

**PAKISTAN AND THE GATS:
AN ASSESMENT OF POLICIES
AND FUTURE PROSPECTS.**

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Pakistan is a founding member of the GATT and it had actively participated in all its eight rounds of multilateral negotiations. Despite its initial reservations on the inclusion of some non-traditional areas in the Punta del Esta mandate of September 1986, the country had made its contribution in the successful conclusion of the Uruguay Round Agreement (URA) and on 15th April 1994 it was one of the 125 member governments who signed the Marrakash deal which established the WTO. It had remained associated with the Singapore and the Geneva WTO Ministerial Conferences as well as with the on going multilateral negotiations in some areas to complete the requirements of the URA. On the one hand the World Bank, the IMF, the FAO, the ADB and other multilateral agencies and aid donor's Clubs have established collaboration with the WTO while on the other these were (and are still) often involved in consultative process by Pakistan in formulating its macro-economic and sectoral policies. During the UR period Pakistan had independently undertaken implementing structural reforms which inter-alia aimed at fast integration of its economy into global economic system and its liberalization. Despite high socio-economic cost these reforms are being vigorously implemented even in the post URA period.

The URA covers a large number of areas but the present paper focuses only on the GATS with reference to Pakistan economy. Its goal is to assess the extent to which the country has liberalized and opened its services sectors to foreigners under the GATS and the

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resultant gains from that, desirability of further liberalization commitments under the GATS and suggestions for reforming the GATS. The analysis targeted to this goal would encompass the country's strategies and policies regarding trade in services, their conformities and inconsistencies with its obligations under the GATS, the commitments made to meet the GATS obligations and their implications for the economy and would finally put forth the issues which need to be resolved to further liberalize trade in services in future. Hopefully this would ultimately provide some basis for steering the multilateral negotiations in this sector under the built-in-agenda in the right direction so that the next Round towards the turn of the century bears still more fruitful results.

The analysis of this paper referred to in the introductory part has been split into six parts. Part One dwells on the synopsis of the General Agreement on Trade in Services (GATS). Part Two covers the importance of services sectors in the national economy, their growth and international trade. Part Three reviews the government policies for regulation, investment and trade in services. Part Four focuses on the specific commitments and the exemptions from MFN treatment (under article-II) submitted by Pakistan. Part Five raises some issues in the context of implementation of the GATS by Pakistan and for improvement in its prospects. And Part Six closes the analysis with the usual concluding remarks.

Part-I: Synopsis of the GATS

The Uruguay Round was an aggressive adventure in multilateralism by extending the scope of multilateral negotiations to some key non-traditional areas like that of intellectual property rights, foreign investment and trade in services. Under the URA the trade in services has been for the first time brought under the multilateral trade discipline, details of which are

given in the General Agreement on Trade in Services (GATS). That is designed to foster progressive liberalization of trade in services which is ultimately expected to promote investment opportunities, economic growth and development, and to induce efficient utilization of services. The GATS basically consists of the framework agreement (containing 29 articles) and annexes. The framework agreement lays down the general principles and obligations which define the disciplines on trade in services while the annexes cover the rules for the specific services sectors. The rights and obligations for liberalizing trade in services are reflected in the schedules of specific commitments and the lists of exemptions from MFN treatment (under article-II) submitted after negotiations by the member governments. These schedules and exemption lists once submitted become integral part of the GATS but modification in them for improving market access is encouraged but any dilution in the already committed market access is subject to some conditions.

The GATS covers all services except those supplied by a governmental authority on non-commercial basis and not in competition with other service suppliers. Document No. MTN.GNS/W/120 of 10th July 1991 made a preliminary attempt to list the services and placed them under twelve broad sectors such as (1) Business; (2) Communication; (3) Construction and Engineering; (4) Distribution; (5) Education; (6) Environment; (7) Financial; (8) Health; (9) Tourism and Travel; (10) Recreation, Cultural and Sporting ; (11) Transport; (12) "Other". The annexes earlier referred to cover only some most important services wherein the developed countries are very keen to see greater market access while the developing countries are interested in not opening them so fast. Such services sectors include "movement of natural persons supplying services", "air transport service", "financial services", "maritime transport services" "telecommunications" and "basic telecommunications".

Article-1 further defines four modes of services supply. These are : (1) cross border supply, (2) consumption abroad, (3) commercial presence and (4) presence of natural persons. These have been elaborated further in the WTO documents and Secretariat papers so that these could be fully understood (WTO document dated 13th May 1997 and WTO 1998). Their exact meanings are: (a) Cross-border supply – the possibility for non-resident service suppliers to supply services cross-border into the Member’s territory e.g. international telephone calls); (b) Consumption abroad–the freedom for the Member’s residents to purchase services in the territory of another Member (e.g. tourism); (c) Commercial presence – the opportunities for foreign service suppliers to establish, operate or expand a commercial presence in the Member’s territory, such as a branch, agency, or wholly-owned subsidiary e.g. foreign banks setting up its offices/branches in other member country); and (d) Presence of natural persons – the possibilities offered for the entry and temporary stay in the Member’s territory of foreign individuals in order to supply a service.

The schedules of specific commitments and the lists of article II (MFN) exemptions primarily reflect the three basic principles of GATS viz.; market access, national treatment and MFN treatment. The specific commitment in a service schedule is like a tariff binding on trade in goods and this specifies the market access and the national treatment. Under such commitments a government binds the specific level of market access and national treatment separately for each mode of supply for each activity of services. While agreeing to some market access the country is also to make a commitment as to what extent it allows MFN treatment or restricts it to some specific member countries. Time dimensions of denying or liberalizing market access, both in the case of national and MFN treatment are also to be given in the

schedules of commitments. Article XVI:2 of the GATS lists six categories of the restrictions which may not be adopted or maintained unless they are specified in the schedule. All limitations in schedules, therefore, fall into one of these categories. They comprise four types of quantitative restrictions plus two limitations on types of legal entity and on foreign equity participation. Different requirements are spelled out to justify these limitations but one requirement which is common to the former four (quantitative areas) is that of economic need test (ENT). The limitations are on: (a) number of suppliers, (b) total value of transactions or assets, (c) number of service operations or quantity output, (d) number of national persons, (e) legal entity or joint venture for supplying a service, and (f) maximum limit of equity participation of foreign capital. For a service activity a member government is allowed to make additional commitments relating to measures other than those subject to scheduling under article XVI (market access) and article XVII (national treatment); for example, qualifications, standards and licensing matters. Under each service activity/sub activity, for each of the four modes of supply, commitment has to be made on market access and national treatment. The ultimate aim of the GATS is to oblige the member governments to allow national treatment to the foreigners under each mode of service supply wherever commitment has been made for specific market access. Similarly the GAT advocates for MFN treatment under any specific obligations/commitments of market access. The two basic principles of MFN and national treatment combined implies no discrimination on country specific basis as well as on treatment between national and foreigners for each of the four modes of service supply.

The member governments have been allowed derogations from the MFN obligations and they can submit their lists of article-II(MFN) exemptions but these could be for a maximum period of 10 years and subject to a review within 5 years.

The GATS provides (under its articles-X, XIII and XV) that negotiations should take place to evolve disciplines on safeguard measures, government procurement and subsidies but final consensus results have not yet emerged out of the negotiations in these areas in the post URA period. However, in order to safeguard the balance of payments position the member countries are permitted under article XII to introduce restrictions on trade in services as an exceptional measure and notwithstanding any commitments they have assumed. This derogation could be used only in the case of a serious situation or a threat of such problem. In such circumstances this provision (of article XII) over-rides the article- XI on payments and transfers which requires the member countries to allow cross-border capital transfers for setting up business or to carry out the service. The GATS allows the member countries to meet their obligations of the IMF and for that, exceptional derogations are permitted.

When the URA was concluded there were certain areas of trade in services wherein some consensus had not reached. Under the built-in-agenda negotiations were allowed to continue in such areas. Since then, some progress has been made. Agreement was reached on telecommunication services in February 1997, and on financial services in December, 1997. Limited commitments were agreed on the movement of persons in June 1996. However, negotiations on maritime transport were suspended. There are still vital areas of services trade on which negotiations have to reach some tangible conclusions. Article XIX of the GATS provides for further negotiations by the year, 2000. These would take stock of the existing situation and should hopefully put forward new initiatives for further liberalization of trade in services.

Part-II. THE IMPORTANCE OF THE SERVICES SECTORS IN THE DOMESTIC ECONOMY, THEIR GROWTH AND INTERNATIONAL TRADE

Services play an important role in the economy of Pakistan. They contribute more than half of GDP and account for around 45% of the total labour force employed in the country. The services are placed under six broad sectors in the national accounts for the purpose of calculating sectoral GDP in Pakistan. Their combined share in GDP has remained around 52-53% on average in the 90s (1990-91 to 1998-99) and these have recorded a combined growth of 4.5 per year during this period. Individual sectoral shares in GDP and growth rates during the 90s are given in Table-1 which shows that the whole sale and retail trade sector claims the highest share followed, in descending order, by transport, storage & communication, public administration & defence, ownership of dwellings, construction and finance & insurance. The remaining services have been grouped under “other services” whose share is slightly bigger than that of public administration & defence. In the case of ownership of dwellings and “other services”, the national accounts estimation methodology assumed the growth at a constant rate. In the case of other sectors the growth has fluctuated for year to year and wide variations have been observed in growth across the sectors.

Table – 1: Services Sectors Shares in GDP and their Growth Rates

Item	1985-86	1990-91	1995-96	1998-99
Services Sector	53.1 (5.83)	51.8 (5.23)	51.8 (4.86)	52.3 (3.92)
a) Whole Sale & Retail Trade	16.1 (4.95)	16.5 (5.35)	16.0 (6.07)	15.4 (1.28)
b) Transport, Storage & Communication	10.2 (6.72)	9.6 (6.31)	9.5 (0.84)	10.2 (5.31)
c) Finance and Insurance	2.6 (3.48)	2.2 (1.23)	2.6 (13.83)	2.3 (9.41)
d) Construction	4.1 (6.72)	4.1 (5.70)	3.8 (3.25)	3.6 (0.81)
e) Ownership of Dwellings	5.5 (5.30)	5.4 (5.28)	5.4 (5.28)	5.4 (5.28)
f) Public Admn. & Defence	7.4 (5.3)	7.1 (3.30)	6.2 (3.17)	6.1 (3.22)
g) Other Services	7.3 (6.53)	7.6 (6.53)	8.1 (6.53)	8.9 (6.53)

Source: Economic Survey of Pakistan, 1989-90 and 1998-99

The net amount of outflows and inflows of incomes of the country on account of payments and receipts for wages and salaries, profit on investment, transport, shipping, insurance charges is covered under “net factor income from abroad”.

“The net factor income abroad” has remained positive till 1994-95 but since 1995-96 that has turned out “negative”, meaning the receipts which exceeded the payments subsequently fell short of the payments. However, this has recorded consistently negative growth in the 90s. Its amount in Pak. rupee both in current and constant prices of 1980-81 and its annual growth are depicted in Table – 2:

Table – 2: Net Factor Income From Abroad

		(Rs in billion)			
No.	Item	1985-86	1990-91	1995-96	1998-99
1.	Net Factor income in current prices	41.36	23.91	7.14	28.59
2.	Net Factor income in constant Prices of 1980-81.	31.28	9.46	-1.86	-5.91
3.	Growth in net factor income in constant prices.(%)	8.57	-44.9	-146.04	-11.57
4.	GNP in constant prices of 1980-81	408.71	509.42	628.30	678.72

Sources: Economic Survey of Pakistan, 1989-90 and 1998-99.

International Trade in Services:

The balance of payments (BOP) statistics are the major source of information on international trade in services of Pakistan. These are prepared according to the principles laid down in the 4th edition of IMF Balance of Payments Manual. BOP is itself a complete account of all financial transactions which have direct bearing on the financial sector and ultimately on its net output. Besides merchandise trade and government’s loan/aid related transactions it focuses on the services like shipment, transportation, travel and workers’ remittances routed through various modes of service supply defined under the GATS. Some studies add to this list, foreign direct investment (FDI) (Mattoo 1998). Some other studies consider their review essential because of their (FDI)complementarity with financial services (Majd 1995).

The international trade of Pakistan in services including FDI falls next to merchandise trade in importance for Pakistan. Merchandise trade has remained in the red through out the history of Pakistan except for two years. Contrary to that the services account (net) has remained surplus and that has helped the country to meet major part of the merchandise trade gap. If one looks at the components of the services, it is found that the country's payments were much higher than its receipts in the account of shipment as well as in the account of travel. However, its receipts have exceed payments in the account of other transportation. Workers' remittances account for the largest component of services and the country had exported a large number of workers. That has been fetching huge amounts of foreign exchange. These are shown under unrequited private transfers. Similarly, in the 90s foreign direct investment (FDI) had become a big item in the 90s with the launching of liberalization reforms in the country. Nevertheless, the payment against the account of foreign direct investment made by Pakistani abroad has remained an insignificant amount. International trade in services in the past is shown in Table - 3 :-

Table – 3: International Trade in Services

Item	1985-86			1990-91			1995-96			1997-98		
	Credit	Debit	Net Credit	Credit	Debit	Net Credit	Credit	Debit	Net Credit	Credit	Debit	Net Credit
Shipment	2942	5984	-3,042	54	709	-655	55	1,045	-990	48	921	-873
Other Trans-Portation	38	543	-505	738	622	116	751	702	49	756	680	76
Travel	183	221	-38	147	457	-310	105	609	-504	100	379	-279
Investment Income	112	270	-158	82	568	-486	184	2,137	-1,953	124	1,497	-1,373
Other Services & income	186	100	+86	365	185	+180	548	330	218	541	294	247
Unrequited Private	2828	6	2822	2766	51	2715	2,413	35	2,378	3,225	15	3,210

Transfers, Mainly workers' remittances												
Direct Investment Abroad	6	-	6	-	7	-7	4	-	4	-	29	-29
Direct Investment in Pakistan	145	-	145	246	-	246	1,102	-	1,102	601	-	601

- Sources: i) State Bank of Pakistan, Annual Reports, 1989-90 and 1994-95.
ii) State Bank of Pakistan, Pakistan's Balance of Payments, July 1997-June 1998

The country compiles regional and country specific statistics on trade in services. We have selected some specific countries and all regional outflows and inflows of services. These are shown in Table-4. Table-4 reveals that Pakistan has surplus service account with the Organization of Islamic countries (OIC), Middle East, "other countries group", and the US while it is in service deficit with European Community, East Europe, Japan and People's Republic of China.

Table-4: Region wise and Selected Country wise International Trade in Services

(1st July 1997 to 30th June 1998 = 1997-98)

(Rs. in Billion)

Item	Organization of Islamic Countries			Middle East			European Economic Community			Eastern Europe			Other Countries			United States of America			Japan			People's Republic of China		
	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal	Cr	Dbt	Bal
Shipment	0.30	10.234	-9.94	0.55	7.27	-6.72	0.61	9.01	-8.40	0.002	0.26	-0.26	0.38	8.59	-8.21	0.41	5.06	-4.64	0.11	3.03	-2.92	0.025	1.997	-1.97
Other Transportation	11.91	10.97	0.94	11.68	10.58	1.10	8.34	8.42	-0.08	0.01	0.17	-0.16	2.42	2.30	0.11	9.12	6.35	2.76	0.69	0.67	0.026	0.043	0.027	0.016
Travel	0.16	8.59	8.44	0.14	6.16	-6.02	0.18	1.39	-1.21	0.001	0.044	-0.16	0.33	3.71	-3.38	3.56	2.35	1.21	0.024	0.064	-0.04	0.008	0.11	-0.098
Investment Income	0.30	8.10	-7.80	0.26	7.99	-7.72	0.41	11.75	-11.34	-	0.022	-0.022	0.23	12.14	11.92	4.33	29.67	-25.33	0.019	2.50	-2.48	-	0.01	-0.013
Other Services & income	3.61	0.92	2.70	3.38	0.83	2.54	3.11	4.41	-1.29	0.023	0.082	-0.06	5.59	2.06	3.53	9.997	3.53	6.47	0.64	0.72	-0.088	0.074	0.041	0.033
Unrequited private Transfer	48.19	0.12	48.06	47.29	0.103	47.19	8.40	0.15	8.25	0.007	-	0.007	70.15	0.14	70.01	10.13	0.21	9.92	1.64	-	1.64	-	0.002	-0.002
Direct Investment abroad	0.034	-	0.034	0.034	-	0.034	-	0.53	0.53	-	-	-	-	0.79	-0.79	0.012	-	0.012	-	-	-	-	-	-
Direct Investment in Pakistan	1.11	-	1.11	1.05	-	1.05	8.79	-	8.79	0.001	-	0.001	3.45	-	3.45	10.96	-	10.96	1.18	-	1.18	0.19	-	0.19
Total=	65.614	38.934	43.544	64.384	32.933	31.454	29.840	35.66	-5.81	0.044	0.578	-0.537	82.550	29.730	76.640	48.519	47.170	1.362	4.303	6.984	-2.682	0.340	2.190	-1.844

Cr. = Credit Dbt = Debit Bal = Balance

Rs. 43.20 = one US\$

Source: State Bank of Pakistan, Pakistan's Balance of Payments July 1997 – June 1998.

Pakistan is a labour surplus country. Its surplus labour in earlier years have been migrating to the UK and other Western countries. The oil boom in the Middle East in the 70s opened greater avenues of labour emigration to that region. The US and Canada also provide some job opportunities but mostly for educated and skilled labour. Pakistan experienced export boom of manpower during the period, 1976-77 to 1982-83 when almost 1/3 of its incremental labour force with an average outflow of 138 thousand workers per annum was absorbed in the Middle East. Home remittances (foreign exchange remitted to Pakistan) had increased from US \$ 578 million in 1976-77 to US \$ 2,886 million in 1982-83. After touching a peak in 1982-83 the remittances have started declining since 1983-84 and with their continued tapering off these had declined to a level as low as US \$ 1,055.8 million during 1998-99. The major country sources of these remittances in the selected past years are given in Table-5.

Table-5: Country wise Worker's Remittances. (US\$ in Million)

Name of the Country	1985-86	1990-91	1995-96	1998-99
Middle East	2,021.51	1,234.84	1,053.24	821.11
UK	223.27	180.05	109.74	73.59
USA	194.46	190.23	141.92	81.95
Germany	35.27	32.62	26.06	11.93
Norway	21.51	21.28	11.72	5.26
Canada	7.71	11.26	5.67	3.46
Others	91.58	178.01	112.82	58.5
Total	2,595.3	1,848.29	1,461.17	1055.80

Source: Economic Survey of Pakistan, 1998-99

In 1995-96 the manpower outflow which totaled 128 thousand workers in 1975-96 is estimated at 145 thousand in 1998-99. The workers outflow has grown at an annual rate of 4.2 percent during 1976-96. The Middle East has been the main stay of the overseas Pakistani workers and that region accounted for almost 99 percent of the manpower export. In the 70s most of the workers were unskilled but substantial shift has taken place in the composition of exported labour. With the tapering off of oil boom the demand for unskilled workers had relatively declined while there is still stable demand for supervisory and skilled workers. Working Group for the 9th Five Year Plan of Pakistan has projected the outflow of Pakistani workers abroad at 2.276 million in the year 2010. The projection is made at a compound growth of 4.2 percent per annum.

With the launching of structural reforms which were aimed at deregulation, privatization, opening up the economy, liberalizing the foreign exchange and payment system/procedure by allowing free mobility of foreign exchange and dismantling restrictions on maintaining foreign currency accounts even by resident Pakistanis and reduction in restrictions on foreign investment induced huge amount of FDI besides attracting large deposits in foreign currency accounts. FDI was of US \$ 216.2 million in 1989-90 which substantially crossed a one billion mark in 1995-96 (to be exact, \$ 1101.7 million) but since then this has started shrinking because of political changes, causing some instability in economic policies and more recently the nuclear explosion race between India and Pakistan since May 1998.

According to the country of origin of FDI, the break up during the selected years of the 90s is given in Table-6. The largest sources of FDI in Pakistan are the USA, the UK, the UAE and Japan.

**Table 6: Foreign Direct Investment according to Country of Origin
US \$ in Million.**

Country	1989-90	1990-91	1995-96	1998-99
USA	93.9	130	319.8	16.4
UK	22.8	33.8	331.7	81.6
UAE	15.9	9	52.8	6.9
Germany	11.2	12.5	26	19.3
France	6.0	7.1	14	7.0
Hong Kong	0.9	3.3	33.9	10.0
Italy	3.8	2.9	0.5	0.2
Japan	16.1	26.2	82.1	57.4
Saudi Arabia	1.1	0.9	26.9	1.1
Canada	0.9	1.9	0.8	0.3
Netherlands	5.3	2.3	11.9	5.7
South Korea	-	-	31.5	4.6
Others	38.3	16.1	169.8	27.0
Total	216.2	246	1101.7	376.0

Sources: GOP – Economic Survey of Pakistan, 1998-99.
State Bank of Pakistan's Circular, July 1999.

Part-III.

Government Policies for Regulation, Investment and Trade in Services: (As Part Of Structural Reforms)

Towards the close of the 80s it was recognized that the economy was growingly faced with some serious structural weaknesses like persistent deficits in Budget and balance of payments resulting into increasing debt servicing liability, stubborn savings – investment gap, stagnant productivities in the real sectors, inadequate social facilities like education and health (resulting into dismal human resource development) and high level of unemployment. Physical and financial infrastructure was fraught with serious inadequacy to sustain high growth in future. Such macro-economic instability combined with stagnant productivities and inadequate social, physical and financial infrastructure was diagnosed as a result of excessive regulations, huge inefficient public sector, over controlled external trade, restrictive exchange and payments system/procedure, overvalue exchange rate of currency, weak resource mobilization and excessive budgetary expenditure, lack of prudential regulation and financial discipline, monetary policy as captive of budgetary requirements and full of distortions, low priority to physical infrastructure and social services in development plans and lack of sound package to attract foreign investment and advanced technology.

In order to improve the economic fundamentals the country has embarked since early 90s upon an ambitious programme of structural adjustment and stabilization reforms. Its main ingredients are deregulation, and decontrols, diverting public sector enterprises, opening up the external sector by dismantling quantitative controls and reducing tariffs, market orientation of the exchange rate (devaluation to adjust over valued rupee), restrictive monetary and credit policy with its orientation to demand and supply forces and prudential discipline, tightening budgetary expenditure and expanding resource mobilization, and adequate incentives for foreign investment. This programme had initially enjoyed the support of the IMF, the World Bank and multilateral bilateral donors. The following matrix displays different policy instruments and how they were targeted to different objectives under the main components of the programme.

Table-8. Reforms Programme

COMPONENT OF REFORM PROGRAMME	OBJECTIVE	POLICY INSTRUMENT
Stabilization Disabsorbtion or Expenditure Reduction	Reduce aggregate demand to eliminate excess absorption & to correct BOP current account deficit	FISCAL POLICY- Reduce public sector deficit MONETARY POLICY – Credit ceilings for

		public & private sector DEVALUATION
Structural Adjustment or Efficiency Improvement	Improve efficiency and growth to reduce hardship associated with expenditure reduction	REMOVE PRICE DISTORTIONS PRIVATISATION MARKET LIBERALISATION TRADE LIBERALISATION INVESTMENT REALLOCATION INSTITUTIONAL REFORM IMPROVE PUBLIC SECTOR EFFICIENCY

We review here only that component of the reform programme which directly relates to services sectors and that covers deregulations and decontrols, privatization of public sector enterprises (PSEs), exchange and payments reforms, and investment policy measures .

The other components of the programme targeted to macro-economic stability, though directly, also influenced the services sector and their international trade. In 19991 the government announced to dispense with the requirement of its prior approval of making investment in quite a few areas. To attract foreign investment equity participation limit, access to borrowing by foreign companies and under writing of shares by foreign bank's purchases were liberalized. All controls on the operation of foreign currency accounts by foreign firms and individuals were abolished. Resident Pakistanis were also allowed to maintain foreign currency accounts in Pakistan on the same basis as non-residents. Restrictions on holdings of foreign currency and on foreign exchange allowances for trainees were removed.

The rules governing private sector's foreign borrowing were greatly liberalized, especially where no government guarantee was required. A host of other restrictions on foreign payments were removed e.g. for foreign advertisements, education, professional, institution's membership, non-resident journalist's fees, posting of newspaper correspondents abroad, publications, trade fairs and exhibitions, and excess baggage in foreign airlines.

During 1992-93 investment in Government Securities including NIT Units by non-resident Pakistanis on repatriable basis were further liberalized. Authorized Dealers were allowed to import and export foreign currency notes and coins, either to replenish their stock of foreign currency notes or to dispose of surplus holdings of foreign currency notes, without prior approval of the State Bank. Exports in Pakistan were permitted to book forward exchange cover

denominated into a convertible currency other than the U.S. Dollar in the international market in respect of a foreign contract made by them for export of goods from Pakistan.

In the early 90s the reforms launched in the financial sector included measures like : a) establishing an auction market for short-term Treasury Bills and long-term Federal Investment Bonds; (b) creation of a secondary market in Government Securities, providing market related return on securities; (c) allowing not only commercial and investment banking but also housing finance companies in the private sector; and (d) implementation of improved prudential regulations. In order to improve operational efficiency, a charter of Development Finance Institutions (DFIs) was prepared. It increases their autonomy by giving full powers of loan sanction and write off etc. to the Board of Directors of the DFIs. In October, 1992 the policy regarding capital issues was reviewed and it was decided to allow the companies issuing 51 percent or more capital to foreigners to do so without obtaining any permission from the controller of capital issues.

Government has announced plans to privatize banks and development financial institutions (DFIs). At that time the banking sector was controlled and managed by the government. There were five nationalized commercial banks, three specialized banks (like agricultural bank) and eight DFIs. There were also some foreign banks in operation which were not nationalized in the 70s and these mostly catered to the banking needs of the multinational companies operating in Pakistan and foreign missions and embassies. The government started the privatization drive by selling two public sector commercial banks which did not show appreciable returns. Subsequently one DFI was also divested. Two years back the government has sold a private bank (which was taken over by the nationalized bank) to a foreign company. The process for further nationalization of the public banks and DFIs is faced with some complexities but the government is still committed to continue with the process though with some delay. Notwithstanding that, the policy of deregulation has helped encourage the private sector including the foreigners to open banks in the country. According to the published statistics there are 21 foreign and 12 private banks in the country. The State Bank of Pakistan has been given autonomy which was another step to strengthen the process of deregulation.

The government has involved the private sector in building roads and highways. Motorway, 339 kilo meter long 6-lane Lahore to Islamabad, has already been built by a foreign company (South Korean). Similar intercity motorways are being built by the private sector in cooperation with foreign investors.

In the ports & shipping sector, projects relating to acquisition and operation of tugs and pilot boats, integrated container terminal, multi-purpose cargo handling have been offered to the private sector. Real estate development, signal buoy mooring and floating jetties have also offered to the private sector. Similarly, Port Qasim, development of the port took place with greater private sector participation in such areas as bulk-oil terminal, container terminal, provision of utilities etc.

In the transport sector most of the road transportation is already in the private sector. One Korean Company is running passenger buses on Islamabad – Lahore route. The railways are wholly owned and operated by the private sector. Over the last two decades the role of public transport on intercity routes has almost vanished. The government in the early 90s has given massive incentives for automobiles imports and purchase of locally produced vehicles. That has given a big boost to the private sector. The government has decided to privatize the following activities of railways and work on some of them has already been started:

- i) Ticketing of selected inter-city routes.
- ii) Parcel services between major urban centers such as Karachi-Lahore, Karachi-Faisalabad, Karachi-Multan.
- iii) Washing and cleaning of passenger coaches.
- iv) Senatorial services on major stations.

Pakistan International Airlines (PIA) is catering for the bulk of air travel services in the country. In addition, several international airlines operate to and from the various international airports of the country. Following the early 90s policy of including the private sector in air travel services, three private air lines i.e., Shaheen Airlines, Bhouja Airlines and Aero Asia Airlines are now operating in the country.

In shipping sector the country has a limited capacity. A public sector owned Pakistan National Shipping Corporation (PNSC) has 15 vessels with dead weight of 261,836 tons which cater to about 15 % national requirements and its operations are mostly confined to the Asian region. The PNSC is running losses. The privatization commission is following its privatization programme which has two components viz. (a) the privatization of the PNSC is to be considered in atleast two tranches, with the first tranche consisting of a block sale of 51% of the equity to a Pakistan – based investor, possibly in collaboration with a foreign investor; and (b) the management control of the PNSC to be given to the company acquiring 51% of shares in the sale of the first tranche.

Over the last nine years or so the telecommunication sector has undergone remarkable transformation. Its network has substantially expanded with an addition of new services. Ten major telecommunication services as already stated have been deregulated. In the manufacturing sector, copper and optic cable, telex, fax other terminal equipment and manufacture of digital exchanges has been deregulated. Until the 1990 T&T department of Government had a monopoly over the telecommunication sector, but as a result of successive reforms and legislations autonomous agencies(still in public sector) with complementary functions have come into being. These are Pakistan Telecommunication Corporation Limited (PTCL) entrusted with the responsibility of provision of telecommunication services to the public, National Telecommunication Corporation (NTC) as a second carrier in Pakistan exclusively for public sector communication needs (by maintaining secrecy) and Pakistan Telecommunication Authority (PTA) as an independent regular of all telecommunication activity in the country. 2% equity of PTC (predecessor of PTCL) has been sold in the domestic market while 5 million workers of PTCL at a total value of U.S. Dollar 900 million has been sold to international investors. Foreign companies have been hired as financial advisor to privatize PTCL.

The government announced a comprehensive **Investment Policy** in 1997. This specified its policies regarding foreign investment and immigration procedure for businessmen, technical and managerial personal (Pakistan : investment policy, January 1998). Subsequently on 17th January 1998 and then on 6th March, 1999 the Government issued notifications to further liberalize investment policy. The present status of the policies concerning foreign investment in services sector and social infrastructure and immigration procedure which directly relate to the

different modes of service supply is reviewed. Foreign repatriable investment will be subject to the following conditions.

a) **Service/Infrastructure Sector**

- i) the company shall be registered with the Board of Investment in due course;
- ii) the amount of foreign equity investment in the company shall be at least US \$ 0.5 million;
- iii) a minimum 40% of the equity infrastructure sector shall be held by a Pakistani company or local individuals in the company. (But this condition shall not be applicable in the case of infrastructure projects including development of industrial zones and hotels & tourism or tourism related services ;
- iv) The requirement to have 40% local equity held by Pakistani investors in Service Sector has been relaxed to the extent that foreign investors may hold 100% foreign equity subject to the condition that remittance of profits will be restricted to 60% of total equity or profits till such time the condition of minimum 40% of the equity to be held by Pakistani investors (including the sale of shares in Stock Exchange) is met within two years time.
- iv) the company shall not market real estate projects unless title of property is transferred to its name.

The following activities in this sector shall be available for foreign investment:

Wholesale, distribution and retail trade; transportation, storage and communications, infrastructure projects including development of industrial zones; telecommunications, real estate development, development of commercial buildings, apartment buildings, housing projects, super markets/shopping malls, urban development, development of new communities); hotels & tourism or tourism related services; technical testing facilities; audio-visual services; sporting and other recreation services; rental services relating to transport equipment and machinery; equipment and tools for land machinery, equipment for agricultural purpose; environmental services.

The investment policy 1997 has specified the activities/services in the telecommunications sectors which have been deregulated and these include i) E-mail/Internet/Electronic Information Services (ELS), ii) Data Communication Network Services, iii) Trunk Radio Services, iv) Cellular Mobile Telephone Services, v) Audiotex Services, vi) Voice Mail Services, vii) Card Pay Phone Services, viii) Close User Group for Banking Operations, ix) International Satellite Operators for Domestic Data Communications, and x) Paging Services.

b) **Social Sector**

- i) the company shall be registered with Board of Investment in due course;
- ii) the amount of foreign equity investment in the company shall be at least U.S. \$ one million; and
- iii) The following activities will be available for foreign investment and this fact shall be inserted in the Memorandum of Association:-

“Education, technical/vocational training, human resource development, hospitals, medical and diagnostic services”.

While submitting the registration documents, a declaration will be made by the promoters that they intend to establish this proposed company involving foreign investment, in a manufacturing sector or a non-manufacturing sector in Agricultural Sector or Service Sector or Infrastructure Sector or Social Sector (indicating any one of the specific economic sectors) so that the company can be incorporated in the light of relevant conditions.

Foreign Investment in Insurance and Banking Sectors

The 1997 investment policy does not cover insurance and banking sectors. Separate policies have been developed for these services. The insurance business, life insurance as well as general insurance, in Pakistan underwritten by the insurance companies, in the private sector, is governed/regulated under the Insurance Act, 1938. At present there are 65 general/life insurance companies which include 9 foreign companies undertaking insurance business.

Till 1993, foreign investment in the field of insurance was not encouraged in order to develop/protect the domestic insurance sector. However, keeping in view the changed investment scenario the government allowed induction of foreign investment in this field. Since October, 1993 the following policy guidelines have been laid down for foreign investment in insurance sector:-

- i) Foreign Insurance Companies desirous of operating in Pakistan should be entitled to hold 51% share.
- ii) Foreign Companies should be required to bring a minimum amount of US \$ 2 million in foreign exchange and raise an equivalent amount from the local market.
- iii) There should be no restrictions on the number of branches.
- iv) There should be no restrictions on the foreign insurance companies as to whom they should employ. They should be given national treatment in extending all the facilities as enjoyed by local companies.

The State Bank of Pakistan has developed a set of rules and regulations to govern foreign investment in the banking sector. The foreigners are allowed to open a bank in Pakistan in which foreign ownership shall not exceed 50% and they are mandated to retain ownership for a period of 10 years. Prior approval of the State Bank is required for acquiring 5% or more of the paid up capital of a bank. Further details could be seen in a latter section on sector specific commitments in financial sectors.

The foreign banks operating in Pakistan have to follow the State Bank's prudential regulations. All regulations are equally applicable to all banks including foreign banks. Regulation-I on limit on bank's exposure to a single person and regulation –II on limit on bank's exposure against contingent liabilities specify separate specific limits for national and foreign banks but their ultimate impact would work out almost the same.

Foreign Investment in Shipping Services:

During the UR period the government assessed the country's position on shipping services and in December 1994 it allowed direct foreign investment in the shipping sector. Under this permission the foreign shipping companies can open their branch offices to undertake

shipping business in Pakistan. They have to meet the requirement that they shall apply to the Board of Investment for opening their branches and the Board will ensure that the conditions to make investment for improving the required infrastructure in ports such as storage facilities and handling equipment are fulfilled by the applicant.

IMMIGRATION PROCEDURE

1. The Visa Policy

Its salient features are as follows:-

- i) Businessmen and investors from the 43 countries listed below, with substantial investment in Pakistan would be granted multiple entry visas valid for three years.

Australia	Austria	Bahrain	Belgium	Brunei
Canada	China	Czech Republic	Denmark	Finland
France	Germany	Greece	Hong Kong	Hungry
Iceland	Indonesia	Iran	Ireland	Italy
Japan	Kenya	Kuwait	Luxembourg	Malaysia
Netherlands	New Zealand	Norway	Oman	Poland
Portugal	Qatar	Saudi Arabia	Singapore	South Korea
Spain	Sweden	Switzerland	Thailand	Turkey
U.A.E	U.K.	USA		

- ii) business from the listed countries who want to establish business offices in Pakistan would be issued multiple entry visa for one year on recommendations of their embassies/missions in Pakistan;
- iii) businessmen/investors from any of the listed countries where there is no Pakistani Embassy will also be allowed thirty days landing permit on arrival at the airport in Pakistan; and
- iv) Pakistani industrialists/businessmen interested to invite foreign entrepreneurs from countries, other than listed, for promotion of trade and industrial cooperation would be allowed to sponsor, on their guarantee, the grant of visa for one month through Chambers of Commerce and Industry at Lahore, Karachi,

Peshawar, Quetta, Islamabad and the Federation of Pakistan Chambers of Commerce and Industry; and

2. **Further concessions under Investment Policy of 1997**

- i) **Work Permit:** The expatriate technical and managerial personnel working in manufacturing/industrial sector and infrastructure projects have been exempted from obtaining work permits. In other cases work permits is issued by the Board of Investment within a period of 4 to 6 weeks. The permits are issued for a period of 3 to 5 years or validity of the Passports.
- ii) **Opening of Project/Branch/Liaison Office:** In case of requests for opening branch, liaison or representative office by a foreign company and registration of foreign investing companies in service, social and agricultural sectors, time limit for processing and final response by the Board of Investment (BOI) will be 6-8 weeks. The permission for opening of branch/liaison office are granted by BOI for a period of 3 to 5 years. Further extension is granted by BOI after reviewing/examining the performance of foreign company during previous permitted period. The request for renewal/extension is processed and disposed off by BOI within 2 weeks time provided such requests are supported with complete documentation.
- iii) **Issuance of Work Visas:** Work Visa will be issued within a maximum time of one (1) month after the receipt of request along with the required documentation. Multiple entry visa for 3 years is issued to foreign investors and expatriate employees subject to submission of complete documentation by their employer company and they hold work permit/passports valid for 3 years.

The concerned Pakistani Mission abroad will grant work visa till the validity of work permit or passport which ever is earlier, within a week after the receipt of request provided BOI issues work permits on the basis of NOC of Ministry of Interior. In emergent cases, Ministry of Interior will issue work visas up to 3 months to a foreigner on the recommendation of BOI or on the request of the employer (as the case may be) without any clearance. However, further extension will be allowed after completing necessary formalities, i.e., production of work permit (in case it is required) and obtaining security clearance. Business Visa will be issued on the same day basis.

In case of the projects in power, petroleum exploration, communication etc., concerned Agency or the management of such projects will identify the requirement of expatriate personnel. Accordingly, Ministry of Interior would issue visas subject to condition that particulars along with supporting documents of the expatriate personnel are furnished to the Ministry. For the purpose of changing the category of visa of foreign national employees/investors, from business visa to work visa, the condition to go out of Pakistan to any third country and get it converted from Pakistani Mission in that country, has been withdrawn. In future, Ministry of Interior will process such requests on getting verification from BOI. Further details may be obtained from BOI or from Ministry of Interior.

3. **Grant of Pakistan's Citizenship to Foreign Nationals (Investors):** By allowing the Pakistani Citizenship to foreign investors, potential foreign businessmen could provide an additional source of foreign investment for Pakistan. Any person of a country recognized by Pakistan, may get Pakistani Citizenship by investing a minimum of US \$ 0.75 million in tangible assets and US \$ 0.25 million (or equivalent in major foreign currency) in cash, both on non-repatriable basis and subject to fulfillment of the conditions of Pakistan Citizenship Law. It is

clarified that transfer on non-repatriable means that the amount will be brought to Pakistan through normal banking channels, converted into rupee and never remitted back through the free market.

Unexpected Indo-Pak nuclear race abruptly started in May 1998 created uncertainty which led to increase in speculated demand for dollar. As a precaution the government froze foreign currency accounts of over eleven billion dollar, imposed restrictions on outflow of foreign exchange for purposes other than considered very essential and introduced a two-tier exchange rate system with effect from 22nd July 1998. Since May 19, 1999 two-tier exchange rate has been replaced by a unitary exchange rate but restrictions on free outflow of foreign exchange remain under restrictions which in fact nullified some part of the liberal exchange and payment system introduced in the early 90s. As the country makes improvements in balance of payments position the restrictions would hopefully vanish in due course of time but in the mean time these would be certainly having a negative impact on the trade in services as it reduces market access to the foreign investors.

Part-IV. COMMITMENTS SCHEDULED UNDER THE GATS

While making commitments in trade in services on market access, national treatment and MFN treatment, Pakistan, adopted cautious approach. It was guided by a number of considerations. Pakistan like many developing countries found that the GATS allows the capital of developed countries through mode(3) greater market access in the developing countries while market access to the excess factor of production (i.e. labour) of developing countries through mode(4) is restricted. The services sector in Pakistan like many other countries is far less developed compared to that of developed countries and hence when the free trade opens in services the country will be the loser on the basis of comparative advantage principle. The existing legal and regulation infrastructure should undergo minimum structural changes. The equity requirement should be followed in the new establishments particularly under mode (3).

The country fully reckoned the fact that there is no compulsion under the multilateral discipline of the GATS for a member country to make necessarily a specific binding or commitment. Bilateral exchange of offers and requests has been permitted to member countries for agreeing to commitments.

Pakistan made comprehensive initial commitments wide Document No. MTN.GNS/W/170 of 20th September in 1993. It covered 20 services activities which fall under 5 service groups. These commitments were in the form of conditional offer and were made after consultations with the interested member countries and taking into account the requests made by them. Pakistan specified that its offer was conditional subject to the extent and nature of the commitments made by other participants particularly, in the sectors/sub-sectors and mode of supply of interest to Pakistan especially that relating to the “Movement of Natural Persons”. While making these initial commitments the country reserved the right to change them at any stage depending on the satisfactory outcome of the Uruguay Round. The initial schedule of commitments is summarized in Table-9.

Table-9 Sector specific commitments Scheduled on 20th September, 1993

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment
(A) BUSINESS SERVICES		
1. Services incidental to Agriculture, Forestry and Fishing (excluding hunting) (CPC No. 881+882)	(1) Ub, (2) Ub, (3) N, (4)N	(1) Ub, (2) Ub, (3) N, (4) N
2. Services incidental to Mining (CPC No. 883+5115)	(1) Ub, (2) Ub, (3) N, (4)N	(1) Ub, (2) Ub, (3) N, (4) N
3. Engineering Services for Building Infrastructures: Harbours, dams, hydel power, and airports, only (CPC No. 8672)	(1) Ub, (2) Ub, (3) R1 (4) N	(1) Ub, (2) Ub, (3) N, (4) N
4. Integrated Engineering Services (CPC No. 8673)	(1) Ub, (2) Ub, (3) R, (4) N	(1) Ub, (2) Ub, (3) N, (4) N
5. Consultancy Services related to the installation of computer hardware (CPC No. 841)	(1) Ub, (2) Ub, (3) N, (4) N	(1) Ub, (2) Ub, (3) N, (4) N
6. Software Implementation Services (CPC No. 842)	(1) Ub, (2) N, (3) N, (4) N	(1) Ub, (2) N, (3) N, (4) N
7. Data Processing Services (CPC No. 843)	(1) Ub, (2) N, (3) N, (4) N	(1) Ub, (2) N, (3) N, (4) N
8. Data Base Services (CPC No. 844)	(1) Ub, (2) N, (3) N, (4) N	(1) Ub, (2) N, (3) N, (4) N
9. R & D Services on Natural Sciences (CPC No. 851)	(1) Ub, (2) N, (3) N, (4) N	(1) Ub, (2) N, (3) N, (4) N

10. Technical Testing & Analysis Services (CPC No. 8676)	(1) Ub, (2) N, (3) N, (4) N	(1) Ub, (2) N, (3) N, (4) N
11. On Line Information and Data Base Retrieval (CPC No. 7523)	(1) N, (2) Ub, (3) N, (4) N	(1) N, (2) Ub, (3) N, (4) N
(B) COMMUNICATION SERVICES.		
12. On Line Information and/ or Data Processing (CPC No. 843)	(1)Ub, (2) Ub, (3) N (Subject to use of Pakistan Telecommunication Corporation network), (4) N	(1)Ub, (2) Ub, (3) N, (4) N
(C) CONSTRUCTION AND RELATED ENGINEERING SERVICES.		
13. Construction work for Civil Engineering for Bridges, Elevated Highways, Tunnels and Subways (CPC No. 5132)	(1)Ub, (2) Ub, (3) N, (4) N	(1)Ub, (2) Ub, (3) N, (4) N
14. Construction Work for Civil Engineering for Waterways, Harbours Dams and other Waterworks (CPC NO. 5133)	(1)Ub, (2) Ub, (3) N, (4) N	(1)Ub, (2) Ub, (3) N, (4) N
(D) FINANCIAL SERVICES		
15. Insurance: Life Insurance (CPC No. 81211)	(1) Ub, (2) Ub, (3)R2, (4) N	(1) Ub, (2) Ub, (3)Ub, (4) N
16. Re-insurance Services and Retrocession (CPC NO. 81299)	(1) Ub, (2) N, (3) Ub, (4) Ub	(1) Ub, (2) N, (3) Ub, (4) Ub
17. Services Auxiliary to Insurance (including broking & agency services) (CPC No. 8140)	(1) Ub, (2) N, (3) Representative Office Only, ,(4) N	(1) Ub, (2) N, (3) Ub, (4) Ub
18. Banking Services: The following: 1. Acceptance of deposits and other repayable funds from the public. (CPC No.81116) 2. Lending of Consumer credit, mortgage credit, and financing of commercial transactions.	(1) Ub, (2) Ub, (3) R3 ,(4) N	(1) Ub, (2) Ub, (3) Ub, (4) N
19. Trading of securities: Insurance of Securities including and placement as Agents (whether publicly or privately) and provision of services relating to such issues (CPC No. 8132)	(1)Ub, (2) Ub, (3) N, (4) N	(1)Ub, (2) Ub, (3) N, (4) N
(E) HEALTH RELATED AND SOCIAL SERVICES		
20. Hospital services (CPC No. 9311)	(1) Ub, (2) N, (3) Nr, (4) N	(1)Ub, (2) N, (3) N, (4) N

Foot Note: (i) (a) Modes of service supply. (1) cross border supply, (2) consumption abroad, (3) commercial presence and (4) presence of natural pressure.

- (ii) (b) Ub= Unbound, N= None, R1 = Maximum of 40 % of foreign share holding in engineering Consultancy companies, R2= Maximum of 25 % of foreign share holding in existing life insurance companies, R3= Subject to economic needs test and approval of Corporate law Authority of Pakistan, the central bank may grant licenses for establishment of locally incorporated subsidiaries. – Maximum share holding of a foreign financial institution in the local subsidiary not to exceed 30%. – Permission of the central bank required for investment in shares of a banking company in excess of 4% of paid-up capital of the local company and Nr = Subject to Pakistan Medical and Dental Council Regulations.

The pattern of commitments made, as reflected in Table-9, reveals that it was mostly to maintain the status quo although, in some cases it amounted to further restricting the trade. ‘Grandfathering’ of existing establishments was allowed particularly in the case of branches and subsidies of foreign institutions that were wholly or majority owned by foreigners in insurance and banking services. The initial offer of commitments were in fact supplemented with a number of qualifications and explanatory notes which in fact are equivalent to “horizontal” limitations (at that time the country did not specifically use the nomenclature of horizontal limitations which apply to all sectors unless specifically stated otherwise). These are stated below:

- a) **General Legal Provision:** The offer is subject to relevant laws, rules, regulations, procedures, decisions, administrative actions and any other measures applicable in Pakistan, whether at the Federal, Provincial or local levels. It is also subject to the terms and conditions prescribed by the concerned professions and regulatory bodies in Pakistan.
- b) **Measures of General Application:** Unless otherwise indicated against a particular sector or sub-sector, the commitments shall be subject to the following measures of general application:
 - (i) If the supply of a service, in respect of which a commitment is made by Pakistan, involves the import or export of equipment and/or goods, the relevant laws, rules and regulations pertaining to the importation or exportation of such equipment and /or goods, including any customs duties, shall apply.
 - (ii) “Consumption abroad” shall be subject to any measures including exchange regulations applicable from time to time to the movement, and consumption abroad of services, by Pakistanis or Pakistan-based consumers.
 - (iii) All matters pertaining to acquisition of land and/or property shall be subject to relevant laws, rules and regulations.
 - (iv) Commitments under ‘Commercial presence’ shall be subject to the condition that the foreign supplier is incorporated in Pakistan with maximum foreign equity participation of 51 per cent, except in the case of representative offices.
 - (v) Unless otherwise inscribed against a particular sector or sub-sector, and subject to the establishment of commercial presence in accordance with (iv) above, the commitment on temporary ‘Presence of Natural Persons’ shall be subject to the general limitation that the number of foreigners

shall not exceed 50 per cent of the personnel in superior categories (namely, Executives, Senior Managers and Specialist) and 25 per cent in the other categories.

- (vi) Where a commitment in respect of ‘Presence of Natural Persons is inscribed in the schedule, it shall be subject to immigration and labour laws, visa regulations and work permit requirements applicable and in force from time to time. Furthermore, temporary entry of Natural Persons shall not give rise to the right to permanent residence, nor shall it be considered as period of residence for the grant of permanent residential status or citizenship.

Commitments in the financial services sector shall be subject to the regulatory regime governing banking, insurance, securities and other financial businesses.

The schedules also included explanatory notes for transparency purposes which are as follows:

1. Foreign investment in Pakistan is protected under the provisions of Foreign Private Investment (Promotion and Protection) Act, 1976 as amended.
2. Presently, incorporation and operation of a company in Pakistan is subject to the provisions of the laws such as;
 - i) Companies Ordinance 1984; ii) Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance 1970; iii) Securities and Exchange Ordinance 1969; iv) Modaraba Companies and Modraba (Floatation and Control) Ordinance 1980; and v) Capital Issues (Continuance of Control) Act, 1947.

As the negotiations continued before as well as after the WTO became functional Pakistan has been updating its schedule of specific commitments but the basic guidelines laid down in the 1993 commitments remain the guiding principle for future. Nevertheless its specific commitments scheduled wide GATT's Document No. GATS/SC/67 of 15 April 1994 set out the main framework. That extended not only the service activities but the overall service sectors. Moreover, these also showed improvement in terms of market access and national treatment over the previous ones. These have subsequently been improved particularly in the case of financial services and telecommunication services. Instead of going through the historical evolution or stages of updating the commitments we would now focus on the present status of these commitments.

The specific commitments scheduled under document no. Gats/c/67 of 15 April 1994 cover the six sectors of (1) business services,(2) communication services, (3) construction and related engineering services, (4) financial services, (5) health and related social services, and (6) Tourism and travel related services. After the circulation of this document, pressure was built on Pakistan for reducing limitations on greater market access and national treatment and allowing improved MFN treatment more particularly in the case of financial and telecommunication services. As a result the country had notified modified commitments only in these two areas but in the remaining 4 areas the position had infact remained unchanged. Nevertheless the country had flagged its concern through special communications at various negotiating forums under the GATS for seeking liberalization of the movement of natural persons (Mode-4).

The Schedule Of Specific Commitments has two parts: 1) horizontal commitments (2) sector specific commitments.

(1) **Horizontal Commitments (Concerning all sectors included in the schedule):** These are stated below:

(a) **Limitations on Market access:** These cover modes 3 & 4.

For mode-3 these are as follows:-

- i) Except in the case of representative offices where specifically provided for in this schedule, commitments under 'Commercial Presence' are subject to incorporation in Pakistan with maximum foreign equity participation of 51 per cent unless a different percentage is inscribed against a particular sector or sub-sector.
- ii) All expenses of representative offices where specifically provided for in this Schedule, shall be met by remittances from abroad. Such offices shall restrict their activities to the undertaking of liaison work or of representing the interest of the parent company abroad.

For mode-4 these are:

Unbound, except for measures concerning the entry or temporary stay of natural presence up to a maximum of 50 per cent in superior categories (namely, Executives and Specialists) in an undertaking. These natural persons shall have been employed juridical persons of another Member for a period of not less than one year prior to the date of application for entry into Pakistan, and shall be transferred render services to the juridical person in Pakistan. Executives and specialists have been defined in the schedule.

(b) **Limitation on National Treatment:** This is only for mode-3.

Acquisition of real estate by non-Pakistanis entities and/or persons is subject to authorization on a case-by-case basis keeping into account the purpose and location of the undertaking.

2) **Sector Specific Commitments:** These vary from sector to sector. These are, therefore, reviewed sector wise. Of the six service sectors Tourism and related services was a new addition to the earlier list. The three sectors of Business services, Construction and related Engineering services and Health and related Social Services did not undergo a change while the two sectors of Telecommunication services and Financial services have undergone substantial changes that is in terms of increase in coverage. We first cover the former sectors including tourism and then the latter sectors.

a) **Sectors not recording much change since 1994:**

i) **Business Services:**

Wherever the country has its own base of services in either of the four modes, it has not allowed market access. In the case of mode-3 the equity limit and partnership restriction has been imposed in the case of market access. The limitations on national treatment follows the pattern of the limitations on market access. If for a particular mode market access is allowed then the national treatment is also allowed at the same mode and in case market access is completely denied then naturally national treatment is also denied. But when a restricted market access is allowed to mode-3 then no limitation is imposed on the national treatment. Moreover for 2 engineering services restrictive market access is allowed to mode-3 that is :

- subject to maximum of 40% foreign share holding in engineering consultancy companies; and
- subject to partnership and / or joint venture with Pakistani engineer or engineering companies.

However where the country has no base against any one of the modes in other words no fear of competition, it allowed free market access.

A summary of specific commitments in business services is given in Table-10

Table-10 Specific commitments in Business Services

	Limitations on Market Access	Limitations on National Treatment
1) Services incidental to agriculture & forestry (excluding fishing & hunting) (CPC No. 881+882)	(1) Ub, (2) Ub, (3) N (4) UbH	(1) Ub, (2) Ub, (3) N (4) UbH

2) Services incidental to mining (CPC No. 883+5115)	(1) Ub,(2) Ub,(3) R,(4) Ub	(1) Ub, (2) Ub, (3) N (4) Ub
3) Engineering Services for building infrastructure; harbours, dams, hydal power, and airports, only (CPC No.8672)	(1) Ub,(2) Ub,(3) R,(4) Ub	(1) Ub, (2) Ub, (3) N (4) Ub
4) Integrated engineering services (CPC No. 8673)	(1) Ub,(2) Ub,(3) R,(4) Ub	(1) Ub,(2) Ub,(3) N,(4) Ub
5)Computer & related services Consultancy Services related to installation of computer hardware (CPC No. 841)	(1) Ub, (2) Ub, (3) N (4) UbH	(1) Ub, (2) Ub, (3) N (4) UbH
6) Software implementation services (CPC No. 842)	(1) Ub, (2) N, (3) N (4) UbH	(1) Ub, (2) N, (3) N (4) UbH
7) Data processing services (CPC No. 843)	(1) Ub, (2) N, (3) N (4) UbH	(1) Ub, (2) N, (3) N (4) UbH
8) Data base services (CPC No.844)	(1) Ub, (2) N, (3) N (4) UbH	(1) Ub, (2) N, (3) N (4) UbH
9) R & D services on natural sciences (CPC No. 851)	(1) Ub, (2) N, (3) N (4) UbH	(1) Ub, (2) N, (3) N (4) UbH
10) Technical testing and analysis services (CPC No. 8676)	(1) Ub, (2) N, (3) N (4) UbH	(1) Ub, (2) N, (3) N (4) UbH

Foot Note: (i) (a) Modes of service supply. (1) cross border supply, (2) consumption abroad, (3) commercial presence and (4) presence of natural persons.

(ii) (b) Ub= Unbound, N= None, R = restricted (maximum 40 % of equity and partnership or joint venture).
UbH = Unbound except under horizontal commitments.

ii) Construction and Related Engineering Services:

Only two service activities of this sector were included in the schedule of specific commitments. Market access for service supply modes 1 & 2 was “unbound” due to lack of technical feasibility, while that for mode 3 was subject to participation/joint venture condition and that for mode 4 was unbound subject to horizontal measures. Limitation on national treatment was unbound for modes 1, 2 & 3 but that on modes 1 and 2 was unbound due to lack of technical feasibility and there was no limitation imposed on national treatment for mode 3. Mode wise limitations on market access and national treatment are given in Table-11.

Table-11 Specific Commitments in Construction, Health, Tourism and Travel related Services

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatments
i) <u>CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>		
• Construction work for civil engineering for bridges,	(1)ub*, (2)ub*, (3) R1, (4) ubH	(1)ub*, (2)ub*, (3) n, (4) ub

elevated highways, tunnels and subways.		
• Construction work for civil engineering for water ways, harbours, dams and other water works.	(1)ub*, (2)ub*, (3) R1, (4) ubH	(1)ub*, (2)ub*, (3) n, (4) ub
ii) <u>HEALTH AND RELATED SOCIAL SERVICES</u>		
• Hospital services	(1)ub*, (2)n, (3) R2, (4) ubH	(1)ub*, (2)n, (3) n, (4) ubH
• Medical and Dental services	(1)ub*, (2)n, (3) R2, (4) ubH	(1)ub*, (2)n, (3) n, (4) ubH
iii) <u>TOURISM AND TRAVEL RELATED SERVICES</u>		
A. Hotel and restaurants (including catering)	(1)ub*, (2)ub, (3) n, (4) ubH	(1)ub*, (2)ub, (3) n, (4) ubH
B. Travel agencies and Tour Operator services.	(1)ub, (2)ub, (3) n, (4) ubH	(1)ub, (2)ub, (3) n, (4) ubH
* Unbound due to lack of technical feasibility		

Foot Note; (i) (1) Cross border supply, (2) Consumption abroad (3) Commercial presence, and (4) Presence of natural persons.

(ii) ub = unbound, n = None, ub* = Unbound due to lack of technical feasibility, ubH = Unbound except as indicated under horizontal measures,

R1 = (a) As in measures applicable to all sections and (b) Subject to partnership and /or joint venture with Pakistan engineers or engineering companies. R2 = (a) As in measures applicable to all sectors, and (b) subject to Pakistan Medical Dental Council Regulations.

iii) **Health and Related Social Services:**

Only two service activities of this sector were covered under the schedule of commitments. Limitation on market access for mode-1 in both the activities was unbound. There was no limitation on mode-2 and condition of existing regulation was imposed on mode-3 while that for mode-4 was unbound subject to horizontal measures. Limitation on national treatment in the case of both the activities for mode-1 was unbound and there was no limitation on modes-2 and 3 but on mode-4 it is unbound subject to horizontal measures.

Limitation for Mode-1 both in the case of market access and national treatment was kept unbound due to lack of technical feasibility.

iv) **Tourism and Travel Related Services:**

Again under this sector two activities were included in the schedule. Limitation on market access and national treatment for mode-1 was unbound due to lack of technical feasibility for both the activities. That for Mode-2 was also unbound and there was no limitation on mode-3 while that for mode-4 was unbound subject to horizontal measures.

The schedule of specific commitments for the above stated sectors ((i) to (iv)) do not contain any **additional commitments**. The limitations imposed under the schedule in the latter three sectors are summarized in Table-11.

b) Sectors with upgraded schedules of commitments:

i) Telecommunication Services:

The schedule of specific commitments in telecommunication services covers eleven activities. The general conditions of the schedule specified in its first part read with “additional commitments” lay down the general framework for limitations on market access and limitations on national treatment. Market access has been restricted, particularly for mode-1 and in some cases for mode-3. Infact the telecommunications sector is the sole monopoly among the public sector agencies which were given autonomous status by the government. The PTCL enjoys exclusivity in many telecommunication services and market access is not allowed in many services till the year, 2003. The Pakistan Telecommunication Authority (PTA) regulates this sector. The schedule of specific commitments gives a brief narration of how the telecommunication sector is run and regulated in Pakistan. That narration which is part of the schedule is reproduced in the following section.

About 12 per cent stake of the Pakistan Telecommunication Corporation (PTCL), the sole operator for all basic Telecommunication services was sold to the national and international buyers in 1994-95 through two different offers of PTC vouchers in national and international financial markets. The offers were many times over subscribed. The Corporation has been, inter alia, converted into a limited company namely Pakistan Telecommunication Company Ltd. (PTCL) with effect from 1st January, 1996 through the promulgation of a law. Bonds worth US\$ 150 million have been floated with an option to convert them into the PTCL shares. Privatization of the PTCL is on the anvil. The management of the Company shall be transferred to the selected strategic operator. Exclusive licence for operation of basic telephony services for a period of 7 years is granted to the PTCL. The Pakistan Telecommunications (Re-organization) Law has been passed as an Act of Parliament in October 1996. An independent Regulatory Authority (PTA) and Frequency Allocation Board (FAB) have been established. The Authority and Board are

already functional. To support effective regulation and spectrum management the government is undertaking PTA & FAB. The Pakistan Telecommunication Authority established under the law as an independent body is responsible to: regulate Telecommunication services, grant and renew licences, promote and protect the interests of consumers, promote efficient, cost effective and competitive services, carry out inspections, regulate tariffs interconnection agreements, investigate and adjudicate on complaints, enforcement on valuation, international traffic and accounting settlements, issue regulations, and receive applications for frequency allocation.

The Frequency Allocation Board established under the law is responsible to allocate and assign frequency spectrum for telecommunication, broadcasting public and private wireless services and classify radio telecommunication services. Appeals against the decisions of the Authority may be filed in the High Court. The following services have been licensed to the private operators and further licensing could be possible: i) Cellular Mobile telephone services; ii) Card pay phones services; iii) Paging; iv) Data network operation; v) Voice Mail Service; vi) Audio Tex Service; vii) Trunk Radio service; viii) Electronic Mail and Internet services; ix) Use of domestic satellites for provision of telecom services; x) Manufacture of telex, fax, all PABXs/Digital exchanges and modems; xi) Manufacture of Fiber/Optic/copper cables; xii) Manufacture of telephone sets, terminal equipment answering machine etc.; and xiii) Manufacturing for copper/optic cables.

Regulatory Authority shall grant licences on competitive basis as per telecom law and regulation. Regulatory Authority may grant licences for satellite based services on the conditions, namely : i) Frequency clearance by Board, ii) Security and sovereignty regulations, iii) Availability of ITUT/R standards, iv) Resolution of cross-border communication issues; and v) Resolution of customs procedure.

The general conditions recorded in the first part of the schedule of specific commitments further specify the scope of the limitation on market access. According to them, policy, regulatory and operation functions are separate and compliance is necessary. All services to be provided in Pakistan shall require a licence from the Regulatory authority established under the law. Operators and Service providers may be granted licence in accordance with the local legislation. The number of operators, service providers and licensees may be limited due to

technical constraints. The confidentiality of International Total Accounting Rate (TAR) shall be maintained. The bilateral agreements on accounting rates shall be in accordance with ITU guidelines. Up to 100% foreign investment on licensed services may be permitted. The schedule on basic telecommunications does not include any broadcasting services. The schedule of specific commitments in telecommunication sector is summarized in Table-12.

Table-12 SCHEDULE OF SPECIFIC COMMITMENTS IN TELECOMMUNICAION SERVICES

	Sector or sub-Sector	Limitations on Market Access	Limitations on National Treatment
2.C.	Telecommunications Service		
	Local, domestic long-distance and international services, for public	Until 2003, no by-pass of PTCL network and PTCL's exclusivity.	
(a)	Voice telephone services	(1) R (2) R (3) ub (4) ub H	(1) ub (2) ub (3) ub (4) ub H
(b)	Packet-switched data, E-mail, Internet and Intranet Services	(1) R (2) N (3) R (4) ub H	(1) ub (2) N (3) N (4) ub H
(c)	VSAT for domestic data services	(1) R (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(d)	Telex services	(1) N (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(e)	Telegraph services	(1) R (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(f)	Facsimile services	(1) N (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(g)	Private leased circuit services	(1) R (2) N (3) R (4) ub H	(1) ub (2) N (3) ub (4) ub H
(h)	Video conferencing tele-medicine and tele-education terminal end services	(1) R (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(i)	Trunked radio service	(1) R (2) N (3) N (4) ub H	(1) N (2) N (3) N (4) ub H
(j)	Satellite based telephony services, including value added services operation over satellite	(1) R (2) N (3) N (4) ub H	(1) N (2) N (3) R (4) ub H

Foot Note: (i) Modes of delivery (1) Cross-border supply, (2) Consumption abroad, (3) Commercial presence, and (4) Presence of natural persons

(ii) ub = unbound, N = None, R = Restricted access; and ubH = Unbound except as indicated under horizontal measures.

Pakistan has specified in attachment to its schedule, the rules and procedure, the transparency of its regulations, interconnection and numbering, competition safeguards standards and tariff regime. These are stated below:

a - (i) Transparency of Regulations: Laws and regulations pertaining to provisions of basis telecom services shall be published. Advanced public notice and a fair opportunity will be provided for interested parties to comment on proposed measures affecting the provision of basic telecom services. The Regulatory Authority consists of three members, one is a professional telecom engineer and the other two are technical and financial experts, appointed by the Government for a term of four years and eligible for appointment for a similar term. Any

member of the Authority shall not have any direct or indirect financial interest in, or have business connection with any person, any establishment or firm which renders telecom services in Pakistan or abroad. For above purpose even any involvement of the spouse or blood relation of any member of the Authority with any telecom firm shall be considered as a direct financial interest or connection with such firm.

The Authority shall ensure that: i) rights of licensees are duly protected; ii) decisions and determinations are made promptly in open, equitable, non-discriminatory, consistent and transparent manner; and iii) the persons affected by its decisions or determinations are given a due notice and provided opportunity of being heard.

A person aggrieved by any decision or order of the Authority can within thirty days of the receipt of order, appeal to the High Court and the Court shall decide such appeals within ninety days. A person aggrieved by any decision or order of any officer of the Authority may, within thirty days of the order, appeal to the Authority and the Authority shall decide such appeals within thirty days.

a - (ii) Interconnection and Numbering: In the event that a service supplier is unable to reach agreement with any or dominant service supplier or interconnection, following a reasonable amount of time, either party may refer the dispute to the Regulator in Pakistan. Service supplier shall be required to disclose information concerning technical measures/parameters that will affect use of such facilities for other service suppliers. The Regulatory Authority shall exercise all powers to enable it to effectively provide guidelines for, and determine, the terms of interconnection arrangements between licensees where the parties are unable to agree. Authority shall develop/assign non-discriminatory national telecommunication numbering plans.

a - (iii) Competition Safeguards and Standards: When facilities-based service supplier with dominant market position is found engaged in unfair or anti-competitive practices, remedial measures will be available. When dominant service supplier provides a competitive service he shall establish separate accounting procedure for the competitive service. Cross subsidy is not permitted. The Authority shall notify and publish regulations for establishing national standards for telecom equipment and services. The Authority can specify different standards for different

classes of telecom equipment/services and establish procedure for testing. The Authority shall not restrict the type of telecom equipment that may be used for the establishment, maintenance or operation of telecom systems or services.

a - (iv) Tariff Regime: The level of tariffs for telecom services including basic telephone service shall be regulated by the Authority. The regulations shall apply equally to comparable providers/users of any regulated telecom service. The criteria used for the establishment of tariff shall regularly be published three months before the criteria is adopted. Tariffs shall be at a level which provides a reasonable rate of return on investments taking into account the cost of operation. There shall be no cross-subsidization of other telecom services by basic telephone service.

Article II (MFN) Exemptions in Telecommunication Services:

The country has listed its MFN exemptions under article II in telecommunication services. This is just to protect its commitments already made by Pakistan authorities with foreign operators and neighbouring countries. These are quoted in Table-13.

Table-13 PAKISTAN'S LIST OF LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
2.C Telecommunication Services- International service	Measures including the application of different accounting rates for different operators/ countries covered by International Telecommunication Services Agreements between Pakistan Telecommunication Company Ltd. And various foreign operators.	Countries covered by International Telecommunication services Agreements between Pakistan Telecommunication Company Ltd. and foreign operators.	Indefinite.	On account of bilateral agreements between Pakistan Telecommunication Company Ltd. and various foreign operators dealing with various aspects of cooperation.

	Measures including the application of different accounting rates for different neighbouring countries covered by Telecommunication Agreements entered into by the Government of Pakistan with governments of neighbouring countries.	Neighbouring Countries.	Indefinite.	On account of bilateral agreements with government of neighbouring countries.
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ii) Financial Services:

Pakistan has stated in the opening paragraph of the schedule of specific commitments in financial services that its commitments laid down in the schedule are subject to the availability of similar commitments from large number of countries of significance to Pakistan, and for these reasons, Pakistan does not consider itself to be prevented from adopting or enforcing non-discriminatory measures aiming at protecting the soundness and integrity of banking and insurance industry. The schedule covers the financial services categories of (a) insurance and insurance related services (b) financial services excluding insurance {i.e.; (i) banking, (ii) leasing (iii) asset management (iv) financial and investment advisory services, and (v) provision and transfer of financial information and financial data. }

ii - (a) Insurance and insurance related services:

In the case of life insurance market access as well as national treatment have been kept unbound for modes 1,2 and 4 (the last, subject to horizontal measures). Market access has been bound for mode-3 which is specified as: (a) maximum of 25% of foreign share-holding in existing life insurance companies, and (b) foreign equity in new life insurance companies permitted upto 51%. This implies provision of “grandfathering” to the existing insurance services providers. Limitation on national treatment for mode-3 has been kept unbound. In the case of non life insurance both the market access and national treatment are kept unbound for modes 1,2, and 4 (the last, subject to horizontal measures). However, market access is kept bound for the existing insurance service providers in terms of (mode-3) scope of operation and equity structure. National treatment for mode-3 remains unbound. In the case of reinsurance

services and retrocession free market access is allowed for mode-1 while both market access and national treatment have been kept unbound for all modes while mode-4 though unbound yet subject to horizontal measures. No additional commitments have been made for these services.

ii - (b) Financial services excluding insurance:

In general Pakistan has undertaken binding commitments in respect of only such financial services which will be provided by the service supplier (whether institutional or natural persons through commercial presence (mode-3)). Both market access and national treatment have been kept unbound for the other three modes 1, 2, and 4 (the last, subject to horizontal measures). Pakistan has made it clear that commitment in these services would be given to the nationals and financial institutions of those member countries whose laws and policies do not bar the provision of similar commitments to the Pakistani nationals and financial institutions. Provision of all banking and financial services in Pakistan is subject to the injunctions regarding Islamic banking as pronounced by competent courts in Pakistan.

Under the existing commitments, the foreign banks/financial institutions are permitted to accept deposits and other repayable funds from the public only after incorporating a local public limited company in which foreign ownership shall not accede 50%. Foreign equity holders are mandated to retain ownership for a period of 10 years, thereafter shares will be transferable with the approval of SBP. Persons desiring to acquire 5% or more of the paid up capital of a bank will be required to get prior approval of the central bank. Commitment in respect of sale/purchase of foreign currency and traveller cheques are given if the same is undertaken by a locally incorporated company with foreign equity upto 5%. Commitments in respect of money transmission services are given only if these transaction are undertaken through authorized banking channels. For operation in call-money market commitment is given in respect to commercial banks incorporated in Pakistan. In the insurance sector, Pakistan's commitments are given only when the insurance company business is undertaken through commercial presence in the territory of Pakistan. The commitment of maximum of 25% shareholding has been given to foreign investment in the existing life insurance companies. [Foreign equity in new life insurance companies will be permitted upto 51%. No commitment has been given under any account of supply for reinsurance services]. The main focus is on the commercial presence and

the restricted market access has been allowed. Activity-wise limitations on market access in service sector are stated below:-

Activities and Market Access to Mode-3 [Excepting one or two activities limitation on market access for modes 1, 2, and 4 of all activities are kept unbound but limitation on national treatment is unbound for all modes. Limitations otherwise specified in few cases are mentioned]. Thus we focus only on market access for Mode.3 in the following section.

I. **Banking:**

(a) **Acceptance of deposits and other repayable funds from the public in Pakistan:**

- (i) Bound for the volume of deposits and other repayable funds mobilized by foreign banks in Pakistan as at the time of conclusion of the Negotiations on 12th December 1997.
- (ii) Foreign banks (other than those already operating their branches in Pakistan as on 12th December 1997) permitted to accept deposits and other repayable funds from public by setting up locally incorporated limited companies with foreign equity ownership up to 49%. Licence to undertake commercial banking business required from the Central Bank. The licence to foreign banks will be issued on the basis of same eligibility criteria as applicable to domestic commercial banks. The minimum paid-up capital required to undertake banking business by foreign banks shall not be more than what is required by the domestic commercial banks, i.e. US\$ 11.5 million.
- (iii) Bound for the number of branches of foreign banks operating in Pakistan banks operating in Pakistan as at the conclusion of the Negotiations on 12th December 1997. Change in the controlling share-holders of the foreign banks operating their branches in Pakistan may require new licence. Other foreign banks will be allowed up to three branches at the

place of their choice. ATM's installed at the branch premises not treated as a separate branch.

- (iv) Prior permission in writing of the Central Bank is required by any person for holding beneficial ownership of 5% or more of the paid-up capital of any bank/financial institution.
- (v) Representation of foreign nationals on the Board of Directors allowed in proportion to their share holding.

Limitation on National Treatment (Mode-3): The shares held by foreign nationals and foreign financial institutions in their locally incorporated subsidiaries are not transferable without the prior written approval of the Central Bank.

(b) Lending of all types including consumer credit, mortgage, factoring, credit and financing commercial transaction:

- i) Bound for the total volume of foreign banks' assets in Pakistan at the time of the conclusion of the Negotiations on 12 December 1997.
- ii) Investments in shares of existing domestic banks permitted to foreign nationals/foreign financial institutions for trading purposes. Acquisition of management control of existing public sector banks considered on case-by-case basis under specific Sale-Purchase Agreements to be approved by the Central Bank.

Mode-4: Employment of foreign nationals in banks and financial institutions operating in Pakistan require prior clearance of the Central Bank.

Limitation on National Treatment (Mode-3): Lending by banks to companies controlled by non-residents is subject to the borrowing entitlements of the foreign companies as determined by foreign exchange rules applicable from time to time.

c) All payment and money transmission services including traveller cheques and banker's draft (but excluding credit, charge and debit cards):

Foreign banks branches operating in Pakistan at the conclusion of the Negotiation on 12 December 1997 and banks incorporated in Pakistan permitted to undertake all payment and money transmission services.

d) Guarantees and Commitments:

Guarantees and commitments in foreign currency and those undertaken in favour or on behalf of non-resident to be governed by foreign exchange laws.

e) Trading for own account only of money market instruments; foreign exchange; transferable securities; and other negotiable instruments:

- i) The issue, sale and purchase of foreign currency and traveller cheques is allowed to commercial banks licensed as Authorized Dealer.
- ii) Foreign banks allowed to set up joint ventures with local persons with equity participation upto 50% after obtaining Licence from the State Bank to undertake the sale and purchase of foreign currency and traveller cheques.
- iii) Transmission of permissible funds including foreign currency can be effected only through authorized banking channels.
- iv) Commercial banks incorporated in Pakistan and the branches of foreign banks in operation as on 12 December 1997 allowed to operate in call money market.

f) Participation in issues of all kinds of securities including only public underwriting and placement as agent and provision of services related to such issues:

Branches of foreign banks in operation as on 12 December 1997 and banks (including investment banks) incorporated in Pakistan permitted to arrange and participate in any public issue and underwriting of securities up to 30% of the total paid-up capital of the issuer or 30% of their respective paid-up capital whichever is less. All investments in shares made as a consequence of underwriting commitments must be reported forthwith to the Central Bank, and is required to be disinvested within 30 days of the investments as approved by the Central Bank.

g) Settlement and clearing services for negotiable instruments (cheques, bills and promissory notes only):

- I** All commercial banks are required to be members of the clearing system operated/approved by Central Bank to effect interbank settlements.
- II Leasing:** Foreign leasing companies will be permitted to set up subsidiary leasing companies in Pakistan with shareholding not exceeding 51% of the total capital to undertake operational leasing including cross-border leasing. Resource mobilization from the domestic market to be governed by the same rules and regulations as applicable to domestic mobilization of resources.
- III Asset Management. The following only :** (a) Cash or portfolio management; (b) All forms of collective investment management; and (c) Custodial and depository services.

Entities licensed by the Central Bank and banks incorporated in Pakistan can undertake portfolio management services through their locally incorporated subsidiaries set up for the purpose with shareholding in such subsidiaries up to 51%.

Management of foreign currency assets will be governed by the foreign exchange regulations applicable from time to time.

IV Financial and investment advisory services:

Banks incorporated in Pakistan will be permitted to undertake financial and advisory services through subsidiary companies set up for this purpose with shareholding up to 100% provided that transactions undertaken/services provided by such subsidiaries do not create any financial obligations whether contingent or otherwise on the balance sheet of the holding company or otherwise.

V Provision and transfer of financial information and financial data:

Mode-1 Unbound, except for the provision of publicly available data and financial information on corporate entities by institutional providers having commercial presence in Pakistan.

Article II (MFN) Exemptions in Financial Services

Pakistan has introduced some elements of Islamic banking which has different methods than the Western type of banking system in calculating the profit/loss and sharing that with the individual depositors. The country has also entered into some preferential financial arrangement under the Economic Corporation Organization (ECO) with its member countries. As mentioned in the case of sector specific commitments Pakistan has emphasized that the principle of reciprocity would be the guiding line in negotiating exemptions in the trade in services. Due to these factors the country has to list MFN exemptions under article II. Its list of article II (MFN) exemptions is given in Table-14.

Table-14 PAKISTAN'S LIST OF ARTICLE II (MFN) EXEMPTIONS IN FINANCIAL SERVICES

Modes of supply: (1) Cross-border Supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Description of measure indication its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Banking and other financial services	Foreign service promoters are granted licences on the basis of	All countries	The reciprocity requirement will	The reciprocity requirement is put in

	reciprocity.		remain in place until similar measures maintained by other countries in this sector are removed.	place to ensure that Pakistani banks are accorded equivalent market access in places outside Pakistan.
	Favourable treatment of financial institutions set up to undertake Islamic financing transactions.	All countries	Indefinite	The financing transactions are determined and governed by Religious Boards set up for the purpose by each Islamic financial institutions.
	Separate regulations may be laid down for banks which are required to undertake and finance treasury function and other non-profitable commodity operation programmes and other price support schemes of the Government.	All countries	Indefinite	Commodity operation programme is an essential government function undertaken through banks. Treasury function is performed by National Bank of Pakistan on behalf of the Central Bank. These are non-profitable transactions of the banks.
	Favourable treatment of financial institutions set up as joint ventures under the framework of ECO or other protocols signed amongst ECO Member countries.	(ECO) Economic Cooperation Organization Member countries.	Indefinite	The treaty of Izmir and the Istanbul Summit held in July 1993 amongst others decided for the establishment of financial institutions by the governments of ECO Member states with the obligation of meeting the goals of economic integration.

Part-V. Issues of Implementation and further liberalization prospects:

This section would focus on the identification of the issues in the context of Pakistan fulfilling GATS obligations and for improving the prospects of Pakistan's liberalization in Trade in services through greater market access with improved MFN and national treatment. These issues also underline a direction for reforming the GATS. The analysis made under the preceding sections of this paper has helped in identifying such main issues which are : a) limited liberalization of trade in services by Pakistan, b) little gains of Pakistan from the GATS realized in the post URA period, c) principal concern of movement of natural persons for developing countries, d) consolidation and stocktaking of the results so far achieved under multilateral negotiations, e) Specific time frame and specific indicators for implementation of the GATS obligations, f) quantification of

potential gains of GATS and its monitoring during implementation , g) preferential treatment for developing countries, and h) building institutional capacity of developing countries to access the implication of the GATS and to harmonize national rules and regulations with the GATS standards.

a) Limited Liberalization in Services in Trade:

Pakistan has included six out of twelve sectors of services specified in GATT's document No. MTN. GNS/W/120 of 10th July 1991. Commitments have not been made for all the activities in these six sectors. According to the summary of specific commitments downloaded from WTO Internet homepage, 122 countries have made specific commitments. Out of them 62 countries committed 1 to 5 sectors, 16 countries 6 sectors and 44 countries 7 to 12 sectors. So Pakistan is in the top half in overall rating but at the bottom of those who made commitments in six to twelve sectors. It has also been observed that while allowing some market access to mode-3, 'grandfathering' has been ensured for the existing establishments, this is particularly so in the field of insurance and in this sector the restrictions have been bound at higher than the status quo. In general limitations on market access has been listed as unbound in the case of many activities repeatedly for modes 1,2 and 3. Market access for mode-3 in the case of telecommunication sector and financial services has been severely restricted. In telecommunication, exclusivity has been granted to public sector autonomous agency (PTCL) till the year 2003 while in the case of financial services market access has been made conditional on equity and shareholding limits for the foreigners. Existing policy also allows some market access in some other services sectors but those have not been included in the schedule of specific commitments.

As a matter of fact no mechanism has been devised under the GATS excepting bilateral or multilateral negotiations which could force the member countries to make commitments for trade liberalization. It has been observed that the developing countries in multilateral negotiations often, if not always, adopt cautious attitude in taking aggressive initiatives involving country commitments and they take maximum advantage of the derogations and exemptions allowed under the system, for example, in the case of

tariffs on the import of agricultural commodities Pakistan bound its tariff at 100 to 150 percent while in actual practice it has brought down in the range of 0 to 35%. So the principal reason was that the country wanted to retain some freedom for future negotiations and kept strategically ample space for getting good quid pro quo in future.

There were also genuine national considerations in view. Pakistan like many other developing countries does not enjoy comparative advantage in trade in services because its domestic services were far less developed than the services in the developed countries. So it feared that liberalization in trade will injure its services sector. The country was aware of the fact that its services sectors were not so efficient and the foreign competition could improve the efficiency but in the short run that would entail a heavy loss to the country. And the country was economically not in a position to take such a risk. It was also assessed that the foreign service provider would not allow concessional treatment under social considerations but would operate on purely commercial lines that would adversely affect the viability of the national service providers to compete with them while they are obliged to bear cost under social oriented policies. For example the nationalized commercial banks and DFIs operate many targeted credit schemes which allow concessional credit to specific sectors of the economy. The banks and DFIs are operating branches in rural areas which are not so attractive as those in the urban areas. The foreign banks would naturally not participate in such activities and would prefer to operate in high profit areas. National prudential rules have been formulated to safeguard the financial health of the country. Although the monetary policy and credit measures used to promote macroeconomic stability are permissible under the Annex on Financial Services and yet some prudential rules are considered as restrictions on market access. In the case of telecommunication the main consideration was that of security, aside from revenue raising.

Article XI provides for free payments and transfers particularly in the case of mode-3 unless article XII (restrictions to safeguard the balance of payments) is invoked. The country also considers itself not so capable to allow free payments and transfers of foreign exchange which would tremendously increase with greater liberalization of trade in services.

a) **Little gains from GATS realized in the post URA period:**

Independent of the Uruguay Round negotiations the country has undertaken reforms of deregulation and privatization that have had magnificent impact on telecommunication services and its services have quantitatively and qualitatively improved. Some partial success has also been noticed in the case of banking sector. Exchange rate and payment reforms combined with liberalization of the economy has helped the country to attract large inflows of FDIs and they showed phenomenal increase over the past trend but in the last 2 years some exceptional circumstances developing out of new geopolitical developments and economic sanctions imposed by developed countries adversely affected the FDI inflows. Worker remittances have continued to decline in recent years. The international trade of other services (like shipping, insurance, banking charges etc) which are directly related to international trade remained under pressure due to slow down in the country's GDP growth.

The country is not so strong in its services sector and therefore, it could not get benefit from the trade liberalization committed by other member countries of the WTO.

The developments, whether improvement or deterioration in the production and trade of service of Pakistan, had nothing to do with the steps taken by Pakistan or other WTO member countries for fulfilling the GATS obligations. Infact these are entirely attributed to the domestic policies pursued by the country under the structural reforms and other exogenous factors.

b) **Principal concern of movement of natural persons for developing countries:**

Under the URA multilateral negotiations, trade in labour services was as dear to the developing countries as were the areas of TRIPs, TRIMs and trade in services to the developed countries. The former countries pushed it very hard but this area ultimately could not become part of the final outcome of the round. Notwithstanding that the temporary movement of natural persons which is referred to as mode-4 of service supply under the GATS gave them a ray of hope that their excess manpower would get market access in developed countries. It was some consolation that some symmetry under the

obligations of the GATS between movement of capital (mode-3) and movement of labour (mode-4) would be achieved. The schedule of specific commitments covers the extent to which market access has been allowed to the individual four modes of supply. These commitments have given unbalanced treatment to the different modes of supply with some sort of discrimination against the movement of labour. The sector specific commitments have covered measures (partially or in full) regulating commercial presence substantially more than the measures regulating movement of natural persons as service suppliers (Pakistan's informal paper of 19th February 1999).

Horizontal commitments concerning the presence of natural persons have been made by 92 WTO member countries. These usually state the elements of the immigration and labour laws and regulations. The present horizontal commitments do not refer to movement of natural persons in all categories and occupations. There is need to correct the existing imbalances and asymmetries in the treatment of mode of supply of export interest to developing countries. All the more the labour-intensive services sectors in which developing countries have a comparative and competitive advantage should be identified and favourable commitments from developed countries should be obtained, in particular from those countries that are major importers of labour-intensive services.

The WTO Secretariat papers and some research studies find that three broad categories of obstacles exist in the way of freer movement of natural persons. These include the use of economic needs test (ENTs); multiple qualifications, licensing and certification regulations; and finally, non-transparent visa and work permit regime (UNCTAD 1999).

A major limitation on market access is due to the widespread use of the economic needs test (ENTs). With the exception of 12 countries which stated that ENT does not apply in a few categories, most commitments specify that they are subject to an economic needs test (in the case of 34 members), or refer to legislation that may contain ENTs. These conditions may be qualitative or quantitative. Due to its discretionary nature, the economic needs test poses a major barrier to trade in service. ENTs detract from the

predictability of the trade through this mode of supply of services and nullify the opportunities for market access otherwise extended in commitments.

The ability of persons to supply services in export market is also affected by lack of recognition and professional qualifications and licensing requirements. Developed countries have set up regional and bilateral frameworks on licensing, qualifications and technical standards with exclude developing countries but promote labour mobility between them.

Even where persons meet the criteria set under mode 4, whether or not subject to an economic needs test, the administration of the visa and work permit regimes can pose another barrier to trade through movement of persons. The lack of transparency in these regimes is the most obvious problem. Most disturbingly, this is in those countries which apply different condition relative to temporary entry and stay depending on the country of origin.

One of the ways to reduce the scope for the application of the ENT could be for countries to agree on certain services sectors where the movement of the natural persons would be excluded from the general application of the ENT. The horizontal commitments on mode -4 would, thus, be supplemented by the list of service sectors where the ENT would not be applied to the movement of natural persons supplying services in that particular sector. There is a need to have more transparent and objective implementation of visa and work permit regimes. Member countries should establish a system allowing business persons to report to Trade Authorities on examples of frustrations and abuses encountered as they seek temporary entry and stay under the GATS. Member countries should bind their specific commitments.

In the next round of negotiations a discipline should be developed to harmonize qualifications and licensing requirements. Discriminatory condition regarding nationality and residency should be eliminated.

d) **Consolidation and Stocktaking of the results so far achieved under multilateral negotiations:**

A great deal of work has been done during and after the Uruguay Round. There is a need to consolidate the results and to streamline them. No new area should be opened but serious thought should be given to make effective what has already been negotiated. It is better to take one step and to strengthen the position and then move steadily, rather than taking one step forward and two steps backward. The East-Asian crisis, serious economic conditions in Russia and economic collapses in some Latin American countries have already shaken the global economy. That warrants serious and steady efforts rather than making the future of the global economy uncertain through new adventurism.

e) **Specific time frame and specific indicators for implementing the GATS obligations:**

For tariff bindings and integrating textiles and agriculture into GATT'S discipline, quantitative indicators have been set and specific quantitative targets with specific time frame have been laid down. Similar indicators with time frame need to be set for the member countries for liberalizing the trade in services. Since such discipline with specificities is not contained in the GATS the liberalization in trade has not moved at a desired pace.

f) **Quantification of Potential gains of the GATS and its monitoring during implementation:**

The primary goal of the GATS is to ensure benefits of trade liberalization to all its member countries. The reluctance of some member countries to make effective contribution in implementing the GATS obligations emerges when it finds that it is ultimately a loser in this game. It is, therefore, essential to build economic model to measure the potential benefits for individual member countries and a mechanism should be developed to monitor how the potentials are being realized. It has to ensure that the implementation fetches targetted benefits and corrective actions in terms of exemptions and economic assistance should be considered for specific member countries in case of slippages.

g) **Preferential treatment of developing countries:**

Almost in all areas of the WTO somewhat preferential treatment has been permitted for developing and least developed countries. The relative position of developed and developing countries has not changed much over the URA period as well as in its aftermath. The next Round should continue and strengthen preferential treatment on the basis of economic development and growth of the member countries.

h) Building institutional capacity of developing countries to assess the implications of the GATS and participating in its future negotiations:

Pakistan like many other developing countries lacks technical know how and institutional capability to properly assess the implications of the GATS obligations and to effectively participate in future negotiations in trade in services. The country is already facing financial crisis and is thus not in a position to raise such a needed infrastructure. Pakistan along with other similar member countries should be considered for technical and financial assistance so that they can cope with the requirements of the new trading system.

Part-VI. Conclusion:

Despite strong reluctance by the developing countries the area of trade in services alongwith TIRPs and TRIMs was included in the agenda for the Uruguay Round in 1986. The successful conclusion of the Round resulted into the WTO charter of which the GATS is an integral part. Pakistan has actively participated in the negotiations under the Round and also during the post Round period. And the country has embarked upon structural reforms since the early nineties. Under the reforms policy measures of deregulation and decontrol, privatization, financial restructuring, foreign exchange adjustment and liberal mobility of capital have been pursued in real as well as services sectors. The country has included six sectors (partially) in its schedule of sector specific commitments. These commitments reveal that the country has allowed some access to foreigners in services sector.

Many developments and changes have taken place in regulation, investment and trade in services during as well as after the URA in Pakistan and some of them as part of implementation of its GATS obligations. Pakistan can not gainfully compete in services with developed countries

and the trade liberalization measures taken by the developed countries had little effect on Pakistan's economy.

Future prospects of gains for Pakistan under the GATS lie in the movement of natural persons (mode-4 service supply) because the country has surplus labour. Unfortunately, mode-4 has been given discriminatory treatment compared to the other three modes of service supply in the member countries' sector specific commitments. Three barriers in the way of freer mobility of natural persons include the use of ENTs, multiple qualifications and licensing regulations, and non-transparent visa and work permit regimes. These barriers have to be removed to ensure the benefit of the GATS through liberalization of trade in services under mode-4. Apart from removing these barriers to movement of natural persons the issues which have to be addressed for further liberalization of trade in services and enhancing the prospective benefits of the GATS under future negotiations include consolidation and stocktaking of the results of the multilateral negotiations, fixing specific time frame and specific indicators for meeting the GATS obligations, monitoring of gains from the GATS for the member countries, preferential treatment of developing countries, and financial and technical assistance for building know how and institutional capacity of developing countries enabling them to effectively participate in the implementation of the GATS and its future negotiations. Resolution of these issues would go a long way in realizing the cherished goals of the GATS especially for a developing country like Pakistan.

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