Services Trade and Investment Liberalisation, and Domestic Regulation

A Summary of Six Country Case Studies

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Acronyms

BPO	Business Process Outsourcing
CECA	Comprehensive Economic Cooperation Agreement
COMESA	Common Market for Eastern and Southern Africa
CPC	Central Product Classification
ENT	Economic Needs Test
FCC	Federal Communication Commission
FDI	Foreign Direct Investment
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
ICT	Information and Communication Technology
IMF	International Monetary Fund
ITES	Information Technology Enabled Services
LDCs	Least Developed Countries
RCA	Revealed Comparative Advantage
SADC	Southern African Development Community
SAP	Structural Adjustment Programme
SMEs	Small and Medium Enterprises
SOEs	State Owned Enterprises
WTO	World Trade Organisation

1. Introduction

The service sector has become an increasingly important sector in national output and employment of developing countries. For many developing economies and least developed countries (LDCs), services constitute a fast growing and often dominant sector in Gross Domestic Product (GDP), with important forward and backward linkages to other sectors of the economy. With growing global trade and investment flows in services driven by liberalisation and deregulation of economies, technological advances as well as cost and other imperatives, the service sector presents many developing countries with opportunities to diversify their economies, their export baskets and markets to tap emerging segments that could leverage their inherent and acquired sources of comparative advantage, and to address domestic concerns of service quality, accessibility, and economic efficiency.

However, growing trade and investment flows in services and the liberalisation and deregulation of trade and investment regimes in several service sectors also raise many regulatory challenges and concerns. These concerns and challenges relate to issues of consumer protection, universal service provision, equity-efficiency tradeoffs, and the need for institutional and regulatory reforms and measures to support service sector liberalisation and to ensure that the potential benefits are realised and risks mitigated. There is also the challenge of deciding the right balance between public and private delivery of services, the right degree of regulation so as to ensure competition and efficiency without compromising on various public policy objectives, the kind of institutional structures required to balance commercial, social and other concerns, and issues of institutional capacity. Thus trade and investment liberalisation in services poses challenges to policy makers that are further compounded by the lack of quality data on services in most developing countries.

As countries move forward with further liberalisation of their service sectors and with regulatory and institutional reforms, it becomes important to examine the experience in this regard across a variety of developing countries. Such an examination can enable one to understand how the service sector has evolved and been impacted by trade and investment liberalisation and sectoral reforms in different developing countries; the contribution services have made as a result to these economies; some of the negative outcomes associated with liberalisation; the regulatory challenges that have shaped the liberalisation process; and how the national experience has in turn shaped the multilateral and regional/bilateral approach of these countries to service sector liberalisation.

This synthesis paper attempts to pull together cross country experience on domestic regulation of services and services trade and investment liberalisation, and to analyse the associated outcomes and regulatory concerns. It examines the experience of six developing countries, namely: Bangladesh, the Gambia, India, Jamaica, Kenya, and Zambia, in terms of the evolution of their service sectors, their liberalisation experience and results, their regulatory concerns and challenges, and their multilateral and regional strategies for undertaking commitments in the service sector.

This paper builds on individual country studies of the service sector as well as case studies of two selected services that have been conducted by researchers in each of these six countries under a multi-country study on services trade and domestic regulation. The choice of this set of countries is motivated by the need to provide an illustrative mix of developing countries, in terms of incomes, size, degree of openness, and institutional and regulatory capacity so that interesting commonalities and differences and the role of country specific features can be identified.

The paper is structured as follows. Section 2 provides an overview of the service sector across these six economies, highlighting recent growth trends, the composition of activities within the service sector, and the sector's contribution to the economy in terms of employment, trade, and investment flows. Section 3 highlights liberalisation and regulatory reform experience in these countries, the problems as well as positive outcomes that have occurred due to liberalisation, and also policy and regulatory responses (or lack thereof), with focus on selected services within each country to substantiate the experience. Section 4 explains the multilateral commitments and offers made by the six countries, assessing how this compares with unilateral liberalisation initiatives by these countries in their service sectors. It also tries to infer how regulatory issues may underlie the nature of the multilateral commitment and offer strategy adopted by these countries, based on the discussion in preceding sections.

Section 4 touches upon the regional engagements of these countries, while Section 5 concludes the paper by summarising the main findings across the six countries. It highlights the role that has been played by the domestic regulatory frameworks of these countries in supporting the process of liberalisation and in shaping the benefits and costs, and also the larger issue of whether there has been adequate regulatory forethought and capacity to handle the process of liberalisation. Although this paper derives its analysis and conclusions from only six developing countries, given the variety of these countries, these findings are likely to be broadly representative of the issues and concerns that would face developing countries of varying sizes, income levels, stages of liberalisation, and regulatory capacity.

2. Overview of the Service Sector: Trends and Contributions

The following section highlights the trends in the service sector of the six selected countries, in terms of growth, contribution to GDP, employment, trade and investment flows, and competitiveness. It also outlines the broad scope of services given the wide range of activities that are covered under this sector and sub-sectoral features of the service sector in these countries to understand the underlying disaggregated trends within services and data limitation that plague much of service sector analysis. The commonalities and differences are also outlined.

2.1 Contribution of Services to the Economy

An important feature of all six countries is the significance of the service sector in their domestic output. In all the countries, services constitute the dominant sector, accounting for over 50 percent of GDP. It is also the sector that has exhibited the greatest dynamism. This relative shift towards services has usually been accompanied by a decline in the share of the primary sector in GDP. The extent of this shift has, however, varied across the countries, with some of the countries exhibiting a significant increase in the contribution of services to the economy and others exhibiting a relatively stable though continued high contribution of services to the economy. The differences in the relative growth and shift towards services across the countries have clearly been shaped by the initial conditions and resource endowments of these economies, as well as the degree of liberalisation undertaken, all of which have affected their ability to take advantage of new market opportunities and developments in the service sector.

Table 1 shows the trends in the share of services in the economies of the six selected countries. It is evident from the data below that services constitute a considerable share of all these economies, with the rise in services mainly being accompanied by a decline in the share of agriculture.

Table 1: Services Share in GDP, Selected Years (%)

	2000			2005		
	Agriculture	**Industry**	**Services**	**Agriculture**	**Industry**	**Services**
Bangladesh	25.5	25.3	49.2	20.1	27.2	52.6
Gambia	35.8	13.1	51.1	32.6	13.1	54.2
India	23.4	26.2	50.5	18.3	27.3	54.4
Jamaica	6.7	31.3	62	5.7	33.1	61.2
Kenya	32.4	16.9	50.7	27.0	18.5	54.4
Zambia	22.3	25.3	52.4	18.5	25.1	56.3

Source: World Development Indicators

Note: For some of the countries, the shares based on WDI data do not match exactly with the sectoral share data presented in the country reports.

Jamaica, at around 60 percent, recorded the highest contribution of services to GDP in 2005. There has been a clear shift from a goods producing economy towards a services dominated economy. In Zambia, the share of services in the economy has risen from 27 percent in the late 1970s to 56 percent in 2005 (or higher based on the Zambia country study). Likewise, the service sector in India has grown in importance from less than 40 percent of GDP in 1980 to around 54 percent of GDP in 2005. The picture is slightly different for Bangladesh where agriculture has declined whilst industry has grown and services have maintained a relatively stable share of around 50 percent of GDP through the 1980s and 1990s.

In Kenya, too, the contribution of services has remained high over the past two decades, rising to over 50 percent of GDP by 2005 while the primary sector's contribution has declined. In the Gambia, services constituted over half of GDP in 2005. The rising share of services in most of these economies has resulted from relatively higher growth rates in the service sector compared to that in other sectors of the economy. In almost all the countries, services have been an important contributor to overall economic growth.

The common factor that has spurred growth in the service sector is economic liberalisation and reforms, including trade and investment liberalisation, deregulation of commodity and factor markets, and privatisation of state owned enterprises (SOEs), often in the context of structural adjustment programmes (SAP). In particular, as highlighted in several of the studies, the deregulation of key service sub-sectors such as telecommunications and financial services has helped drive the high growth rates in the service sector in most of these economies. Another common factor appears to be the general economic momentum that some of these countries have experienced especially in the past decade or post 2000 with a growing economy driving demand for certain services such as trade and distribution and construction.

An examination of growth trends at a disaggregated level within the service sector shows that across almost all the countries, the services that grew fastest and also came to occupy a growing share of service sector value added were "transport, storage, and communications", "trade and distribution services", and "construction" services (notwithstanding data limitations at the disaggregated level and some differences in classification across countries). Thus, broadly, one sees the role of liberalisation and structural reforms and overall economic growth coupled with exogenous developments in terms of technology, tradability, and the pattern of global demand in shaping trends in the service sector of all these economies.

Examples from some of these countries clearly illustrate the role of the aforementioned factors. For instance, in India, it is the erstwhile government monopoly services such as telecommunications that have exhibited the highest rates of growth within the service sector, following the phasing out of government monopoly, and opening up of the sector to foreign and domestic private participation. Technological advances in information and communication technology (ICT) and the growing demand for skilled labour and trade opportunities have in particular fuelled growth in the Information Technology (IT) and IT Enabled Services (ITES) segment within the communications sector.

In the case of Bangladesh, trade and distribution services and transport, storage, and communication services constitute the two most important service sub-sectors, with shares of 14 percent and 10 percent of GDP, respectively. Both these sub-sectors have been growing more rapidly than the overall economy. As argued by Raihan and Ahmed (2007)[1], the rapid growth in communication services is mainly triggered by liberalisation and reforms, which has created demand for new products, led to the entry of foreign telecommunications operators in segments such as mobile telephony, and enhanced competition. There has been a similar experience with financial services in Bangladesh which too have undergone deregulation and increased competition from private players.

The scenario is similar for Zambia where the most significant service sub-sectors and those which have also experienced higher growth rates are those of trade and distribution, communication and financial services. The reasons advanced are similar to those for the other countries, namely those of liberalisation, privatisation, and economic reforms. In Jamaica, growth in services is mainly attributed to the telecommunications, transport, tourism, trade and distribution, and financial services sub-sectors, again reflecting a mix of unilaterally initiated liberalisation and regulatory reform measures as well as external developments.

It is also interesting to note that the sub-sector of community, personal, and social services is a relatively important sub-sector in all the countries, with shares in the range of around 5-8 percent of GDP or possibly higher given the differences in the classification and scope of this sub-sector across the countries. Due to data constraints, similar kind of disaggregated service sector data is not available for the Gambia, though it is clear from the country study that social services such as education and health services are important given certain initiatives of the government to provide such services, and that commercial services such as tourism are also very important given the limited basket of exportable services. However, breakdown of the respective shares of different services is not available. The Gambia is also in some respects a bit of an exception within this group of countries in that sub-sectors such as telecommunications and financial services do not show the same kind of competitive forces as in the other countries.

2.2 Contribution of Services to Employment

The contribution of the service sector to employment, as based on official estimates, varies across the countries. In the two South Asian countries, its contribution to employment is not commensurate to its overall contribution to the value added of the economy. For instance, Raihan and Ahmed point out that although service sector employment has been growing, its contribution to total employment is much lower than its contribution to the country's value added.

[1] Raihan, S. and M. Ahmed, "Services Trade Liberalisation and Domestic Regulation: Perspectives from Bangladesh", prepared for the Multi-Country Study on Services and Domestic Regulation, for CUTS, Jaipur and the Commonwealth Secretariat, London, November 2007.

Following the liberalisation of some key areas such as telecommunications and financial services, the employment share of services has grown substantially, reaching around 35 percent of GDP by 2002-03. There is a clear positive correlation between employment growth and opening up of services, with the most dynamic sub-sectors exhibiting the highest rates of employment growth within the service sector. But as the two authors also point out, the employment elasticity of services has been lower than that for manufacturing and agriculture.

In India, a similar trend emerges with the service sector accounting for less than 30 percent of total employment, significantly lower than its share in GDP. Banerjee, Chakraborty, and Sengupta (2008)[2] shows that employment estimates for services have lower employment elasticity than other sectors of the economy, which as they conclude is indicative of the nature of service sector growth in India in that it has mainly been driven by growth in skill intensive services such as IT and ITES rather than employment-intensive services such as tourism.

Such official statistics on service sector employment in these countries when juxtaposed with the dynamic nature of sub-sectors such as trade and distribution services or construction services may also suggest that part of the employment growth in services has been informal in nature and not the kind that has displaced employment in other sectors. Hence, the official estimates of the service sectors' contribution to overall national employment may to some extent understate the actual contribution of services to total employment due to their failure to capture informal employment. This would also suggest that to some extent the growth of particular services segments may be due to growth in informal activities that support these segments.

The picture is, however, quite different for the other countries where services clearly dominate in employment. In Jamaica, services have accounted for around 55 percent or more of national employment, particularly for women and for personal, community, and social services. Services have clearly gained in importance over industry and agriculture in the past few decades in terms of employment creation. The same holds true for Kenya where services contributed to 68 percent of total employment and registered higher growth than in other sectors. An interesting point made in the Kenya country study is that within the service sector, the employment trends have varied and that liberalisation has had a differential impact on different services with regard to employment creation. Employment growth has been greatest in segments such as transport and communication services and financial services alongside their higher growth rates in value added.

[2] Banerjee, P, D. Chakraborty, and D. Sengupta, "Integrating India's Service Sector with the World Economy", prepared for the Multi-Country Study on Services and Domestic Regulation, for CUTS, Jaipur and the Commonwealth Secretariat, London, January 2008.

Similarly, in Zambia, services accounted for over 60 percent of formal employment and have grown in importance in creating employment while the contributions of traditional sectors of mining and agriculture have declined and industry has remained stagnant. The most important sub-sector in this regard is personal, community, and social services, reflecting the large role of government in the economy and thus in creating formal employment. Once again, the high growth segments of trade and distribution and liberalised segments such as financial services have contributed significantly.

Similar information is not available for the Gambia, though from the discussion of the various segments, tourism services and various social services such as health and education likely constitute the most important contributors to employment within the service sector.

2.3 Contribution of Services to Trade

The expansion of the service sector has created opportunities in all the countries to diversify their sources of foreign exchange earnings and to improve overall efficiency and capacity to export both goods and services. There are differences among the selected countries in their ability to expand services exports and in their overall trade balance position in services. In some of the countries, the service sector's contribution to trade has generally lagged that of its contribution to output and the sector has not displayed any significant improvements in competitiveness, with imports generally rising faster than exports. On the other hand, in some of the selected countries, services trade has grown rapidly, commensurate to its growth in output, with certain segments growing much more rapidly than others.

Table 2 shows the trends in the services trade for the six countries, based on the World Trade Organisation's (WTO's) international trade statistics.

Table 2: Trends in Services Exports, Selected Years

	1996	2000	2005
Share in total exports (%)			
Bangladesh	4.98	4.24	4.85
Gambia	80.73	80.51	90.9
India	17.82	27.44	35.36
Jamaica	53.22	60.38	60.01
Kenya	27.62	29.54	31.62
Zambia	10.91[a/]	14.61	13.71[b/]
Memo Items			
Total Exports of Commercial Services (US$ in million)			
Bangladesh	223	283	474
Gambia	88	62	80
India	7179	16030	54382
Jamaica	1574	1988	2296
Kenya	789	727	1523
Zambia	112[a/]	114	232[b/]

Source: WTO, International Trade Statistics Yearbook (2007)

Table 3: Trends in Services Imports, Selected Years

	1996	2000	2005
Share of services in total imports (%)			
Bangladesh	13.08	14.63	12.64
Gambia	18.86	24.59	15.95
India	22.47	26.83	26.16
Jamaica	27.38	29.48	26.17
Kenya	19.44	17.63	13.38
Zambia	25.61[a/]	24.82	17.6[b/]
Total imports of commercial services (US$ in million)			
Bangladesh	1059	1523	2011
Gambia	60	61	45
India	11000	18896	49195
Jamaica	1118	1391	1683
Kenya	712	665	950
Zambia	282[a/]	328	431[b/]

Source: WTO, International Trade Statistics Yearbook (2007)
Note:
[a/] *- The figure reflects the value for the year 1995 since data for 1996 is unavailable*
[b/] *- The figure reflects the value for the year 2004 since data for 2005 is unavailable*

It is evident from the data presented in Table 2 and 3 that both India and Jamaica have experienced a rapid growth in their services exports, with this sector growing in importance in their total export baskets. Others such as Bangladesh have not experienced such gains in the service sector, possibly indicating the fact that gains in some segments have been offset by declining competitiveness in others. In some other countries, such as the Gambia and Zambia, trends in the contribution of services to total exports may be more indicative of trends and capacity constraints in other parts of the economy rather than the service sector itself. For instance, services constitute a very high share of total exports for the Gambia but this is not due to high service sector competitiveness but rather the limited export capacity of the country, which is evident from its very low level of merchandise exports.

The discussion in the country studies shows the differences in the experience of the six countries. Zambia, for instance, has been able to use its services exports to some extent to cushion itself from the foreign exchange volatility associated with its primary commodity exports. However, its services exports remain relatively low at around 10 percent of exports in 2006, up only slightly from a decade earlier, compared to services imports which accounted for 17 percent of total imports in 2006. Thus, not only is the services trade balance negative, its contribution to overall exports has also been largely determined by trends in the country's traditional commodity exports rather than the inherent competitiveness of the country's service sector.

As Mudenda (2008)[3] notes, the service sector's growth in Zambia has been domestic in its orientation and the sector has underperformed when it comes to trade. The services trade basket is very narrow, dominated by travel and transportation services in both imports and exports along with imports of insurance, communication, and business services. But as the author notes, Zambia has potential in certain services such as health care and in travel and tourism services, which it has not exploited so far.

In Bangladesh, the service sector's contribution to trade similarly does not compare well with its contribution to GDP. The share of services exports in total exports has remained stagnant while that of services imports in total imports has grown to some extent. The overall share of services in trade has been increasing, but not significantly, rising from 15 percent in 2000 to 17 percent in 2005. As in the case of Zambia, services imports have been growing faster than services exports and the country has experienced persistent and rising deficits in services trade. Within the service sector, it is communication, business, and government services which have had positive balance of trade while travel and transport and insurance services have experienced large trade deficits. Overall there is a rising trend in the services trade deficit in recent years.

In contrast to the cases of Bangladesh and Zambia, the cases of India, Jamaica, and Kenya show dynamic services exports and positive services trade balance. In Jamaica, services exports have grown very rapidly and accounted for over 50 percent of overall exports by 2005. This growth has been mainly driven by tourism services followed by transport and communication services and in part reflects growing competitiveness of these segments and in part reflects the decline in competitiveness of Jamaica's traditional exports due to the erosion of preferences in key export markets. Some segments such as financial and insurance services have experienced very rapid growth in exports following their liberalisation. Thus, dynamic services exports are driven by inherent comparative advantage in segments such as tourism as well as liberalisation of the service sector in segments such as communication and financial services.

In India, there has clearly been an export boom in the services sector. India's services exports have grown from US$11.1bn in 1998 to US$56bn in 2005, at an average annual rate of 25 percent during the 1995-2005 period, growing more rapidly than services output, indicating the strong outward orientation of this sector. Imports of services over this same period have grown from US$14bn to US$52bn. With the liberalisation of services, the sector has also grown in its contribution to overall imports in segments such as financial, insurance, and travel and transport services. As a result, the share of services in India's total trade has grown from only 7 percent in 199-00 to 31 percent in 2005-06. This growth has been driven by the miscellaneous services segment, especially IT and ITES and other business services.

[3] Mudenda, D., Zambia Background Paper, prepared for the Multi-Country Study on Services and Domestic Regulation, for CUTS, Jaipur and the Commonwealth Secretariat, London, January 2008.

There has been a structural shift in the composition of India's services exports, away from traditional services such as transport and travel and towards miscellaneous services, in particular, software services. The share of miscellaneous services has grown to over 70 percent as of 2005-06 with software services alone contributing to around 40 percent of the country's services exports followed by the contribution of various other business services. IT and ITES exports have grown at over 50 percent in the 1990s, rising from US$4bn in 2000 to over US$24bn in 2006. In recent years, India has emerged as the most attractive offshore destination for services outsourcing across a wide range of services. India's share in the world market for IT software and services, including Business Process Outsourcing (BPO) increased from around 1.7 percent in 2003-04 to 2.3 percent in 2004-05 and an estimated 2.8 percent in 2005-06.[4]

India's success story in services trade is mainly due to its large endowment of skilled and professional labour, which it has leveraged to its advantage in the wake of the IT boom and the enhanced fragmentation and scope for cross border delivery of many erstwhile non-tradable services with the aid of ICT. India has also benefited from the growing demand for skilled services in developed countries due to demographic and cost-related imperatives.

As a result, India's share in global exports of commercial services has grown from a mere 0.5 percent in 1995 to 2.5 percent in 2005 and its share in global imports of commercial services has also grown considerably from a mere 0.3 percent in 1990 to around 3 percent in 2006. The Indian case clearly shows the impact of inherent and acquired sources of competitive advantage coupled with favourable external developments and market conditions on the country's services trade and the critical role that has been played by the service sector in facilitating the country's integration with world markets.[5]

Kenya has similarly experienced a rising contribution of services to trade, with a positive balance of services trade. The most dynamic segment has been the communication services sector and those segments which make use of telematic networks, indicating the role played by liberalised producer services in enhancing export capacity in other areas such as IT and ITES. Data are quite limited in the case of the Gambia. The author of the Gambian country study notes that tourism is the country's top net source of foreign exchange earnings, generating as much as all other exports combined, and has significant implications for employment and poverty reduction. Data on other segments or the composition of services trade and growth trends are, however, not available to draw further inferences.

[4] See Chanda (April 2007).
[5] Ibid.

The country studies also examined recent trends in the competitiveness of the service sector using the Revealed Comparative Advantage (RCA) index and for some countries other indices of specialisation.[6] The calculations broadly support the preceding discussion regarding trends in services exports and the aforementioned differences across the selected countries.

In Bangladesh, the RCA calculations indicate that the country does not have a comparative advantage in services. Sub-sectoral analysis reveals that the country lacks competitiveness in most service segments, including the liberalised segments of communication and financial services. The authors' calculations based on the Michaely Specialisation index reveal likewise. The RCA calculations for Zambia similarly show that the country does not have a comparative advantage in most services. The study indicates that this disadvantage is lower in the case of transport, communication, and some other services, where the country's exports are largely regional in nature. Kenya's segments of comparative advantage include transport, communication, and travel services while in most other segments including financial, computer and information, and insurance services, the competitiveness indices indicate a disadvantage. In contrast to the aforementioned countries, both Jamaica and India reveal improvements in competitiveness.

The RCA calculations for Jamaica indicate that the comparative advantage of services has risen over the past decade, with tourism and communication services being the most competitive and financial services showing the greatest improvement in competitiveness over the 1999-2005 period. India has similarly experienced an improvement in its competitiveness indicators and as the country study shows, India has overtaken all major emerging economies in terms of its RCA in services since the mid-1990s. The main segments driving this growth in competitiveness are software and business services while traditional segments have seen a decline in their RCA indices.

Overall, what emerges quite clearly is that on the trade front, countries have benefited to different degrees following services liberalisation and reforms. For some countries, the gains have not been commensurate to those observed on the output and employment fronts. In other countries, the impact has been highly favourable, especially when countries have been able to take advantage of emerging segments and market opportunities. The telecommunications sector emerges as the commonly important service sub-sector across most of the countries, indicative of its importance in output and its key role as a producer service input to a wide range of tradable services.

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[6] The RCA is calculated using the following formula: $RCA = (X_{ij} / X_{it}) / (X_{wj} / X_{wt})$

Where Xij indicates country i's export of jth sector, Xit indicates country i's total export, Xwj indicates world's total export of jth sector, Xwt indicates world's total export.

2.4 Contribution of Services to Investment

For several of the countries, a clear link is visible between liberalisation of the service sector and increased foreign direct investment (FDI) in services. Almost all the country studies highlight the fact that services have become an increasingly attractive destination for foreign investment post liberalisation of this sector.

In the case of Bangladesh, official statistics indicate that the share of services sector in total FDI inflow has been growing since 2003-04, accounting for 81 percent of total FDI inflows in 2005-06. Telecommunication, energy and financial sectors are the service sub-sectors that have received the bulk of this FDI inflow in recent years, with the telecommunications sector alone receiving 36 percent of total FDI in the country followed by the banking sector which accounted for 17 percent of all FDI in 2005-06. As noted earlier, such investments have resulted from the deregulation of such services from their earlier government monopoly status. For instance, in Bangladesh, the telecommunications sector has seen the entry of five foreign cellular operators namely, Telenor, Orascom, TM International, SingTel and Warid Telecom, which has fostered competition, lowered tariffs, and improved efficiency in this sub-sector.

The Jamaican economy has similarly become more successful in attracting high levels of FDI in recent years, with such inflows rising from around US$100mn in 1995 to over US$500mn in 2005. FDI inflows have grown at an average annual rate of 20 percent between 1996 and 2005. The main contributor to this growth has once again been the telecommunications sector due to the deregulation of the sector and the granting of licences to foreign investors, as well as the hotels segment of the tourism services sector. Supporting investment facilitation measures in the form of liberalisation of foreign exchange regulations, removal of restrictions on repatriation of funds, and tax incentives have also contributed to this growth in FDI. It is once again interesting to note that economic liberalisation and associated regulatory reforms have played an important role and that the very sectors that have exhibited high output and employment growth are also those that have witnessed increased investment inflows.

India has also experienced a significant increase in FDI inflows in the service sector. A 2004 World Bank study finds that FDI in services has grown more rapidly than FDI in manufacturing. Financial, IT and telecommunication services have been the most important recipients of services FDI in India. Altogether, software services and finance, insurance, real estate, telecom, and various business services accounted for over 30 percent of India’s inward FDI flows over the 2003-06 period. Once again, the positive relationship between liberalisation, growth in output, and FDI flows is evident from the Indian experience.

Kenya and Zambia present a similar experience with respect to services FDI, though sufficiently detailed information is not available in the country studies to gauge the extent of the FDI received in services and in individual service sub-sectors. However, as the Kenya study highlights, from an investment regime where all foreign investments were subject to the approval of the Central Bank today, foreign exchange restrictions and most investment restrictions have been removed. The evidence presented suggests the growing importance of both telecommunications and financial services in FDI inflows into Kenya, again reflecting the impact of liberalisation of these sub-sectors and various facilitative measures in the form of tax exemptions and greater investment protection.

In the case of Zambia, one finds that there has been an increase in FDI committed (though not necessarily realised) in recent years, with tourism (hotels and accommodation), transport, and construction accounting for the bulk of this increase, followed by financial and trade and distribution services. Here too, the privatisation of SOEs and opening up of certain sub-sectors has been the driving forces. Data limitations limit similar analysis in the case of the Gambia, though the discussion notes the presence of foreign investors in the energy and financial services sectors. In general, one also finds that data on services FDI is not as consistent and reliable across all the countries.

Overall, several important features emerge from examining the service sector trends in output, employment, trade, investment, and competitiveness in all these countries. First, the service sector dominates output and growth within most of the economies. Second, there is a clear correlation between liberalisation and regulatory reforms and growth in the case of several services segments. Third, there is generally a positive correlation between liberalisation, growth, and employment creation – formal and/or informal – in the service sector except where services growth is skewed towards skill-intensive rather than labour-intensive activities. Fourth, there is mixed evidence on trade in services with some countries reaping benefits from a dynamic service sector. Countries are differentially positioned to take advantage of liberalisation and trade opportunities in the service sector.

Fifth, foreign investment has generally been on the rise in the service sector, with liberalised segments dominating these inflows. Sixth, while liberalisation and regulatory reforms have been important in shaping services growth, integration with world markets, and competitiveness in these economies, many other factors have also been important. These include developments in other parts of the economy, such as the collapse of traditional sectors, existing skill sets and resource endowments, and developments in overseas markets such as the erosion of preferences. Seventh, capacity constraints especially in the areas of infrastructure, logistics, and human resources are key determinants of a country's ability to exploit services growth to its advantage in trade.

A final and very important point made in some of the studies is that gains from services liberalisation have been realised in the form of improved quality and competitiveness of traded goods. There are clearly complementarities between the goods and services sector. A more competitive telecommunications sector has had positive externalities for sectors such as business process outsourcing services. Increased FDI, efficiency, and competitiveness in services have promoted competitiveness in other parts of the economy as services are an important input into the production and distribution of goods and services. Some of the studies also highlight the need to liberalise certain services, such as higher education to address supply-side bottlenecks and the manpower needs of the overall economy.

3. Liberalisation and Regulatory Reforms in Services: Issues and Concerns

The preceding discussion has highlighted the fact that liberalisation and regulatory reform in the service sector has had an impact on growth, trade, and investment flows in services, albeit to different degrees in all the selected countries. The following discussion highlights the nature of the liberalisation and regulatory reform experience of the six countries selected for this study, with particular focus on how domestic regulation has shaped liberalisation, how liberalisation has in turn given rise to certain regulatory issues and challenges, and how the countries have in turn responded to these challenges through their domestic regulations. This discussion on the interplay between liberalisation and domestic regulation largely follows from the sectoral case studies prepared for each of the countries under this study. The services that are focused on include selected producer services and selected social or public good type services.

A common feature that emerges from the experience of the selected countries is that although there have been benefits from liberalising trade and investment flows in such services, there have also been unforeseen outcomes mainly due to lack of adequate preparedness and institutional capacity on the regulatory front. The analysis also reveals that the challenges associated with liberalisation vary across infrastructural and social services and that different groups or classes of services throw up different regulatory issues and concerns which may thus require different approaches.

Moreover, countries have undertaken regulatory reforms not only to improve the efficiency of the regulatory framework but also to increase the contestability of certain sectors and thus objectives may be multifaceted. Thus, there cannot be a standard approach to liberalisation across different service sub-sectors though certain issues may be commonly applicable. Hence, the approach to multilateral liberalisation would also need to vary to accommodate the different concerns associated with liberalisation in different services.

The following analysis highlights the experience with liberalisation in key producer services, namely financial, telecommunication, and wholesale trade and distribution services. The experience with financial sector liberalisation is discussed for Jamaica, Zambia, Bangladesh, and the Gambia. The experience with telecommunication services liberalisation is discussed for Jamaica, Bangladesh, and Kenya.

The experience with wholesale trade and distribution services is discussed for the case of India. The experiences of India and Zambia are used to highlight the issues and concerns associated with liberalisation of education and health services, respectively. Overall, these cross country experiences reveal interesting commonalities and differences with a possible learning for other developing countries and LDCs engaged in liberalising key producer and social services.

3.1 Financial Services

The financial services sector is perhaps the one sub-sector that best highlights how changes in domestic regulation have facilitated liberalisation and in turn have also been necessitated by liberalisation. It is interestingly also the sector that has been chosen by four of the six country authors, which is perhaps indicative of the importance of a sound domestic regulatory framework to accompany liberalisation in this sector, as the post-Uruguay Round General Agreement on Trade in Services (GATS) financial services discussions and the 1997 Asian crisis revealed.

3.1.1 Summarising the Jamaican Experience[7]

The Jamaican case well illustrates the importance of domestic regulation in financial services liberalisation. As the sectoral study points out, under the structural adjustment policies of the mid-1990s, Jamaica's financial services sector underwent considerable changes. These included: measures to improve the efficiency of financial intermediation; providing greater independence to the Central Bank; policy changes in banking supervision and prudential regulation regarding capital adequacy, lending limits, loan classification; and penalties for infringing banking through a set of new banking and financial sector legislations.

Additionally, Securities and Exchange legislation was introduced in 1993 to improve prudential standards in the securities market. The financial sector reforms also led to the liberalisation of interest rates, removal of restrictions on foreign investments and entry into certain segments. As a result of these reforms, many new players entered the sector, including non-bank financial intermediaries, financial institutions, and the establishment of several large financial conglomerates. New financial instruments were also developed. As a result of these developments, the sector experienced phenomenal growth in the first half of the 1990s and its contribution to GDP grew rapidly from one percent in 1974 to a peak of six percent in 1994.

However, this rapid expansion following the reforms also led to the build-up of several problems within the financial sector. For instance, due to imprudent investments by many financial conglomerates and inadequate supervision of the same, mismatch developed between their assets and liabilities (some of which were also not reflected in the balance sheet). Firms faced declining profit margins due to growing competition. Many did not have the capacity in terms of technical skills and prior experience to operate in a liberalised environment.

[7] Based on Kirton, C. and C. Sampson, "Trade in Financial Services: Jamaican Country Case Study", prepared for the Multi-Country Study on Services and Domestic Regulation, for CUTS, Jaipur and the Commonwealth Secretariat, London, January 2008.

There was also cross ownership across segments within the financial sector, such as insurance companies owning or controlling banks and vice versa, which often led to imprudent lending, intra-group business transactions and low returns on investments. There was a sharp rise in non-performing loans, problems of illiquidity, insolvency, and a general deterioration in the capital base of the banking sector, further compounded by a downturn in the equity and real estate markets against which much of the lending had occurred. This in turn led to a withdrawal of funds from domestic banks and a shift towards foreign banks which were seen to be more stable.

The sectoral study notes that several explanations have been advanced for these developments in Jamaica's financial sector – from the micro and macro perspectives. One of these arguments relates to the role of domestic regulation whereby the financial services sector was quite loosely regulated and that appropriate regulatory institutions and capacity did not exist to deal with the liberalisation of the sector, including the emergence of sophisticated instruments and operations. As pointed out in the study, there was lack of supervisory capacity to ensure that there was prudent utilisation of public funds to ensure that capital adequacy norms were being met, and to keep prudential regulations up to date with the changing market realities. For example, it was only after the sector went into a crisis that the regulatory institutions introduced Basel risk rated criteria for capital adequacy analysis.

As repeatedly pointed out in the study, both legislative and supervisory frameworks were not equipped to deal with the activities of financial conglomerates, which resulted in non-transparency, self-dealing, use of legal loopholes, and round tripping of investments. There were also problems of information asymmetry as there were no legal regulations to facilitate the exchange of information among supervisory authorities and market failure in rating of credit. Regulatory weaknesses also resulted in poor management of many financial institutions, such as lack of compliance with internal procedures to ensure accountability and transparency in operations. The latter was reflected in fraud and irregularities among troubled banks. Non-bank financial institutions were affected more than the commercial banks as the operational inefficiencies of the former exceeded those of the latter. To some extent, these problems could be attributed to government policies which forced banks to provide preferential lending to certain sectors, often resulting in non-performing loans.

Overall, the failure of the financial sector post-liberalisation is attributed to the rapid entry of new banks and insurance companies, and poor credit and portfolio management by domestic players. However, an important point made in the sectoral case study is that such irregularities and problems were seen in the domestically controlled institutions and not in the foreign owned and controlled institutions, reflecting weaker internal control mechanisms in domestic financial institutions. Foreign banks continued to be conservative in their practice and depositors turned to these banks in the wake of the crisis.

Jamaica experienced a financial sector crisis during 1996-98 period. The sector's contribution to GDP declined during this period following the collapse of several commercial banks and non-bank financial intermediaries and a similar decline was witnessed in the sector's contribution to national employment as well. The government responded quickly by introducing legislation to strengthen the regulatory framework in the sector. It set up two new institutions to restructure the sector and address its problems. The responsibilities of these institutions included intervention in troubled banks and non-bank financial institutions in the form of providing loans and acquisition followed by restructuring and privatisation.

The objective was to protect the investments of policyholders, restore liquidity and solvency in troubled institutions and recapitalise such institutions, and to strengthen financial management capabilities of financial institutions, among others. There was a significant amount of intervention undertaken by the creation institution, with intervention costs amounting to 44 percent of GDP at Jamaican dollar 94.1 billion (US$1.3bn), not to mention other indirect costs for the rest of the economy. The regulatory control of the Bank of Jamaica over commercial banks was increased and the delineation of supervisory responsibilities clarified. A Financial Institutions Act was introduced with subsequent amendments directed at improving the regulatory environment for merchant banks, finance houses, and trust companies.

The scope of regulatory oversight was widened. New legislation was also introduced leading to the establishment of a separate regulatory framework and agency for non-bank sector covering securities, pensions, and insurance. The crisis was successfully addressed with these regulatory initiatives and reforms. According to the World Bank, the resolution of the financial crisis was among the fastest implemented internationally. There has however been one major negative outcome, the interventions have significantly contributed to the debt overhang with the result that Jamaica in 2007 had a debt to GDP ratio of 140 percent, one of the highest in the World.

The results of these regulatory measures are evident in the post-1998 consolidation of the financial sector. There was a decline in both the numbers as well as size of financial institutions. The number of commercial banks, merchant banks, life insurance companies, building societies and credit unions all declined. By 2005, the sector's share had declined to 4.3 percent of GDP. However, overall efficiency improved, enabling relatively strong growth in financial services exports whose contribution to total services exports increased from 0.3 percent in 1994 to a peak position of 2.2 percent in 2005. The sector's competitiveness has also increased over the 1994 to 2005 period, with financial services experiencing the highest growth in the comparative advantage index among all service sectors. There has also been increased foreign investment in this sector following the reforms.

Thus, the case of Jamaica clearly shows that in the absence of sound regulatory and legal frameworks and in the absence of institutional capacity to regulate, financial sector liberalisation can have adverse consequences. But it also highlights the fact that a well implemented regulatory response can alleviate these problems and in the long run create a healthier and more competitive financial services sector.

3.1.2 Summarising the Zambian Experience[8]

The Zambian case with financial sector liberalisation has many similarities with that of Jamaica. The sector was highly regulated until 1991, characterised by underdevelopment, inefficient patterns of lending, and many administrative controls. The government introduced reforms in 1991 which included interest rate liberalisation, removal of exchange rate controls and move to a market determined exchange rate, decontrol of sectoral credit requirements, the development of money and capital markets, and measures to improve and modernise the payments system and the regulatory framework.

The reforms also provided for 100 percent local or foreign ownership of banks with no differential treatment between domestic and foreign banks. Requirements were, however, placed on foreign banks in terms of local incorporation requirements and adequate supervision by their respective home country regulatory authorities. Cross border lending and deposit was also permitted. With the liberalisation of the banking sector and of the capital account, several commercial banks entered the sector between 1992 and 1997. The objective of liberalising the banking sector was to encourage inflows of FDI, with likely benefits in terms of technology, practices, and other efficiency gains.

However, as the country case study shows, despite the entry of many foreign banks and the opening up of the banking sector, the reforms have not enabled Zambia to meet the objectives of improving efficiency, widening access, and lowering the cost of credit. The sector experienced a series of closures by local banks during the 1995-2002 period, which resulted in the domination of the banking system by a few foreign owned bank subsidiaries. The latter today control the majority of assets of the banking system and also account for the bulk of profits. As of 2005, the overall credit to GDP ratio had declined, the number of rural bank branches fell, and credit became more expensive, especially for small and medium enterprises (SMEs) and for the less affluent. The scarcity and high cost of credit also affect export-oriented firms as it affected their competitiveness in world markets. Financial sector liberalisation did not help in mobilising more savings and improving intermediation in the economy with the savings rate remaining stagnant.

As pointed out in the case study, Zambia's inability to reap the benefits of liberalisation stemmed from regulatory weaknesses and inappropriate sequencing of reforms. Policy makers failed to put in place a sound regulatory and legal framework that would ensure discipline, accountability, and proper risk taking, before opening up the banking sector. Also, there was lack of proper supervision by the central bank, under capitalisation of the banks, and imprudent investments that were due to the lack of institutional and regulatory frameworks. For instance, even though several new banks entered the sector after its liberalisation, most of them failed, mainly because the Central Bank was not given sufficient supervisory powers to regulate such banks until much later, thus resulting in huge losses, money laundering, and a rising share of non-performing loans.

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[8] Based on sectoral study by Mudenda (January 2008). An important source, also cited by Mudenda (2008) is Aaditya Mattoo and Lucy Payton, *Services Trade and Development: The Experience of Zambia (*Macmillan and The World Bank, 2007)

Another interesting point made in the Zambian case study is the importance of regulation that is relevant to the circumstances of a particular country and not to merely transpose international standards to domestic conditions. As noted in the study, certain regulations based on international standards, such as zero risk weighting of government securities which diverted credit to the government and away from SMEs and poorer households, or the know your customer rules as part of the international efforts to prevent money laundering, were not suited to a country such as Zambia where the bulk of the labour force is in the informal sector. Likewise, rules concerning collateralised lending or of income verification were not suited to Zambian conditions.

Thus, what emerged with the liberalisation of the banking sector, given the lack of prior regulatory strengthening and introduction of appropriate regulations, was that the overall performance of the sector did not improve in terms of growth, outreach, efficiency, or costs. As in the Jamaican case, there was a regulatory response to these developments. In order to stabilise the banking industry, a financial sector assessment programme was undertaken to assess the soundness of the supervisory and regulatory framework for the banking system. The programme found that the frameworks were not adequate in various regards and subsequently a financial sector development plan was launched to strengthen the overall financial system.

This initiative focused on enhancing the quality of supervision, improving internal capacity, strengthening bankruptcy laws, improving liquidation procedures for insolvent banks, enhancing consumer protection mechanisms, and additional acts to deal with issues such as money laundering. These regulatory developments have had a positive impact on the sector with more recent evidence indicating that all commercial banks in Zambia are adequately capitalised and have a strong rating for asset quality and liquidity, indicating the improvement that has occurred since the bank runs in the mid-1990s that resulted from weak capitalisation and unsound practices. The Central Bank's supervisory practices have also recently been found to be generally adequate with most prudential guidelines being in line with international requirements, although some issues of legal enforcement, harmonisation of laws and consumer protection still remain to be addressed.

Thus, as in the Jamaican case, opening up of the financial sector without due preparation of the regulatory and legal frameworks resulted in unsustainable growth in the number of entities followed by subsequent collapse and losses to the economy. The Zambian case is also more revealing as it shows that domestic structural factors such as the size of the informal economy and the ability of individuals to access credit also shape the effects of liberalisation. The experience also suggests that opening up of the banking sector and entry of foreign players may not yield the expected efficiency gains or improved access to credit if domestic players are not well equipped to access this growth, and that liberalisation could aggravate inequities. Hence, the state has to continue playing an important role in allocating credit to certain segments of the economy.

3.1.3 Summarising the Experience from Bangladesh[9]

[9] Based on sectoral study by Raihan and Ahmed (November 2007).

There are several useful lessons to be drawn from the Bangladesh experience with banking sector liberalisation wherein it has not resulted in the kind of crisis or problems highlighted for Jamaica and Zambia earlier, and there have also been several gains in some parts of the banking sector in terms of increased competitiveness, diversification, and practices. As can be inferred from the sectoral case study on banking, the country's relatively measured approach to opening up this sector and the institution of necessary regulatory frameworks early on in the liberalisation process seems to have enabled Bangladesh to avert the kinds of problems highlighted for the two preceding countries.

Bangladesh underwent a major policy shift in the financial services sector in the early 1980s when it allowed the entry of private sector banks, including foreign banks in a bid to increase competition, efficiency, and diversification in the banking sector. In the 1990s, a financial sector reform programme was launched to strengthen the regulatory powers of the central bank and increase the efficacy of various instruments. Through the 1990s, there was considerable liberalisation of the banking sector with regard to the entry and operations of foreign banks. In fact, foreign banks were allowed to provide banking services with no minimum domestic equity requirement and were also allowed to open branches with the permission of the Central Bank. Besides, foreign banks were allowed to establish subsidiaries with their own capital base, subject to receipt of a reciprocity based licence from the Central Bank.

Several regulatory conditions, however, were laid down for the entry and establishment of foreign banks. These included conditions on capitalisation, solvency, profitability of existing branches in the country as well as considerations such as technology transfer, the source country's trade and investment relations with Bangladesh, reputation, and likely impact on the overall banking sector. In addition, considerations of outreach and transfer of knowledge and practices were also included through regional branch requirements, local employment conditions and the encouragement of joint ventures.

Liberalisation has brought about several benefits to Bangladesh's banking system. These benefits include improvements in disclosure standards, debt classification, capital adequacy, product diversification, greater competition among the private sector banks, and improvements in regulatory oversight capacity. Financial liberalisation has also been successful in bringing modern technologies and improved efficiency as is evident from the decline in the ratio of non-performing loans to total loans.

However, deregulation of the financial services sector has affected the public and private commercial bank segments differently in terms of resulting outcomes and performance indicators. The concentration ratio for foreign commercial banks has increased. Private domestic and foreign banks have grown in their share of total banking sector assets while that of the nationalised commercial banks has fallen. The return on assets and on equity, which are indicative of profitability and efficiency have been much higher for the foreign commercial banks as opposed to other categories of banks, suggesting that these have by and large been better managed.

In recent years, private commercial banks have been improving in their performance indicators and posing growing competition to the foreign commercial banks. Although the ratio of non-performing loans has been on the decline for public sector banks, it remains higher than in the private segment.

This divide in performance between the public and private segments raises various concerns on the grounds of equity and long term national interest. The geographic and sectoral orientation of the foreign commercial banks as well as the domestically owned private banks has been directed at the urban areas and towards trade and miscellaneous activities as opposed to the nationalised commercial banks, which have largely been oriented towards production sectors and funding SOEs. Thus the public sector banks remain the main source of credit for the poor population and the riskier segments of the economy.

Further liberalisation of the banking sector is likely to result in a further shift of low-risk businesses away from the public sector banks to the foreign and domestic private sector banks and further aggravate inequities in credit allocation. It is also interesting to note that the banking sector continues to suffer from relatively high interest rate spreads, particularly for the private and foreign commercial banks, whose spreads have increased in recent years while those of the public sector banks have remained lower, indicative of their role in priority sector and directed lending.

Thus, the Bangladesh experience with financial sector liberalisation clearly shows that regulatory strengthening and proper timing in the introduction of necessary regulations to support liberalisation can on the whole be beneficial. However, it also highlights another important point, which is the public-private divide that can emerge with liberalisation in sectors such as financial services where the public sector has a wider mandate of meeting social and developmental objectives. As a result, the public segment may not be able to benefit from liberalisation to the same extent unless additional regulatory reforms and measures are introduced.

As the study argues, in the case of Bangladesh, further liberalisation needs to address issues of debt recovery, restructuring, consolidation, and greater autonomy and transparency in the functioning of the public sector banks. It must be noted, however, that the issue of public-private divide is not unique to Bangladesh and is a problem that is present in developing and developed nations. The challenge of ensuring universal access in key services in the most effective and efficient and low cost way possible is present for all countries.

3.1.4 Summarising the Gambian Experience[10]

The liberalisation and related outcomes in the Gambian financial services sector reveals the difficult challenges faced by LDCs and how structural factors can impede the realisation of the benefits of liberalisation. The sector is the most liberalised of all services in the Gambia. As the sectoral study notes, of the nine commercial banks in the country seven are foreign based banks and only the micro finance and exchange bureau services are national. There is also no discrimination between domestic and foreign banks except in the context of movement of natural persons. But as the country's experience shows although there has been an increase in the number of players the sector has not really become more efficient or competitive over time.

Financial services remain concentrated around the capital city with the majority of the population still lacking access to the formal financial sector. Three quarters of the population is non-banked. The distribution of banks is highly skewed and the countrywide density remains very low. Employment creation has also been low in this sector, despite its high profitability and growth. In view of these outcomes, the concern in the Gambia is whether liberalistion will worsen these inequities in distribution and thus the need for a phased approach to liberalisation. Another interesting issue in the liberalisation of this sector in the Gambia is the regulatory structure in the sector which according to the case study impedes the development of other financial services providers.

The case study argues that although there is scope to accommodate further liberalisation of financial services, given the excess venues for the commercial banks to reap high profits, there is a need to ensure that greater opening up actually results in greater access to financial services – both geographically and for different segments of the population – and that it reduces the cost of credit and promotes innovation. Another concern is that further opening up could force the inefficient banks to close down and also force consolidation, which could increase the degree of monopoly in the sector and have adverse consequences for consumers, at least initially given the already low level of and inequities in access. There is also some concern that further liberalisation and likely consolidation could increase the probability of a systemic risk due to the emergence of a more concentrated set of suppliers and consumers.

The sectoral study points out various factors that need to be considered when furthering the liberalisation of the financial services sector in the Gambia so as to ensure the sector's stability and also improved consumer welfare. These include improved banking supervision, introduction of rating mechanisms to encourage transparency and accountability of the players, and encouragement of other kinds of financial services providers to reduce the prevailing monopoly of commercial banks within the sector, among other measures.

[10] Based on sectoral study by Sillah and Jammeh (January 2008).

The Gambian case clearly illustrates that in underdeveloped countries, liberalisation of financial services will not necessarily promote the cause of universal access and improved consumer welfare. The government may need to promote various forms of financial services, such as micro finance, investment funds, and the like to ensure wider access and competition. A guarded or phased approach to liberalisation and perhaps conditions on private suppliers regarding the provision of services to other segments and geographic areas may be warranted. Thus, where entitlement to such services is limited, opening up may yield limited benefits.

3.2 Telecommunication Services

The liberalisation experience in the case of another producer service, i.e., telecommunication services, throws up several interesting challenges that have been faced by some of the countries participating in this study. These include challenges of coping with rapid technological change, emergence of new segments and opportunities, the need for independent regulatory bodies, and the need to balance universal service obligations with the objectives of efficiency and competition. The cases of Jamaica, Kenya, and Bangladesh are highlighted briefly in the following discussion.

The gist that emerges from this cross country examination of experiences is that there are enormous gains to be realised from telecommunications liberalisation and that these are broadly similar in nature. But there are certain challenges that also appear to be common. These are due to technological developments, the presence of multiple operators and segments within this sector, continued government intervention in regulatory decision making, resistance of incumbents to entry of new players, often conflict of interest between regulators and incumbents, and difficulties faced by regulators in balancing commercial and social obligations.

3.2.1 Summarising the Jamaican Experience[11]

Commencing in 1987 the telecommunications sector was the first utility industry to undergo privatisation in Jamaica. The government first merged the domestic and international telecommunications business and created a new integrated monopoly, i.e. Telecommunications of Jamaica Limited to facilitate the privatisation of telecommunication services. This company was later restructured through a shareholding arrangement between the government and the major private shareholder followed by further divestiture of the government share to the private entity. The privatisation came about mainly from International Monetary Fund (IMF) and World Bank conditionalities.

[11] Based on sectoral case study by Sampson and Kirton (January 2008).

The arrangement was marked by lack of transparency in the divestiture process, absence of an independent regulatory agency, lack of transparency in the pricing of the shares, lack of incentives to promote operational efficiency in the sector, and lack of competition. There were also differences in understanding between the government and the foreign owned incumbent regarding the scope of exclusivity under the agreement, with the incumbent viewing this exclusivity as being applicable to all forms of telecommunication services (including mobile and fixed wire service) while according to the government, exclusivity had only been granted to basic switched voice telephony.

There were several shortcomings in the way privatisation was pursued, in that the arrangements initially excluded opportunities for competition in certain dynamic segments, entailed inefficient pricing schemes, and put stress on sales value rather than wide public ownership, resulting in concentration of ownership. There was also concern that the privatisation had been imposed as conditionality under a SAP, which created domestic resistance. Also, as noted in the sectoral study, there were several problems that characterised the privatisation process itself, in terms of lack of planning, lack of clear objectives, and failure to balance long term wider social interests against short term considerations.

The Jamaican experience is interesting in that subsequent efforts at liberalising the telecommunications sector were driven by several external factors, including rapid technological change, the implications of this sector to export competitiveness, and commitments made by the country under the WTO GATS negotiations to phase in liberalisation of the sector by 2013 and the impact of the US Federal Communication Commission (FCC) benchmark pricing decision which unilaterally drastically reduced international settlement rates towards the end of the 1990s. For instance, high international calling rates proved a barrier to export competitiveness in emerging areas such as IT and contact centre services.

Further, the government had committed to the principles laid down in the Reference Paper on Telecommunications with regard to access to the incumbent network on non-discriminatory terms, establishment of an independent regulator, and arbitration of disputes. Such external and technology related compulsions led to further efforts to introduce greater competition in the sector, first initiated by the newly created (1993) Fair Trading Commission. Liberalisation initiatives by the government were met with resistance by the foreign majority owner; Cable and Wireless UK, including initiation of legal action against the government to maintain the incumbent's monopoly over voice telephony on grounds that the exclusivity served the public interest.

But it was finally the technological changes, including emerging opportunities in segments such as international data transmission, and the international regulatory developments that prompted the incumbent to relinquish its monopoly. In 1999, through a three year phased liberalisation programme the government and the incumbent monopoly operator arrived at an interesting agreement which put an end to the incumbent's exclusivity for all forms of telecommunications.

In the process, the incumbent operator surrendered all its earlier licences, whilst the government surrendered its sovereign rights to set new policies in the sector during a transition period of five years, and withdrawal of all litigations and claims by both sides. In the process, the incumbent agreed to oversight by an independent regulator and to incentive regulation.

Overall, the results have been beneficial to the economy. Liberalisation of telecommunications services led to a rapid increase in teledensity (in excess of 100 percent in 2006), increase in traffic volumes, and profitability and in addition, there was greater efficiency. Consumers benefited from better quality services, increased access, and a reduction in calling rates. The sector also experienced an increase in investment flows, with the sector peaking at nearly one fifth of total FDI inflows at one point. Innovation and technological change in addition to liberalisation also made possible some of these gains. It is also interesting to note that the very concept of universal service and access underwent major changes in definition, going beyond looking at access only through voice telephony given the emergence of new and affordable forms of communication.

The experience with telecommunications reform in Jamaica throws up several interesting issues. It reveals how privatisation may not necessarily result in greater competition and could actually formalise the creation of private monopolies depending on the nature of the arrangement. In the Jamaican case, an important prerequisite to effective competition, i.e. non-discriminatory access to the network was absent until liberalisation was introduced in 2000. It also illustrates how exogenous factors such as technology and external forces can help drive liberalisation and change business imperatives. The Jamaican case highlighted the need for an independent regulatory agency in order to reduce the scope for political intervention, and the need to clearly define responsibilities across multiple agents who may be involved in regulatory process. It also shows how commitments made in international forums can provide an impetus to liberalisation and regulatory reforms.

3.2.2 Summarising the Experience in Bangladesh[12]

The liberalisation and reforms in Bangladesh’s telecommunications sector has yielded many benefits, with the sector registering high growth rates, reductions in tariffs, increased foreign investment, and expansion of value added segments, and consumers benefiting from increased teledensity, accessibility, and lower costs. The institutional and regulatory frameworks were also strengthened to support the liberalisation process. A regulatory commission was created with defined functions such as tariff and standard setting, monitoring, guidelines for interconnection, and promotion of new investments.

Although the regulatory authority is seen to have the legal and structural underpinning to effectively regulate the sector, there has been some criticism about its inability to take decisions quickly and to adapt to rapidly changing circumstances. The most important criticism has been the continued government intervention in the authority’s decision making, especially with regard to licensing where the authority has discretionary power.

[12] Based on the sectoral case study by Raihan and Ahmed (November 2007).

Hence, although the experience with telecommunications liberalisation has by and large been positive in the case of Bangladesh, the commonly held view is that further liberalisation of the sector needs to be accompanied by a strengthened regulatory and legal framework. In particular, as argued in the sectoral study, the regulatory authority needs to be made truly independent, in terms of its financial authority, its decision making, its ability to implement the national telecommunication policy, and in its staffing supported by an explicit rule based mandate.

The study also argues the need for the regulator to focus beyond management of the sector to address broader issues of universal access, preventing abuse of market power, and protecting consumer rights, and to also provide consumers with a greater role in the regulatory decision making process. A related issue to strengthening the regulatory framework is that of technical and institutional capacity, for instance through the establishment of a regulatory information system through networking with consumer societies, and through the development of capacity to deal with a multi-operator environment while ensuring a level playing field for all.

Overall, Bangladesh's experience highlights the importance of the regulatory set up and its explicit independence from the government and balancing commercial and social interests, balancing the interests of incumbents and new players, and to instill confidence among consumers and investors. It also highlights the importance of technical assistance and capacity building, as was undertaken by Bangladesh under a multilaterally funded project.

3.2.3 Summarising the Experience in Kenya[13]

The sector underwent liberalisation starting in the 1990s with relaxation of ownership requirements and decontrol of supply, installation, and maintenance over phases. Following the recommendations of a telecommunications policy paper, several segments of the sector were brought under competition and the reforms were given a legal basis through the introduction of a communications act, which reduced the role of the government in the telecommunications sector, separated the role of policy making from that of the regulator, and also created multiple operators within the sector. A communication commission was established to regulate the sector. Telecom monopoly ended in 2005 with private operators being allowed to construct and operate their own international gateways, with the issuance of additional licences to provide internet backbone and gateway, and measures to promote the convergence of various communication services.

These reforms have led to a significant expansion in the sector, the introduction of new technologies, and service convergence. Telecommunications has emerged as a major source of economic growth, job creation, and government revenue. But challenges remain. One of the main challenges for the regulatory authority is the difficulty in balancing the objective of universal access with that of return on investment. There is no explicit universal service fund to which telecom operators and other service providers are expected to contribute.

[13] Based on the sectoral case study by Moses (January 2008).

Nor does the government require any operator or service provider to offer services at below cost. Thus, operators with universal service obligations are required to meet this requirement from their own funds, which can pose problems, though there are some measures by government to help such providers.

Another area posing regulatory challenges is that of interconnection, i.e. ensuring that interconnection between networks is based on objective and economically sound criteria. There is the challenge posed by the multiplicity of operators within the sector and the transition of different interest groups to a unified licensing regime. There have also been some issues about the extent to which the regulatory body is functionally independent in a true sense from the government.

3.3 Wholesale Trade and Distribution Services

This is another important service sub-sector that is critical to competitiveness and efficiency of the wider economy. Liberalisation of wholesale trade could yield considerable potential benefits in terms of improved logistics, transport and storage facilities, and the entire back end supply chain for the manufacturing and agricultural sectors. But as the following discussion based on India's experience with liberalisation of this sector reveals, often the supporting policy and regulatory framework in many other parts of the economy may be as important, in the absence of which the benefits may not materialise.

3.3.1 Summarising the Indian Experience[14]

In India, the development of the large scale, organised wholesale service sector is considered essential for the economy given the poor quality of supply chain infrastructure in the country. The wholesale sector has a bearing on the recent debate in India regarding opening up of retail services and its potential benefits in terms of improving logistical capacity and quality or eliminating middle men, as the latter benefits are in part dependent on what the wholesale segment can deliver as back-end support to retailers. Evidence suggests that there is interest among foreign investors in India's wholesale services sub-sector in India and that such investment is most likely seen as a complement to the opening up of the retail sector. Also, as the sectoral study points out, an efficient wholesale sector is important when markets are fragmented and underdeveloped as it provides producers with effective and profitable outlets, promotes competition, makes possible better inventory management, and facilitates quality control, while also diminishing the possible concentration of market power in the hands of a few retailers.

However, the Indian case shows that although the wholesale services sector has been completely liberalised, with foreign equity permitted up to 100 percent, there remain numerous problems. India's domestic regulatory systems continue to create trade and investment barriers for this sector.

[14] Based on the sectoral case study by Banerjee *et. al* (January 2008).

These barriers take the form of approvals for establishing commercial presence on a case by case basis, regulations on prices and movement of commodities within the country that limit wholesale trade of agricultural commodities, legislation in other areas (such as on prices and subsidies), and existence of public distribution schemes, which have a bearing on the scope and efficiency of the wholesale sector and its ability to integrate different markets and develop a modern supply chain. There are also numerous zoning laws and state level regulations that affect the location of wholesale establishments and cause concentration in specific areas of the country.

Thus, what the Indian approach to liberalising wholesale services reveals is that when the sector is integrated and has backward linkages, it becomes important to consider regulatory frameworks not only in the particular sector but also in related areas of the economy to reap the benefits. Thus FDI liberalisation and multilateral commitments may not be sufficient to attract investment or realise gains in reality. Also, an integrated view of an entire sub-sector across its various segments, in this case retail and wholesale trade, may be warranted when initiating liberalisation and domestic regulations.

3.4 Education Services

Liberalisation of a social service sector such as education raises a different set of issues from those discussed earlier. The most important of these is the need to ensure equity and to put in place the right extent of regulation so that the latter does not become an impediment to trade and investment but at the same time is also adequate to achieve its objectives. As the country experience of India illustrates, liberalisation of such social services need not necessarily result in the kind of growth and efficiency spurt seen in producer services. External liberalisation in the form of relaxed FDI and trade regulations may not have a major impact if various domestic structural and regulatory constraints continue to bind.

3.4.1 Summarising the Indian Experience[15]

The liberalisation of the education services sector, and in particular, the entry of foreign service providers into higher education, has been a subject of considerable debate in India. There has been growing import of education services by India in the form of outflows of students to other countries. There is also some presence of foreign education providers in India. FDI has been permitted up to 100 percent in higher education under the automatic route subject however to certain conditions. There are collaborations between Indian and foreign institutions, twinning programmes, and vocational and technical courses by foreign institutions in India.

The concern over the entry of foreign service providers pertains to the likely impact on quality and standards of education and on domestic players, especially public sector players, given weaknesses in the regulatory framework, problems of governance, and various constraints that affect domestic public sector providers and their ability to compete with foreign providers. However, as discussed in the case study, several foreign institutions have been operating in India from before the time that guidelines for foreign educational institutions came into effect. These institutions did not take the necessary permissions or register with concerned governments, and thus pose potential problems for consumers and for the quality of education imparted.

[15] Based on the sectoral case study by Banerjee *et. al* (January 2008).

Efforts have since been made by the concerned regulatory bodies to address these regulatory weaknesses with the issuance of guidelines to reduce the scope for consumer exploitation and to weed out spurious providers. These guidelines include requirements of authorisation from the source country authorities as well as Indian authorities, submission of information regarding the nature of the facilities and services to be provided by the foreign institution, undertakings to ensure equivalence of the qualifications provided, fixing of fees as prescribed by the Indian regulatory authority, and measures to ensure consumer protection through performance guarantee fees.

There is, however, debate in India regarding the efficacy of these regulatory requirements in terms of assuring quality education and whether these may act as barriers to entry by foreign providers. It has been argued that these regulatory requirements are cumbersome and lengthy and would thus deter entry. The requirement of approval for fees and admissions from Indian regulatory authorities also imparts a lot of uncertainty and ambiguity regarding the viability of foreign providers. The country case study also argues that by maintaining price controls and by barring "profiteering" without defining the latter, the regulations implicitly de-recognise the link between quality of education and cost and thus could potentially deter quality players from entering the Indian market.

Moreover, in trying to control academic content, the regulatory requirements may also deter quality players who may potentially bring in upgraded courses and curricula that are designed to rapidly changing market realities, which would be one of the desired objectives in opening up this sector. The fixing of fees and admission criteria could also impose additional transactions costs on foreign education providers and impede entry. Thus, the regulations can be questioned on many grounds. There has been subsequent discussion to address the issues and to prescribe a suitable approach to the entry and operations of foreign universities in India. This proposed system would be performance driven, applicable to all forms of foreign operations, and would introduce disincentives to ensure consumer protection and performance. The idea would be to phase in the entry over stages so that performance can be monitored and a mix of incentives and penalties used to achieve the desired objectives. This system, however, remains to be implemented.

Overall, the debate in India about the opening up of the higher education sector stems from concerns about the lack of adequate regulatory frameworks and uniform guidelines to regulate the establishment and operations of all private universities, domestic and foreign. Attempts to frame a uniform regulatory environment in India have failed, part of the problem being that education is a state subject and states vary in their investment regulations and incentives to private providers and thus would resist a uniform set of guidelines.

The Indian case highlights several important points. It indicates the importance of having unambiguous, well defined, and well conceived regulations so that they do not become so cumbersome and rigid that they are de facto barriers to trade or altogether fail to meet their original objectives. Clarity in objective and what is being sought from privatization is very important.

The Indian experience and current debates also illustrate that in social services such as education, where there are broader social concerns, the regulatory framework that is required to support liberalisation need not be specific to foreign suppliers. There is an equal need to provide guidelines to domestic private providers as the issues and concerns regarding quality, standards, consumer protection, and equity are similar.

Foreign versus domestic ownership may be less of an issue than the public-private dimension of the debate and also ensuring that the public segment is not at a disadvantage. In this regard, it is equally important that regulations that are put in place to ensure a level playing field (such as fixing of fees or admission criteria as highlighted above) do not become barriers to entry. The government may need to consider measures that perhaps provide greater regulatory autonomy to public sector providers so that they are able to better face competitive challenges posed by foreign providers rather than stifling entry through numerous conditions and procedural requirements. The Indian case also highlights challenges that may arise due to the multiplicity of regulatory bodies with overlapping roles and responsibilities and due to the multiplicity of jurisdictions.

3.5 Health Services

This is another social sector where trade and investment liberalisation and more generally privatization has been fraught with concerns about possible adverse consequences for equity, domestic consumers, and capacity. The experience highlighted in the case study of Zambia shows that benefits arising from the liberalisation of health services in the form of increased access, quality, and availability are not automatic. They are to a large extent shaped by the existing regulatory and policy environment, existing capacity, and the structure of the sector.

3.5.1 Summarising the Zambian Experience[16]

Health services are a priority area for Zambia. Trade and investment in health services is seen as potentially helping to upgrade the quality and capacity of the health care system in the country as well as providing a source of foreign exchange earnings. Zambia is a regional exporter of healthcare providers, though this does pose problems of brain drain and the need to import providers from other countries to address the shortage of health personnel in Zambia. In most other respects, Zambia is a net importer of health services.

The main issue under debate pertains to investment in health services. Although the sector was opened up in the early 1990s, very little investment has been forthcoming in hospital services and the private segment remains undercapitalised. There has been little growth in private sector capacity to provide health services following liberalisation of the sector. There has also been little investment in specialised medical and diagnostic services. Overall, the sector remains highly undeveloped with no major changes in technology, practices, and facilities.

[16] Based on the sectoral case study by Mudenda (January 2008).

In view of the need for greater private sector investment, the government has more recently initiated measures to support the private sector in the delivery of health services without necessarily undermining the role of the public sector. Foreign ownership has been permitted up to 100 percent. Incentives have been given to private establishments in healthcare, opportunities for investment in various specialised services have been created, dual practice has been permitted for practitioners in the public sector to address resource shortages, and joint ventures have been encouraged. Some of these steps have been taken with the added objective of promoting regional exports of certain health services.

But there has been considerable debate about the opening up of health services to the private sector, domestic or foreign, and whether it can yield the desired benefits, and whether it could lead to adverse consequences. It has been argued for instance in the sectoral case study that the economy is too weak to sustain a private sector that can attract foreign investment in health services and hence that liberalisation will have limited impact. There has also been concern that dual practice of public sector medical professionals will only aggravate existing shortages in the public sector and lead to subsidisation of the private sector by the poor who are the main consumers in public sector hospitals.

It has, however, been argued that privatisation and dual practice could help retain medical personnel in the country and thus be beneficial. Another point of concern is the fact that liberalisation is not likely to benefit the health system in terms of its geographic reach. As the evidence thus far suggests, most private healthcare establishments have been set up around the urban centres and thus rural shortages of personnel and of nursing homes, consulting clinics, and hospitals have not been addressed. Hence, there has been opposition to liberalisation on social and equity grounds. There is also concern that the regulatory framework is not strong enough to ensure quality and consumer protection.

Another line of debate concerns the nature of liberalisation, namely the fact that several barriers continue to impede the entry of private players and thus the realisation of intended benefits. Zambia’s domestic regulations are viewed as cumbersome and discriminatory to foreign investors. There are economic needs test (ENT) requirements, permanent registration requirements which is a time consuming process, costly licensing requirements, and various minimum eligibility criteria on infrastructure facilities and services provided, which can impose high transactions costs for new establishments. There are also barriers to the immigration of foreign health practitioners.

The Zambian experience highlights once again the equity-efficiency tradeoffs that characterise the liberalisation of social services such as healthcare and education. It indicates that liberalisation could increase the divide between the public and private sectors and could adversely affect the less affluent. It may also not advance the cause of increased access and affordability. The public sector has to play a complementary role with the private sector to mitigate such possibilities. Thus, as has been argued earlier, the impact of liberalisation is likely to be shaped by existing domestic capacity and the supporting policy and regulatory conditions affecting all players – domestic and foreign and private and public.

4. Multilateral Liberalisation of Services

The preceding discussion shows that service sector liberalisation is not without its challenges. As highlighted in the above cases, liberalisation has either resulted in some initial instability within the sector as in the case of financial services, or given rise to problems of introducing independent regulators and creating effective competition as in the case of telecommunications, or given rise to public-private segmentation and equity issues as in the case of health and education services.[17] Moreover, countries have often had to adapt their regulations to the outcomes of liberalisation, especially in the initial phases, and also take a holistic approach to liberalisation by having to adopt and amend regulations in other areas.

These varied concerns and challenges suggest that developing countries may need to take a cautious and phased approach to liberalisation and may also need to conduct an impact analysis regarding the outcomes of liberaliation. As is also evident from the many country experiences, a developing country's ability to commit multilaterally is also likely to be contingent on its institutional capacity to regulate and therefore the complementary role that can be played by technical assistance from multilateral trading partners, which could enable them to make progressively more liberal multilateral commitments.

Table A1, A2 and A3 (see Appendix A) provides the essential features of the commitments and offers where applicable that have been made by the selected countries across different clusters of services. These services are chosen based on the sectoral studies. Several of the regulatory concerns highlighted above are evident from these summary tables, particularly in the context of Mode 3 of GATS. It is evident from Table A1 (see Appendix A) in the case of infrastructure services that, while the commitments in Modes 1 and 2 tend to be unrestricted, Mode 3 tends to be partially bound. The commitments in telecommunication services are more liberal, while Mode 3 commitments in this sector are mainly subject to limits on foreign equity participation. In some cases, restrictions on the form of foreign participation are usually subject to the approval of concerned regulatory authorities.

In contrast, financial services tend to be more restricted with several countries not scheduling this sector for commitments despite undertaking unilateral liberalisation. Those countries that have scheduled financial services have generally maintained restrictions on Mode 1, reflecting the concerns about the vulnerability of their financial systems to volatile capital flows. Mode 3 also tends to be more restricted than the telecommunication services with several countries limiting the scope of their commitments to a few specified activities.

[17] It must be noted though that services liberalisation per se does not give rise to problems of introducing independent regulators and creating effective competition as certain conditions need to be fulfilled before services liberalisation is undertaken and is successful. However, in some countries, problems may arise because of lack of adequate forethought in the establishment of regulatory bodies and there could be conflicts of interest between the government and the regulator.

If one places these commitments and offers against the unilateral liberalisation discussed in the sectoral and country papers, it is apparent that these developing countries have preferred to adopt a guarded approach in their multilateral commitments and to put in place the required regulatory structures and capacity before they make more liberal commitments. Such a cautious stance on Mode 3 is most likely explained by the fact that given unforeseen outcomes of liberalisation in some sectors such as financial services, countries may be wary of making binding commitments multilaterally as reversal of these commitments would be difficult and costly. In some cases, countries have not even scheduled the sector as they lack the capacity and technical skills to assess the impact of such commitments.

The extent of liberalisation committed under distribution services is even more limited than for financial services. Only one out of the six countries had scheduled this sector in its original commitments. The lack of commitments reflects the concerns about employment displacement, monopoly power, price effects that are associated with the opening up of distribution services and possibly also the implications for government regulations on prices, subsidies, distribution networks and other controls that could be affected by liberalisation of this sector.

These considerations are also noted in some of the country papers. The Zambian study notes that the country has undertaken liberalisation in several sectors beyond what it has committed under the GATS. It has also received requests to deepen and extend the scope of its commitments. But the government faces problems of enforcement and regulatory capacity in several services and has initiated measures to consolidate some sectors to enhance and scale up reforms in some services, and to strengthen internal systems with legislations pending on some of these reforms. Hence, it is not in a position to make further commitments in such sectors even though it is willing to undertake liberalisation unilaterally. Also, the country has not made broad commitments within service sectors rather than on the basis of the Central Product Classification (CPC) due to institutional capacity constraints and technical difficulties in making such sub-sectoral commitments. Some countries have also sought clarification on Zambia's block commitments.

The summary of the commitments and offers undertaken in social services such as health and education as shown in Table A2 (see Appendix 1) reveal that the central concern in these sectors is that of ensuring quality, through licensing and certification requirements, and of ensuring consumer protection through various conditions on entry and operation. The Table A1, A2 and A3 (see Appendix 1) also show that fewer countries are prepared to schedule these services.

Only three out of the six countries participating in this study have scheduled health or social services while five out of six of these countries have scheduled financial and telecommunication services. This difference in willingness to negotiate social services under the GATS most likely stems from the fact that there are fundamental concerns about the role of private players and corporatisation of such services as well as ambiguities in carving the social services. In contrast, the greater willingness to negotiate infrastructure services such as finance and telecommunications reflects the recognition of these services as critical inputs to overall efficiency and growth and the importance of signalling openness to FDI through multilateral liberalisation.

Although none of the sectoral studies deal specifically with travel and tourism services, the commitments and offers in this sector have been summarised in Table A3 (see Appendix 1) to show how much more liberal the approach has been in this sector for the same set of countries. Not only have all the six countries scheduled this sector, but the scope of their commitments and offers tends to be larger and the only restrictions are on Mode 4. Even Mode 3 which tends to be the most restricted in other sectors is by and large unrestricted in the case of this sector.

The relatively liberal approach to travel and tourism services can be explained by its commercial nature, the clear need for increased capacity in this sector in most developing countries, and beneficial linkages in terms of employment creation, foreign exchange earnings, and other multiplier effects through the economy. There are no obvious concerns in terms of equity-efficiency tradeoffs, no clearly defined role for the public sector except in terms of supporting infrastructure provision, no prudential or macro stability type of considerations, and no direct independent regulation type concerns associated with this sector, which enable a more liberal stance multilaterally.

As India is the only one of the six countries to have also submitted initial as well as revised offers, it is worth considering India's approach to multilateral liberalisation in services to better understand the kinds of factors that can shape the commitment and offer process and its evolution over time. India has had a relatively conservative approach though its subsequent offers do reflect a softening stance. In its Uruguay Round commitments, India did not schedule many sectors such as energy, distribution, education, and environmental services, to name a few, and even when it did table important sectors such as financial and telecom services, key sub-sectors and activities such as insurance or international long distance telephony were not committed.

Moreover, the commitments typically bound less than what India had done unilaterally, particularly for Mode 3 where the committed FDI ceiling was 49 percent or lower while under existing FDI regulations a higher ceiling was permitted. In the Doha Round of services negotiations, India received requests in almost all service sectors from all the major WTO member countries. These requests centered on the expansion of India's commitments to include more service sectors and activities within already scheduled sectors and to liberalise its commitments across all modes, especially in Mode 3.

In most cases, major players such as the US and the EU requested binding in of the existing FDI regime in areas like financial and telecom services, further removal of all existing barriers to foreign commercial presence, and greater transparency in regulations. In response to these requests, India submitted its initial offer, which, however, did not improve much over its Uruguay Round commitment. But in its revised 2005 offer, India did significantly improve upon its Uruguay Round commitment by tabling several new service sectors and sub-sectors and signalling that it was willing to remove commercial presence restrictions in key areas which it had autonomously liberalised since the Uruguay Round.

Its revised offer covered 11 sectors and 94 sub-sectors as opposed to 7 sectors and 47 sub-sectors in its initial conditional offer. Some of the new areas included education, distribution, accountancy, and environmental services.[18]

While the commitment strategy and its relationship with India's unilateral liberalisation measures vary across different services, by and large, India has reduced the wedge that has existed between its autonomous and multilateral liberalisation, though it has still retained some policy space for locking in the current policy regime if its own interests are addressed in the GATS negotiations or of reversing its autonomous liberalisation in future. So, India has not fully acceded to the requests it has received in high demand sectors, by holding back on full offers in Modes 1, 2, and 3. It has also not made substantive changes in its offers on national treatment relative to the Uruguay Round commitments and thus has also not responded fully to the requests for increased transparency and fairness in application of regulations to foreign service providers, despite instituting significant unilaterally initiated regulatory reforms in some of these services.

In some areas such as health services, India has improved upon its earlier commitment reflecting the unilateral liberalisation undertaken in this sector since the Uruguay Round but has also attached conditions pertaining to appropriate technology, consumer protection, quality and reliability of health care providers to its revised offer so as to retain policy space for addressing social concerns. In some other areas such as education services, India has moved from not scheduling these services in the Uruguay Round or in its initial conditional offer, or tabling these services in its revised offer. However, it has attached various regulatory conditions, as shown in the Table A1, A2 and A3 (see Appendix 1).

Thus, the Indian case reveals that commitments and offers under the GATS are more likely to follow unilateral liberalisation and regulatory strengthening which gives countries the confidence to undertake multilateral liberalisation. A country may also use its multilateral commitments and offers as part of a quid pro quo negotiating strategy, where improvements in Mode 3 commitments in particular are traded off against improved offers in areas of offensive interest. Of course, such as political economy approach to multilateral liberalisation may not be as pertinent to small developing countries and LDCs and may be more pertinent to large developing countries such as India. As the other countries participating in this study have not undertaken offers, it is not possible to gauge the extent to which their unilateral liberalisation experience has informed their multilateral stand and how policy space has been preserved under the GATS.

It is also worth noting that only India has made a revised offer among these six countries, although the other five countries have also undertaken unilateral liberalisation and changes in regulatory environment to support this liberalisation. One may ask why they have not tabled offers.

[18] See, Chanda (April 2007).

The reason may not be related to confidence in terms of being prepared to lock in the unilateral liberalisation undertaken through multilateral commitments/offers but more in terms of the possible gains that could be realised by tabling an offer. India sees itself as amongst that critical mass of countries which matters in the services negotiations. It thus needs to be proactive compared to the other countries in this study, can aim to use its offers to seek market opening in areas of its strategic interest, and to influence the pace of the services negotiations. The stakes are lower for the other countries in this study apart from the fact that LDCs are not required to make offers.

The country studies suggest that developing countries, in particular LDCs, could take two possible approaches to their commitments under the GATS. One approach may be to schedule sectors and make commitments after they have undertaken unilateral liberalisation and associated regulatory reforms and institution of supporting regulations and regulatory bodies. This would give them the policy space to understand the potential consequences of liberalisation and if required, mitigate any adverse effects by adapting their regulations. Thus, this approach would argue for policy space to be retained between unilateral and multilateral liberalisation and for this gap to be closed gradually when countries have the confidence and the institutional capacity to commit multilaterally. A second approach would be to pre-commit in a phased manner to gradual liberalisation under the GATS and an overall time frame built into the commitments.

This phasing can be aligned with the country's unilateral liberalisation and regulatory reforms process and a step by step approach taken under the GATS. In this manner, the pre-commitment can provide an impetus to unilateral initiatives. Under either approach, it will be important for countries to ensure that the autonomy to regulate for reasons such as universal access, consumer protection, equity, is not undermined. Countries may want to inscribe limitations specific to their national interest and preparedness to regulate. Whatever be the approach, countries may also like to use their commitments to address their offensive interests, such as in Modes 1 and 4. Developing countries, including LDCs could make commitments in selected services such as retail, banking, insurance, telecommunications, and various business services as well as commitments in mode 3 and mode 4 with reference to business visitors and intra-corporate transferees to obtain market access in their areas of interest.

Regulatory preparedness may enable developing countries to offer more liberal commitments. However, as is clear from the nature of GATS commitments and offers by the six countries in this study, the ability to leverage the commitment process to address offensive interests may be applicable only to the larger developing countries as their markets in areas such as financial, retail, or telecommunication services would be of interest to others.

Although the preceding discussion has focused on multilateral commitments and offers, some mention is warranted about the growing number of regional and bilateral arrangements that are being entered into by developing countries and LDCs. All the countries participating in this study are engaged in one or more regional integration arrangements.

In some of these arrangements, there is a clearly stated objective of promoting a single market in services and of enhancing regional trade and investment flows in services. As certain country studies have highlighted, some of the participating countries also have a demonstrated competitive advantage in exports of selected services on a regional basis, with the majority of these services exports going to countries in the region. However, as the country papers highlight, the services components of these regional frameworks are mostly at an incipient stage. For instance, Common Market for Eastern and Southern Africa (COMESA) is in the process of establishing the regulatory framework to govern trade in services.

Likewise, under the Southern African Development Community (SADC), member states have committed themselves to liberalising trade in services within the region and the grouping is in the process of negotiating disciplines and modalities for harmonising services regulations in the region, while taking cognizance of the GATS framework. The Indian bilateral agreement with Singapore under a Comprehensive Economic Cooperation Agreement (CECA) is perhaps different in this respect as India has committed more than what it has done multilaterally under the GATS in terms of both scope and extent of liberalisation. It has of course also received more liberal market access commitments in return than under the GATS along with the initiation of supporting discussions on various cross cutting issues that have proved difficult to negotiate under the GATS.

Overall, however, the relationship between bilateral or regional liberalisation and multilateral liberalisation of services is a subject that requires much more study. It may also be too early to infer much from these regional arrangements as many regional or bilateral frameworks are yet to be developed and made operational.

5. Conclusion

The experiences highlighted in this paper clearly demonstrates that timely and well enforced domestic regulation backed by a sound, transparent, and unambiguous regulatory framework is a prerequisite for service sector liberalisation. Without these prerequisites, countries are unlikely to benefit to the extent possible from services liberalisation and may in fact be faced with unforeseen and adverse consequences. This is particularly important where sector instability could give rise to wider economic instability, as in the case of financial services. While the issues and challenges may vary depending on the nature of the service sector, this precondition is applicable to all services in different forms and to different degrees.

It is also evident from the country experiences that often the real issues do not concern whether ownership is domestic or foreign but whether ownership is private or public and whether competition is permitted in the sector. It is not ownership which matters it is competition. Government may need to redefine and reorganise its role in some services, once it liberalises these sectors and may need to play a complementary and supportive role if liberalisation is expected to yield efficiency and competitiveness gains and other benefits. In sectors where supporting infrastructure requirements exist or where prudential regulations are required, the government has a vital role to play in shaping the liberalisation process and the ensuing outcomes.

The relationship between unilateral and multilateral liberalisation and regulatory reforms is also quite clear from the various country experiences covered under this study. Countries generally prefer to autonomously liberalise, adapt and strengthen their domestic regulations and preserve their flexibility before they are prepared to bind their liberalisation multilaterally. However, pre-commitment may serve as a stimulus to liberalisation. The discussion also shows that foreign investment is the most sensitive area for commitment, where most developing countries are likely to maintain conditions to address their quality, equity, and regulatory capacity related concerns. The discussion essentially suggests that even if developing countries or LDCs are recipients of requests, they may often not be in a position to go ahead and bind in their autonomous liberalisation due to their limited institutional capacity and confidence in being able to tackle unintended consequences of multilateral liberalisation.

These studies throw up another very important issue, which is the need to improve data on services in developing countries and in LDCs, particularly as regards trade and investment flows. Analysis of the likely impact of liberalisation cannot be undertaken unless there is reliable and sufficiently disaggregated data available on services trade and investment and which is comparable to international classification norms. Some of the country studies under this project were affected by the paucity of reliable and detailed service sector data. There were also difficulties in drawing cross country comparisons due to differences in the classification of service sector data.

Hence, there is need for technical assistance to improve data collection and data quality on services which would also enable countries to undertake impact analysis to better understand the consequences of liberalisation. Technical assistance would also be required by LDCs for designing regulations and regulatory framework. Such assistance may enable more developing countries and LDCs to participate pro-actively in the multilateral negotiations.

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Appendix A

Commitments in Selected Services

Table A1: Nature of Commitments in Infrastructure Services (Telecom, Financial, Distribution)

Sector/Country	Nature of UR Market Access Commitments	Thrust of Offers
Telecommunications (includes all sub - sectors)		
• Bangladesh	• Modes 1, 2 and 3 have unrestricted market access while in mode 4 government approval is required for the employment of foreign natural persons investing in the country. (unrestricted market access here is analogous to "none" in the GATS schedules of commitments)	• No further offers
• Gambia	• No limitations on market access for modes 1, 2 and 3.	• No further offers
• India	• For most sub-sectors, modes 1 and 2 remain unbound. Investments through mode 3 are limited to specified equity ceiling levels in respective sub-sectors and they also require approval by domestic regulatory bodies.	• The subsequent offers have relaxed market access restrictions in modes 2 and 3, while there is no notable change in the other modes.
• Jamaica	• No major restrictions in any of the modes.	• No further offers
• Kenya	• Modes 1 and 2 remain unrestricted for most sub-sectors while mode 3 has a specified ceiling for foreign investments in the respective sub-sector. Mode 4 remains largely unbound.	• No further changes
• Zambia	• No commitments were made in this sector	• No offers

Financial Services		
• Bangladesh	• No commitments	• No offers
• Gambia	• No limitations on market access for modes 1 and 2	• No offers
• India	• Modes 1, 2 and 4 remain largely closed while for mode 3, different levels of foreign equity ceiling for investments have been specified with an additional requirement of an approval by the FIPB. Foreign banks were also allowed to operate with branch operations with valid licenses • Modes 1 and 2 remain unbound in most banking related and life insurance services while they are unrestricted in non-life insurance services. Mode 3 is relatively unrestricted – the only condition for an investment being an approval from the ministry.	• No significant changes in offers as regards modes 1 and 2. Mode 3 restrictions were relaxed with a specified foreign equity limit.
• Jamaica	• Modes 1, 2 and 3 remain unrestricted for banking and other financial services excluding insurance services. In some sub-sectors, market access in mode 3 is offered to institutions approved as banks by the Banking Act. Mode 4 remains unbound except for what has been specified in the horizontal commitments.	• No offers
• Kenya	• For most insurance related services, modes 1, 2 and 4 remain unbound. Mode 3 market access for life insurance, broking and other auxiliary services is restricted only to the Kenyan nationals. There are no restrictions	• No further changes

	for non-life insurance and related services.	
• Zambia	• No commitments despite the liberal policy regime as regards financial services.	• No further offers
Distribution Services		
• India	• India's commission agents' services and wholesale trade services remain unbound in all the four modes.	• The revised offers gave unrestricted market access in modes 1 and 2 while access through mode 3 needed the approval of RBI/FIPB subject to conformity with FEMA regulations. Mode 4 remained unbound.
• Zambia	• No limitations in modes 1, 2 and 3 while mode 4 remained unbound.	• No further offers

Source: Based on country studies and schedules of commitments and offers
Note: Unrestricted market access is the same as a scheduling of "none" in the GATS commitments.

Table A2: Nature of Commitments in Social Services (Health and Education)

Sector/Country	Nature of UR Market Access Commitments	Thrust of Offers
Health Related and Social Services		
• Jamaica	• Unrestricted market access in modes 1 and 2 while mode 3 required registration, licensing and local certification. Mode 4 remains unbound.	• No offers
• Zambia	• Unrestricted market access in modes 1 and 2 and 3 while mode 4 remains unbound.	• No offers
• Gambia	• Limited market access.	• No offers
• India	• Modes 1, 2 and 4 remain unbound while mode 3 market access is permitted with a specified foreign equity ceiling only through a local incorporation	• Unrestricted market access for modes 1 and 2 while the foreign equity ceiling has been raised for mode 3.
Education Services		
• Jamaica	• Unrestricted market access in modes 1 and 2 while mode 3 required registration, licensing and local certification. Mode 4 remains unbound.	• No offers
• Gambia	• Unrestricted market access in modes 1 and 2 and 3 while mode 4 remains unbound.	• No offers
• India	• Sector not scheduled	• Revised offer gives unrestricted market access for modes 1, 2 and 3 in higher education services. While market access through mode 1 required the service providers to comply with the regulations applicable to the

		domestic providers in the country of origin, access through mode 3 requires FIPB approval along with the condition that the regulatory authority would have the right to fix the fees charged in order to ensure the absence of profiteering.

Source: Based on country studies and schedules of commitments and offers
Note: Unrestricted market access is the same as “none” in the GATS commitments

Table A3: Nature of Commitments in Commercial Services (Tourism and Travel Services)

Sector/Country	Nature of UR Market Access Commitments	Thrust of Offers
Tourism and Travel Related Services		
Jamaica	• Unrestricted market access in modes 1 and 2 while mode 3 required registration, licensing and local certification. Mode 4 remains unbound.	• No offers
Kenya	• Modes 1, 2 and 3 have unrestricted market access in most sub-sectors except hotels and restaurants services where mode 1 remains unbound. Mode 4 is restricted as well.	
Zambia	• Unrestricted market access in modes 1, 2 and 3 while mode 4 is unbound.	
Gambia	• Unrestricted market access in modes 1, 2 and 3 while mode 4 is unbound.	
India	• Unbound for modes 1, 2 and 4 while mode 3 allowed subject to incorporation with a specified foreign equity ceiling.	• Subsequent offers relax the market access restrictions for modes 1, 2 and 3, with modes 1&2 having no restrictions and mode 3 incorporation having a revised foreign equity ceiling along with FIPB approval.
Bangladesh	• Commitments limited only to five star hotels and lodging services. Mode 3 permitted up to 100 per cent subject to local incorporation requirements.	• No offers

Source: Based on country studies and schedules of commitments and offers
Note: Unrestricted market access is the same as "none" in the GATS commitments

Appendix B

Competitiveness in Services[19]

Bangladesh

Table B1: Revealed Comparative Advantage of Bangladesh Services Sector

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005
Bangladesh	0.62	0.60	0.60	0.57	0.54	0.59	0.62	0.58	0.61
India	1.01	1.23	1.37	1.41	1.37	1.34	1.39		
Pakistan	0.81	0.73	0.74	0.69	0.68	0.96	0.98	0.85	0.98
Sri Lanka	0.79	0.77	0.84	0.75	1.08	1.03	1.06	1.04	0.99
Nepal	3.38	2.61	2.50	2.00	1.79	1.58	1.70	1.85	1.51
Cambodia	0.89	0.88	1.00	1.19	1.23	1.23	1.02	1.17	1.40
Malaysia	0.84	0.67	0.60	0.63	0.69	0.67	0.56	0.58	0.62
Philippines	1.87	0.98	0.45	0.42	0.44	0.44	0.43	0.47	0.51
Vietnam	1.08	1.06	0.86	0.80	0.77	0.73	0.69	0.63	0.58

Source: Calculated based on data from WDI (2007)

Table B2: Revealed Comparative Advantage of Bangladesh's Services Sub-Sectors

Sectors	RCA		
	Bangladesh	India	China
Electricity	0.00	0.48	10.96
Gas manufacture, distribution	0.00	0.01	0.00
Water	0.00	0.61	30.79
Construction	0.04	0.54	22.34
Trade services	0.06	11.56	40.23
Transport services	0.19	9.04	27.42
Sea transport	1.47	9.72	8.51
Air transport	0.11	2.36	7.90
Communication	0.26	0.69	11.04
Financial services	0.13	0.94	10.70
Insurance	0.09	6.18	5.93
Business services	0.26	15.14	5.58
Recreation and other services	0.12	2.38	7.92
Public administration, defence, health, education	4.67	6.20	19.69

Source: Calculated from GTAP database version

[19] These tables are reproduced from the country background papers prepared under this project. RCA calculations were not available in the India and Gambia papers. Hence, the RCA indices for India were obtained from a Government of India Report of the High Level Group on Services Sector. RCA indices could not be calculated for the Gambia and are thus not presented in this set of tables.

Jamaica

Table B3: Revealed Comparative Advantage Indices of Select Service Activities

Yr	Goods	Services	Transpor-tation	Travel	Communi-cation	Insurance	Financial Services	Computer	Personal
1976	0.9	1.3	1.0	2.6	N/A	5.8	N/A	N/A	N/A
1977	1.0	1.2	1.0	2.8	N/A	5.3	N/A	N/A	N/A
1978	0.9	1.3	1.0	2.9	N/A	4.4	N/A	N/A	N/A
1979	0.9	1.6	0.9	3.1	N/A	3.4	N/A	N/A	N/A
1980	0.9	1.6	0.8	3.3	N/A	3.3	N/A	N/A	N/A
1981	0.9	1.6	0.7	3.6	N/A	3.5	N/A	N/A	N/A
1982	0.8	2.0	0.6	3.8	N/A	2.3	N/A	N/A	N/A
1983	0.7	2.3	0.6	3.9	N/A	1.9	N/A	N/A	N/A
1984	0.7	2.4	0.7	3.3	N/A	1.8	N/A	N/A	N/A
1985	0.6	2.7	0.9	3.0	N/A	1.5	N/A	N/A	N/A
1986	0.5	2.9	0.9	3.0	N/A	0.4	N/A	N/A	N/A
1987	0.6	2.7	0.8	3.0	N/A	0.5	N/A	N/A	N/A
1988	0.7	2.5	0.8	2.8	N/A	0.6	N/A	N/A	N/A
1989	0.7	2.4	0.8	2.7	N/A	0.9	N/A	N/A	N/A
1990	0.7	2.3	0.7	2.8	N/A	0.8	N/A	N/A	N/A
1991	0.7	2.2	0.5	2.9	N/A	0.7	N/A	N/A	N/A
1992	0.6	2.4	0.5	2.8	N/A	0.4	N/A	N/A	N/A
1993	0.6	2.5	0.5	2.7	N/A	0.3	N/A	N/A	N/A
1994	0.6	2.4	0.6	2.3	8.2	0.8	0.1	2.2	0.5
1995	0.7	2.4	0.7	2.4	6.0	0.3	0.1	1.8	0.4
1996	0.6	2.4	0.6	2.4	6.6	0.2	0.1	1.4	0.4
1997	0.6	2.5	0.7	2.4	6.7	0.2	0.1	1.1	0.4
1998	0.6	2.5	0.7	2.5	4.8	0.2	0.1	1.0	0.4
1999	0.5	2.7	0.7	2.4	7.1	0.2	0.1	0.8	0.3
2000	0.5	2.8	0.8	2.4	5.5	0.4	0.1	0.8	0.3
2001	0.5	2.8	0.9	2.5	4.6	0.3	0.1	0.7	0.3
2002	0.5	2.8	1.0	2.5	4.7	0.3	0.2	0.6	0.3
2003	0.5	3.0	1.1	2.7	3.4	0.1	0.2	0.5	0.6
2004	0.5	2.9	1.1	2.6	4.4	0.2	0.2	0.4	0.8
2005	0.5	2.9	0.9	2.8	3.2	0.4	0.3	0.5	0.9

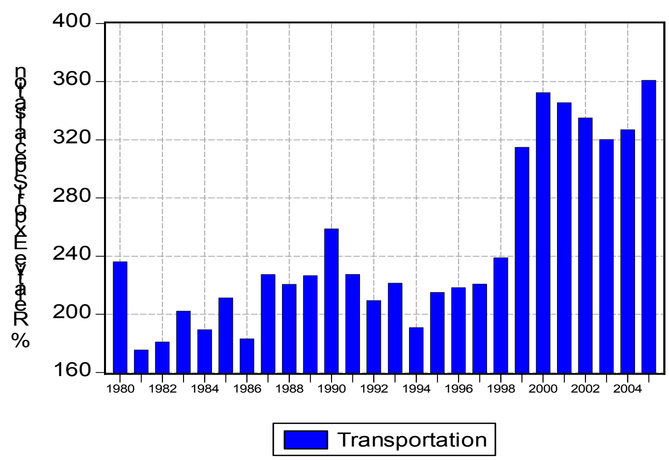
Source: Author's calculations, from STATIN and PIOJ Statistics

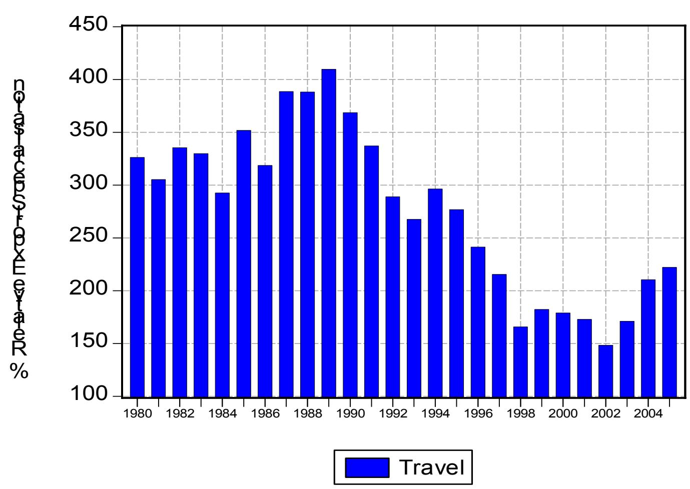
Kenya

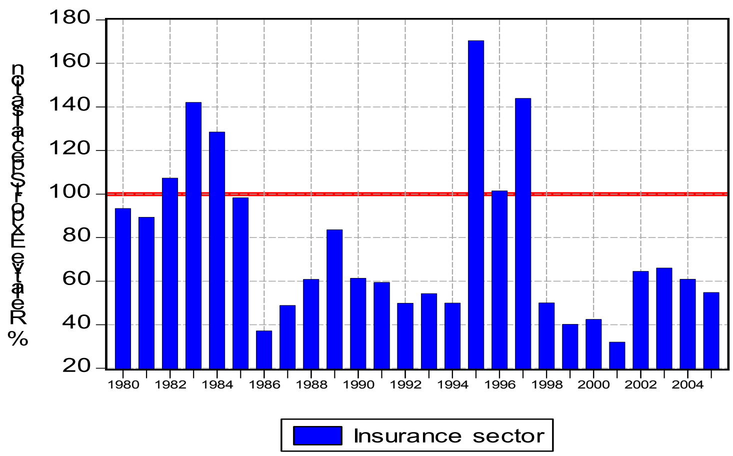
Table B4: Ranking for Average Revealed Comparative Advantage (1980-2005)

Service Sector		**Ranking**
Communication		449.3
Travel	Comparative advantage	276.6
Transportation		246.6
Insurance		76.6
Royalties and License fees		35.2
Other business services		24.9
Financial services		6.3
Computer and information		3.3
Personal cultural and recreational services		2.6
Memorandum items		
Government Services		1149.0
All commercial services		170.6

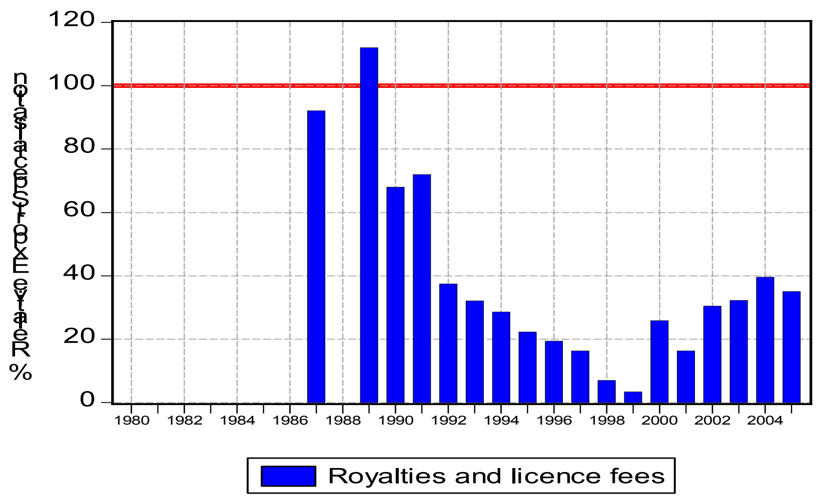
Figure B1: Sectoral % Export Specialisation (Revealed Comparative Advantage) Index



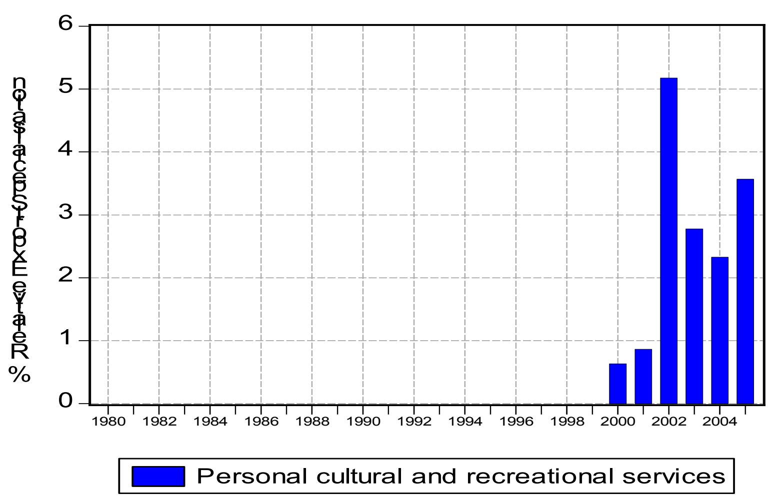




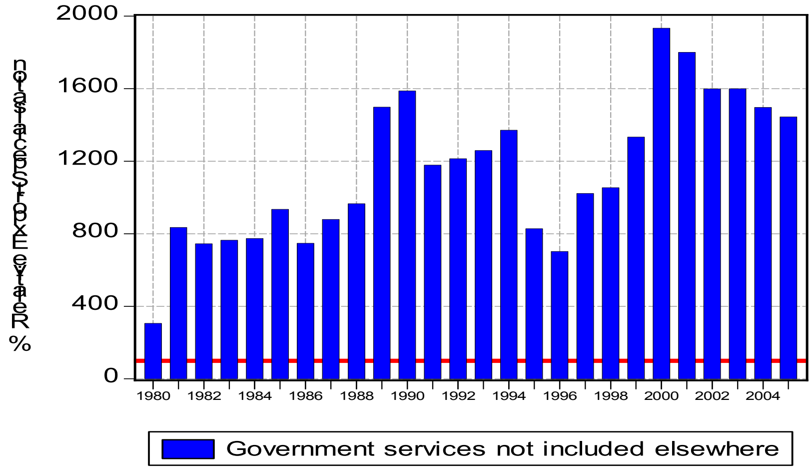
180
160
140
120
100
80
60
40
20
% Revealed Comparative Advantage
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
2000
2002
2004
Insurance sector

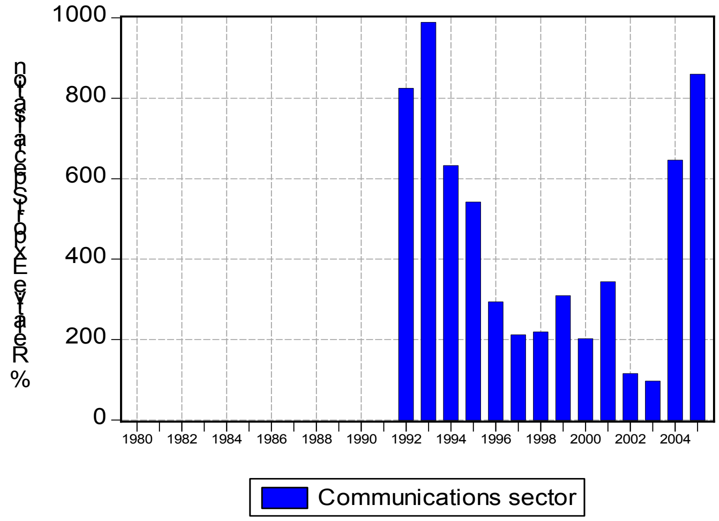


120
100
80
60
40
20
0
% Revealed Comparative Advantage
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
2000
2002
2004
Royalties and licence fees



6
5
4
3
2
1
0
% Revealed Comparative Advantage
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
2000
2002
2004
Personal cultural and recreational services


2000
1600
1200
800
400
0
1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004
Government services not included elsewhere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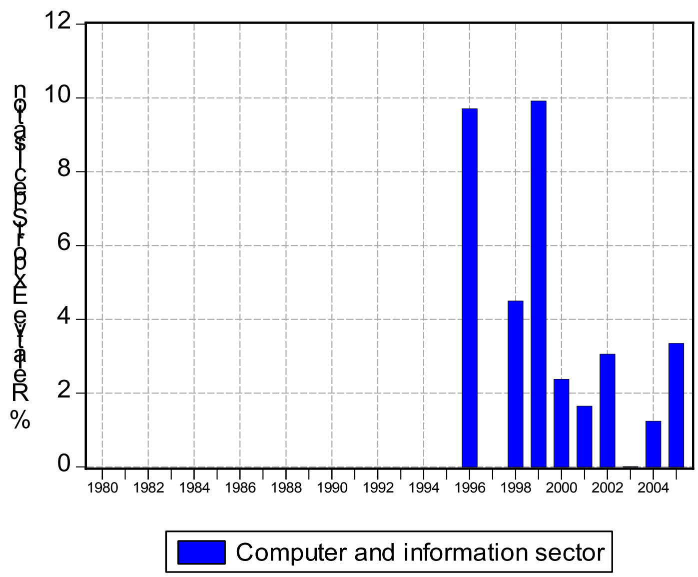
600
400
200
0
1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004
Communications sector


12
10
8
6
4
2
0
1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004
Computer and information sector

Zambia

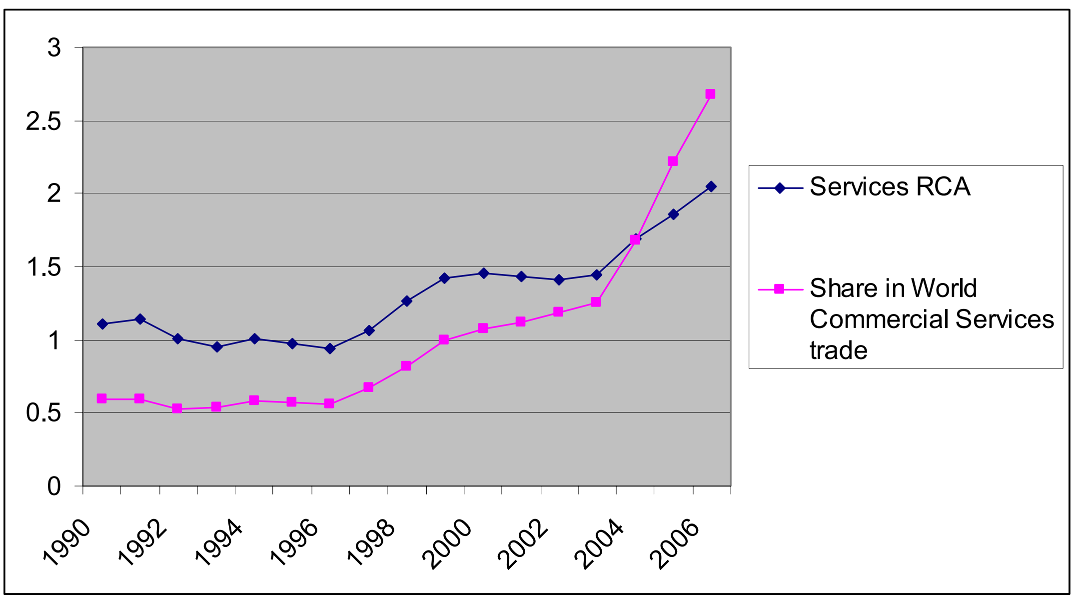
Table B5: Revealed Comparative Advantage in Selected Service Sectors

Service Sub-sector	1995	1998	2000	2002	2004	2006
Services	-0.6	-0.5	-0.5	-0.5	-0.3	-0.3
Transportation	-0.4	-0.5	-0.7	-0.7	-0.6	-0.7
Travel	-0.3	0.2	0.2	0.2	0.4	0.4
Communication services	0.0	-0.5	-1.0	-0.1	0.2	0.3
Construction services	-1.0	-1.0	-1.0	-1.0	-1.0	-0.7
Insurance services	NA	-1.0	-0.6	-0.6	-0.5	-0.7
Financial services	NA	NA	NA	NA	NA	-1.0
Computer and information services	NA	NA	NA	NA	NA	NA
Royalties & business services	-0.9	-1.0	-1.0	-1.0	NA	-1.0
Others business services	-0.8	-1.0	-1.0	-1.0	-1.0	-0.8
Personal cultural and recreational services	NA	NA	NA	NA	NA	NA
Government services	NA	NA	-0.9	-0.9	0.4	0.4

Source: Calculated by author from the Bank of Zambia Annual and Monetary Policy Reports (Various issues)

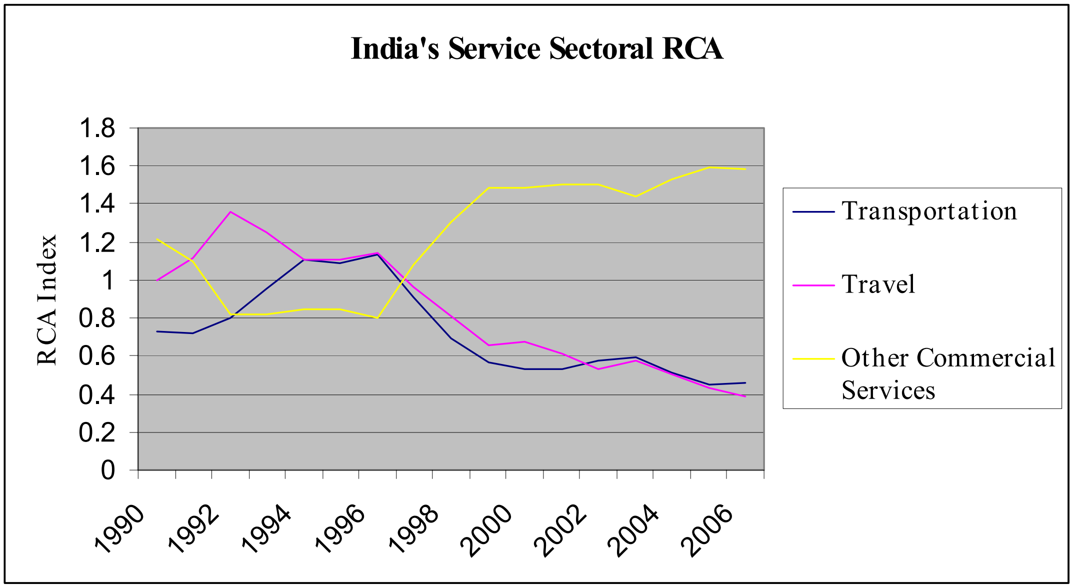
India

Figure B2: India's RCA vs Share in Global Commercial Service Exports



Source: Report of the High Level Group on Services Sector (2008), Figure 3, p. 8

Figure B3: India's Service Sectoral RCA



Source: Report of the High Level Group on Services Sector (2008), Figure 4, p. 9.

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