</li> <li>- A new Companies Bill based on the recommendations of the J.J.Irani Committee report under active consideration of the Government.</li> </ul>

**GATS In Brief**

The GATS applies in principle to all service sectors except “services supplied in the exercise of governmental authority”. These are services that are supplied neither on a commercial basis nor in competition with other suppliers’ viz social security schemes and central banking.

### **Modes of supply**

The GATS sets out four modes of supplying services:

- Mode1: Cross-border trade
- Mode2: Consumption abroad
- Mode3: Commercial presence
- Mode4: Presence of natural persons

#### Mode1

Cross-border trade corresponds with the normal form of trade in goods and maintains a clear geographical separation between seller and buyer. In this case services flow from the territory of one member into the territory of another member crossing national frontiers. (E.g. banking or architectural services transmitted via telecommunications or mail).

#### Mode2

Consumption abroad refers to situations where a service consumer moves into another Member's territory to obtain a service (e.g. consumer travelling for tourism, medical treatment, to attend educational establishment).

#### Mode3

Commercial presence is the supply of a service through the commercial presence of the foreign supplier in the territory of another WTO member. In this case a service supplier of one member establishes a territorial presence, including through ownership or lease of premises, in another member's territory to provide a service. (E.g. the establishment of branch offices or agencies to deliver such services as banking, legal advice or communications)

## Mode4

Presence of natural persons involves the admission of foreign nationals to another country to provide services there. An Annex to the GATS makes it clear, however, that the agreement has nothing to do with individuals looking for employment in another country, or with citizenship, residence or employment requirements. The members still has a right to regulate the entry and stay of the persons concerned, for instance by requiring visas.

## General Principles

These are basic rules that apply to all members and to all services.

## MFN Treatment

Under Article II of the GATS, " each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than it accords to like services and service suppliers of any other country". However, a member is permitted to maintain a measure inconsistent with the general MFN requirement if it has established an exception.

However, all exemptions are subject to review and they should in principle, not last longer than 10 years.

## Transparency

The GATS requires each member to publish promptly "all relevant measures of general application" that affect operation of the agreement. Members must also notify the Council for Trade in Services of new or changed laws, regulations or administrative guidelines that affect trade in services covered by their specific commitments under the agreement. Each member is required to establish an enquiry point, to respond to requests from other members for information.

## Specific Obligations

Obligations, which apply on the basis of commitments, laid down in individual country schedules concerning market access and national

treatment in specifically designated sectors. These requirements apply only to scheduled sectors.

### **Market Access**

Market access is a negotiated commitment in specified sectors. The GATS also sets out different forms of measure affecting free market access that should not be applied to the foreign service or its supplier unless their use is clearly provided for in the schedule. They are:

- Limitations on the number of service suppliers
- Limitations on the total value of services transactions or assets
- Limitations on the total number of service operations or the total quantity of service output.
- Limitations on the number of persons that may be employed in a particular sector or by a particular supplier
- Measures that restrict or require supply of the service through specific types of legal entity or joint venture
- Percentage limitations on the participation of foreign capital, or limitations on the total value of foreign investment.

### **National Treatment**

A commitment to national treatment means that in the sectors covered by its schedule, subjected to any conditions and qualifications set out in the schedule, each member shall give treatment to foreign services and service suppliers treatment, in measures affecting supply of services, no less favourable than it gives to its own services and suppliers. Again, the extension of national treatment in any particular sector may be made subject to conditions and qualifications.

Members are free to tailor the sector coverage and substantive content of such commitments as they see fit. The commitments thus tend to reflect national policy objectives and constraints, overall and in individual sectors. While some Members have scheduled less than a handful of services, others have assumed market access and national treatment disciplines in over 120 out of a total of 160-odd services.

## **Exemptions**

Members in specified circumstances are allowed to introduce or maintain measures in contravention of their obligations under the Agreement, including the MFN requirement or specific commitments. These circumstances cover measures necessary to protect public morals or maintain public order, protect human, animal or plant life or health or secure compliance with laws or regulations not inconsistent with the Agreement including, among others, measures necessary to prevent deceptive or fraudulent practices.

Also, in the event of serious balance-of-payments difficulties, members are allowed to temporarily restrict trade, on a non-discriminatory basis, despite the existence of specific commitments.

## **Current status of services negotiations:**

The first and second rounds of meetings of all plurilateral groups were held from 28th March to 6th April 2006 and 15th -24th May 2006 respectively. India is the coordinator of Mode-1 (Cross Border Supply) and Mode-4 (Temporary Movement of Natural Persons) plurilateral groups. India has also participated as a requesting member in the Computer and Related Services (CRS) group and Architecture, Engineering and Integrated Engineering Services (AEI) group. As a part of the plurilateral process, India has also received a number of plurilateral requests in all the sectors/areas listed in para 4.2 above except for the Horizontal Request in Mode 3 (Commercial presence), MFN Exemptions (General) and MFN Exemptions (Financial Services). India has therefore received requests in 14 sectors/areas, excluding those sectors/areas in which India is a requesting member and therefore a deemed recipient.

All Members, including India, are expected to respond to the plurilateral requests and bilateral requests placed on them by making improved Offers in the second round.

Presently the negotiations are suspended. The Second Revised Offers by the Member countries will be submitted once the negotiations are resumed.

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## SERVICES SECTORAL CLASSIFICATION LIST

<u>SECTORS AND SUB-SECTORS</u>	<u>CORRESPONDING CPC</u>
1. <u>BUSINESS SERVICES</u>	<u>Section B</u>
A. <u>Professional Services</u>	
a.          Legal Services	861
b.          Accounting, auditing and bookkeeping services	
c.          Taxation Services	863
d.          Architectural services	8671
e.          Engineering services	8672
f.          Integrated engineering services	8673
g.          Urban planning and landscape architectural services	8674
h.          Medical and dental services	9312
i.          Veterinary services	932
j.          Services provided by midwives, nurses, physiotherapists and para-medical personnel	93191
k.          Other	
B. <u>Computer and Related Services</u>	
a.          Consultancy services related to the installation of computer hardware	841
b.          Software implementation services	842
c.          Data processing services	843
d.          Data base services	844
e.          Other	
C. <u>Research and Development Services</u>	
a.          R&D services on natural sciences	851
b.          R&D services on social sciences and humanities	
c.          Interdisciplinary R&D services	853
D. <u>Real Estate Services</u>	
a.          Involving own or leased property	821
b.          On a fee or contract basis	822
E. <u>Rental/Leasing Services without Operators</u>	
a.          Relating to ships	83103
b.          Relating to aircraft	83104
c.          Relating to other transport equipment	83101+83102+83105
d.          Relating to other machinery and equipment	83106-83109
e.          Other	

F.	<u>Other Business Services</u>	
a.	Advertising services	871
b.	Market research and public opinion polling services	864
c.	Management consulting service	865
d.	Services related to management consulting	866
e.	Technical testing and analysis services	8676
f.	Services incidental to agriculture, hunting and forestry	
g.	Services incidental to fishing	882
h.	Services incidental to mining	883+5115
i.	Services incidental to manufacturing	884+885
		(except for 88442)
j.	Services incidental to energy distribution	887
k.	Placement and supply services of Personnel	872
l.	Investigation and security	873
m.	Related scientific and technical consulting services	8675
n.	Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	633+ 8861-8866
o.	Building-cleaning services	874
p.	Photographic services	875
q.	Packaging services	876
r.	Printing, publishing	88442
s.	Convention services	87909*
t.	Other	
2.	<u>COMMUNICATION SERVICES</u>	
A.	<u>Postal services</u>	7511
B.	<u>Courier services</u>	7512
C.	<u>Telecommunication services</u>	
a.	Voice telephone services	7521
b.	Packet-switched data transmission services	7523**
c.	Circuit-switched data transmission services	7523**
d.	Telex services	7523**
e.	Telegraph services	7522
f.	Facsimile services	7521**+7529**

\*The (\*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

\*\* The (\*\*) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

g.	Private leased circuit services	7522**+7523**
h.	Electronic mail	7523**
i.	Voice mail	7523**
j.	On-line information and data base retrieval	7523**
k.	electronic data interchange (EDI)	7523**
l.	enhanced/value-added facsimile services, incl. store and forward, store and retrieve	
m.	code and protocol conversion	n.a.
n.	on-line information and/or data processing (incl.transaction processing)	843**
o.	other	

D. Audiovisual services

a.	Motion picture and video tape production and distribution services	9611
b.	Motion picture projection service	9612
c.	Radio and television services	9613
d.	Radio and television transmission services	7524
e.	Sound recording	n.a.
f.	Other	

E. Other

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES

A.	<u>General construction work for buildings</u>	512
B.	<u>General construction work for civil engineering</u>	
C.	<u>Installation and assembly work</u>	514+516
D.	<u>Building completion and finishing work</u>	517
E.	<u>Other</u>	

4. DISTRIBUTION SERVICES

A.	<u>Commission agents' services</u>	621
B.	<u>Wholesale trade services</u>	622
C.	<u>Retailing services</u>	631+632
D.	<u>Franchising</u>	8929

E.	<u>Other</u>	
5.	<u>EDUCATIONAL SERVICES</u>	
A.	<u>Primary education services</u>	921
B.	<u>Secondary education services</u>	922
C.	<u>Higher education services</u>	923
D.	<u>Adult education</u>	924
E.	<u>Other education services</u>	929
6.	<u>ENVIRONMENTAL SERVICES</u>	
A.	<u>Sewage services</u>	9401
B.	<u>Refuse disposal services</u>	9402
C.	<u>Sanitation and similar services</u>	9403
D.	<u>Other</u>	
7.	<u>FINANCIAL SERVICES</u>	
A.	<u>All insurance and insurance-related services</u>	812**
a.	Life, accident and health insurance services	8121
b.	Non-life insurance services	8129
c.	Reinsurance and retrocession	81299*
d.	Services auxiliary to insurance (including broking and agency services)	8140
B.	<u>Banking and other financial services</u> (excl. insurance)	
a.	Acceptance of deposits and other repayable funds from the public	
b.	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction	
c.	Financial leasing	8112
d.	All payment and money transmission services	
e.	Guarantees and commitments	81199**
f.	Trading for own account or for account of customers, whether on an exchange, in an over-the-counter	

	market or otherwise, the following:	
	- money market instruments (cheques, bills, certificate of deposits, etc.)	81339**
	- foreign exchange	81333
	- derivative products incl., but not limited to, futures and options	81339**
	- exchange rate and interest rate instruments, inclu. products such as swaps, forward rate agreements, etc.	81339**
	- transferable securities	81321*
	- other negotiable instruments and financial assets, incl. bullion	81339**
g.	Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	8132
h.	Money broking	81339** i.
	management, all forms of collective investment management, pension fund management, custodial depository and trust services	81323*
j.	Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	81339** or 81319**
k.	Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	8131 or 8133
l.	Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	
C.	<u>Other</u>	
8.	<u>HEALTH RELATED AND SOCIAL SERVICES</u> (other than those listed under 1.A.h-j.)	
A.	<u>Hospital services</u>	9311
B.	<u>Other Human Health Services</u>	9319 (other than 93191)
C.	<u>Social Services</u>	933
D.	<u>Other</u>	

9.	<u>TOURISM AND TRAVEL RELATED SERVICES</u>	
A.	<u>Hotels and restaurants (incl. catering)</u>	641-643
B.	<u>Travel agencies and tour operators services</u>	7471
C.	<u>Tourist guides services</u>	7472
D.	<u>Other</u>	
10.	<u>RECREATIONAL, CULTURAL AND SPORTING SERVICES</u> (other than audiovisual services)	
A.	<u>Entertainment services</u> (including theatre, live bands and circus services)	9619
B.	<u>News agency services</u>	962
C.	<u>Libraries, archives, museums and other cultural services</u>	963
D.	<u>Sporting and other recreational services</u>	964
E.	<u>Other</u>	
11.	<u>TRANSPORT SERVICES</u>	
A.	<u>Maritime Transport Services</u>	
a.	Passenger transportation	7211
b.	Freight transportation	7212
c.	Rental of vessels with crew	7213
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7214
f.	Supporting services for maritime transport	745**
B.	<u>Internal Waterways Transport</u>	
a.	Passenger transportation	7221
b.	Freight transportation	7222
c.	Rental of vessels with crew	7223
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7224
f.	Supporting services for internal waterway transport	745**
C.	<u>Air Transport Services</u>	

a.	Passenger transportation	731
b.	Freight transportation	732
c.	Rental of aircraft with crew	734
d.	Maintenance and repair of aircraft	8868**
e.	Supporting services for air transport	746
D.	<u>Space Transport</u>	733
E.	<u>Rail Transport Services</u>	
a.	Passenger transportation	7111
b.	Freight transportation	7112
c.	Pushing and towing services	7113
d.	Maintenance and repair of rail transport equipment	
e.	Supporting services for rail transport services	743
F.	<u>Road Transport Services</u>	
a.	Passenger transportation	7121+7122
b.	Freight transportation	7123
c.	Rental of commercial vehicles with operator	7124
d.	Maintenance and repair of road transport equipment	6112+8867
e.	Supporting services for road transport services	
G.	<u>Pipeline Transport</u>	
a.	Transportation of fuels	7131
b.	Transportation of other goods	7139
H.	<u>Services auxiliary to all modes of transport</u>	
a.	Cargo-handling services	741
b.	Storage and warehouse services	742
c.	Freight transport agency services	748
d.	Other	
I.	<u>Other Transport Services</u>	
12.	<u>OTHER SERVICES NOT INCLUDED ELSEWHERE</u>	

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