
Services in a Development Round: Proposals for Overcoming Inertia

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Much of the public discourse on the Doha Development Agenda has focused on trade in goods, particularly protectionist policies in agriculture. Negotiations on trade in services have received much less attention. The neglect matters. The potential benefits of services trade reform are huge, but services negotiations in the World Trade Organization (WTO) are making little progress.

One problem, of course, is that services negotiations are part of a stagnant whole. Progress in other areas, notably agriculture, is a necessary condition for progress in services. But it is not a sufficient condition. To produce a services outcome that supports broader development goals will require extraordinary intellectual, technical, and political effort.

This note first describes the current, sad state of negotiations. It then argues that the negotiations could be galvanized by agreement on three goals that should appeal equally to the development and business communities. Finally, the note advances three proposals that may help achieve those goals: the first pertains to a reform of the negotiating process; the second and third argue for the negotiations to be complemented by broader cooperation to remedy regulatory inadequacies and to deal with the particular issues raised by labor mobility.

Where do things stand?

At Cancún, services were not an area of disagreement. Ministers recognized the progress made in the negotiations and urged participants to intensify efforts to reach a successful conclusion. As we approach Hong Kong, the mood is less sanguine. The progress so far consists of a large number of confidential but reportedly highly ambitious *requests* that WTO members (including several developing countries) have made to each other for greater market access, and reportedly disappointing *offers* of improved access submitted so far by more than 60 WTO members (including many developing countries). The chair of the WTO Services Trade Negotiations Committee, Alejandro Jara, concluded in July 2005 that

Notwithstanding the fact that the number of offers has improved since my last report, it was widely acknowledged that the overall quality of initial and revised offers is unsatisfactory. Few, if any, new commercial opportunities would ensue for service suppliers. Most members feel that the negotiations are not progressing as they should. It is clear that much more work will be necessary in order to bring the quality of the package to a level that would allow for a deal.¹

There is a growing perception that the request-and-offer process is not proving to be fruitful and that there is a need for complementary negotiating methods. In particular, some WTO members have suggested the adoption of numerical benchmarks to secure wider sectoral coverage, as well as qualitative criteria to ensure that commitments embody a certain degree of openness. Meanwhile, negotiations on completing the General Agreement on Trade in Services (GATS) framework of rules (on safeguards, government procurement, subsidies, and domestic regulation)—underway since the conclusion of the Uruguay Round—have borne little fruit.

What should the goals be?

The negotiations have fallen into a low-level equilibrium trap: little is expected and less offered. Members need to identify a set of desirable and feasible goals to give direction and momentum to the negotiations. These goals must be articulated not in arbitrary and opaque numerical terms, but in terms that resonate equally with the development and business communities.

Realizing the development benefits of services reform

Recent research concludes that the increase in real income from a cut in services protection by half would be five times larger than that generated from comparable goods trade liberalization (Robinson and others 1999). Countries that successfully reformed their financial and telecommunications services sectors have grown, on average, about a percentage point faster than other countries (box 1). This reflects the key role of services such as finance, transport, and telecommunications in determining economic performance, and the spillover benefits of liberalization as factors move across countries.

It would be wrong, however, to assume that these gains can be realized by a mechanical opening up of services markets. A flawed reform program can undermine the benefits of liberalization. For example, if privatization of state monopolies to private owners (sometimes foreigners) is conducted without creating conditions of competition, the simple result may be transfers of monopoly rents to private owners. Similarly, if increased entry into financial sectors is not accompanied by adequate prudential supervision, the result may be insider lending and poor investment decisions. Also, if policies to ensure universal service are not put in place, liberalization need not improve access to essential services for the poor. Managing reforms of services markets therefore requires integrating trade opening with a careful combination of competition and regulation.

The challenge is to ensure that international commitments reflect good economic policy rather than the dictates of domestic political economy or international negotiating pressure. In particular, it is essential to distinguish between the areas where liberalization is prevented solely by the political power of vested interests—to which the WTO's reciprocal market opening is an antidote—and those

Box 1. Dynamic benefits of services trade reform

Certain services industries clearly possess growth-generating characteristics. Thus, financial services play a central role in the transformation of savings to investment, telecommunications in the diffusion of knowledge, transport in a country's ability to participate in global trade, education and health services in building up the stock of human capital, and business services in reducing transactions costs and adding value to products. Barriers to entry in several services sectors, ranging from telecommunications to professional services, often are maintained not only against foreign suppliers but also against new domestic suppliers. Full liberalization can, therefore, lead to enhanced competition from both domestic and foreign suppliers. Greater foreign factor participation and increased competition together imply a larger scale of activity, and hence greater scope for generating the growth-enhancing effects. Even without scale effects, the import of foreign factors that characterizes services sector liberalization could still have positive effects because they are likely to bring technology with them.

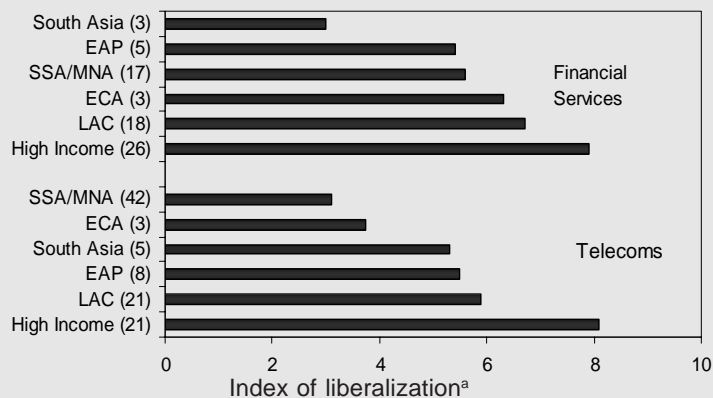
Econometric evidence suggests that openness in services improves growth in the long run (figure 1a). After controlling for other determinants of growth, countries that fully reformed the financial services sector grew, on average, about 1 percentage point faster than other countries. An even greater impetus on growth was found to come from fully reforming^a both the telecommunications and the financial services sectors. Estimates suggest countries that fully liberalized both sectors grew, on average, about 1.5 percentage points faster than other countries (figure 1b).

While these estimates indicate substantial gains from liberalizing key services sectors, it would be wrong to infer that those gains can be realized by a mechanical opening up of services markets. Managing reforms of services markets requires that trade opening be accompanied with a careful combination of competition and regulation (see text on the second page of this note).

a. The measure of reform included not just liberalization but also regulatory improvements.

Box 1. (continued)

Figure 1a. Developing countries lag in services liberalization

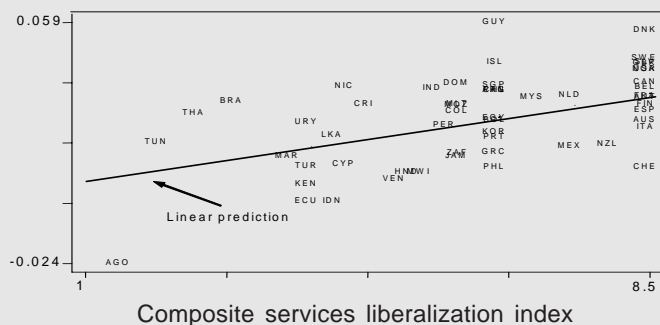


Note: Number of countries in sample in parenthesis

a) The openness index for telecommunications captures the degree of competition, restrictions on ownership and the existence of an independent regulator (needed to enable competitive entry), and draws on an ITU-World Bank database for 1998. The index for financial services captures the restrictions on new entry, foreign ownership and capital mobility, and draws primarily upon commitments made by countries under the GATS, which are known to reflect closely actual policy, and data in the IMF's Annual Report on Exchange Arrangements and Exchange Restrictions.

Source: Mattoo, Rathindran, and Subramarian (2005).

Figure 1b. Greater liberalization in services is associated with more rapid growth



Source: Mattoo, Rathindran, and Subramarian (2005).

where regulatory or other problems need to be remedied before the full benefits of liberalization can be reaped. Even in the latter case, if the time frame for reform could be predicted, a government would be in a position to decide whether to precommit in the WTO to future liberalization in order to lend credibility to the reform program and obtain a negotiating benefit.

The evidence of benefits conditional on appropriately designed reform programs points to our first goal:

Goal 1: WTO members will eliminate barriers to foreign participation in sectors where there is adequate regulatory preparedness, and consistent with their development goals. They will precommit to eliminating barriers where the necessary conditions for successful market opening can be fulfilled in a predictable time span.

Preempting protection in cross-border trade in services

The shared interest in an open services markets is vividly illustrated by the pattern of cross-border trade in business services. While industrial countries are still the largest exporters of such services, several developing countries are among the most dynamic (box 2). Since the mid-1990s, the business-services exports of 20 developing countries, including Brazil, Costa Rica, India, Israel and Mauritius have grown by more than 15 percent per year.

Many countries, rich and poor, are reaping large efficiency gains from this enhanced international division of labor. The U.S. banking industry alone is estimated to have saved more than \$8 billion over the last four years, and the cost savings for the world's top hundred financial institutions could be as high as \$138 billion annually. And the development potential of cross-border trade in services is being felt in an ever-widening group of developing countries that are equipping themselves with the appropriate skills, infrastructure, and institutions.

But such trade will also create adjustment pressures and could provoke a protectionist backlash—signs of which are already visible in recent procurement restrictions and regulatory impediments. It would therefore be wise to preempt protectionism, to ensure that any adjustment pressures are dealt with through desirable domestic assistance rather than inefficient barriers to trade. That points to our second goal.

Goal 2: WTO members will lock in the current openness of cross-border trade for a wide range of services. Certain services, such as those that involve the mobility of capital, may be exempted.

Reaping the gains from the temporary migration of service providers

The most stringent barriers to service trade are those involving the mobility of individual service providers, known as “mode 4” in the GATS context. Such temporary movement offers arguably the neatest solution to the problem of how some forms

of international migration are best managed, enabling mutual gains from trade while averting to a large extent social and political costs in host countries and brain drain from poor countries. Recent research finds that if industrial countries were to allow temporary access to foreign service providers equal to just 3 percent of their labor force, the global gains would be over \$150 billion—more than the gains from the complete liberalization of all trade in goods (Winters and others 2003). Those gains would be shared equally by the industrial and developing countries.

The challenge is to define a package that can liberate at least some forms of movement from the prohibitive political difficulties that have prevented any progress on mode 4. First of all, in order to harness the coincidence of interest between industrial and developing countries, the package would include both intracorporate movement and the movement of personnel independently of commercial presence. Second, in order to remain politically feasible, the proposed liberalizing commitments might be required to apply (a) only above specified skill thresholds, (b) to strictly temporary presence of a specified duration (say, less than one year), and, for independent movement, (c) to the fulfillment of services contracts to the exclusion of other employment arrangements. Countries would of course be free to adopt more flexible and liberal regimes for other types of movement; for example, it might be possible to make greater progress on the movement of the unskilled through bilateral agreements. But the GATS negotiations would focus most fruitfully on the type of movement for which there seems to be an emerging international market, and for which *multilateral* negotiations can help eliminate explicit restrictions and create streamlined procedures. This leads to our third goal.

Goal 3: WTO members will allow greater freedom for the temporary presence of at least some categories of individuals, such as intracorporate transferees and service providers to fulfill specific services contracts.

How do we get there?

In principle, the traditional WTO mechanism of reciprocal market opening could help attain all three goals. In practice, the mechanism has not functioned in services because of inadequacies in the negotiating process and failure to win the consent and support of regulators. To revive reciprocity, the negotiating process must be reformed; more importantly, regulators must be reassured that regulatory weaknesses will be remedied and regulatory cooperation facilitated. Each of these actions is relevant for all modes of service delivery, but in some cases it is convenient to illustrate the significance of each with regard to a particular mode.

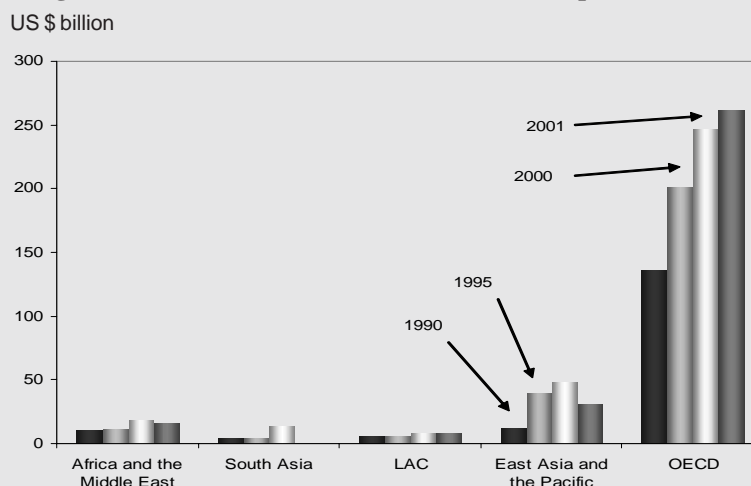
Reforming the services negotiating process to further desirable goals

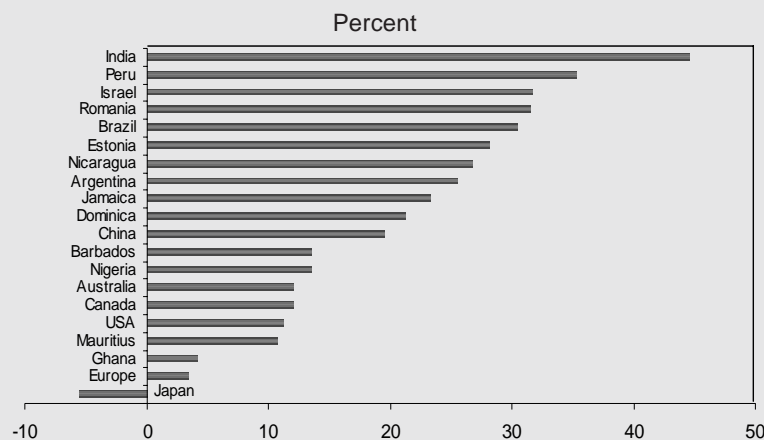
Between identifying worthwhile goals and making them an integral part of the Doha negotiations, falls the shadow. How can negotiations be informed by and lead toward desirable goals?

Box 2. Developing countries' growing stake in cross-border trade in business services

“Other business services” in the IMF balance-of-payments system includes a range of services (other than services like banking, insurance, and telecommunications) that provide intermediate inputs throughout the production processes for goods and services. As the figure 2a below shows, the bulk of such exports still originate in OECD countries. But as the exports of the EU and the U.S. grew by 3.5 and 11.2 percent per annum in the second half of the 1990s, those of India, Peru, Israel, Romania, and Brazil and several others grew at annual rates in excess of 30 percent. Moreover, many other developing countries—including Nicaragua, Argentina, Jamaica, China and Barbados—have witnessed high rates of growth (figure 2b).

2a. Regional distribution of other business services exports, 1995–2000



Box 2 . (continued)**2b. Average growth rates of exports of other business services for selected countries, 1995–2000**

Note: "Other business services" includes: "merchandising and other trade related services," "operational leasing services," and "miscellaneous, business, professional and technical services," which include: "legal, accounting management, consulting, public relations services," "advertising, market research, public opinion poll services," "research and development services," "architectural, engineering, other technical services."

The current bilateral request-and-offer approach, adopted as the dominant negotiating method in the services negotiations, is leading nowhere. There is a strong case for complementing it with certain collective approaches to negotiations. In a world of unequal bargaining power, multilateral approaches (which must be seen to be equitable and efficient if they are to produce agreement) are likely to yield a more desirable outcome than bilateral negotiations. Avoiding sector-by-sector and country-by-country bartering of commitments can substantially reduce the transactions costs of negotiations. Formulae, applied multilaterally, can help overcome the free-rider problem that arises in negotiations conducted under most-favored-nation (MFN)-based system.² Use of such formulae is perhaps the only credible way to grant credit to unilateral liberalizers. In contrast, it is much more difficult to ensure compensation for the loss of negotiating coinage caused by unilateral liberalization in a bilateral request-and-offer negotiation.

In goods negotiations, collective approaches have typically taken the form of formula cuts in tariffs and subsidies. In services, quantitative assessments of offers or numerical targets would be an unhelpful distraction because even the best available methods of quantifying barriers to trade are hopelessly inadequate (Findlay and Warren 2003). At best, it would be possible to measure differences in the

sectoral coverage of commitments, possibly weighted by some crude measure of the level of openness.³ To get agreement on any such target, however, would be extremely difficult and consume valuable negotiating time and energy. Even if agreement were reached on a target, it may merely invite a spate of dubious entries along the lines of “economic needs tests” to create the illusion of coverage. Such a result would confirm the high level of cynicism about the GATS process.

Any goals must be articulated not in arbitrary and opaque numerical terms, but in terms that resonate with the development and business community. A far more fruitful collective approach would be for groups of members, akin to the “friends” groups that already exist, to champion clearly specified goals—possibly similar to those identified above. These goals could be embodied in model schedules (or model regulatory principles) along the lines of the Understanding on Financial Services, the Telecommunications Reference Paper, and the Model Schedule for Maritime Transport. The building blocks of model schedules are relatively straightforward, and some have already been proposed for specific modes (Chaudhuri and others 2004) ; (Mattoo and Wunsch 2004).

By an appropriate choice of sectors and levels of openness, it should be possible to strike a balance between collective commitment and individual flexibility, as well as between sound policy and negotiating imperatives. Different levels of ambition are possible. At the very least, this approach can provide a framework for negotiations. Or it could help establish a presumption in favor of a certain threshold level of commitments. Or it could represent a formula for liberalizing commitments, analogous to the “zero-for-zero” goods formulae, with the objective of securing acceptance by at least a *critical mass* of members—defined as a group of members each of whom would be willing to accept the commitments provided all others in the group do so.

Proposal 1: Members will adopt, or at least complement, the current request-and-offer approach with, a collective approach to negotiations. Groups of members will champion clearly specified goals and articulate them in model schedules (or model regulatory principles). By appropriate choice of sectors and level of commitments, agreement will be secured among a critical mass of members.

An individual member’s incentive to participate in a particular sector or mode will, of course, depend on the willingness of its trading partners to make commitments in modes and sectors (within and outside services) in which the member has an export interest. A reformed negotiating method can help, but ultimately members will need to make the hard political bargains necessary for a successful outcome.

The next two proposals address the substantive concerns that inhibit commitments in the GATS context.

Policy advice, and diagnosing and remedying regulatory inadequacies

Market access in services is negotiated within the WTO. Policy advice and assistance for regulatory reform, by contrast, are provided by multilateral institutions and other agencies. There is virtually no link between the two processes.⁴

This disconnect persists even though it is clear that improved regulation—ranging from prudential regulation in financial services to procompetitive regulation in a variety of network-based services—will be critical to realizing the benefits of services liberalization in many sectors. Policy intervention will also be necessary to ensure universal service because liberalization per se will not always deliver adequate access to the poor. Regulatory institutions can be costly and require sophisticated skills. For example, even a bare-bones telecommunications regulatory authority is likely to cost around \$2 million each year, or 5 percent of the government budget in a country like Dominica. The Doha Declaration contains innumerable references to technical assistance, but not one of these is binding.

It is desirable to establish a credible link between policy advice and regulatory assistance, on the one hand, and liberalization commitments, on the other. Added urgency is lent by negotiating deadlines—improved offers to liberalize were to be submitted by the end of May this year—but negotiating pressure alone is hardly likely to produce the best responses. In the Uruguay Round negotiations, most countries erred on the side of caution and made few commitments to genuine liberalization, while some may have gone too far. For example, the Gambia and Guyana have allowed unrestricted cross-border trade in financial services in their GATS commitments—and hence capital mobility—while the United States and the European Union have not. Malaysia, Pakistan, the Philippines and others agreed to protect foreign incumbents while they offered new entrants inferior conditions of operation—leading to less rather than more contestable markets. A decision on “duty-free” electronic commerce created the legal illusion of a liberated medium, while the much greater threat of discriminatory quantitative and regulatory barriers was not addressed. The liberalization of maritime and air transport has not been seriously negotiated, and exemptions from competition law continue because of the power of vested interests in industrial countries, even though Sub-Saharan African countries pay transport costs that are on average more than five times greater than the tariffs they face.

Development institutions have a stake in the outcome of the services negotiations, because GATS negotiations can be harnessed to deliver much-needed reform and also because unbridled mercantilism could produce outcomes that are antithetical to development. Thus the following question requires an answer: Is there a good reason to defer liberalization, or not to make binding commitments? Weaknesses in existing mechanisms for prudential or procompetitive regulation, the need to alleviate adjustment costs, and the desire to ensure universal access in

liberalized markets may be good reasons for gradual rather than abrupt opening.

Service exporting firms in industrial countries also have a stake, not only in ensuring that markets are opened, but also that such opening is sustainable and in a sound regulatory environment. These objectives can be served by support for improved regulatory institutions and universal access policies. Just as in a national context the private sector is required to contribute, directly or indirectly (through taxation) to financing the regulator without compromising the arms-length relationship, it should be possible for the private sector to contribute resources for regulatory reform in developing countries. Private sector contributions could also help ensure that assistance is genuinely additional and not diverted from other forms of public assistance.

Proposal 2: The international development community will establish a mechanism, funded by public and private donors, to provide policy advice and to diagnose and remedy regulatory inadequacies for developing countries that are considering liberalizing commitments. Recourse to the mechanism will be voluntary.⁵

If such a mechanism is to work, then there must be a *demand* for assistance, which will emerge only if there are fewer suspicions and greater appreciation of its value. On the one hand, countries must be confident that the mechanism will serve their needs and not be a Trojan horse designed for the sole purpose of inducing them to make market-opening commitments. The mechanism must therefore be established in consultation with the relevant countries; credible funding must be provided for diagnostics and remedial action; and it must be clearly understood that recourse to the mechanism will not create an obligation to make commitments. On the other hand, user countries must also see the usefulness of establishing a link between negotiations and assistance in order to foster desirable reform.⁶

Facilitating regulatory cooperation

Facilitating regulatory cooperation could help deal with apprehensions about liberalization of all modes. For example, in financial services, confidence in cooperation by the home-country regulator could lead to openness to both commercial presence and cross-border trade. Similarly, in international transport services, confidence in the enforcement of home-country competition law may increase the willingness to liberalize in importing countries. We focus here on the presence of natural persons, or mode 4. Progress in these negotiations has become a precondition for more meaningful developing-country participation in the process of reciprocal market opening. And it is proving extremely difficult for some countries to make meaningful concessions in this area.

How can we make mode 4 a milestone rather than a millstone for the services negotiations? First of all, members need to recognize that simply asserting that mode 4 is about trade in services and not about migration cannot dispel deep-

rooted fears raised by the entry of foreign providers. These fears have to be acknowledged and addressed. One way forward may be to take a more cooperative and less antagonistic approach to mode 4, drawing upon the experience of a few relatively successful bilateral and regional agreements.⁷

The inclusion of labor mobility in the framework of a *multilateral trade agreement* implies that obligations are assumed by host countries to provide market access on an MFN basis regardless of conditions in source countries. In contrast, the assumption of obligations by source countries also is a key element of regional trade agreements North American Free Trade Agreement (NAFTA) and Asia-Pacific Economic Cooperation (APEC) that have facilitated mobility of the skilled, and of bilateral labor agreements (such as those between Spain and Ecuador, Canada and the Caribbean, and Germany and Eastern Europe) that have to a limited extent improved access for the unskilled. Source-country obligations include premovement screening and selection, accepting and facilitating return, and commitments to combat illegal migration. In effect, cooperation by the source can help address security concerns, ensure temporariness, and prevent illegal labor flows in a way that the host cannot accomplish alone—and constitute a service for which the host may be willing to pay by allowing increased access.

Can these elements be incorporated in a multilateral agreement? One possibility is that host countries commit under the GATS to allow access to any source country that fulfills certain specified conditions—along the lines of mutual-recognition agreements in other areas. Even if these conditions were unilaterally specified and compliance determined unilaterally, it would still be a huge improvement over the arbitrariness and lack of transparency in existing visa schemes. Eventually, it would be desirable to negotiate these conditions (and even establish a mechanism to certify their fulfillment) multilaterally rather than in an unequal, nontransparent, and potentially labor-diverting bilateral context.

In the current GATS framework, when a country makes a market access commitment, it is obliged to grant a fixed level of access every year in the future regardless of domestic economic conditions. In contrast, bilateral labor agreements allow host countries to vary the level of access depending on the state of the economy. One example is the bilateral agreement between Germany and certain Eastern European countries, under which the quota on temporary migrants increased (decreased) by 5 percent for every one percentage point decrease (increase) in the level of unemployment. It may be desirable to consider GATS commitments along these lines, which allow necessary flexibility, albeit in a transparent, predictable, and objectively verifiable manner—a big improvement over the opaque economic needs tests that infest GATS schedules.

Proposal 3: Immigration authorities in member countries would be requested to define a set of conditions that source countries need to fulfill—in terms of screening services providers, accepting and facilitating their return, and making

efforts to combat illegal migration—to be eligible for an allocation of temporary visas. These conditions could be the basis for a dialogue between immigration authorities in host and source countries. GATS commitments on mode 4 would be transparently and predictably conditional on source-country cooperation and host-country economic conditions.

Conclusion

There is considerable scope for the WTO to play its traditional role of facilitating reciprocal liberalization, not only by exploiting trade-offs across goods and services but also within services. But for the process to work, the negotiating process must be reformed and regulators reassured. These steps may help generate a virtuous cycle of mutually beneficial liberalization rather than a bitter round of grudging concessions.

To summarize the main proposals in this paper:

- First, members should adopt, or at least complement the current request-and-offer approach with, a collective approach to negotiations. Groups of members should champion clearly specified goals and articulate them in model schedules (or model regulatory principles). By appropriate choice of sectors and level of commitments, agreement should be secured among a critical mass of members.
- Second, a critical mass of members should lock in the current openness of cross-border trade in a wide range of services, while retaining the right to impose any regulation or restriction that does not discriminate against foreigners.
- Third, a critical mass of members should eliminate barriers to foreign participation in sectors where there is no good reason to defer liberalization. The same members should precommit to eliminating barriers where the necessary preconditions can be fulfilled in a predictable time span. To complement this effort, a multilateral commitment should be made to provide policy advice and to help poor countries establish regulatory mechanisms necessary for successful liberalization.
- Finally, a critical mass of members should allow greater freedom for the temporary presence of intracorporate transferees and of service providers to fulfill specific services contracts. Commitments in this area could be made transparently and predictably conditional on the unemployment rate in host countries and on source countries' assumption of certain obligations related to certification, expatriation, and illegal immigration.

Notes

1. WTO Document TN/S/20.
2. The problem arises in bilateral negotiations because each of the beneficiaries of a concession from a trading partner may be tempted to understate their willingness to pay for it, hoping that offers of reciprocal concessions from other members will be sufficient to induce the concession.
3. See, for example, Hoekman (1996) and Mattoo (1999).
4. The exception are certain countries that recently acceded to or are acceding to the WTO—among them China, the Russian Federation, and Vietnam.
5. Such a mechanism could be part of a broader “aid for trade” initiative of the type called for in the United Nations Millennium Project (2004) and by the G-8 at Gleneagles in 2005. See also Hoekman (2005) and Prowse (2005).
6. In the past, many developing countries either did not engage at all in the negotiations, or succumbed to the bandwagon effect, as in the basic telecommunications negotiations, where many rushed forward to submit schedules of commitments at the last minute; the only directly linked assistance they received (including from the World Bank) was in drafting their schedules.
7. This section draws on joint work done with Julia Nielson.

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