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TRADE IN SERVICES AND DEVELOPMENT IMPLICATIONS

Note by the UNCTAD secretariat

Executive summary

Most of the developing countries have undertaken processes of autonomous liberalization of services to maximize their contribution to the whole economy, and to increase their participation in international trade in services. To benefit from domestic liberalization of markets and capitalize on trading opportunities there are a number of preconditions that would need to be fulfilled, including an optimal process of reforms and sequencing, building supply capacity, adaptation of the regulatory environment, and development of supportive physical, institutional and human infrastructure. The ongoing negotiations on services in the WTO, as well as in other trade forums, have the potential to contribute to development if they result in substantial benefits and increased participation of developing countries in trade in services. In the context of the GATS negotiations, developing countries are not seeking merely the expansion of trade in services but also expansion in conditions that promote development of their economies and ensure the contribution of such trade to improving the competitiveness of their services sectors. Both sectoral and horizontal approaches are useful and should be mutually supportive in shaping the balanced outcome of negotiations. As mandated in GATS Article XIX.2 and paragraph 14 of the “Guidelines and Procedures for the Negotiations on Trade in Services”, the assessment of trade in services in developing countries should be undertaken as a continuous activity, which may serve as a means for developing countries to identify barriers in the markets for their exports and for improving available statistics on services. UNCTAD would need to assist developing countries in this respect, especially in elaborating policy and regulatory recommendations for promoting the development of their services capacities.

CONTENTS

| <i>Chapter</i> | <i>Page</i> |
|---|-------------|
| Introduction..... | 3 |
| I. Trade in services and development indicators | 3 |
| II. Maximizing the development impact through trade in services: the sector-specific approach..... | 7 |
| A. Construction services | 8 |
| B. Energy services | 9 |
| C. Environmental services..... | 10 |
| D. Health services | 11 |
| E. Tourism services | 12 |
| III. Increasing participation of developing countries in services trade in the context of the GATS negotiations | 13 |
| IV. Managing the process of requests and offers | 15 |
| A. Intragovernmental coordination..... | 16 |
| B. Consultations with domestic stakeholders | 16 |
| C. Preliminary observations concerning developing countries' immediate needs | 16 |
| V. Key issues affecting developing countries' trade in services..... | 17 |
| Final comments..... | 19 |

INTRODUCTION

1. At its sixth session, the Commission on Trade in Goods and Services, and Commodities decided to include in its agenda an item entitled "Trade in services and development implications". The present note has been prepared as a contribution to discussion on that item. It is based on the progress achieved and experience accumulated by developing countries in the ongoing multilateral trade in services negotiations as well as on conclusions and recommendations formulated by private and public actors during the seven¹ UNCTAD Expert Meetings and other meetings² held in developing countries and with delegations in Geneva. While not being exhaustive, the outcomes of those meetings mirror realities facing both Governments and private sector operators in developing countries. Some of these problems may be more illustrative of one or another category of developing countries or regions, while others are a concern to all. Section I describes some statistical evidence on the dynamic development of trade in services at the global and sectoral levels. Section II identifies specific measures that developing countries may wish to address in negotiations in order to maximize the positive impact of trade in services for the achievement of their development objectives. Section III examines some issues of importance to developing countries for increasing their participation in the ongoing negotiations under the General Agreement on Trade in Services (GATS). Section IV provides summarizes the replies received from selected developing countries to a questionnaire on their preparations for the request and offer stage of the GATS negotiations. Section V identifies common elements of particular importance to developing countries in the area of services.

I. TRADE IN SERVICES AND DEVELOPMENT INDICATORS

2. The importance of services in the economies of developing countries has steadily increased as shown by the increase in the services share to above 50 per cent of gross national product (GDP) with services providing more than half of the employment opportunities in developing countries. However, it is not possible to evaluate the nature and features of the dynamism services of in developing countries. Some available indicators show for some developing countries that the increase in services mainly reflects the growth of traditional services such as small retail trade and urban transport, and in some cases even the growth of the informal economy. As a matter of fact, the relative weight of government services tends to cause the importance of services industries in the economies of some developing countries to be overestimated.

3. Conversely, in the case of other developing countries the modern services link to the "new economy" has developed rapidly, and this has become a way of measuring their

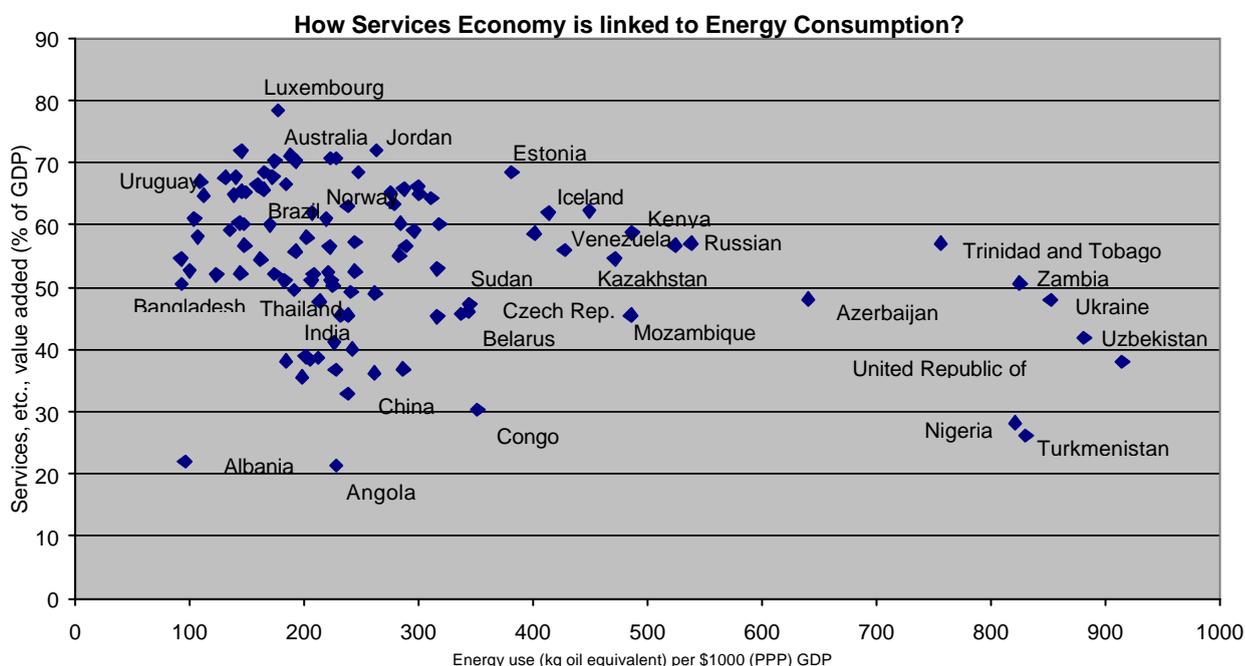
¹ Since 1998 UNCTAD Expert Meetings have focused on health, environmental, tourism, air transport, construction, energy and audiovisual services.

² The most recent meeting – the Workshop on Issues of Interest to African Countries in the WTO Services Negotiations – was held on 17 and 18 September 2002, at the Palais des Nations in Geneva with contributions from the United Nations Development Programme, the United Nations Economic Commission for Africa, the African Economic Research Consortium and the World Trade Organization.

development. For example, one of the key development indicators³ is the correlation between the value added of services to GDP and energy consumption. Countries with a strong services industry in terms of value created usually have lower relative energy consumption, as indicated in table 1. Other factors, such as use of resource-saving technologies and unit cost of energy, may be important. For example, Nigeria is positioned at the lower right-hand end of the table, this fact suggesting that since it is an energy-rich economy it has high domestic consumption of energy and low value created by its service economy. At the other lower end of the table, Albania has low relative energy consumption and low value created in its service economy. On the other hand, Norway, another energy exporter, while having low relative energy consumption, has developed services industries, which have generated high value in the economy.

4. The constraints imposed by deficiencies in the international statistical framework and the lack of accurate indicators to measure trade flows in services as defined by the GATS have allowed only a limited use of statistical information. Even within the existing statistical limitations, however, an interesting insight can be obtained demonstrating how important access to the foreign markets remains for natural persons supplying services from developing countries, and also how services trade may be a determining factor in the development of developing countries in general, small island economies, and a number of the least developed economies in particular.

Table 1



³ This is one of the Millennium Indicators, based on data from the United Nations Statistics Division and the World Bank. The only developing countries among the top 20 countries with high services value added and low relative energy use are Argentina, Uruguay, Mexico, Brazil, Peru and Namibia.

5. Global trade in commercial services as measured by balance-of-payments data has remained unchanged at around 20 per cent⁴ of the total trade in goods and services for more than a decade. Total exports of commercial services by developed countries in Europe remained twice as high as the total for all developing countries, the latter being close to the exports of North America. However, developing countries have remained important markets for imports of services (the top 10 importers in 2001 are listed in table 2). Although the least developed countries (LDCs) as a group account for only 0.4 per cent of total world exports of commercial services, and their imports of the latter are close to 1 per cent, nearly equal to those of Portugal, services as a share of total trade in individual countries are of undisputed importance. The share of commercial services exports in the total trade of LDCs is 18 per cent (compared with the world average of 20 per cent). Furthermore, the relative importance of imports of commercial

| Country | US\$ (millions) |
|---------------|-----------------|
| China | 36 435 |
| Rep. of Korea | 32 591 |
| India | 23 689 |
| Singapore | 20 045 |
| Mexico | 16 520 |
| Malaysia | 16 268 |
| Brazil | 15 813 |
| Thailand | 14 484 |
| Argentina | 8 344 |
| Saudi Arabia | 7 165 |

Table 3**How merchandise trade compares to services trade in value**

| Total value of services exports | Equivalent value of top export items, Merchandise (Sorted by value, descending) | Total value of services imports | Equivalent value of top import items, Merchandise (Sorted by value, descending) |
|------------------------------------|--|------------------------------------|--|
| Developing countries | | Developing countries | |
| Services = US\$ 342 billion | Transistors | Services = US\$ 368 billion | Transistors |
| | Automatic data processing equipment | | Telecom equipment |
| | Office machinery | | Office machinery |
| | Telecom equipment | | Switchgear |
| | Passenger motor vehicles | | Automatic data processing equipment |
| | Women's outwear, non-knit | | Electrical machinery |
| China | | China | |
| Services= US\$ 30 billion | Telecom equipment | Services= US\$ 36 billion | Telecom equipment |
| | Automatic data processing equipment | | Polymerization |
| | Electrical machinery | | Other machinery |
| | Iron, steel tubes, pipes | | |
| Least developed countries | | Least developed countries | |
| Services = US\$ 6 billion | Cotton | Services= US\$ 13 billion | Cotton fabrics, woven |
| | Special transactions | | Woven manmade fibre fabric |
| | Fresh vegetables | | Textile yarn |
| | Textile yarn | | Iron, universal steel |
| | Rice | | |
| | Medicinal products | | |
| | Lime, cement | | |
| | Passenger motor vehicles | | |
| | Knitted fabric | | |
| | Lorries | | |
| | Telecom equipment | | |
| | Wheat, unmilled | | |
| | Ships, boats | | |
| | Iron, steel tubes, pipes | | |
| | etc., total of 52 items | | |

⁴ The share of commercial services in total trade accounted for 16.2 per cent in 1980, for 19 per cent in 1990, 19 per cent in 2000 and 19.4 per cent in 2001. Data in this section are drawn from the *UNCTAD Handbook of Statistics*.

services in LDCs, which stand at 26 per cent, exceeds as a percentage that of all developing countries (17 per cent) and the world as a whole (18 per cent).

6. Trade in services has been slowly gaining recognition as an important contributor to the economic performance of developing countries. The comparison in table 3 shows for the year 2000 that the total export/import of commercial services was as great as the sum of the listed major export/import items⁵ in value terms. For example, for developing countries as a group export income on the merchandise side was generated by the following main items: transistors, automatic data processing equipment, office machinery, telecom equipment, passenger motor vehicles and women's outwear. The total value earned on these items would be roughly equivalent to that of the export of commercial services. Similarly, on the import side, items listed there roughly correspond to the import value of services. It is also interesting to note that for developing countries, many items among the top import merchandise are closely linked to the services economy, as they are likely to be used as inputs into those industries that have a strong services value-added component, for example telecommunications or data processing.

7. The importance to many developing countries of income that is generated abroad by

Table 4
Top 10 countries in receiving workers' remittances, 1999 in US\$ (millions)

| Country | Value | Share in total exports |
|------------|--------|------------------------|
| India | 11 002 | 21% |
| Mexico | 5 909 | 4% |
| Turkey | 4 529 | 10% |
| Portugal | 3 320 | 10% |
| Spain | 3 305 | 2% |
| Egypt | 3 235 | 22% |
| Morocco | 1 938 | 18% |
| Bangladesh | 1 797 | 29% |
| Greece | 1 667 | 7% |
| Jordan | 1 664 | 47% |

Table 5
Top 10 countries where remittances originate, 1999 in US\$ (millions)

| Country | Value | Share in total imports |
|---------------|--------|------------------------|
| United States | 17 370 | 1.4% |
| Saudi Arabia | 13 977 | 31.4% |
| Germany | 3 656 | 0.6% |
| France | 2 875 | 0.8% |
| Japan | 2 720 | 0.7% |
| Malaysia | 2 038 | 2.7% |
| Switzerland | 1 889 | 1.8% |
| Kuwait | 1 731 | 14.6% |
| Oman | 1 438 | 25% |
| Spain | 968 | 0.6% |

their nationals as natural persons has been recognized in the GATS by including temporary movement of natural persons supplying services as one of the ways of trading services, the so-called Mode 4. Tables 4, 5 and 6 in this section demonstrate the importance of revenue linked to Mode 4 and of having predictable and enhanced market access in Mode 4 for a number of countries, the majority of which are developing. Although not a precise measure of the value of trade in Mode 4, this information amply indicates the relevance of the temporary movement of natural persons, including for the supply of services in all services industries, particularly for countries listed in the tables. Owing to the statistical limitations, all data here may serve only as an indication of where comparative advantages lie in individual countries. The table on migration data also includes all categories of natural persons that are covered under the GATS, and thus may be used as an indicator of the direction of flows. Despite the

⁵ Excluding petroleum and petroleum products. Based on the SITC rev.2 three-digit level nomenclature.

great commercial significance of Mode 4 for developing countries, specific commitments

Table 6

Importance of worker's remittances

| Workers' remittances received as a percentage of GDP, 1999 | | Workers' remittances in USD per capita, 1999 | |
|--|-------|--|-------|
| Country | Value | Country | Value |
| Jordan | 22% | Jordan | 348 |
| Samoa | 21% | Portugal | 332 |
| Yemen | 19% | Jamaica | 282 |
| Albania | 12% | Barbados | 269 |
| El Salvador | 11% | El Salvador | 267 |
| Jamaica | 11% | Dominican Rep. | 223 |
| Nicaragua | 10% | Greece | 184 |
| Cape Verde | 9% | Albania | 157 |

have not been made in the GATS negotiations so far for these categories of persons.

8. One of the revealing indicators is the "service export dependency index" in table 7.⁶ It shows to what extent domestic service economy is geared and dependent on exports. Countries with strong service industries may not be strongly export oriented in relative terms, while small developing and especially island economies may be crucially dependent on their exports of commercial services. For example,

Luxembourg or Antigua and Barbuda are not only services based economies but the importance of their export-oriented services industries exceeds contribution of services to the domestic economy. This may possibly be due to reliance on imported other high value services inputs into their services exports. Island economies, including least-developed countries, have developed as mainly services economies around tourism activities, where the

Table 7

Ranking of countries according to their services export dependency index

| Top 10 countries with the highest index | | 10 countries with the lowest index | |
|---|-------|------------------------------------|-------|
| Country | Index | Country | Index |
| Luxembourg | 125 | Sudan | 1.9 |
| Antigua and Barbuda | 101 | Japan | 2 |
| Saint Lucia | 79 | Iran, Islamic Rep. of | 2.2 |
| Vanuatu | 76 | Venezuela | 2.3 |
| Dominica | 75 | Argentina | 2.46 |
| St. Vincent and the Grenadines | 71 | Brazil | 2.48 |
| Grenada | 69 | Burundi | 3 |
| Barbados | 69 | Bangladesh | 3.4 |
| Fiji | 68 | Mexico | 4 |
| Seychelles | 67 | Colombia | 4.1 |

success of Mauritius has been a well-documented case and as a result Mauritius is ranked fifteenth according to this index. Another interesting insight transpires from the bottom end of the table which includes two very different types of countries: those which have significant services exports in value terms and also have high services value added to the economy, but the relative weight of the services export industries in domestic service economy is not significant. On the other hand, it may also include

countries with weak export and domestic service industry. Notably, such strong economies like Australia (ranked 105), China (ranked 97), Germany (ranked 102) or India (ranked 100) appear also at the lower end of the ranking, on which this table is based.

⁶ Data source: IMF, World Bank. Information available for 123 countries and territories, where for example values for the USA or Canada are not available, based on 1999 data.

II. MAXIMIZING THE DEVELOPMENT IMPACT THROUGH TRADE IN SERVICES: THE SECTOR-SPECIFIC APPROACH

9. The purpose of the discussion here is to identify key elements relevant to the attainment of the development objectives specific to each sector, and the necessary conditions for improving market access for suppliers from developing countries through liberalization of markets in accordance with GATS Article IV. The sectors discussed below are those where developing countries have either established or potential export capacity, and hence progressive liberalization along the lines discussed may provide the means for effective implementation of GATS Article IV.

A. Construction services

10. The strengthening of domestic and export supply capacity relies upon the ability of developing countries to continuously upgrade their technological capacity. Adequate funding for research and development is an essential component of the relevant policies. By initiating a dialogue between all stakeholders in the private and public sectors developing countries will be able to establish effective policies, particularly fiscal policies, which avoid onerous internal taxation of construction firms and high tariffs on essential equipment. Moreover, developing countries may seek to ensure that domestic architectural and engineering firms participate effectively in construction work linked to social programmes, for example housing, energy, and industrial and infrastructure projects. Another element is to seek to upgrade their capacity through the establishment of local and regional professional associations and create a mechanism for the effective recognition of qualifications for professionals and firms, where they do not exist, based on progressive implementation of international standards.

11. Developing countries would need time to establish appropriate institutional and legal frameworks to effectively monitor and regulate the construction services sector, and to remove bureaucratic obstacles. Such frameworks could provide for transparency as an effective recourse against anti-competitive practices, as well as for an arbitration mechanism for settling disputes.

12. To secure the increasing participation of developing countries in international trade in services, a number of concerns need to be addressed: *transfer of technology* could be facilitated when associations and joint ventures are mandated by government regulations, so as to include local companies in the design and implementation of construction projects. *Domestic regulations on recognition of qualifications*, as well as compulsory membership of professional associations, present difficulties for developing country professionals in most countries. This is exacerbated in many cases by nationality and residence requirements, and special requirements arising from government procurement practices. *The movement of foreign services providers* is often subject to visa and residence requirements, and economic needs tests, even for project-related work of short duration, and frequently with little transparency as regards the criteria applied in the issuance of visas and work permits, which often appear to penalize nationals of developing countries. The implementation of a “GATS

visa” has been suggested to ensure market access for Mode four. *Government-procurement-related demand* is estimated to account for as much as half the total demand for construction services. There should be transparency in bidding regulations for multilaterally financed projects and special consideration should be given to developing country firms. Harmonization of rules on government procurement should not affect the definition of national policies aimed at the development of various sectors. *Subsidies and government support* are used extensively to strengthen the competitiveness of firms in developed countries. They include direct subsidies to research and development costs, acquisition of capital goods, direct financial aid, export credits for feasibility studies, government guarantees for private bank loans, export credits for financing the operational costs of particular projects, public guarantees for private bank loans, tax exemptions and public risk-sharing, including the guarantee of a percentage of contractor profits. Developing countries are unable to match the subsidies available to developed country firms, which are often enhanced by tied aid provisions of multilateral funds. *Special consideration should be given to the LDCs* in order to take account of the asymmetries due to the size of their markets, structural weaknesses and limited human capacities leading to the supply-side constraint inability to provide services even within domestic markets.

B. Energy services

13. Energy is central to achieving the interrelated economic, social and environmental aims of sustainable human development, and energy services play a crucial role in providing efficient access to energy in support of development. Developing countries are thus faced with the challenge of securing more reliable and efficient access to energy through the enhanced availability of energy services. To ensure that the link between market access and development is clearly established, access to developing country energy markets could be made conditional on transfer of technology and managerial know-how, the acceptance by foreign suppliers of public services obligations, the setting up of alliances between foreign and domestic firms, including small and medium-sized enterprises (SMEs). These principles could be included as negotiated additional commitments in the sector. Under these conditions, developing countries should create a favourable environment for foreign and domestic suppliers by setting up a transparent regulatory framework which ensures fair competitive conditions for operators, especially for access to the national energy network.

14. Since energy services constitute the value added in the energy chain, developing countries are faced with the challenge of obtaining a greater share of the energy “business”. Mode 1 is of relevance particularly for on-line trading and brokering services and professional services which can be delivered by mail or electronically (e.g. consulting, legal services). It also covers services related to the cross-border transmission of electricity and gas through pipelines and interconnected grids. Mode 3 is of paramount importance since it covers different forms of foreign commercial presence. Mode 4 includes the movement of skilled professionals who deliver technical and managerial services, as well as the movement of semi-skilled or unskilled personnel needed, for example, for the construction and upgrading of facilities and grids. Trade barriers specific to Modes 1 and 3 include limited access to the network due to pre-existing exclusive rights and monopolies, and unfair or non-

transparent transmission fees. Barriers specific to Mode 1 include cross-border trading of energy subject to commercial presence, and limitations on the cross-border transfer of capital to finance energy-related transactions. Specific limitations on Mode 3 also include non-transparent regulatory frameworks and limitations on ownership and control of utilities. For Mode 4, barriers include difficulties in obtaining visas and work permits, non-recognition of professional qualifications obtained abroad, time limitations on the presence of foreign experts and economic needs tests.

15. The energy services sector includes different segments, depending on the sources of energy (e.g. oil, natural gas and hydropower), the phases of the energy process (e.g. services related to extraction, transport and distribution) and the contribution of specific services to the energy chain of activities (e.g. "core" and "non-core" services). This fragmented market reality must be taken in consideration during the ongoing services negotiations.

C. Environmental services

16. Since environmental services are so closely linked to sustainable development, developing countries may have an interest in reflecting this link by imposing an obligation on the operators in this sector in respect of discharging public services obligations, the transfer of technology and managerial know-how to local firms, the training of personnel, and the minimum local content requirement. Also, Governments may consider setting maximum prices that consumers may pay, or require that a percentage of profits be reinvested in the infrastructure.

17. Increased capacities in the environmental services sector may help enhance developing countries' ability to become exporters of specialized services in this field. They can also help them to increase their capacities to meet environmental requirements in the importing markets, become more appealing destinations for foreign direct investments, secure easier access to capital and strengthen other domestic sectors, such as tourism.

18. The favoured modes of supply for environmental services are commercial presence (Mode 3) and the presence of natural persons (Mode 4). However, information technology now makes it possible to use the cross-border mode of supply (Mode 1) for the delivery of some "non-core" services. There seems to be some scope for consumption abroad (Mode 2) through, for example, education-related services and services linked to the transport and handling of waste.

19. The regulatory process generally requires firms in the environmental services industry to obtain numerous permits to conduct various aspects of their operations, any of which may be subject to revocation, modification or refusal. The documentation, testing procedures and information gathering requirements relating to such permits can impair foreign companies' ability to provide their services in a timely manner. Also, legislation may create strict liability (especially for operations related to the transportation, treatment and disposal of waste), which may represent a barrier for small companies or for companies with limited experience in this field, as these may be from developing countries. The market for environmental

liability insurance is restricted, with only a few insurance companies currently offering limited coverage on restrictive terms and at high premiums.

20. The present classification of environmental services may merit further analysis and discussions at the multilateral level to better account for the changing market realities and to secure meaningful commitments in the negotiations. The impact on trade of liberalization commitments in the environmental services sector might be enhanced by liberalization in other service sectors, such as consulting, engineering, construction, management, legal and accounting services. The issue of the adequate classification of the sector should therefore be addressed. In paragraph 31 (iii) the Doha Ministerial Declaration mandates negotiations aimed at the reduction or elimination of tariff and non-tariff barriers to environmental goods and services, with a view to enhancing the mutual supportiveness of trade and environment. Due consideration may need to be given to concerns expressed by civil society about the extension of the GATS coverage to include basic services.

D. Health services

21. Trade in health services should promote the attainment of the policy objectives in the area of public health: equitable access to health care, quality of service and efficient use of resources. *Equitable access* means “equal utilization of health services for the same need” combined with *vertical equity*, which implies that the users contribute according to their economic capacity. *Quality* refers to the standard of health care provided by the system. *Efficiency* is related to the optimum allocation of resources, including through international trade.

22. The growing role of the private sector has increased the potential for trade in health services. Many developing countries view trade in health services as a means of increasing revenues and strengthening and upgrading their national health service. There is a close relationship between the growth in trade in health services and liberalization of other sectors, such as insurance. Particular problems are faced by the LDCs, including the brain drain of skilled professionals, and the outflow of financial resources with the cross-border movement of patients. In some developing countries privatization of the health sector has created a two-tier system with higher-quality care only for wealthier, including foreign, patients. In the light of the above, it is important that governments adopt at the international level a comprehensive set of positive measures, which would be in addition to existing exceptions, aimed at preserving the integrity of the national health systems in the same way as prudential measures are aimed at preserving the integrity of the financial system. Such a framework may facilitate the progressive liberalization of international trade in services.

23. The role of regional trade in health services is particularly pronounced because of cultural and linguistic affinities. Regional trade in health services may be further promoted by removing visa requirements and limitations on the movement of natural persons as patients and service providers; by establishing common curricula for medical professionals regionally; by easing the requirements for obtaining permits and authorizations for regional health firms; and by opening up public procurement regionally.

24. All GATS modes of supply of trade in health services offer business opportunities. In *cross-border* supply (telemedicine), affordable access to technology is crucial, as well as adequate interlinkages with telecommunication network services, medical and non-medical professional services, and computer-related services. Moreover, access to medical technology on a commercial basis and access to health information networks and distribution channels are necessary conditions. Concerning consumption abroad, many developing countries are targeting "health tourism" as a strategy to diversify the export of services on the basis of their natural endowment, climate, physical infrastructure, existing highly skilled medical and paramedical professionals, specialized medical technology. The non-portability of health insurance is a major difficulty hampering developing country delivery of health services to foreign patients.

E. Tourism services

25. The competition issue and the treatment of anti-competitive behaviour are at the core of the problems of efficiency, viability and sustainability of tourism in developing countries. The latter's ability to deal with those aspects and to counter their effects is of decisive importance. Moreover, the inadequacy or absence of a domestic legal framework on competition in developing countries, and the lack of multilateral disciplines and mechanisms within the GATS framework,⁷ affect the ability of developing countries to deal with or prevent anti-competitive practices in their tourism sectors. The predatory practices and anti-competitive behaviour in international tourism have two main effects on the economic sustainability of the tourism of developing countries: unbalanced trade benefits, and the deepening of the leakage effect. Their combined impact minimize the positive impacts of spillover and multiplier effects inherent to tourism, and undermine the financial capacity of enterprises and the ability of countries to earmark the necessary resources for maintaining and upgrading basic infrastructure and quality standards in order to satisfy in an adequate way competitive conditions and international demand.

26. The development of international tourism relies on the effective commercialization of tourism products to consumers in tourism-originating countries. World information and distribution networks play a decisive role in the international tourism sector since they bring the buyers and producers of tourism products into contact. The computer reservation system (CRS), the global distribution system (GDS) and the Internet are the backbone of world information networks, which provide the infrastructures and networking facilities for airlines, tour operators, travel agencies and other tourism operators to process and obtain information, make reservations and market tourism products. There are many obstacles and issues linked to the operation of the GDS networks. These include (a) unfair rights of access, (b) restrictions on display, (c) costs of services influenced by monopolistic practices, (d) neutrality and regulations, and (e) the technology gap among users.

27. The sustainability of tourism – that is, its economic, social, cultural and environmental sustainability – is at the heart of the domestic policies and development

⁷ Notably GATS Article IX.

concerns of developing countries. These concerns, which have been underlined in the ongoing GATS negotiations, include (a) adequate coverage and consistency of commitments in all tourism activities as defined by the Satellite Tourism Account; (b) prevention of predatory behaviour and anti-competitive practices by dominant integrated suppliers in the originating markets; (c) effective access to and use of information on a non-discriminatory basis; (d) establishment of an adequate framework for sustainable development of tourism; and (e) preservation of the environmental sustainability of tourism and the cultural heritage.

III. INCREASING PARTICIPATION OF DEVELOPING COUNTRIES IN SERVICES TRADE IN THE CONTEXT OF THE GATS NEGOTIATIONS

28. The WTO Doha Ministerial Declaration has set out the time frame for the exchange of requests and offers in accordance with the Guidelines and Procedures for the Negotiations on Trade in Services⁸ established according to the mandate of GATS Article XIX.3, under which WTO Members should submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003. The negotiations must ensure appropriate flexibility for individual developing countries for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when granting market access, attaching conditions aimed at achieving the objectives set forth in Article IV of the GATS. The majority of developing countries have yet to present their initial requests to their trading partners. This demonstrates the difficulties that a significant number of developing countries face in the elaboration of their initial requests. Some developing countries have highlighted the following: (a) difficulties in determining national policy objectives and supply constraints; (b) lack of awareness of potential comparative advantage; (c) lack of human resources; (d) the complexities involved in identifying their concrete trading interests in services (the main reason why they have not yet been able to table their initial requests); and (e) the lack of adequate understanding of the GATS. Given the agreed time frame for the negotiations, the elaboration of initial requests for specific commitments is a priority issue for developing countries. All developing countries are involved in the negotiations and negotiating is the only possible way for developing countries to promote and ensure their increasing participation in trade in services.

29. However, all UNCTAD Expert Meetings have repeatedly demonstrated that the problem of securing an increasing market share for suppliers of services from developing countries cannot only be addressed through negotiating market access and national treatment commitments. In fact at most of those meetings, experts identified issues that go beyond market access and are different from sector to sector. Tackling supply constraints and capacity building remains their priority. On the one hand, there is a need to create and maintain conditions in the markets of developing countries to address development needs, and on the other hand, there is a need to create and maintain conditions in the developed country markets to provide fair and preferential opportunities to suppliers from developing countries.

⁸ Adopted by the Council for Trade in Services on 28 March 2001.

30. Experts have also noted that trade in a specific services market may be frustrated by the lack of access in other services markets, for example air transport services in tourism. It would be useful for developing countries to keep in mind for analysis the grouping of some interrelated services in notional clusters. However, care should be taken so that the flexibility of developing countries to follow progressive liberalization in different sectors and subsectors on their own merit is not undermined. The use of a list of interrelated services by developing countries would be relevant, for example, to energy services since the current classification does not even have an independent category of energy services as such. In addition, developing countries could use this approach for identifying *specific conditions* in each of the interrelated services sectors, including seeking additional commitments from their trading partners aimed at implementation of GATS Article IV.

31. The prevailing position that conditions for the increasing participation of developing countries should and would be granted to them in the bilateral negotiations on a case-by-case basis is contradicted by the imbalances in negotiating strength. Relying exclusively on the bilateral solutions would not bring about a desired outcome in securing preferential treatment for services and service suppliers from developing countries. Developing countries may seek to introduce the “model request approach”, which would contain pro-development elements and by which they would be seeking commitments from developed countries for market opening in line with GATS Articles IV and XIX:2. For this, developing countries may continue to identify sector-specific conditions that are necessary in order to improve their participation in selected services sectors, and suggest the inclusion and negotiation of additional disciplines. The logic is that it is difficult to devise across-the-board provisions in favour of developing countries without arriving at the lowest common denominator; that is to say, developing countries may obtain a better outcome in terms of market access gained when focusing on specific areas. On the other hand, in a sectoral context, more detailed provisions could be negotiated which would ensure that the flexibility provided by the GATS would not be eroded by the bilateral negotiations.

32. Sustainable and effective integration of the developing countries into the processes of liberalization of the world economy rests upon creating a supportive domestic and international policy and regulatory environments. Fair trade will not be achieved in imperfect markets, where information will not be equally available to all, where dominant players will impose their own terms for doing business and where the rest will have no tools to address the anti-competitive practices. Among all these concerns, asymmetries in the level of development and the weak position of many developing countries in the global services trade are the most important problems to be addressed. On the basis of sectoral analysis this note has identified under which conditions developing countries could expect to achieve balanced growth and to undertake specific obligations, which they will be able to sustain. The domestic environment is predominantly open in developing countries, but their suppliers of services are not benefiting from the same effective opportunities in the developed country markets. Further liberalization along the traditional lines is not likely to deliver net benefits to developing countries and contribute to their balanced growth, unless the issues identified below are properly addressed in the negotiations.

33. The negotiations would need to aim at the effective achievement of the objectives of GATS Article IV and to reduce the current imbalance in commitments by focusing on the liberalization of market access in sectors and modes of supply of export interest to developing countries. It should be noted that developing countries have to identify their national interests, which would require a review of the existing policy/regulatory framework and establishment of an effective domestic consultative mechanism to help define national objectives, which may need to be reflected in a policy/regulatory reform exercise. The national interests identified would be the basis of those countries' negotiating strategy, requests and offers. Some of these national interests are included in the proposals submitted by developing countries.

34. Mechanisms need to be developed to ensure the effectiveness of Article IV and there needs to be a clear understanding of the provisions relating to developing countries, including the Annex on Movement of Natural Persons, to ensure effective market access through Mode 4. A monitoring and notification mechanism would need to be established to ensure implementation of the Article IV obligation.⁹ Article IV provides that developed country Members shall undertake specific commitments to strengthen developing countries' domestic services capacity and its efficiency and competitiveness, *inter alia* through greater access to technology and improved access to distribution channels and information networks. Positive measures could be taken by developed countries to implement Article IV, for example through encouraging investment in services sectors in developing countries, transfer of technology, and access to distribution channels and information networks by providing incentives such as fiscal advantages for enterprises which undertake investment and facilitate access to technology and distribution channels and information networks in developing countries. There could be also operationalization of contact points so that they would be fully functional, properly funded, known and linked to developing country service providers, and proactive in disseminating market information.

IV. MANAGING THE PROCESS OF REQUESTS AND OFFERS

35. In order to improve the capacity and better understand the needs of developing countries and their knowledge and readiness for the current stage of negotiations, UNCTAD has sent out questionnaires to randomly selected developing countries from different regions asking them to provide information on how they are implementing intergovernmental coordination and consultations with the stakeholders. Thirteen replies have been received so far from countries with substantive interests in the negotiations. Although the survey does not provide a comprehensive basis for drawing conclusions about the state of play in managing the request and offer stage in the negotiations, it provides a good insight into the different ways in which developing countries are coping with the challenges of services negotiations and also demonstrates emerging common concerns. In addition, information was gathered

⁹ An Article IV monitoring mechanism has been proposed by a group of developing countries (Bolivia, Barbados, Colombia, Cuba, Ecuador, Nicaragua and Peru) to implement the review and evaluation agreed upon by Members in paragraph 15 of the negotiating guidelines, with specific benchmarks to evaluate and review progress in the negotiations. Such benchmarks will include a review of offers in the light of Article IV objectives.

from analytical and technical assistance support related contacts that UNCTAD has had with capitals and Geneva-based trade negotiators.

A. Intragovernmental coordination

36. All countries that responded to the questionnaire have a lead agency for the WTO and/or GATS negotiations. They also have working groups to help coordinate government positions for the negotiations. The consultations held within the Government were mainly based on briefings by the lead agency, followed by the presentation of the background papers for discussions, while the coordination process between Geneva and capitals was mainly based on the exchange of reports, feedback and relevant minutes of meetings sent from Geneva to capitals. The main issue encountered during this coordination process is lack of resources and understanding of the GATS. Technical assistance has been seen as important in enhancing the understanding of the GATS, but the lack of domestic resources has contributed to difficulties in making this understanding operational and widespread across government agencies. Developing countries have found it difficult to make an assessment of trade in services in the context of the GATS at the national level and to evaluate the impact of services liberalization on their economies. UNCTAD's attempts through technical assistance programmes on services funded by the United Kingdom's Department for International Development, the Joint Integrated Technical Assistance Programme for Selected Least Developed and Other African Countries and its programmes for capacity building in capitals and on a regional basis are important factors in addressing those challenges and strengthening intergovernmental coordination.

B. Consultations with domestic stakeholders

37. All countries responding to the questionnaire indicated that they were engaged in a process of consultation with industry which would generally involve the use of formal sectoral advisory groups. These consultations included industry associations, a national body representing the services industry, trade unions and interested members of the public. Draft national position papers and negotiating proposals from WTO Members were used as the basis for consultations. Issues encountered during the coordination process were lack of resources, lack of cooperation from service sectors and lack of understanding of the GATS by domestic stakeholders. The recent efforts by UNCTAD to alleviate these problems through the organization of training seminars and workshops have been greatly appreciated.

C. Preliminary observations concerning developing countries' immediate needs

38. Exchanges of views and experiences through seminars and workshops have proved to be successful ways of increasing awareness and understanding in this area. Since the GATS extends to all services sectors, it seemed imperative that ample time and attention be given on a sectoral basis to this subject. There was a greater need, however, to intervene in areas which would improve the understanding of developing countries' negotiating interests. The training of negotiators and conducting studies on the relative strengths of developing countries in the

area of services trade were particularly important. Analytical work on sector-specific and country-specific issues for enhancing the understanding of trade in services was carried out as part of UNCTAD's technical assistance activities, more specifically in the context of the Positive Agenda and the Commercial Diplomacy Programmes. A coalition of the services industries would also help in coordinating and focusing the efforts of a Government in the area of the GATS. By establishing a body or office to handle services, a Government would also be more able to ensure the continuity of knowledge about GATS, as well as concentrate efforts and expertise on ways to assess and evaluate the impact of services trade liberalization. Future assistance would be particularly useful if it would primarily target how the consultations may be effective in identifying national interest in the offer/request process, and how to facilitate the understanding of the GATS by all stakeholders in developing countries.

V. KEY ISSUES AFFECTING DEVELOPING COUNTRIES TRADE IN SERVICES

39. A number of common elements were identified at all Expert Meetings as relevant to increasing participation of suppliers from developing countries in the world trade in services. While some of them act as barriers to market access, others are conditions affecting the performance capacity of suppliers from developing countries. Moreover, some of these issues need an innovative approach so as to ensure that their treatment does not undermine commitments in other sectors.

40. *Access to technology.* This remains one of the key problems for service suppliers from developing countries. On the basis of the experience in construction and energy sectors, transfer of technology can be encouraged by appropriate government regulations. Joint ventures with developed country partners and local content and manpower training requirements have shown to foster the transfer of technology to developing country firms and their acquisition of specialized experience. The inability to provide new technology-based health treatment in developing countries leads among other things to the loss of a potential source of income. Environmental sustainability based on the application of new technologies in tourism industries is crucial to maintaining the growing tourism in developing countries.

41. *Banking and finance.* The availability of financial resources through sound and reliable financial services is a precondition for developing country firms in construction, environmental and energy services to translate their domestic competitiveness into international trade. Assistance to firms in obtaining adequate financing through strengthening of the domestic banking sector, and support to firms in tapping international financial markets, appear to be crucial policy elements. The availability of finance is crucial for obtaining technology on a commercial basis for developing country firms.

42. *Public policy concerns.* Opening of the markets for private investment in such services as energy has to be supported by the requirement to make energy available to the population at large (i.e. public service obligation). Equity considerations are a precondition

for liberalization of health and environmental services. International measures may be necessary in order to support liberalization and trade in health services, with prudential measures, for example, being important in the financial sector for preserving the integrity of the national health systems.

43. *Small and medium-sized enterprises (SMEs)*. The role of SMEs has been reconfirmed in all the services sectors analysed. For example, half of all environmental services are provided by SMEs, while in health services their role is increasing with the growing private provision of services. In construction services, SMEs are often at a disadvantage because of the size of projects. SMEs should be given a role in alliance with other strategic partners in energy services. In tourism, they are crucial in providing many tourism products. However, SMEs in developing countries, unlike in developed ones, are facing the increasing costs and erosion of their competitiveness. They are affected by the structural weaknesses of the domestic markets and the lack of government support comparable to that available in developed country markets.

44. *Transparency as an asymmetry of information*. Meaningful access to markets for construction, environmental and energy services requires that measures relating to qualification requirements for companies, as well as procedures, technical standards which and licensing requirements, be addressed effectively. Multiple regulations and standards which are applied at various levels of government as well as by non-governmental bodies may undermine opening of market access and granting of national treatment.

45. *Access to information networks*. This is one of the requirements for being competitive. In health and tourism services it has a direct impact on the provision of service. In construction, energy and environmental services, such access determines the management of inventories and makes it possible to learn about prices and projects.

46. *Anti-competitive practices*. The need to address competition issues was stressed by private sector operators in construction, tourism and energy services. The lack of transparency in granting permits and licences in construction services in foreign markets contributes to anti-competitive behaviour by globally established firms, thus detracting from the market access opportunities for firms from developing countries. Measures ensuring non-discriminatory access to network facilities in the energy services markets must support liberalization of trade. The lack of neutrality in CRS/GDS has raised concerns among tourism service providers.

47. *Movement of persons*. This is important in all services sectors, and limitations on movement may have different effects. Although the issues remain the same, their magnitude may vary. Restrictions on movement of service-providing personnel may arise in connection with economic needs test requirements, discriminatory licensing, accreditation, recognition of foreign professional qualifications, nationality and residency requirements, State and provincial requirements, immigration regulations, access to examinations for completion of qualifications, foreign exchange controls affecting the repatriation of earnings, and discriminatory regulation of fees.

48. *Regional integration.* This may be an option for building national capacities and niches of specialization in construction, health and environmental services. Subregional integration agreements among developing countries could adopt provisions for the mutual recognition of diplomas and the free movement of professionals, as well as the liberalization of government procurement practices within the free trade area or customs union. This would be a means of enabling developing country firms to acquire competitive strengths necessary for competing in world markets.

49. *Regulatory framework.* The importance of an updated regulatory framework in response to the changing market realities and advances in technology was underscored in all services sectors analysed. In construction services, the need for a model law was emphasized; similarly, privatization in energy and health services have to be supported by an adequate new legal and institutional framework, while health services have also to address the issues of the liability standards and protection of consumers linked to the application of the information technology services in telemedicine. Adoption of new environmental standards has also to be supported by a new legal framework.

50. *Coverage of services sectors under the GATS classification.* At each Expert Meeting it was made clear that the development of core activities depended on the characteristics of other services markets which are classified under a different sectoral category in the GATS services classification. In fact, market access opportunities were nullified in core activities owing to the limitation in the interrelated services sectors, as is the case in tourism and transport, physical construction and architectural/engineering. The existing classification under the GATS appeared to be inadequate for energy and environmental services.

FINAL COMMENTS

51. The sustained growth of the services economy is a crucial element for maximizing positive development implications in terms of increasing socio-economic dividends and achieving trade benefits. Growing trade in services would provide immediate development benefits to the extent that it would lead to better employment opportunities, to overcoming poverty and to becoming a driving force for the improvement of human development, thus leading to rising standards of living for the population at large. In the context of the Doha Development Agenda, the outcome of services negotiations should ensure better prospects for developing countries in terms of balance in the distribution of benefits from trade liberalization. Only to the extent that scope is preserved in the international trading system for the services provided by suppliers from developing countries will trade liberalization will be supportive in overcoming poverty. This is particularly evident in sectors such as tourism, which remains the single source of export revenues for many countries. Similarly, in other sectors such as construction, environment, health and energy services, trade liberalization should be supportive of the paramount policy objectives of developing countries, with special consideration of the needs of the LDCs and other countries with large populations living in extreme poverty.

52. To maintain the momentum of negotiations, developed countries would need to ensure that in this round their requests to developing countries are reasonable and sustainable, and that meaningful market opening opportunities are offered by them particularly in respect of Mode 4, and in sectors such as business and professional services (e.g. computer-related services), construction, tourism and transport. Moreover, developing countries should undertake at home the necessary steps for disciplining anti-competitive practices and implementing measures to build up an enabling business environment, so that their services providers upgrade the level of performance in trade in services, along the lines of the provisions of GATS Article IV. Credit for autonomous liberalization, an emergency safeguard mechanism and specific mechanisms for building supply capacity and transfer of technology are other key components of successful negotiations for developing countries. In terms of meaningful incentives for liberalization, for some developing countries reciprocal benefits would need to be offered in other sectors such as textiles or agriculture, or with regard to implementation issues.

53. Of particular concern to developing countries is the lack of transparency of the ongoing request/offer process within the GATS, which hinders their capacity to evaluate the requests submitted to them by developed country trading partners, and the formulation of their own requests and offers, which is a particularly complex task, since they need to determine clearly their national policy objectives and the competitiveness of each sector/subsector, and evaluate *inter alia* the proper sequencing of liberalization, the capacity of domestic firms to provide particular services and whether this capacity would be positively or negatively impacted by further competition in the market. Other elements of such an evaluation relate to impact on investment, the impact on employment and access to high-quality more efficient imports.

54. The effective participation of developing countries in international trade in services depends on the effective implementation of the provisions contained in GATS Articles IV and XIX and respect by all trading partners for the principles contained in the "Guidelines and Procedures for the Negotiations on Trade in Services". With this in mind, the Commission on Trade in Goods and Services, and Commodities at its seventh session may wish to consider strengthening UNCTAD's capacities and focus on four areas: (a) to continue the assessment of services in the economies of developing countries as a continuous activity, with a view to elaborating policy and regulatory recommendations to promote the development of domestic services capacities; (b) strengthen sector-specific analysis especially enhanced through UNCTAD Expert Meetings which focus on the same services sectors where some expertise has been already accumulated, or seek to include new services sectors for the expert debate; (c) provide assistance to developing countries in improving their understanding of policy implications in the area of trade in services, especially in the context of the ongoing negotiations. This would be based on providing analytical inputs regarding how development objectives could be enhanced through progressive trade liberalization and regarding the necessary preconditions at sector-specific level or of a general nature for ensuring the increasing participation of developing countries; and (d) support to Governments of developing countries in their implementation of recommendations by Commission which had emanated from Experts Meetings and from following the process

of multilateral trade negotiations in the area of services and the analysis of their potential implications for the economies of developing countries.
