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INDO-SRI LANKA TRADE IN SERVICES: FTA II AND BEYOND

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AIIMS	All India Institute of Medical Sciences
ASAs	Air Service Agreements
BCIS	Bandaranaike Centre for International Studies
BOI	Board of Investment
BSNL	Bharat Sanchar Nigam Limited
CEP	Cultural Exchange Programme
CEPA	Comprehensive Economic Partnership Agreement
CPC	Ceylon Petroleum corporation
DIMO	Diesel & Motor Engineering Company Ltd.
EDB	Export Development Board
EDI	Electronic Data Interchange
EHIRC	Escorts Heart Institute and Research Centre
FDI	Foreign Direct Investment
FIPB	Foreign Investment Promotion Board
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GMOA	Government Medical Officers Association
HDFC	Housing Development Finance Corporation
ICT	Information and Communication Technology
IIT	Indian Institute of Technology
IMRB	Indian Market Research Bureau
IOC	Indian Oil Corporation
IPO	Initial Public Offering
IRDA	Insurance Regulatory Development Authority
ISEL	Institute of Engineers of Sri Lanka
JNPT	Jawaharlal Nehru Port Trust
KMC	Kasturba Medical College
MBBS	Bachelor of Medicine/ Bachelor of Surgery
MD	Master of Medicine
MFN	Most Favoured Nation
MICE	Meetings, Incentives, Conventions, Exhibition
MoU	Memoranda of Understanding
NTP	National Telecommunication Policy
NTT	Nippon Telegraph and Telecom Corporation
PATA	Pacific Asia Travel Association
RCA	Revealed Comparative Advantage
RITES	Rail India Technology Economical Services
SAARC	South Asian Association For Regional Co-operation
SAFTA	South Asian Free Trade Agreement
SLMC	Sri Lanka Medical Council
SLPA	Sri Lanka Ports Authority
SLT	Sri Lanka Telecom
SLTB	Sri Lanka Tourism Board

TEUs	Twenty-foot Equivalent Unit
TRAI	Telecom Regulatory Authority of India.
TRCSL	Telecommunications Regulatory Commission of Sri Lanka
UIA	Union of Architects
VSNL	Videsh Sanchar Nigam Limited
WLL	Wireless Local Loop
WTO	World Trade Organisation

Foreword

India and Sri Lanka are in the process of negotiating Comprehensive Economic Partnership Agreement (CEPA). In this context the study on 'Indo-Sri Lanka Trade in Services: FTA II and Beyond' identifies sectors of bilateral trade interest, identifies barriers to trade and suggests measures for removal/reduction of such barriers, so that the two countries can gain from CEPA.

The study points out that the important areas for bilateral trade in services include transportation, tourism, construction, health, education, telecommunications and software, energy, retailing, banking, and through movement of professionals. There is a significant amount of Indian investment in several of these sectors in Sri Lanka but Indian investors face problems such as political and economic stability, licensing requirement, high license fees, requirement of local management and staffing, transparency and bureaucratic delays, lack of knowledge about the Sri Lankan market, shortage of local skills and restriction on import of equipment. The study shows that there is a movement of people between the two countries. While Indians face problems mostly with the professional regulatory bodies in Sri Lanka, Sri Lankans face problems related to visa requirements imposed by India. The study suggests measures for removal of such barriers through the CEPA.

The study has been carried out under the aegis of the South Asia network of Economic research Institutes (SANEI) as a collaborative effort between the Indian Council for Research on International Economic Relations, New Delhi and the Institute of Policy Studies, Sri Lanka. I hope the study will contribute to the larger understanding of regional/bilateral trade issues in the South Asia Region.

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I Introduction[1]

With rapid expansion of the services sector, its increasing contribution to the Gross Domestic Product (GDP) and international trade, its linkages with other sectors of the economy and development of communication technology; any trade liberalisation would be incomplete without liberalisation of the services sector. Realising this, the Uruguay Round of the World Trade Organisation (WTO) negotiations broadened the scope of multilateral negotiations to include services in January 1995. The *General Agreement on Trade in Services* (GATS), establishes the rules and disciplines governing trade in services in a multilateral framework.

With limited success of the Uruguay Round negotiations, in liberalizing services trade, several countries entered into bilateral/regional agreements in order to enhance the pace of liberalisation. Other factors such as, similar regulatory regimes, trade complementarities, economies of scale in regional services integration, network externalities, etc., encourage countries to opt for the bilateral/regional route.[2] A unique feature of the post-Uruguay Round agreements or the "New Age FTAs" is that they go beyond just merchandise trade liberalisation to encompass liberalisation of services trade focussing on high growth services sectors such as the transport, finance, and information and communication technology. While an active debate on whether bilateralism/regionalism is a stepping stone towards multilateralism or whether such arrangements detract from liberalisation and fragment the global trading system continues to persist, the point to recognise is that regionalism is here to stay and grow.[3]

India and Sri Lanka look upon regional/bilateral FTAs as a complement to the multilateral trading system by ensuring the compatibility of the FTAs with the rules laid down by the WTO. Also, both countries are members of the South Asian Association for Regional Co-operation (SAARC) which envisaged the formation of a South Asian Free Trading Arrangement (SAFTA) through successive rounds of tariff concessions between member countries. However, the efforts of member countries have not yielded the expected results.[4] It may be this limitation of the regional arrangement, which may have prompted India and Sri Lanka to sign the Indo-Sri Lanka Free Trade Agreement in December 1998.[5] The two countries, however, continue to make an attempt to find ways of invigorating trade through bilateral arrangements. A significant move in this direction was expressed in a joint statement by both Governments in June 2002 agreeing to set up a Task Force for "FTA II and Beyond" to examine the issue of inclusion of trade in

[1]We are grateful to Arvind Virmani of ICRIER and Saman Kelegama of IPS for facilitating the study. We would like to thank Members of the SANEI Research Advisory Panel and B. K. Zutshi for their valuable comments. We would like to thank Sukanya Ghosh and Nitisha Patel of ICRIER and Deepamala Abeysekera of IPS for their excellent research assistance.

[2] See Hoekman and Braga (1997); Rajan and Sen (2002).

[3] See World Bank (2000); Hoekman and Braga (1997).

[4] See Shome (2001); Harilal and Joseph (1999); Taneja (2001).

[5] The Agreement came into effect in March 2000.

services. A Joint Study Group with representatives from both countries was set up which submitted its report in October 2003 that paved the way for negotiations on the Comprehensive Economic Partnership Agreement (CEPA). It may be noted that the framework agreement is referred to as CEPA and not as a Free Trade Agreement since, the latter would imply removal of all non-tariff barriers. In the present context of Indo-Sri Lanka trade, the services agreement aims to remove/reduce market access and national treatment barriers, and promote co-operation between the services sectors of the two countries. [6]

Studies on trade between India and Sri Lanka have focussed on trade in goods both in the context of SAFTA and in the context of Indo-Sri Lanka Free Trade Agreement.[7] However, in recent years, the services sector in both these economies has gained considerable importance, both in terms of its share in GDP[8] and in total trade[9]. Bilateral trade in services between India and Sri Lanka has shown an increase. While Sri Lanka has concentrated in the export of *traditional* services such as transhipment services (port of Colombo acts as a hub port for Indian ports) and tourism; India has focused on export of both *traditional* (e.g., tourism, construction and engineering) and knowledge-based services (e.g., software, education, health).[10] In spite of its growing importance, to our knowledge, there has been no comprehensive analysis on Indo-Sri Lanka trade in services. The proposed study aims at filling up this lacuna. It is also expected that the findings of the study would provide useful inputs into the proposed FTA negotiations on trade in services between the two countries.

In the context of the proposed "FTA II and Beyond", the objective of this study is to assess the trade potential and identify areas of mutual co-operation between India and Sri Lanka in the services sector. More specifically, the study will identify sectors of bilateral trade interest, identify domestic and external barriers to trade in those sectors and recommend measures for removal/reduction of such barriers through the proposed FTA.

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[6] Several Free Trade Agreements related to goods trade are more of Preferential Trade Agreements rather than Free Trade Agreements. However, they continue to be referred to as Free Trade Agreements. Similarly in the case of agreements related to services, the Preferential Trade Agreements are referred to as Free Trade Agreements. In the case of Indo-Sri Lanka, the terms CEPA and FTA are interchangeable.

[7] See Mukherjee (2000); Sarvananthan (2000); Weerakoon (2001); Kemal *et al(* 2002).

[8] In the year 2000, the share of services in GDP was 48% and 53% in India and Sri Lanka respectively, (Balance of Payments Statistics, International Monetary Fund).

[9] In the year 2000, the share of services trade in total trade was 28% and 18% in India and Sri Lanka respectively, (Balance of Payments Statistics, International Monetary Fund).

[10] See for example, Major Ports of India: A Profile, Indian Ports Association, India; NASSCOM Strategic Review, The IT Industry in India; World Travel and Tourism Council; Annual Report of Central Bank of Sri Lanka; Ministry of Tourism, India; Sri Lanka Tourist Board; Annual Reports of various Ministries/Departments of both countries, etc.

II Analytical Framework

The General Agreement on Trade in Services or GATS envisages progressive liberalisation of trade and investment in services through periodic round of negotiations, first of such round to begin no later than five years after the entry into force of the WTO Agreement. Accordingly, services negotiations were launched in January 2000 and are known as GATS 2000 negotiations, now a part of the Doha Round. In the current round, Members have made their bilateral requests and some Members including India and Sri Lanka have submitted their initial offers.

The GATS provides its members with a framework for negotiating the removal of external barriers and also to commit themselves to the reduction or removal of various domestic barriers to services trade. As services tend to be intangible, it is difficult to measure trade in services. The GATS classifies services trade into four different modes:

a) *Cross-border Supply or Mode 1* refers to the delivery of services across countries. In the case of transport services, this refers to the cross-country movement of passengers and freight. It also includes electronic delivery of information, data, etc.
b) *Consumption Abroad or Mode 2* refers to the physical movement of the consumer of the service to the location where the service is provided and consumed. It also covers activities, such as repair of road transport equipment abroad, where only the property of the consumer 'moves', or is situated abroad.
c) *Commercial Presence or Mode 3* refers to the establishment of foreign affiliates and subsidiaries of foreign service companies, joint ventures, partnerships, representative offices and branches. It is analogous to foreign direct investment in services.
d) *Presence of Natural Persons or Mode 4* refers to natural persons who are themselves service suppliers, as well as natural persons who are employees of service suppliers temporarily present in the other Member's market to provide services.

Unlike goods, barriers to trade in services are generally not in the form of import tariffs. Instead, services trade barriers take the form of prohibitions, quantitative restrictions, government regulations, etc. Hence, services trade liberalisation is dependent upon removal and relaxation of these non-tariff barriers. The GATS has identified two broad categories of barriers: market access barriers and national treatment barriers. A market access barrier exists if a country does not allow (or partially allows with some restriction) foreign service providers to enter and operate in its markets. A country is said to have imposed national treatment restrictions if it accords treatment to foreign service providers which is less favourable than that which is accorded to its domestic service providers. The market access restrictions encompass barriers such as, limitations on the number of foreign service suppliers, the value of transactions or assets, the total quantity of service output, the number of natural persons who may be employed, the type of legal entity, and the extent of foreign capital participation in terms of equity share or absolute value. The national treatment restrictions would include discriminatory taxes against foreign service providers, residency requirements, registration and licensing for foreign service providers, etc. GATS also states that domestic regulation measures affecting committed sectors have to be administered in a reasonable, objective and impartial manner.

Under the GATS framework, for each of the four modes of supply of services, member countries can schedule commitments across all services sectors (horizontal commitments) or in specific sectors/sub-sectors (sectoral commitments). For each sector under each mode a country can impose two types of barriers: market access barriers and/or national treatment barriers. A country is said to have made a "full" commitment in a particular mode of supply of services if there are no restrictions on market access or national treatment. A country is said to have made "partial" commitments if the commitments are subject to some restrictions on market access or national treatment. If a country does not make any commitment to liberalise the sector/mode and reserves the right to impose restrictions in future, the country is said to have kept the sector/mode "unbound". It is also possible for a country to make commitments, which are outside the scope of market access and national treatment as defined in the GATS. These are known as Additional Commitments (Article XVIII). This provides scope for making commitments in regulatory areas such as licensing, qualifications and standards applicable to services.

One of the basic principles of GATS is Most-Favoured-Nation Treatment (MFN: Article II) under which a member is obliged to provide a treatment to a Member which is no less favourable than the treatment it provides to any other country. [11] According to this Article, if India or Sri Lanka offer any privilege to each other they have to extend the same to all other WTO member countries. However, Article V (Regional Integration) of GATS allows member countries to enter into bilateral and regional arrangements in derogation of the MFN principle, subject to the disciplines of Article V. As both India and Sri Lanka are members of WTO and are participating in the ongoing Round of GATS 2000 Negotiations, now a part of the Doha Round, the proposed study would be carried out in a framework compliant with Article V of GATS.

The conventional tools used to assess trade possibilities between countries are the revealed comparative index [12] and the trade complementarity index.[13] The prospects of trade expansion are likely to be strong for countries that have either comparative advantage for dissimilar products, or trade structures that exhibit high complementarity. Such indices, although widely used in the goods context have not been used often in the context of trade in services. Hoekman uses RCAs (Revealed Comparative Advantage) for trade in services and concludes that developed countries are more specialised in commercial services that are capital intensive while developing countries are specialised in labour intensive commercial activities.[14] The revealed comparative advantage index is

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[11] In the Uruguay Round Members were allowed to take MFN exemptions for a period of 10 years which enabled them to accord preferential treatment to bilateral/regional trading partners. In the current Round, it is difficult to take MFN exemptions.

[12] See Balassa (1965)

[13] See Michaely (1994)

[14] See Hoekman (1995)

a ratio of the share of a given product in a country's exports relative to its share in world exports. A value of more (less) than unity indicates that the country has a revealed comparative advantage (disadvantage) in that product. Wickramasinghe examines the RCA co-efficients for the South Asian countries both at an aggregate and dis-aggregated level of services trade.[15] While the RCA approach focuses only on commodities in which revealed comparative advantage is indicated, the trade complementarity index measures trade complementarity at the bilateral level in terms of the overall export-import structure of the trading partners. Since the RCA is an index of comparative advantage that a particular country has *vis-à-vis* the rest of the world, while trade complementarity index is a bilateral measure, in the context of bilateral trade, the latter may be more appropriate. However, lack of data on bilateral trade flows in services explains why this index is not used very often. In the context of present study, while data is available on trade (in services) carried out by India and Sri Lanka with the rest of the world, but not with each other, it is possible to compute indices of Revealed Comparative Advantage but not the Trade Complementarity Index. The trade possibilities in services between India and Sri Lanka cannot be determined solely on the basis of the RCA index. The most important drawbacks are lack of comprehensive and accurate data and difficulties in measuring service trade. Also, any market share index, such as the RCA, can be an indicator of true competitiveness only under conditions of free trade. Given the plethora of non-tariff barriers that govern trade in services, such indicators become weak. In the context of the present study, such indices will be supplemented with a qualitative survey which would help to identify potential service sectors at a dis-aggregated level. The survey would also help to identify barriers to trade in services both at sectoral and modal level. An understanding of the extent of barriers to services trade will enable India and Sri Lanka to initiate appropriate measures which would, in turn, enable them to gain from the proposed CEPA.

III Methodology

The study is based on both quantitative and qualitative data. Data from secondary sources has been used to estimate the revealed comparative advantage index. To identify the potential service sectors of trade interest to India and Sri Lanka at a dis-aggregated level, qualitative techniques have been used. The qualitative survey has been conducted in two stages – in the first stage potential sectors of trade interest and modes of trade in those sectors between India and Sri Lanka were identified. In the second stage of the survey, barriers to trade in potential sectors were identified.

III.1 Secondary Data

Data from secondary sources was used to analyse trends in service exports. The data was also used to compute indices of revealed comparative advantage. The revealed comparative advantage index is a ratio of the share of a given product in a country's exports relative to its share in world exports. A value of more (less) than unity indicates

[15] See Wickramsinghe (2000)

that the country has a revealed comparative advantage (disadvantage) in that product. Thus the ratio is defined as:

$$\mathbf{R}_{ih} = (\mathbf{X}_{ih}/\mathbf{X}_{it})/(\mathbf{X}_{wh}/\mathbf{X}_{wt})$$

Where R_{ih}=revealed comparative advantage ratio for country i in product h, X_{ih}=country i' s exports of product h, X_{it}=total exports of country i, X_{wh}=world exports of product h,

X_{wt}=total world exports.

III.2 Primary Survey

In the absence of availability of secondary data, a two-stage survey was carried out to first identify potential areas for trade in services between the two countries and at the second stage survey instruments were designed and canvassed to elicit information on barriers to trading in identified potential sectors.

III.2.1 Identification of Potential Sectors

To begin with, the 12 broad sectors laid out in the GATS classification (MTN.GNS/W/120) were considered for analysis. The GATS classification in turn has been drawn from the United Nations Central Product Classification (UNCPC) which provides a comprehensive coverage of all service sectors. The list was narrowed down to those sectors where trade exists between the two countries or where trade possibilities exist. Several indicators were used to select a sub-set - these included secondary information on services sector profiles in the two countries (in terms of their growth pattern, liberalisation initiatives, extent of FDI etc.,) list of joint ventures in the two countries (see Table A1 in Appendix) and their company level profiles (which has been used to understand the type of firms that are participating in the Indian and Sri Lankan markets). In addition, systematic information gathering through an extensive web-search and interviews with relevant industry associations, concerned government departments (at central, state and local levels), High Commissions in India and Sri Lanka and actual participants in trade was attempted to select sectors in which there is existing bilateral trade or possibility of future bilateral trade in the context of the proposed FTA. In addition the commitments made by both countries in the Uruguay Round, the requests made by them to each other and the initial offers made by the two countries were analysed to identify possible sectors for inclusion in the study. The sectors identified in this manner are- telecommunication, transport services (including ports, air, ferry and land bridge, rail and road transportation services), tourism, health, education research and training, construction, software, professional services, energy services retailing, audiovisual services and financial services.

III.2.2 Selection of Respondents and Design of Survey Instruments

A number of sources were used to select respondents from the identified sectors of trade interest. Based on the list of the joint ventures, (see Table A1 in Appendix) interviews with relevant Government bodies, High Commissions of the two countries, professional bodies and industry associations it was possible to draw up lists of actual and potential participants in trade from which the sample could be drawn. The lists provided the location of the respondents and hence it was possible to identify cities/areas where there was a concentration of participants in Indo-Sri Lanka trade in services. The cities selected were Delhi, Mumbai, Chennai, Bangalore and Manipal. In Sri Lanka the survey was carried out in Colombo only as most of the trade in services takes place from and to Colombo. Respondents were then selected from each of these cities in different sectors and modes. In some sectors and in some modes it was possible to cover the entire sample of existing participants, for instance, in the case of airlines, telecommunications, rail, ports, construction, energy, banking, there were limited number of firms that were engaged in Indo-Sri Lanka trade. In other sectors and modes respondents were selected randomly from the lists prepared as in the case of patients and students. Within each mode in some sectors there was more than one type of respondent and hence respondents had to be selected from each respondent category. For instance, in the health sector the different categories of respondents comprised of hospitals, patients, doctors, medical institutions and professional bodies such as the Sri Lanka Medical Council and the Medical Council of India. Further, selected hospitals comprised of joint ventures and hospitals receiving patients. The list of hospitals receiving patients were used not only to identify patients but also indicated potential hospitals that were likely to set up operations in Sri Lanka. Medical training institutes in India were selected on the basis of information gathered on the institutes where Sri Lankans go to obtain their MBBS or MD degrees. Hospitals in India which offered short-term training courses to Sri Lankan doctors were also selected. In Sri Lanka the respondent list comprised of hospitals having joint ventures with India, doctors working in Sri Lanka, Sri Lankan doctors coming to India for training, and patients who had received treatment in India. Patients were identified through the hospital records in India and were traced back in Sri Lanka where they were interviewed.

Questionnaires were designed to elicit information on the different modes and the extent of barriers in each mode under market access, national treatment and barriers related to domestic regulation. Separate questionnaires were designed for each type of respondent in each sector and each mode. For instance, in health services the participants included hospitals, doctors, medical institutions and patients. While establishment of an Indian institution in Sri Lanka indicates trade through Commercial Presence or Mode 3, movement of doctors between the two countries represents Movement of Natural Persons or Mode 4 and the movement of patients from Sri Lanka to India for medical treatment or doctors for consuming training would be considered as trade through Consumption Abroad or Mode 2. Providing services such as tele-diognosis would be considered trade under Mode 1.Thus in some modes there was more than one type of respondent. Questionnaires for the professional bodies in India and Sri Lanka were designed to get information on the domestic regulatory regimes in the two countries so that it was possible to identify barriers emanating from such regimes.

A total of 190 respondents were selected in India while 115 respondents were selected in Sri Lanka in selected service sectors. (See Table A2 in Appendix). In India, 35% of the respondents were from Chennai, 17% from Bangalore, 26% from Delhi, 17% from Mumbai, and 5% of the respondents were selected from Manipal. (See Table A3 in Appendix). The survey was conducted during December 2003 and February 2004 in India and during February 2004 to May 2004 in Sri Lanka.

The survey was carried out in India by Planman Consulting and in Sri Lanka it was conducted by the Ceylon Chamber of Commerce.

IV Secondary Data Analysis

The study has made an in-depth analysis of the existing data on trade in services. At the international level, data on trade in services is provided in the Balance of Payments Statistics yearbook published by the IMF. The yearbook provides individual countries trade data on services with the rest of the world. This data includes trade statistics on services at a dis-aggregated level to include three broad categories namely travel, transport and other services. Data on transportation services can further be obtained at a more dis-aggregated level to include passenger services, freight and other services; while that on other services can be obtained at a further dis-aggregated level to include Government services and other services. The latter in turn is dis-aggregated further into communications, construction, insurance, financial, computer and information, royalties and license fees, other business services, personal and cultural and recreational and government not included elsewhere. However, under this classification data for India and Sri Lanka on trade in services with the rest of the world is not available for all the categories. At the national/country level, in recent years more detailed data on trade in invisibles is being provided by the Reserve Bank of India (RBI). The RBI bulletin in January 2001 published disaggregated data on trade in services for the first time. Subsequently the RBI Bulletin of May 2003 provided a further update. Data on services can now be obtained from 1997-98 to 2001-02. The format used by the RBI provides five statements to include accounts on travel, transportation, insurance, government not included elsewhere and miscellaneous services (other services). (see Tables A 4.1 and A 4.2 in Appendix). The level of dis-aggregation provided by RBI is at a much more dis-aggregated level than that provided by the IMF. For instance it is possible to get a break-up of travel payments made towards business, health, education, basic travel quota, pilgrimage and others. Data on other services is provided on most of the categories classified by the IMF, with the exclusion of personal, cultural and recreational services and the inclusion of news agency services and management services under separate heads. Similarly, the Central Bank of Sri Lanka publishes data on Sri Lanka's trade in services. (see Table A5 in Appendix).The data on trade in services is provided in eight broad categories namely transportation, travel, telecommunication services, computer and information services, construction services, insurance services, other business services and government not included elsewhere.

Secondary data from the IMF on BOP has been used to examine the changing sectoral composition of services trade of both countries - India and Sri Lanka. While India's share of other services in total services trade has increased from 35% in 1995 to 74% in 2002, Sri Lanka's sectoral composition has maintained its dominance in the transport services trade which accounted for 37% in 2002. (see Table A6 in Appendix). In fact, India's predominance in exports of other services is accounted largely by software accounting for almost 49% of exports of other services. The same data for both countries was used to compute Revealed Comparative Indices (RCAs). (see Table A7 in Appendix). The indices show that India has a revealed comparative advantage in other services since 1996. The RCA for other services exports from India has shown an increase from 0.86 in 1995 to 1.73 in 2002. India does not have a revealed comparative advantage in transport and travel services. On the other hand Sri Lanka' s' RCA indices show that it has a comparative advantage in transport services. The RCA for Sri Lanka's export of transportation services increased from 1.68 in 1995 to 1.96 in 1997, and thereafter showed a decline in the subsequent years. Clearly it can be seen that that there are trade possibilities in services between the two countries.

Trade complementarity indices would be relevant for the study but they they have not been computed since data on bilateral trade in services between the two countries is not available. Thus, given the limitations on secondary data and limited use of RCAs in the context of the present study, the focus of the study is largely on primary data.

V Sector Analysis

This section highlights the areas of trade interest in services sectors between the two countries on the basis of a survey carried out in India and Sri Lanka. It identifies the barriers to trade and suggests measures for their removal/reduction through the proposed FTA/CEPA.

V.1 Telecommunications

Telecommunication services is an important infrastructure sector, and is a crucial prerequisite for economic growth. Recognizing the importance of this sector, India and Sri Lanka have actively pursued liberalization as part of their autonomous reform process.

In India, upto the mid-nineties, the government was the sole provider of telecom services. Thereafter, there has been gradual deregulation starting with the announcement of the National Telecommunication Policy (NTP, 1994) which allowed private entry into various telecom sub-sectors. The Government also established an independent regulator – the Telecom Regulatory Authority (TRAI) in 1997. The major breakthrough in reforms came with the initiation of the NTP, 1999 which opened up the telecom services to private sector without any restrictions on the number of operators except in the cellular mobile segment due to frequency constraints. In recent months several new initiatives have been undertaken to quicken the pace of reforms in the telecom sector.

Several crucial policy decisions have been implemented during 2003. These include, permission for offering Internet telephony, launching of internet telephony service by BSNL, opening up of National Long Distance Service (NLDS) to private operators without any restriction on the number of operators, opening up of International Long Distance Service (ILDS) ahead of the schedule date of March 31, 2004, commissioning of National Internet Backbone (NIB), appointment of USO Administrator and progressive modernisation of Radio Frequency Spectrum Allocation. The government also accepted TRAI's Unified Licensing recommendations dated 27th October 2003. The recommendations envisaged a two – stage process to introduce Unified Licensing regime in India. The 1st stage entails a Unified Access Service License at Circle level has been implemented.

The government has gradually been increasing the FDI limits for foreign participants. Currently, the government allows up to a maximum of 74% foreign equity in basic, cellular mobile, paging and value added service and global mobile personal communications by satellite; up to 74 per cent (beyond 49 per cent requiring government's approval) in internet service (with gateways), radio paging services and end-to-end bandwidth; and up to 100 per cent in manufacturing of telecommunication equipment and services such as electronic mail and voice mail. As a result many foreign/private players entered the Indian market.

In Sri Lanka reforms in the telecom sector were also initiated in the early 1990s. The Sri Lanka Telecom (SLT) was a state-owned telecom services provider until 1996 when it privatized and collaborated with Nippon Telegraph & Telephone Corporation (NTT) of Japan. SLT monopoly over fixed line telephone services also ended in 1996. The Telecommunications Regulatory Commission of Sri Lanka (TRCSL) was established under the Sri Lanka Telecommunications (Amendment) Act No. 27 of 1996. In 2002, SLT went ahead with its Initial Public Offering (IPO) following which the Government now owns 49.5% of SLT, NTT Communication Corporation 35.2%, and the public the balance 15.3%. In the same year, SLTs monopoly over provision of international voice telephony services to and from Sri Lanka ended. As of April 2004, 31 licenses had been issued for External Gateway Operations. Interconnection rules were also introduced by the TRCSL in March 2003. Sri Lanka has also liberalised its FDI regime significantly, with no FDI cap in this sector.

The liberal policy regime has attracted Indian telecom companies such as VSNL and BSNL to enter the Sri Lankan market. In 2003, VSNL received an approval from the BOI to form a fully owned subsidiary in Sri Lanka under the name 'VSNL Lanka Ltd.' As per the requirement, VSNL has paid the license fee of US $ 50,000 for the External Gateway Licenses from the Telecommunications Regulatory Commission of Sri Lanka. Initially VSNL plans to offer International Long Distance telephony services and will gradually expand its service umbrella to include other services such as internet and internet based applications. The company aims to tap the Indo-Lanka traffic, which accounts for 17% of Sri Lanka's international telephony. Another Indian company, BSNL, signed an agreement with SLT in 2003 to renew the microwave link between

Rameswaram in India and Talaimannar in Sri Lanka which had been operational earlier from 1981 till the late 1980s. Bharti Telesonic of India has recently signed a service agreement with SLT whereby SLT will provide hubbing services for Bharti' s incoming and outgoing voice and data traffic utilising its spare capacity in the digital fibre-optic cables. After the abolition of monopoly of VSNL in India's long distance telephony, Bharti got the license to operate long distance services in India and is now keen to begin operations in Sri Lanka.

None of the Indian companies faced any barriers at the entry stage. As BSNL and Bharti had to deal directly with SLT they did not have any problems. In fact the BOI companies qualify for tax and import concessions such as VAT waivers, zero duty on import of telecom equipment, a tax holiday for 5 years from the time of achieving break even point and a part tax waiver for 4 years. The Sri Lankan government is committed to continue with the liberalization and deregulation. This is reflected in Sri Lanka's conditional offer in the services negotiations under the Doha Round. This is one of the three sectors in which the country has made offers. The offers are not only extensive in terms of sub-sectoral coverage but it has also bound the existing regime. Other than restrictions on the number of service providers in some sectors such as mobile cellular services, WLL to provide basic telephony, data transmission, public payphone services, data communication services there are no major entry barriers. In fact, the government has issued several licenses in certain segments such as international basic voice telecommunication services (more than 30) and ISPs (29) the markets seems to be perfectly competitive.

However, the indiscriminate issue of licenses has created problems for licensed operators. One major restriction is that new licensees are not allowed to establish facility based operation and are therefore forced to use the facilities offered by the existing licensees - SLT and two wireless operators who have formed an unofficial cartel to control local gateways and restrict interconnection to other operators.[16] The interconnection laws are still evolving and it is therefore difficult for players to operate in the absence of such rules. Moreover, SLT does not have the infrastructure capacity to cater to the increase in the amount of incoming traffic. As SLT also has a monopoly over wire lines, the private operators face difficulty in accessing the infrastructure. Another barrier which affects the efficiency of the telecom network between the two countries is high call charges on account of monopoly in access to bandwidth, cross subsidizing between domestic and international calling and high accounting rates. Due to these barriers Indian service providers although they have entered the market, are moving ahead hesitantly and are in a wait and watch mood.

A strong telecommunication network is a prerequisite for successful implementation of a FTA. Following the Indo-Sri Lanka Free Trade Agreement in goods in 2000, there has been a substantial increase in the trade between the two countries which has in turn created the need for improved telecommunication services. Hence the Telecom sector acquires a priority status in the ongoing CEPA negotiations. An important area that needs to be addressed is the high call charges between the two

[16] USTR (2004), www.ustr.gov

countries. For instance the call charges between Trivandrum and Colombo is much higher than between any city in the US and Colombo. The same holds for India as well. A reduction in call charges would facilitate people to people connectivity, business to business collaboration and information flow between the two countries. For trade to increase significantly under the FTA, the call charges would have to come down. The FTA provides an opportunity to improve the international and domestic bandwidth through investment in upgrading telecom services. As Indian companies are facing difficulties in accessing facilities provided by the existing telecom service providers such as use of international switches, India could negotiate for the removal of these entry barriers under the FTA. It needs to be pointed out that the two countries are in the process of bringing out a Communications Convergence Bill which would encompass the ICT sector (telecom, audiovisual and computing) which would establish a common regulator instead of the existing telecom regulators in the two countries. The FTA negotiations should take this into account.

Although Indian companies are in Sri Lanka and have expressed their expansion plans in Sri Lanka, India has not made any request to Sri Lanka in the telecom sector in the GATS negotiations under the Doha Round. On the other hand, even though during our survey none of the Telecom companies in Sri Lanka have indicated an interest in entering the Indian market, Sri Lanka has made extensive requests to India to open up some sub-sectors of telecommunication services. These anomalies need to be addressed in the FTA negotiations.

V.2 Transportation

V.2.1 Ports

India has a large coastline and Sri Lanka being an island nation, 90% of the trade to and from these countries is carried by the sea route. India has 12 major ports and 181 minor/ intermediate ports out of which 139 are operable.[17] Major ports handle 75% of the total traffic through Indian ports. The major ports are administered by the Port Trust of India which is under the Ministry of Shipping, Government of India, except for the recently operational Ennore port which is corporatised. The minor ports are under the purview of respective State Governments.

Prior to the 1990s, Indian ports were largely a government monopoly. With liberalisation of the economy in the 1990s, there was a sudden spurt in traffic through ports, which brought to light the capacity constraints and prompted the government to open up this sector for privatisation and foreign investment. To lure foreign investment the Government allowed 100% FDI in construction of ports and harbours through the automatic route. The Government also offered several fiscal incentives such as tax holidays, reduction of import duties on equipment, tax concession to financial institutions on income from financing port projects etc. As a result there has been a surge in

[17] Ministry of Shipping, Government of India, Annual Report.

private/foreign participation in the ports sector leading to increase in port capacity and improved performance. This is evident from the investments in container terminals at JNPT and Tuticorin, the construction of the port of Ennore, etc. The leading foreign players such as P & O Ports of Australia and the Port of Singapore Authority have not only invested in the infrastructure but are also maintaining container terminals. Even though the initial reforms in the port sector were slow, in recent years there has been a perceptible increase in the productivity of some of the major ports such as the JNPT. The ranking of JNPT among the container ports in the world in terms of throughput improved considerably from 64th in 1998 to 30th in 2002.[18]

In spite of the reform measures, none of the Indian ports have acquired a 'hub' status. This is primarily because the foreign investment in the port sector has spread across several ports – both major and minor ports, instead of concentrating in the development of a single 'hub' port. However, in the past few years, JNPT has emerged as one of the most efficient ports in India. The performance of JNPT has improved due to various factors such as redevelopment of existing bulk terminal into container terminal, improvement of ports road and rail connectivity, augmentation of machinery, equipments and port crafts, implementation of EDI connecting port, customs, and container freight station operators.

The port of Colombo is one of the major hub ports for India, the others being Singapore, Dubai and Salalah. The port of Colombo is under the Sri Lanka Ports Authority (SLPA) and was set up by an Act of Parliament in 1979. The Sri Lanka Ports Authority also administers and operates other commercial ports namely Galle, Trincomalee and Kankasanthurai. The port of Colombo has three container terminals Jaya Container Terminal, South Asia Gateway Terminal and Unity Container Terminal. Colombo handles 95% of Sri Lanka's total international trade. Majority of the traffic through this port is for transshipment purposes- the share of transshipment in total traffic was 70% in 2003.[19] As Colombo is located close to the world's main shipping routes it has a locational advantage to develop as a hub port.

In the 1990s, SLPA focussed on developing Colombo as a hub port in the region while the remaining ports of Galle and Trincomalee handled non-containerised cargo. There has been significant foreign investment in developing container terminals the key player being P & O Ports of Australia. As a result the throughput from Colombo increased from 0.4 million TEUs in 1987 to 1.77 million TEUs in 2002. Since Sri Lanka is a small country its domestic traffic movement is limited. The large capacity increase in the port has been undertaken to meet the transshipment needs of the Indian sub-continent. The growth of Colombo port depends upon its ability to increase its share of transshipment traffic from the South Asian region, the primary country being India. Colombo faces stiff competition from other hub ports used by India such as Dubai and Singapore. The shipping lines operating between India and Colombo pointed out that even though the performance of Colombo port is lower in comparison to Dubai,

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[18] Containerisation International Yearbook (2004)

[19] Central Bank Annual Report, Sri Lanka (2003)

Singapore and Malaysia, geographical proximity is the main reason for choosing Colombo as a hub port. Thus, in future, its position will be challenged further if India develops its own hub port.

As the cargo traffic from India is crucial for the performance of Colombo port, it is in Sri Lanka's interest to give priority status to this sector in the FTA negotiations so that it can secure a larger share of the transshipment cargo to/from India. To attract the Indian traffic, Sri Lanka has expressed an interest to sign an MoU/bilateral co-operation agreement with Indian ports, offer special discounts to containers coming to/from India to use Colombo as a transshipment hub, offer training to Indian ports, etc. Sri Lanka has also expressed an interest in drawing Indian investment in developing Sri Lankan ports particularly in the South.

In view of the recent changes in the port sector, particularly the development of the JNPT, it may not be in India's interest to give priority to the ports sector in the FTA negotiations. Absence of a hub port is leading to huge transaction costs for Indian cargo. Every container leaving an Indian port is delayed twice – once on the feeder voyage from India to the hub port and then at the hub port while it waits for the mainline ship to call at the port and pick up the container. The marked improvement in JNPT port has led many to believe that it is likely to develop into a hub port and may pose direct competition to the port of Colombo.[20] A comparison between the Colombo and JNPT port shows that in terms of TEUs handled, while in 1998 Colombo ranked 24, its ranking fell to 35 in 2002 (1.77 million TEUs). On the other hand JNPT which held the rank of 64 in 1998 improved to 30 in 2002 with 1.97 million TEUs.[21] Thus in 2002 the ranking of JNPT was higher than Colombo port. However, in terms of equipment handling Colombo offers better facilities than JNPT. For instance Colombo has 21 quay cranes while JNPT has only 16, and Colombo has 69 other cranes while JNPT has only 47. Even if JNPT develops as a hub port, our survey shows that traffic from South of India may continue to go through Colombo due to geographical proximity.

The two countries could explore possibilities in co-operation in port management and training. For instance, as the Colombo port has improved its management practices it could offer management training to Indian ports such as the JNPT.

In the current Round of negotiations, Sri Lanka has requested India to offer full commitments in Modes 1 and 2 in freight transportation, maintenance and repair of vessels and supporting services for maritime transport. It also requested India to undertake market access and national treatment commitments under Modes 3 and 4 as indicated in the horizontal schedule. In its initial offers, India has offered partial commitments subject to some limitations such as under Mode 1, 40 per cent of the cargo carried by liner shipping companies must be reserved for Indian flag ship. In maintenance and repair services, India has offered full commitments under Modes 1, 2 and 4. Commitments under Mode 3 are subject to horizontal restrictions. Since Sri Lanka's own

[20] Galhena (2002) UNCTAD Monographs on Port Management

[21] Containerisation International Yearbook.

shipping companies are not strong and do not have the majority share in the country's international trade, during the survey they have not pushed for the removal of cargo reservation condition. They however, felt that they would gain if India removes the cabotage restriction. India did not make any request to Sri Lanka in this sector. Since India has already offered to liberalise some of the sub-sectors mentioned by Sri Lanka in its request list and there is limited scope for liberalisation under the CEPA.

V.2.2 Air

Air is the only mode of transport for passengers and the main mode of cargo transportation for high value goods between the two countries. Air traffic between the two countries is governed by the bilateral Air Services Agreement (ASA) which regulates areas such as airport and route charges, fuel pricing, ground handling, market access through exchange of traffic rights, capacity entitlements, and treatment of national space over countries.

In India, Air India and Indian Airlines are the two state owned air carriers. Air India is the main airline as far as servicing international routes is concerned while Indian Airlines primarily serves the domestic market but also serves some short haul international routes. Passenger traffic between India and Sri Lanka has largely been carried by Indian Airlines. Until 1991, Indian Airlines was the only airline serving the domestic market. With liberalisation, among several other reform measures in civil aviation, the state monopoly of scheduled air services was terminated in 1994 with the enactment of the Air Corporation (Transfer of Undertaking and Repeal) Act 1994 and several private operators were allowed to operate scheduled commercial flights only in the domestic sector. While many private airline operators entered the domestic market only two namely Jet Airways and Sahara Airlines have emerged as direct competitors to Indian Airlines. In October 2003, following the Sri Lankan Prime Minister's visit, Jet Airways and Sahara Airlines were allowed to fly to Colombo, Sri Lanka. This is the first time that a domestic private airline has been given the permission to fly on an international route.

In Sri Lanka, international routes were serviced by the state owned air carrier, Air Lanka until 1998. It was privatized in 1998 with the establishment of a strategic partnership with Emirates Airlines, in which the Emirates took a 40% shareholding. As part of its commitment to the Sri Lankan government Emirates contracted to undertake the management of Air Lanka till 2008, during which time its objective was to develop Colombo as major passenger and cargo hub linking east and west.

In line with its objectives, Sri Lankan Airlines has upgraded its infrastructure and management, expanded its network and is offering lucrative travel packages and airfares to get an increasing pie of the international traffic. The growth of traffic is also sustained by the growth of tourism industry in Sri Lanka. In recent years, the country has become an important tourist destination and Sri Lankan Airlines is offering attractive packages to draw tourists. As a result, the number of Indian tourists to Sri Lanka increased significantly. In 2002, India, was Sri Lanka's largest tourist generating market and in

2003 it was at second place, next only to the U.K. The survey revealed that a large proportion of the passenger traffic from Indian cities (almost 80%) is carried to onward destinations from Sri Lanka. Only 20% of Indian traffic have Colombo as its final destination.

To cater to the demand of Indian traffic, Sri Lankan Airlines has significantly increased its flights to India. Between 2000 and 2004, the number of flights increased from 29 to 60 per week and the number of destinations to which Sri Lankan Airlines flies increased from 5 to 9. The nine call points in India include Bangalore, Bodh Gaya, Chennai, Delhi, Hyderabad, Kochi, Mumbai, Trichy and Trivandrum. In fact, India's Air Services Agreement with Sri Lanka is the most liberal bilateral ASA as unlimited access is available for air services to/from 18 destinations in India. During the visit of the Sri Lankan Prime Minister in October 2003, it was agreed to do away with the existing requirement of Commercial Agreements between designated airlines of the two countries for asymmetrical operation.

While Sri Lankan Airlines has increased its operation in India, Indian Airlines which was earlier flying between Chennai, Trichy and Trivandrum and Colombo, has now reduced its operations and flies only between Chennai and Colombo. On four routes namely New Delhi, Mumbai, Trichy and Thiruvanathapuram. Indian Airlines has a code sharing arrangement with Sri Lankan Airlines to address the asymetrical operations. Indian Airlines has pointed out that Chennai–Colombo is the most profitable route and therefore they would like to operate only on this route. In addition they would get revenues on code sharing routes without incurring any expenditure.

The entry of the two private carriers - Jet Airways and Sahara Airlines on the India- Sri Lanka route is an important milestone for these carriers as it helps them to establish global presence. Jet Airways has been approved to operate around 28 flights[22] and Sahara around 21 flights[23]. During the October 2003 visit, the Sri Lankan Prime Minister indicated the possibilities of providing fifth freedom rights to Indian carriers to enable them to pick up passengers for third country destination. In the course of the survey, the private Airlines opined that the purpose of starting flights from India to Colombo is for establishing an international presence and not merely for making profits. The presence of private Indian airlines in selected routes may offer competition to the Sri Lankan Airline but both the Indian private players and Sri Lankan Airline believe that the increase in passenger traffic between the two countries would ensure that all Airlines would get a share of the pie.

With an increase in trade in goods following the success of the Indo-Sri Lanka FTA, increase in tourism, increased co-operation between the two countries and greater people to people contact there has been considerable growth in the air services sector. A liberal Air Services Agreement has enabled market access for airlines of both countries. The only issue that concerns airlines of the two countries is high rates of air turbine fuel

[22] Financial Times 25 March 2004.

[23] Daily News 24 February 2004.

in India. The Airlines have pointed out that fuel charges are much higher in India than in Sri Lanka, which leads to higher operational costs. India needs to address this issue as part of its domestic reforms strategy.

Liberalisation of global air transport services occurs through a system of bilateral Air Service Agreements (ASAs). At present, only three sub sectors within air transport services are covered by GATS. These include - aircraft repair and maintenance service, selling and marketing of air transport services, and computer reservation services. GATS does not apply to all the measures that affect traffic rights or services directly related to the exercise of traffic rights. Hence the scope for multilateral liberalisation under GATS is limited and due to this India and Sri Lanka have not made any request to each other in the current Round.

V.2.3 Ferry and Land Bridge

Since 1983, air services have been the only mode of transport. Following the conflict and disturbances in 1983 in Sri Lanka, the ferry service between the two countries was discontinued. Ferry, as an alternative mode of transport would provide a much cheaper means of transport that would enhance the flow of movement of people between the two countries. A significant proportion of air passengers between the two countries travel for business purposes. Commencement of the ferry service would draw a large part of the business travelers, as the cost of doing business would be much lower. The two countries have expressed a keen interest to resume the ferry service. A Memorandum of Understanding for the ferry service between Colombo and Tuticorin was signed between the two countries but operation of the ferry service has not begun as the Government of Tamil Nadu has expressed security and other concerns on this issue.

India and Sri Lanka have also evinced an interest in the construction of a land bridge between the two countries. As the project appears feasible, a task force is to be constituted by the Planning Commission, Government of India and Sri Lankan Ministry of Policy Development and Implementation to suggest modalities for the proposed project. The land bridge would entail huge investments but in the long term it would be the best mode of transport linking the two countries.

The FTA can resume the talks on the Tuticorin and Colombo ferry service. It can also look at new services between Colombo and Kochi or Vishinjam near Thiruvananthapuram.

V.2.4 Rail and Road Transport

Improvements to the railway service in Sri Lanka is a priority need in the development of the country's infrastructure. Both passenger and cargo transportation is handled by the government owned Sri Lanka Railways. Fast deteriorating quality of service and lack of capital investment has created poor service in this sector. Although the rail service is fully operational in the Southern part of the country, service in the

Northern part is yet to recover from the damage or destruction of rail track as a result of terrorist activities. On the other hand Indian Railways, owned by the Government of India has a wide network used by a significant proportion of the population. Under the Indian Line of Credit, RITES (Rail India Technology Economical Services), a Government of India enterprise (offering consultancy services) provided advisory services for restructuring Sri Lankan Railways to make it viable.[24] The Sri Lankan Government has requested RITES to manage its railway and later help in privatisation.[25] The Government of Sri Lanka is seeking an infrastructure credit of US $ 200 million for upgradation of Sri Lankan railway, a significant proportion of which would go towards rehabilitation of track and equipment reconstruction activity. RITES is also exploring the possibility of providing other services such as provision of automatic rail crossing barriers, computerisation of rail ticketing, and provision of rail coaches under the Indian Line of Credit. Since, trade in rail services between the two countries is essentially between government owned agencies namely RITES and Sri Lankan Railways, the survey revealed that RITES did not face any problems in entering into the Sri Lankan market. The growing co-operation between the two countries in rail services also indicates the acceptance of Indian technical standards by Sri Lanka. It was also felt that the Indian Line of Credit was a facilitator for co-operation in rail services between the two countries.

India and Sri Lanka do not have a very well developed road transport service sector. In recent years both countries have drawn significant foreign investment into construction of roadways from South East Asian countries such as Malaysia. Motor vehicles is one of the most important items that Sri Lanka imports from India. Hence there is an associated demand for maintenance of such vehicles. Ashok Leyland of India is one of the biggest suppliers of buses and trucks to Sri Lanka. This company has its own repair and maintenance workshop in Sri Lanka which is managed by two employees from India. Remaining employees are Sri Lankan trained by Ashok Leyland. The Tatas of India have their own offices for procurement of vehicles in Sri Lanka but they have appointed DIMO of Sri Lanka as agents for maintenance and repair services. Since skilled personnel for such services is in short supply in Sri Lanka companies send Sri Lankan employees to India for training in the required skills. The companies find it more cost effective to upgrade the skills of Sri Lankan employees than to hire skilled personnel from India.

Under the FTA India can offer consultancy services in railways. It is also expected that funding under the India line of credit would enable Sri Lanka to restructure its railways.

India and Sri Lanka did not make any commitments in the land transport sector in their initial offers in the GATS negotiations under the Doha Round. Although Indian companies have an investment interest in Sri Lankan railways, India did not make any request to Sri Lanka in this sector. Given the interest of Sri Lankan government to get

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[24] http://www.rites.com

[25] http://www.boi.lk

Indian investment, consultancy services and technical know-how to upgrade its rail transport services through the line of credit, it is likely that in future there will be Indian investment in Sri Lankan railways. India and Sri Lanka can co-operate in training and repair services for land transport.

V.3 Tourism

Tourism is an importance service industry in India and Sri Lanka. Following the 9/11 incidence in 2001 in the United States both countries experienced a fall in the number of tourist inflow. Sri Lanka had an added disadvantage following the attack on the Colombo airport in July 2001 and is still trying to recover from the damage caused to the tourism industry due to extraneous factors. Sri Lanka has made a concerted effort to draw tourists into the country by shifting its focus from Western Europe to countries in Asia. The country launched a promotional programme that involved co-operation between airlines, hotels and the Sri Lankan Tourism Board (SLTB) and was able to offer attractive packages to India, Thailand, Malaysia and Singapore. As a result, the number of tourist inflow increased from 0.3 million in 2001 to 0.5 million in 2003.[26] In addition, Sri Lanka has introduced visa-on-arrival which is now applicable to 73 countries. In India, the impact of 9/11 was felt in 2002 when the number of tourists fell to 2.4 million from 2.5 million. In 2003, there has been a revival in the growth of number of tourists to 2.7 million. India has also taken initiatives to attract tourists. Global and private agencies have been entrusted with the task of selling India to international visitors. Efforts have also been made by the Department of Tourism notable among them being the 'Incredible India' spirituality campaign that won the PATA Gold Award. [27]

The share of Indian tourists in total number of tourists arriving in Sri Lanka increased sharply from 10% in 2001 to 18% in 2003. The SLTB recognized that it was ineffective in tapping the Indian tourist through its own promotional office based in India. The Board appointed an Indian company- Track Representatives who were able to draw tourists in large numbers. The company initially targeted the key source markets in India, mainly Delhi, Mumbai, Chennai and Bangalore with focus on leisure and MICE (meetings, incentives, conventions, exhibitions) segment. With the increased air connectivity between the two countries marketing efforts have expanded to include other cities such as Cochin, Pune, Nagpur and Hyderabad. In addition, Sri Lanka has used its increased air network to draw the Indian travellers through Sri Lanka to onward destinations. Sri Lanka has also offered attractive tour packages to the Indian tourist, as a result, the number of tourists going to Sri Lanka has increased significantly. Indian tourists can also avail of the facility of getting visa-on-arrival, which is available to all SAARC countries.

India, on the other hand, has not been able to increase Sri Lankan tourists to the same extent. The share of Sri Lankan tourists in total number of tourists was only 4.5% in

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[26] Sri Lanka Tourism Board

[27] Tourism: India Moves up the Value Chain, India Brand Equity Foundation www.ibef.org

2002.[28] For the last three years, Sri Lanka has remained the third largest country in terms of tourists to India. A large number of Sri Lankan tourists are traders, who come to India for business purposes or on a pilgrimage. In fact, there is not much information on the genuine tourist to India and no special efforts have been made to examine the profile and potential of a Sri Lankan tourist to India.

In October 2003, India and Sri Lanka have signed a Memorandum of Understanding to develop tourism for mutual benefits of two countries. The two sides have also agreed to set up representative offices in each other's country and share information, expertise and experiences relating to this sector. Currently, India does not have a national tourism board similar to that of Sri Lanka. The Ministry of Tourism and Culture and the individual state tourism departments in India could work jointly with SLTB to promote tourism in the region. The relevant bodies in the two countries need to develop twinned destination tour packages that would include tourist destinations in India and Colombo. These packages need to be promoted in third countries jointly through tourism fairs, cultural festivals, food festivals, etc.

With increased tourism, there is great demand to develop the requisite infrastructure such as hotels. India and Sri Lanka have a liberal regime that allows foreign investors to invest into hotels with 100% equity. Indian hotels are setting up operations in Sri Lanka. For instance, the Taj group has three hotels in Sri Lanka. Indian travel agency Sita Travels has a wholly owned subsidiary in Sri Lanka. Sri Lanka offers incentives such as a five-year tax holiday, import duty exemption on capital goods and concessionary taxes for investment in hotels or travel agencies. Although in recent years there has been no fresh Indian investment in hotels or travel agencies in Sri Lanka, with growing tourism and attractive incentives being offered to the hotel industry, Indian hotel chains could explore the possibility of entering the Sri Lankan market. In the course of our survey, medium sized hotels have also shown an interest in entering into the Sri Lankan market. These hotels have pointed out that lack of information has deterred them from making an entry in Sri Lanka. They have also pointed out that small size hotels face a problem in recognition of standards. Some Indian restaurant/fast food chains such as Amravati, and Barista have already established their presence in Sri Lanka. During the survey they have pointed out that acquiring real estate in the desired location and economic needs test are two major problems which are affecting their operation and expansion plans in Sri Lanka.

There are some small Sri Lankan motels in Southern India (Chennai) which mainly caters to Sri Lankan tourists, pilgrims, patients, businessmen, etc. During the course of the survey it was pointed out that there is significant scope for Sri Lankans to invest in motels in India near renowned hospitals in the Southern region and in Buddhist circuits such as Bodhgaya.

Tourism is one of the priority areas for mutual cooperation under the proposed CEPA. The two countries have already signed an MOU in this sector and it is expected

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[28] Tourist Statistics, Ministry of Tourism and Culture, Government of India, various issues

that the FTA would further strengthen cooperation in this sector through sharing of information relating to tourism, twinning of destination in tour packages and easing out investment barriers faced by Indian companies in Sri Lanka. Another factor that would greatly facilitate tourist inflow into India is issuance of visas on arrival. India does not offer visa-on arrival to Sri Lankan tourists. While Sri Lanka has requested India for reciprocity in terms of visas, Indian authorities justify their stance on the grounds of security.

The two countries are actively pursuing the bilateral cultural agreement and this will further act as an impetus to the tourism sector.

Tourism is the only sector in which Sri Lanka has made a commitment in the Uruguay Round. In the conditional offers in the current Round, it has further liberalised the sector and removed all Mode 3 restrictions. The country has opened up Mode 4 to the extent indicated in its horizontal schedule. Sri Lanka in its request list to India has asked the latter to offer full commitments under market access and national treatment in Modes 1, 2 and 3 in hotel, restaurant and catering services. Commitments under Mode 4 can be subject to horizontal limitations. In its initial offer, India has broadened its Uruguay Round commitments in the tourism sector. The country has removed the Mode 3 restriction of foreign equity ceiling of 51 per cent. However, it has still retained some restrictions under Mode 3 namely foreign investment will only be through incorporation and subject to the condition that for existing foreign investors FIPB approval would be required. India did not make any request to Sri Lanka in the tourism sector.

V.4 Health

Trade in health services between India and Sri Lanka takes place through all four modes. Sri Lankan patients visit India in large numbers for medical treatment. In view of the large demand by Sri Lanka for Indian healthcare, in 2002, the Apollo group set up a hospital in Sri Lanka. Indian doctors, paramedical staff have been going to Sri Lanka to work in Sri Lankan hospitals, to set up specialist departments in Sri Lankan hospitals and to work in Indian hospitals in Sri Lanka. Sri Lankan students come to Indian hospitals such as AIIMs, and KMC Manipal to study medicine. As Sri Lanka has a shortage of nurses, Apollo hospital has also set up a nursing school, which is the first private nursing school, to be recognized by the University of Colombo. Telemedicine, though limited at present, is slated to grow in the coming years.

The healthcare industry in India has undergone significant changes. In the nineties the private sector was accorded a prominent role in the delivery of healthcare services. With the emergence of many private players, such as Tatas, Apollo Group, Fortis, Max, Wockhardt, Piramals, Duncan, Ispat, Escorts, etc., India has emerged as a healthcare hub in the region. India offers specialized healthcare facilities such as cardiac surgery, dental, eye and cosmetic surgeries at competitive prices. As a result India has become an important destination for medical tourism. Alternative medicine such as Ayurveda now has greater acceptability abroad and has therefore grown in importance.

In Sri Lanka the government has been the main provider of healthcare services. However, while the government has been able to provide excellent primary and secondary healthcare by qualified Sri Lankan doctors, there is a shortage of healthcare service facilities and providers in the tertiary healthcare services sector such as cardiac surgery, radiotherapy, gastroenteritis surgery, plastic surgery etc. In addition there is a shortage of dental and eyecare hospital facilities and specialized doctors. As a result, for tertiary healthcare treatment, Sri Lankans mostly go to Singapore or India. Majority of them come to India since the cost of treatment is lower than Singapore. The Sri Lankan government for many years was the sole recognized institution for training nurses. But, with an outflow of nurses to the Gulf countries Sri Lanka has been facing a shortage.

Recognizing Sri Lanka's dependence on Indian healthcare services, Apollo set up a hospital in Sri Lanka with BOI approval in 2002. The Chennai based eye hospital, Shankar Netralaya has a unit in Apollo. The Escorts Heart Institute and Research Centre (EHIRC) entered into a three-year management contract with Durdans hospital of Sri Lanka to set up a heartcare centre. During the period of the contract, doctors from India performed several surgeries and trained the Sri Lankan doctors. The contract ended in April 2004.

A survey of Indian hospitals which receive Sri Lankan patients revealed that Sri Lankan patients who come to India mostly belong to the middle and high income groups. Sri Lankan patients visit hospitals in the South of India because of the geographical proximity of this region and close cultural ties. Sri Lankan patients are not charged a discriminatory fee (higher fee) than is charged to local patients but some hospitals such as Escorts and Apollo, give preference to outstation patients in terms of facilitating their accommodation and giving them an out of turn priority. The survey revealed that none of the patients had problems in obtaining Indian visas. In fact visas for health reasons are given priority by the Indian High Commission in Sri Lanka. The reasons cited by the patients for choosing India are lack of specific healthcare facilities in Sri Lanka, geographical proximity, healthcare standards, medical knowledge and skills, reputation of Indian doctors and low costs compared to other countries.

The survey revealed that Apollo did not face any problem in setting up a hospital in Sri Lanka. Apollo has expanded its operations by opening clinics in cities such as Kandy and Jaffna. Apollo did not face any hindrance in obtaining the BOI clearance, on the contrary, BOI acted as a facilitator. The Government of Sri Lanka also made concessional land available to Apollo. In its initial stages Apollo planned to employ locally and only bring in skills that are in short supply in Sri Lanka. Due to the shortage of specialised consultants in Sri Lanka, Apollo has to employ doctors from India or other Sri Lankan doctors settled abroad. However, the Sri Lanka Medical Council (SLMC) imposes conditions that make entry of doctors difficult. Indian doctors cannot practice in Sri Lanka till they are registered with the Medical Council in Sri Lanka. Initially, when Apollo was set up, Indian doctors could apply for registration before entering Sri Lanka. Since 2003, the Medical Council has changed its rules. Indian doctors can now apply for registration only after they have obtained a resident visa. While the BOI facilitates the resident visa to be given within a week, the Medical Council takes up-to six weeks or more for registration. This causes undue harassment to Indian doctors who after arriving in Sri Lanka cannot practice as they are awaiting registration. Apollo also faces problems because of the practices followed by the Sri Lankan Government Medical Officers Association (GMOA). Sri Lankan doctors are allowed to practice in private hospitals whereas Apollo does not allow Sri Lankan doctors to practice elsewhere as it has to follow the same policy for Indian and Sri Lankan doctors. Apollo was unable to retain Sri Lankan doctors as the condition of non-practice was too restraining for them. As a consequence Apollo has been forced to allow Sri Lankan doctors to practice in other hospitals. On the other hand, Indian doctors working in Apollo cannot practice elsewhere because under Section 67 (a) of the Medical Ordinance, foreign doctors can practice only in the hospital they come to work for. Another problem faced by Indian doctors working in Apollo is that the Medical Council provides registration for a period of one year only which has to be renewed subsequently if required.

Other Indian hospital which receive Sri Lankan patients do not want to set up operations in Sri Lanka as they are aware of the restrictions imposed by the Sri Lankan Medical Association, problems faced in licensing/registration and movement of doctors, nurses and other para medical staff. On the other hand, they would prefer to continue to receive Sri Lankan patients and would even be forthcoming to provide benefits to get more patients from Sri Lanka and the South Asia region.

The survey revealed that private hospitals in Sri Lanka are interested in getting Indian doctors and there is shortage of specialised consultants. However, the hospitals are unable to attract Indian doctors because Sri Lanka is not a preferred international destination for Indian doctors. To compensate for this the hospitals have to pay a much higher salary to attract Indian doctors. The same is also true for hospitals like Apollo which employs Indian doctors at a premium salary.

The practices of the Sri Lanka Medical Council sometimes impose rigid conditions on Sri Lankan doctors qualified abroad. In cases where the SLMC does not recognize the foreign degree, the Sri Lankan doctor qualified abroad has to give detailed information on the curriculum, duration, qualification of the faculty, etc. In addition, he/she has to clear an examination conducted by the Medical Council after which he is allowed provisional membership. Full membership is granted after a year of internship. In fact, Apollo in Sri Lanka found it more difficult to employ Sri Lankan doctors qualified in India than Indian doctors. On the other hand, Sri Lankan doctors passing out from any of the 6 recognized medical colleges in Sri Lanka are eligible for provisional membership on completion of their MBBS.

Several Sri Lankan students come to India to obtain a medical degree from medical institutions such as Kasturba Medical College, Manipal, College of Dental Sciences and the All India Institute of Medical Sciences (AIIMS). While the former two are private medical institutions, the latter is run and owned by the government. The private medical institutions reserve a quota of 50% for foreign students (majority of them being Sri Lankans) while at AIIMS there are limited seats for foreign students. Foreign students at the private medical institutes pay a much higher fees than local students (seven times of local fees for MBBS) while at AIIMS the fee charges is the same for local and foreign students. The main problem faced by Sri Lankan medical students is that the Indian degree is not recognized by the SLMC unless they clear an exam in Sri Lanka after they obtain their degree from India.

India and Sri Lanka have excellent expertise in alternative healthcare facilities such as Ayurveda and Homeopathy. Indian Consultants specializing in alternative medicine visit Sri Lanka frequently and offer consultancy services on short-term basis. The doctors advertise their visits in the Sri Lankan media and are able to draw a large clientele. Such services are being organised through private initiative without any government intervention or support.

The FTA between India and Sri Lanka could help in removing the barriers faced by Indian doctors practicing in Sri Lanka. In particular, the recent changes that requires doctors to obtain residency permits before they can apply for registration needs to be addressed urgently. Also, registration could be given for a longer period as a one-year registration causes undue harassment to Indian doctors. Private hospitals in Sri Lanka interested in hiring Indian doctors also needs to be facilitated. The SLMC and the Indian Medical Association can work out Mutual Recognition Agreements so that there is a free flow of doctors between the two countries. The FTA could also introduce an easy visa status for skills, which are in short supply in Sri Lanka such as nursing and paramedical staff. The FTA could also facilitate collaboration in alternative medicine between the two countries.

In the Uruguay Round Sri Lanka did not schedule health services. India scheduled hospital services but made limited commitments. In the current round of negotiations Sri Lanka has not made any request to India in health services. India, in its initial offer, under professional services for medical and dental services and services provided by midwives, nurses, physiotherapists and para-medical personnel, has offered to make full commitment for market access under Mode 1 only for provision of services on provider to provider basis such that the transactions is between established medical institutions covering areas of second opinion to help in diagnosis of cases or in the field of research. The country has offered full commitments under national treatment for Mode 1. It has not imposed any restriction under Mode 2. Under Mode 3 India has offered to impose a market access restriction in terms of foreign equity ceiling of 74% (which is higher than the restriction of 51% in the Uruguay Round) and a requirement for FIPB approval for already existing foreign investors. India has specified its limitation to national treatment by specifying that publicly funded services may not be made available to foreigners or may be supplied to them at differential prices. India has requested Sri Lanka to undertake full commitment under market access and national treatment for sub-sectors namely hospital services, medical and dental services and services provided by midwives, nurses, physiotherapists and paramedical staff in Modes 1, 2 and 3. In Mode 4 India has requested SL to undertake full commitments in services such as medical doctors and assistants, dentists and dental assistants, dietician, midwives, nurses, paramedical personnel, physiotherapists etc. India has also requested Sri Lanka to undertake additional commitment to recognize the qualifications of Indian medical and dental service professionals and nurses. Although health has been an important sector in India's request to Sri Lanka, Sri Lanka has not scheduled health services in its initial offer in the Doha Round. Therefore there is need for India to bring these issues up bilaterally.

V.5 Education, Research and Training

Primary education in India is provided by both public and private sector. Some of the private and government institutions such as Delhi Public School and the Central School have set up schools abroad, particularly in the Middle East countries where there is a significant non-resident Indian population. Prior to the 1990s, higher education in India was provided largely by the government. Since then, private participation has increased in this segment and at present around 75% of the colleges are in the private sector.[29] Some of the Indian institutions are gaining international recognition and are drawing students from abroad particularly from South Asia.

In Sri Lanka, government is the main provider of primary education, with only 1% of the schools owned and run privately. On an average there is a school for every 6 square kilometers in the country.[30] Government is the sole operator of accredited universities in the country. Due to limited opportunities available at the universities, there exists an excess demand for university education. For instance, in 2003, only 14 per cent of eligible students were granted admission to national universities.[31] The private sector is mainly engaged in the provision of professional education particularly in the areas of accountancy, management and information technology. Although there are provisions in the existing Universities Act No. 16 of 1978 to recognize degree courses conducted by private institutions, the process is still not clear. Some private institutions conduct courses leading to degrees in collaboration with foreign universities. A major impediment in the existing university system is that there has been a lack of reforms that would facilitate the growth of accredited private institutions. Due to a dearth of opportunities for higher education, a large number of Sri Lankan students who can afford foreign university education leave Sri Lanka annually. The preferred destinations to obtain degrees in higher education are the U.S., U.K. and Australia. India is not a preferred destination, but several students opt for it because of lower costs, geographical proximity and cultural affinity.

The number of students coming to India increased from 1000 in 2002 to 1600 in 2003.[32] Most of the students come to Bangalore, Chennai Trichy, Madurai and Delhi. Some other universities in Punjab, UP, Kolkata and Mumbai also attract a small number of students. Of these, Bangalore university has become popular with Sri Lankan students only since 1991. This is because after Rajiv Gandhi' s assassination in 1991 the Tamil nadu government refused admission to Sri Lankan students. During that period, Sri

[29] Mukherjee *et. al*. (2003)

[30] Central Bank of Sri Lanka , Annual Report, 2003.

[31] Central Bank of Sri Lanka, Annual Report, 2003.

[32] Indian High Commission, Sri Lanka.

Lankan students began to go to Bangalore University as an alternative as it was closer to Sri Lanka. Even though the ban in Tamilnadu on Sri Lankan students was lifted in 1996 several students continued to go to Bangalore. Students come to India to study professional degree courses such as engineering, medicine, management and communication. In addition a large number of students pursue undergraduate and post-graduate degrees courses in various disciplines. Most of the institutions have a quota for foreign students ranging between 5% and 30% of the total seats. However, there is no special quota for Sri Lankan students. The survey revealed that the fees charged from foreign students is much higher than what is charged by local students. However, IIT (Indian Institute of Technology) offers a 50% fee waiver to students from SAARC countries.

The survey revealed that the qualifications obtained from India are not always recognized in the Sri Lankan job market. While some Sri Lankan students with Indian degrees have pointed out that they do not feel disadvantaged vis-à-vis local students, others have pointed out that some professional Indian degrees are not recognized in Sri Lanka. For instance, students with medical and accountancy degrees from India have to take an exam in Sri Lanka before they can practice. For engineers, Sri Lanka specifies organisations and companies for which membership with the Institute of Engineers is mandatory. Foreign engineers can acquire membership to the Institute of Engineers provided they clear the local exams. However, where such membership is not required, foreign engineers can practice without membership. Sri Lankan students highlighted several problems. Student visas are not given for all courses to be pursued in India. The Indian High Commission in Sri Lanka has a list of institutions for which visas are granted. The High Commission does not grant visas for courses that are conducted privately and are not recognized in India. Another problem cited widely by Sri Lankan students is that those wanting to pursue education in India are not granted visas for the duration of the course. They are given a one-year visa through the Indian High Commission in Sri Lanka which comes under the purview of the Ministry of External Affairs in India. An extension of the visa can be obtained through the Ministry of Home Affairs. Students find that the procedures laid out by the Home Ministry are extremely cumbersome and often there is a delay in processing. Indian authorities justify the involvement of the Home Ministry on grounds of security. A major problem relates to lack of information on the courses and disciplines offered to foreign students, quotas for foreign students, etc. Most students rely on the Sri Lankan diaspora to get relevant information. Sri Lankans have better access on educational opportunities in countries such as the U.K. and Australia due to the promotional and marketing efforts undertaken by these countries.

Several Sri Lankans come to India for training in various disciplines. India has been extending training facilities to Sri Lanka in various professional courses under the ITEC and TCS of Colombo Plan (annually 70 under ITEC and 50 under Colombo Plan). The major courses under these schemes are financial management, auditing and accounting, rural banking, insurance, plantation management, teacher training, textile engineering and railways.

In addition to the government to government co-operation in the field of training, there have also been tie-ups between private institutions. For instance, several doctors from Sri Lanka come to India for training in hospitals such as Apollo, AIIMs and Escorts. Some training institutes have set up joint ventures in Sri Lanka, particularly in the field of software. SSI technologies, NIIT and Aptech of India has set up institutes to offer software courses, where Indian teachers impart training to Sri Lankan students. Similarly Indian Market Research Bureau (IMRB) set up a joint venture in Sri Lanka and offered training to Sri Lankans and also sent Sri Lankan employees to India for training. Companies in Sri Lanka send their employees to India for training in repair and maintenance skills in road transport services.

In the area of research, particularly science and technology there is scope for collaboration between the two countries. The survey revealed that Sri Lankan professionals would benefit through collaborative ventures in science and technology and by involving Indian scientists and technologists in conducting training programmes in Sri Lanka. Indians, however, preferred to have such ventures with professionals of the developed countries, where they had better chances of enhancing their skills.

The FTA could help in facilitating trade in the areas of education, research and training. In the area of higher education, the FTA could facilitate in the setting up of Indian educational institutions in Sri Lanka. The FTA could also facilitate in providing visas to Sri Lankan students wanting to pursue higher education in India. In addition, information systems could be put in place so that Sri Lankan students have easy access on opportunities available in India. In fact, for the first time in May 2004, an Indian Educational Exhibition was organised by Colombo Exhibition Centre in which more than 25 colleges and higher educational institutions participated.[33] The FTA could also facilitate in giving fee concessions to students from Sri Lanka. A major issue that can be dealt with effectively through the FTA is mutual recognition of degrees particularly in the fields of medicine, accountancy and management. Recently, the Bandaranaike Centre for International Studies (BCIS, Colombo) signed an MOU for academic and research collaboration with the Jawaharlal Nehru University New Delhi.[34] The FTA could facilitate more of such collaborations. The FTA can also facilitate collaborative ventures in science and technology.

In the Uruguay Round both India and Sri Lanka did not schedule educational services. In the current Round also the two countries have not made any request to each other or any offer in educational services. However, in the Uruguay Round India made limited commitments under market access and national treatment in selected Research and Development services in natural sciences. Modes 1 and 2 were unbound and Mode 4 was unbound except as indicated in the horizontal commitment. Under Mode 3, India had imposed a 51% limit on foreign equity under market access but there was no restriction under national treatment. In the current Round of negotiations, India has, in its initial offer, retained the restrictions imposed in the Uruguay Round except for market access

[33] The Island, 27th May 2004

[34] The Island, 30th March 2004

under Mode 3 there is an additional requirement that in the case of existing foreign investors FIPB approval would be required.

V.6 Construction Services

Most Indian Construction companies specialise in specific industries and are not in a position to undertake large turnkey projects. Almost 90% of the construction companies are engaged in domestic market with only a few of them engaged in exports, concentrated mainly in the South Asian and Middle East markets. The construction services exported include project management, engineering and architectural consultancy, design engineering and maintenance services. Export of construction services takes place largely through intergovernmental agreements, bilateral initiatives or as part of international aid. It is often the case that countries that receive aid award contracts to firms from donor countries. Entry into foreign markets through competitive bidding remains limited. In recent years, some of the large Indian construction companies have started entering foreign markets through a consortium.

In Sri Lanka, there is a need for development of infrastructure particularly in the construction of highways, bridges, railways, roads and buildings. The government of Sri Lanka has given priority to the development of infrastructure by encouraging private participation, both domestic and foreign, through attractive fiscal and tax concessions such as full tax holiday, concessionary tax and import duty exemption on capital goods. Several countries have given international credit to Sri Lanka for the development of infrastructure in the country. Such contracts are usually awarded to companies from the donor countries.

Several Indian construction companies have entered into the Sri Lankan market and are engaged in building and civil construction. The most important investors in residential construction are Ansals and SMS Property Developers. Both have wholly owned subsidiaries in Sri Lanka. The reasons cited for choosing Sri Lanka are geographical proximity, initiative taken by the Sri Lankan government in wooing Indian investment in this sector and demand for housing in Sri Lanka. The Indian construction companies have faced several barriers. For instance, even though clearance from BOI does not take any time, a number of clearances have to be obtained from multiple agencies that includes Urban Development Authority, Land Reclamation Board, National Water Supply and Drainage Board and the Ministry of Environment and Natural Resources. Also the government has failed to provide infrastructure and other ancillary services required for residential complexes. Lack of information on the housing market has made it difficult for the Indian investors to gauge the demand for housing. Ansals have constructed the residential complex on the outskirts of Colombo in areas such as Horana and Gampha but demand for housing in these areas is limited as all commercial activities and allied facilities are concentrated in the heart of Colombo. Perhaps the most limiting factor has been lack of adequate housing finance. Availability of housing finance is not only limited but is also characterised by high interest rates and in some cases specification of maximum and minimum borrowing limits. In addition, loans are not granted to people belonging to certain professions such as the police and the armed forces. In the case of civil construction activity, Indian firms have opined that there is lack of transparency in the bidding process and cumbersome safety and environmental regulations pose added problems. Investors have also pointed out that they prefer to have a strategic local partner because of lack of information on the Sri Lankan market. Difficulties in import of equipment for construction purposes are also stated to be a barrier.

For both residential and civil construction activity, Indian investors have pointed out that political instability and insecurity is of major concern. Investors fear potential damage that such a situation can cause to ongoing construction projects.

The FTA could address several of the barriers faced by Indian investors. The survey revealed that there is a growing domestic demand for housing in Sri Lanka. Availability of housing finance could give a massive philip to foreign investment in this sector. Investors engaged in civil construction could benefit greatly if there is greater transparency and easy access to relevant information. Indian investors have repeatedly pointed out in the course of the survey the crucial role that the Indian Line of Credit can play in securing contracts. The FTA could consider allocating the credit line particularly for the construction sector.

In the Uruguay Round, Sri Lanka did not make any commitment in construction and related engineering services. India only scheduled commitments in roads and bridges under construction work for civil engineering. While in Modes 1 and 2 no commitments were made under market access and national treatment, under Mode 3 market access was allowed only through incorporation with a limit of 51% on foreign equity. There were no restrictions on national treatment under Mode 3. Restrictions under market access and national treatment under Mode 4 were imposed as indicated in the horizontal commitments. In the current Round of negotiations, Sri Lanka has requested India to make liberal commitments for general construction work for building, building completion and finishing work and for general construction work for civil engineering. Sri Lanka has requested India to make full commitments under market access and national treatment for Modes 1 and 2 for the specified categories. Under Mode 3, Sri Lanka has requested India to undertake commitment in general construction for building and building completion and finishing work to the extent specified in the horizontal commitment, while for general construction for civil engineering Sri Lanka has requested India to eliminate limitation on foreign equity participation and type of legal entity. Under Mode 4 Sri Lanka has requested India to undertake commitment as mentioned under horizontal commitment. India has in its initial offer made more liberal commitments in the same sub sectors that were scheduled in the Uruguay Round. There are no restrictions under Modes 1 and 2 under market access and national treatment. Under Mode 3 market access is allowed only through incorporation with a foreign equity ceiling of 51% and subject to the condition that in the case of foreign investors having prior collaboration in the specific service sectors, FIPB approval is required. Under Mode 4 India has offered to make commitments as specified in the horizontal commitments. In the current Round, India has not made any request to Sri Lanka under construction services. Sri Lanka, in its initial offer has not scheduled construction services.

V.7 Software

India has in recent years established itself as a major player in software development and exports. Software exports from India grew from US $ 1760 million in 1997-98 to US $ 7175 million in 2002. However, software exports to Sri Lanka were only US $ 2.5 million in 2002-03. Sri Lanka faces a serious shortage of trained software professionals particularly in the areas of software design, project management and network design and management. As a result, there is immense scope in the software sector. The Sri Lankan government offers attractive incentives to software companies which includes a tax holiday, concessionary tax, and import duty exemptions on capital goods.

Very few Indian companies have set up operations in Sri Lanka. While the exact number is not known, the survey revealed that most of the Indian companies are concentrated in a specific sector, namely, telecom and have limited presence in other sectors. The opening up of the telecom sector in Sri Lanka has provided vast opportunities to Indian software applications in the telecom sector. Most of the companies operating in Sri Lanka have expertise in network and infrastructure management. Indian companies in Sri Lanka prefer to have a local partner even if they have a wholly owned subsidiary, as such partnerships facilitate access to information. The companies have opined that there are no major barriers to entry into the Sri Lankan market the chief reason being that Indian software standards are recognized globally.

The proposed FTA could play a significant role in identifying sectors where Indian software companies could enter, as such information is lacking. This would enable the Indian companies to expand their presence in Sri Lanka. Also, the FTA can facilitate co-operation in software training between the two countries.

In the Uruguay Round India made limited commitments in consultancy services related to installation of computer hardware and software implementation services, while Sri Lanka did not schedule this sector at all. In the current Round of negotiations India has requested Sri Lanka to undertake more liberal commitments in all the sub-sectors under computer and related services which includes consultancy services for installation of computer hardware, software implementation services, data processing services, database services and other services. India has requested Sri Lanka to undertake full commitments in Modes 1, 2, 3, and 4 under market access and national treatment. In addition, India has requested Sri Lanka to undertake additional commitments to recognize the educational qualifications, training, and experience of Indian professionals related to computer related services. This indicates India's interest in penetrating into all the segments of computer related services in Sri Lanka. Sri Lanka has not scheduled computer and related services in its initial offer. Sri Lanka has not made any request to India in computer and related services. India has in its initial offer made more liberal commitments as compared to the Uruguay Round. India has offered to make full commitments under Modes 1 and 2 under market access and national treatment and under Mode 3 it has raised permissible equity level to 74% from 51% in the Uruguay Round subject to the condition that that in case of foreign investors having prior collaboration in that specific sub sector in India, FIPB approval would be required. Under Mode 4 India has offered to make commitments to the extent specified in the horizontal commitments.

V.8 Engineering and Architectural Services

India provides engineering and architectural services to Sri Lanka though in a limited manner. In Sri Lanka, there is no legislation passed by the parliament that makes it legally binding for an engineer to register with the Institute of Engineers of Sri Lanka (ISEL). However, there are a few government bodies such as Colombo Municipal Council and the Urban Development Authority that require an engineer to be registered with IESL. Indian engineers are preferred on projects that are funded by multilateral agencies such as the World Bank and the Asian Development Bank. Sri Lankan engineers are not very familiar with the requirements for foreign engineers to practice in India. In India, there is no law governing the profession of engineering. Also, there is no single professional body, hence there is no legal requirement to register with a professional organisation to practice in India.

Requirements for architects to serve in Sri Lanka are laid out by the Institute of Architects of Sri Lanka which is governed by the IASL law No.1 of 1976 of IASL and is based on International Union of Architects (UIA) in Paris. Sri Lankan and other foreign nationals are allowed to practice in Sri Lanka provided their degree is recognized in UIA and that they clear the exam conducted by the IASL. Several foreign architects work in Sri Lanka, but the requirements to practice in Sri Lanka are often violated. Foreign architects, including Indian, either go through the BOI agreed investments or go for a short term to provide services on a visitor's visa. In India, the Council of Architecture regulates the architectural profession and is governed by the Architects Act, 1972. Under the Act, foreign architects are allowed to practice in India if they are resident in India and are registered with the Council for Architecture. The Indian Council for Architecture receives architectural services from Sri Lankan professionals particularly for the evaluation of Architectural courses being conducted in India.

As there is a flow of architects between the two countries and the respective regulatory authorities are in place, they can explore the possibility of signing Mutual Recognition Agreements under the FTA.

In the Uruguay Round, India scheduled only engineering services. No commitments were made under Modes 1 and 2 under market access and national treatment. Under Mode 3 market access was allowed only through incorporation with a foreign equity ceiling of 51%. Under Mode 4 India made a commitment to the extent mentioned in the horizontal schedule. Sri Lanka did not schedule architectural or engineering services in the Uruguay Round. In the current Round of negotiations, India has requested Sri Lanka to undertake full commitments under market access in architectural services and urban planning and landscape architectural services in Modes 3 and 4. Under national treatment, India has requested Sri Lanka to remove nationality/citizenship restrictions, if any. India has requested Sri Lanka for additional commitment on MRAs for qualification and licenses to practice (use of professional title). Sri Lanka has not scheduled architectural or engineering services in its initial offer nor has made any request to India.

V.9 Energy Services

The Indian oil major, Indian Oil Corporation (IOC) has made a significant entry into the Sri Lankan market with a major investment of US $ 100 million to be spread over 5 years. An MOU was signed between Indian Oil Corporation and Ceylon Petroleum Corporation (CPC) in 2002, whereby CPC agreed to facilitate IOC's entry in the retail sector by divesting 100 CPC owned retail outlets to begin with and assist IOC in reassigning franchising outlets. Under the agreement only three players including CPC and IOC were to be permitted. Also, under the MOU total downstream infrastructure including terminal storage and aviation fuelling facilities were to be operated through a CPC-IOC joint venture. The preference for the involvement of the Indian public sector is probably the desire of the Sri Lankan government to ensure energy security of Sri Lanka.

Under the FTA, the two countries can explore similar collaborations in energy services.

India and Sri Lanka did not make any commitments in the energy sector in the Uruguay Round. In the Doha Round of negotiations the two countries have not made any request to each other or scheduled the sector in their initial offer.

V.10 Retailing

In India and Sri Lanka, the retail market is still evolving. Both countries have imposed significant restriction on FDI in retailing. In India FDI is not allowed while in Sri Lanka FDI in retailing is allowed provided the foreign equity exceeds US $ 1 million (foreign equity below the specified limit is reserved for Sri Lankan nationals only). Due to the stringent FDI regime and small consumer base, Indian retailers have limited presence in the Sri Lankan market. Some Indian retailers like Titan watches, and Godrej Appliances have distributors in Sri Lanka while the Indian fast food/coffee chain Barista has two outlets in Colombo. Indian retailers, particularly Titan watches have pointed out that they face stiff competition from smuggled goods as the patent regime in Sri Lanka is quite weak.

Although FDI is not allowed in Indian retailing, foreign retailers have entered the Indian market through various routes such as test marketing, having manufacturing base in India, franchising, etc. However, the Sri Lankan retailers have entered the Indian market through a totally different route: through the initiatives of Export Development Board of Sri Lanka (EDB). The EDB obtained a clearance and approval from the Reserve Bank of India to set up retail operations in India. The EDB has 17 stores in the Spencer Plaza at Chennai where it is showcasing and selling its products. The Sri Lankan products showcased in these stores are mostly at the higher end of the quality spectrum. These stores also enjoy an advantage that the products they sell in India are brought in duty free.

This gives advantage to large Sri Lankan retailers like Hameedia not only to establish a global presence but also to access the large customer base of India at competitive prices.[35] The EDB is also exploring the possibilities of setting up similar trade centres in other cities like Delhi and Mumbai.

Under the FTA, India could also explore the possibility of entering the retail segment in the Sri Lankan market under similar conditions as Sri Lanka has entered into the Indian market. India could benefit greatly if it could have retail outlets for showcasing its products particularly ethnic products that have a large demand in the Sri Lankan market.

India and Sri Lanka have been very cautious in opening up the retailing sector. Neither India nor Sri Lanka scheduled retail and distribution services in the Uruguay Round. In the current Round of negotiations the two countries have not made any request to each other. In their initial offer also India and Sri Lanka have not scheduled retailing services.

V.11 Audio-visual and Cultural Services

Indian films, television programmes, music, etc. has a huge export potential which caters to the demands of not only non-resident Indians but also other South Asians, including Sri Lankans. Sri Lanka and Southern India share a common culture, hence there is scope for trade and co-operation in this sector. However, the survey shows that this potential has largely remained unexploited.

Very few broadcasters showing Indian programmes have entered into the Sri Lankan market through deals with cable operators and Sri Lankan television broadcasters. Given the small size of the market and limited cable penetration, the subscriber base is small and this is affecting the expansion plans of the Indian players. Nevertheless, Sri Lanka broadcasts several Indian programs, 90% of them being Tamil programs and the rest being Hindi programs including films. These programmes are purchased from India and often dubbed in Sinhalese. None of the Sri Lankan broadcasters have ever sold programs to India. Co-production of television programs is limited with few exceptions such as Radaan Media Works of Chennai which has a joint venture with Radaan Talent Factory Lanka. The two companies jointly produce a soap opera for the Sri Lankan market.

India is the second largest producer of films (around 900 films per year). On the other hand, Sri Lanka produces very few movies, only about 20, in a year. Indian film industry has very strong private players while there are few large private players in Sri Lanka. These players too suffer from various constraints such as lack of finance, lack of technical know-how and have expressed an interest to enter into collaborative ventures with Indian producers. However, Indian producers have not shown a keen interest to enter into collaborative ventures.

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[35] Daily News 30th March 2004

Sri Lankan producers are also using the post production facilities in India since Sri Lanka does not have good infrastructure to support post production facilities. For instance, Prasad labs (India) provide post production facilities for almost 75% of the movies produced in Sri Lanka. Studios in Chennai due to its geographical proximity largely offer such post-production facilities. Indian studios and post production houses have shown an interest to attract Sri Lankans to use their facilities. Many Sri Lankan producers use Indian technicians and artists. Indian producers have also used Sri Lankan technicians mainly during their shooting in Sri Lanka.

Indian movies are largely broadcast through Sri Lankan television but are very seldom exhibited in Sri Lankan theatres. This is because the import charges for Indian movies are high and often not affordable. Also, most of the Indian movies are pirated and sold through CVDs and video cassettes hence the demand for exhibition through theatres is limited.

Of late, Sri Lanka is projecting itself as an attractive tourist destination. Shooting of films is an important way to promote the tourism sector. Although Indian producers prefer to shoot films in foreign destination, very few films have been shot in Sri Lanka inspite of attractive tour packages. This is because of barriers such as restrictions on locations where film shooting can be undertaken, high shooting charges and restrictions on carrying equipment to Sri Lanka. The survey showed that so far none of the Sri Lankan movies have been shot in India.

India has some renowned film and television training institutes, both government and private. Our survey showed that very few students from Sri Lanka are attending courses in these institutes. Since there is a shortage of skilled personnel, Sri Lankans have expressed an interest in attending some courses such as mass communication, audiography, specialised acting courses, etc. They have also pointed out that Indian government offers various scholarships to Sri Lankan students but these do not cover the audio visual sector.

Our survey shows that there is scope for enhancing trade and cooperation in the audio visual sector under the proposed FTA. Government of the two countries can offer some incentives to encourage companies to enter into joint television programme production. This will enable the Indian production houses to increase their market share. Sri Lankan companies would also benefit from knowledge and technology transfer. As a first step the public broadcasters of both nations can jointly produce programmes and telecast each others productions. There is a Sinhala division at Doordarshan, which is not very active. Under the CEPA, steps can be taken to strengthen this division. Similarly, All India Radio can enter into collaborative ventures with Sri Lanka Broadcasting Corporation.

Shooting a film in Sri Lanka would not only reduce the cost for Indian producers but also promote Sri Lanka as a tourist destination. At present, many Indian producers face problems in getting group visas to Sri Lanka. Such visa related barriers should be eliminated under the FTA. Moreover, Sri Lanka should remove the restriction or bring in equipment for shooting. Sri Lanka also needs to draw up a specific guidelines and requirements for shooting. The National Film Corporation of Sri Lanka can be the facilitating body for this purpose.

The government of two countries can offer scholarship to Sri Lankan students to study courses like mass communication in India. India could also explore the possibilities of offering special fee structure to students from Sri Lanka.

Piracy is a major concern for Indian exporters to Sri Lanka and the government of two countries should implement measures to curb piracy.

With similar cultural and ethic ties, there is tremendous scope for cross country exchange of artists, musicians, etc.; organisation of film festivals and sporting events; exhibition of art; etc. In this regard, a Cultural Agreement was signed between India and Sri Lanka in 1977 under which a two-year (1997-98) Cultural Exchange Programmes (CEP) was drawn up. With the initiation of the CEPA, a fresh CEP for 2003-2006 was signed in Colombo on October 15, 2003. Exchanges in the field of culture and education have received a fillip after the establishment (in 1996) of the Indian Cultural Centre in Colombo and the setting up (in 1998) of the India-Sri Lanka Foundation.

Both India and Sri Lanka have been conservative in scheduling commitments in audiovisual and recreational, cultural and sporting services in the WTO. In the Uruguay Round, India had only made commitments in motion picture and video tape distribution services and these are subject to both qualitative and quantitative restrictions. India had also imposed an MFN exemption to offer preferential treatment to countries with which it has coproduction agreements. It has not revised its commitment in the initial offers nor has it made any request to Sri Lanka in this sector. Sri Lanka has not scheduled this sector either in the Uruguay Round nor has it made any request to India or offered liberalisation commitments in the ongoing negotiations.

V.12 Finance

Financial sector is both a catalyst and one of the main beneficiary of an FTA. The financial services sector in India and Sri Lanka have liberalised very slowly. Most Indian banks are government owned, and entry of foreign banks remains highly regulated. State-owned banks control 80% of the banking system. In the last decade a series of reform measures have been undertaken in the banking sector, including restructuring of public sector banks. The Reserve Bank of India issued guidelines in 1993, under which new private sector banks may be established. The foreign banks are also beneficiaries of this reform process. As of September 2003, 35 foreign banks with 207 branches were opened in India. Foreign direct investment in banking is slowly being liberalised and the foreign equity ceiling has been raised to 74% in 2004. FDI in state owned banks remains capped at 20%. In Sri Lanka, foreign commercial banks are allowed to open branches subject to an economic needs test. Foreigners are allowed to hold 100% equity in banks. Banks ownership is subject to limits on individual ownership. Individual/company share ownership of a bank is limited to 15% of equity; group of companies 20% and promoters 25%. Currently, there are 12 foreign commercial banks operating in Sri Lanka.

In the Insurance sector in India, prior to 2000, all insurance companies were government owned, except for a number of private sector firms providing reinsurance and brokerage services. Government monopoly ended in 1999, when the Indian parliament passed the Insurance Regulatory Development Authority (IRDA) Act. The IRDA Act allowed 26% FDI in insurance. In the recent budget of 2004-05, the FDI cap was raised to 49%.[36] In Sri Lanka, foreign equity of 100% is allowed. Foreign insurance companies are required to incorporate in Sri Lanka to undertake insurance business. Life Insurance Corporation of India has a joint venture in Sri Lanka with Life Insurance Corporation (Lanka) Ltd. However, the size of the existing life insurance market is quite limited in Sri Lanka. Only 6% of the Sri Lankan population actually have life insurance. This limits the scope for Life Insurance Corporation (Lanka) Ltd to expand. The Indian financial company- Housing Development Finance Corporation (HDFC), is offering consultancy services to National Development Bank, Sri Lanka.

Currently there are three Indian banks operating in Sri Lanka – namely the State Bank of India, Indian Overseas bank and Indian Bank. Two Sri Lankan banks operate in India namely Bank of Ceylon and Hatton National Bank. Both Sri Lankan banks are located in Chennai.

The Indian banks operating in Sri Lanka undertake most banking activities except some such as credit card facilities. Indian Banks are interested in setting up ATM outlets, but the high license fees for ATMs and low customer base makes it difficult for Indian banks to open their own ATMs. As a second option they would like to tie up with local/other foreign banks which would allow them to have access to their ATMs However, this is not permitted. Moreover, even if Indian banks are allowed to have their own ATMs in Sri Lanka, such an operation would be much efficient/cost effective if it is connected to the ATM network in India. The Sri Lanka Telecom is charging an exorbitant license fee for dish antenna and it would be difficult for Indian banks with limited customer base to incur such cost. Another restriction is that any foreign bank cannot bring more than 3 employees irrespective of the number of branches. The CEPA can address these issues.

Sri Lankan banks in India are mainly into commercial operations and cater only to Sri Lankans because they lack knowledge about local clientele. They have not expressed any plan to expand in the near future.

There is no currency convertibility between the two countries. Traders and tourists across both nations have pointed out that this leads to high transaction costs. To enhance trade between the two countries, the FTA should address the issue of currency convertibility. Sri Lankan companies have also expressed an interest to list in Indian stock exchange. This can be explored under the FTA.

[36] Required changes will have to be made in the IRDA Act accordingly.

In the Uruguay Round negotiations on financial services continued beyond the Round. In the extended negotiations India made forward-looking commitments in financial services but Sri Lanka did not schedule financial services. In the current Round, India did not make any request to Sri Lanka in financial services. Sri Lanka, on the other hand, has made an extensive request to India to undertake full commitments in Modes 1, 2 and 3 in various insurance (life, accident, health) and insurance related services and certain banking services such as settlement and clearing services for financial assets, asset management; trading on own accounts or for account of customer. In its initial offer, India did not undertake any commitments in life insurance. It has only offered limited commitments in insurance for freight, reinsurance and retrocession and in the banking sectors requested by Sri Lanka. In the ongoing round, Sri Lanka has offered to open the financial sector significantly.

VI Mode-wise Barriers to Trade in Services

The survey shows that trade between India and Sri Lanka is through all four modes. This section discusses the main modes of trade between India and Sri Lanka and the barriers under those modes.

Mode 1 is an important mode of trade for transport (particularly sea and air) and telecommunication services. In other service sectors, this mode is not very important since the ICT sector in Sri Lanka is still evolving. Moreover, high telecommunication charges between India and Sri Lanka is to some extent restricting trade *via* this mode.

Trade through Mode 2 is largely concentrated in social sectors such as health and education. It is also an important mode of trade in the tourism sector. The survey shows that there are no major barriers to trade through this mode. However, certain barriers such as visa and immigration requirements imposed by India and qualification requirements imposed by both India and Sri Lanka affect trade through both Modes 2 and 4. For instance, although Sri Lankan patients do not find it difficult to obtain visas, the visa regime is very stringent for students. Moreover, due to non-recognition of qualification, Sri Lankan students studying in India find it difficult to get absorbed into their own workforce.

Our survey shows that investment has largely been a one way flow – from India to Sri Lanka. The sectoral studies highlight that Indian companies have invested in several service sectors through different routes (joint ventures, local incorporation, etc) but large investment have mostly been under intergovernmental agreements and many of them through the Indian line of credit. Due to this most Indian companies did not face any major market access barriers in Sri Lanka. However, Indian companies have identified several barriers to investment, many of which are related to domestic regulation and political situation in Sri Lanka. The most important barrier faced by Indian investors is political and economic stability. The small size of the Sri Lanka market and concentration of economic activities in and around Colombo also reduced the scope for investment. Other barriers include licensing requirement, high license fees, requirement of local management and staffing, transparency and bureaucratic delays, lack of knowledge about the Sri Lankan market, shortage of local skills, restriction on import of equipment, etc. There are no major national treatment restrictions in Sri Lanka, except for subsidies in some sectors to local players. However, such subsidies have not so far affected the competitiveness of Indian investors in Sri Lanka and are therefore not important in the FTA context. There are very few Sri Lankan investments in India. The barriers faced by these investors include bureaucratic delays, multiple clearance procedures, cumbersome visa and immigration rules etc.

Our survey showed that professionals from India go to Sri Lanka to work in specific projects, through company deputation/transfers, etc. Sri Lankans, on the other hand, mainly come to India as student or to acquire training who then they take up short - term employment. Many Sri Lankans have expressed an interest to enter the Indian job market. Sri Lankan businessmen have pointed out that the stringent visa regime in India is affecting the trade flows between the two countries. As a member of the SAARC region, a no-cost visitor visa, valid for 30 days, are granted to Indian business and tourists at the time of entry into Sri Lanka. This makes it very easy and less time consuming for Indian businessmen to travel to Sri Lanka. On the other hand, Sri Lankan tourist and businessmen have to apply for Indian visas and sometimes such applications take more than seven days to be processed. Sri Lanka has strongly argued that under the FTA there should be a reciprocity in the visa regime. It may be difficult for India to adhere to Sri Lanka's request and do away with the visa regime for short-term travellers due to political and security issues. However, India can explore the possibilities of more multiple entry visas for business travellers and giving visas to students during the duration of their course in India. India may also explore the possibilities of giving a visa where a Sri Lankan student can work in India after completing their qualification for a fixed time frame.

In spite of a relaxed visa regime, it is difficult for Indian professionals to work in Sri Lanka due to the stringent conditions imposed by various professional bodies such as the Sri Lanka Medical Council. In fact, Indian companies find it difficult to transfer employees to Sri Lanka since this requires the consent of the professional councils. Movement of professionals between the two countries is restricted by the non-recognition of qualification. Under the FTA, the professional bodies of the two countries can sign MRAs in selected sectors such as health and architecture which would ease the movement of professionals.

Other barriers which affect movement of professionals between the two countries include residency and nationality requirements, limitation on the length of stay, limitation on the transferability of employment, etc. Some of these can be addressed through the FTA.

VII Compliance with GATS

Since both India and Sri Lanka are members of WTO, any bilateral agreement should be complaint with the GATS framework. Moreover, one has to justify the need for a bilateral agreement since the two countries are already committed to open certain services sectors multilaterally.

Article V of GATS deals with bilateral/regional agreements. This Article states that member countries can enter into provided that such an agreement has (a) a substantial sectoral coverage and (b) provides for the absence or elimination of substantially all national treatment discrimination among the trading partners.

Article V does not clearly define the term "substantial sectoral coverage". In the W/120 classification, which was drawn up during the Uruguay Round of services negotiations based on United Nations Central Product Classification, there are 12 broad sectors and 157 sub-sectors. It is assumed that if bilateral and regional trading partners agree to liberalise trade in more than 78 sub-sectors (i.e., more than half of the services sectors listed in the W/120) across all modes of service delivery, it would indicate a "substantial coverage". However, Article V also has some special provisions for developing countries. It states that developing countries entering into bilateral or regional agreements have the flexibility to liberalise fewer sectors and modes of delivery, in accordance with their level of development. Since both India and Sri Lanka are developing countries, they have the flexibility to liberalise fewer sub-sectors and modes of delivery under the FTA.

Our study shows that both India and Sri Lanka have significantly liberalised their services sectors unilaterally. They have however, not bound the unilateral regime in the WTO. Their offers in the current round are very conservative both in terms of sectoral coverage and modes of delivery. Sri Lanka has made offers in only three sectors namely tourism, finance and telecommunication and has not scheduled any other sectors. This gives Sri Lanka the right to revert back to a more restrictive regime in future. Therefore, it is in India's interest to secure bilateral commitments from Sri Lanka. Similarly, India too, has committed in few sectors such as professional services, telecommunication, finance, maritime transport services and have not scheduled commitments in some important sectors such as energy services, education services and distribution services. Both India and Sri Lanka have made bilateral request to each other. However, in certain sectors such as telecommunication, energy and finance the bilateral requests do not reflect the current trade between the two countries. For instance, India has significant investment in energy storage and distribution in Sri Lanka but has not made any request in this area. On the other hand, although Sri Lankan telecommunication companies do not have any operations in India or plan to establish operations in near future, Sri Lanka has made an extensive market access request to India. The FTA not only provides an opportunity for the two countries to bind their unilateral regime bilaterally, but also to have a more focused request list in areas of bilateral trade interest. Moreover, since trade liberalisation under GATS is on a non-discriminatory basis as stated in Article II (Most-Favoured-Nation-Treatment), countries are often more willing to offer bilateral commitments than multilateral.

For the FTA to be successful and meaningful, both India and Sri Lanka need to expand their commitments much beyond what they are willing to commit in the services negotiations under the Doha Round. As stated in Article V both India and Sri Lanka will have to notify the liberalisation measures undertaken in the FTA to the Council for Trade in Services together with the time frame of implementation of these measures. Any future modifications will also have to notified to the Council for Trade in Services.

GATS follows a positive list approach to services negotiations. A positive list approach indicates that there is no prior exclusion of any sectors from the negotiations, i.e., the negotiating countries will list down all the sectors that they have agreed to liberalise. This approach gives the member countries the flexibility to list the sectors they want to liberalise and then state the level of liberalisation. Keeping in mind the GATS framework, technological developments, interlinkages between the service sectors and complexities of services negotiations, it is suggested that the FTA should also follow a positive list approach.

The study shows that movement of professionals between India and Sri Lanka would increase if professional bodies of the two countries enter into Mutual Recognition Agreements. In this respect it is worth noting that the GATS already contains a strong provision for recognition under Article VII. This provision encourages transparency, non-discrimination and objectivity in rating of recognition and also encourages countries to enter into mutual recognition agreements or extend recognition autonomously to other member countries. GATS requires that if a country enters into an (or changes an existing) MRA it will have to inform the Council for Trade in Services.

VIII Conclusion

India and Sri Lanka are in the process of negotiating Comprehensive Economic Partnership Agreement. In this context, the study shows that since there has been an increase in services trade between the two countries, the inclusion of services in the agreement (CEPA) would give an impetus to trade. The study shows that there is scope for Indian investment in Sri Lanka in sectors such as telecommunication, oil, construction, hospitals, software, rail transport, etc. Some Indian investors such as Indian Oil Corporation have been able to expand operations to other countries following their success in the Sri Lankan market. The study also highlights that there is scope for mutual co-operation in sectors such as tourism and audio-visual and cultural services. For instance, in the case of tourism, both countries can jointly attract tourist from third countries through joint tourism packages. In social sectors such as health and education, India is an important destination for Sri Lankan patients and students. The study identifies skill shortages in various service sectors in Sri Lanka. The study shows that there is significant movement of professionals between the two countries in health, software, architecture, engineering services etc. and points out that Sri Lanka could gain from skill and technology transfer from India. Sri Lanka has invested and developed its transport network, especially ports and air transport. However, the countries potential to grow in these sectors depends on the inflow/outflow of passenger and cargo traffic from India. Hence, the FTA could play a more meaningful role in co-operation.

Through an extensive survey carried out in Chennai, Delhi, Mumbai, Bangalore Mumbai and Manipal in India and Colombo in Sri Lanka, the study makes an in-depth analysis of the barriers to service trade between the two countries. Even though both countries have liberalised considerably unilaterally, trade potential has not been realised because of the existing barriers to trade. Such barriers can be addressed through the FTA. Some of the key suggestions made in the study relate to Mutual Recognition Agreements, relaxation of the visa regime, reduction in telecommunication charges etc. Removal of these barriers could enhance trade considerably between the two countries. The study also points out that domestic regulations such as high licensing fees, lack of transparency, requirement of multiple clearances, etc., could act as barriers to trade. However, these are part of domestic reform and need to be addressed by both countries as part of their reform agenda.

In the context of the proposed FTA, a Joint Study Group with representatives from both countries was set up and in October 2003. The two countries signed the Comprehensive Economic Partnership Agreement that paved the way for negotiations on trade in services. The present study complements the findings of the JSG by addressing new areas of trade interest and analyses the developments in Indo-Sri Lanka trade in services since the signing of the framework agreement. In addition, the study provides a detailed analysis of the GATS negotiations in the current Round and highlights the implications for India and Sri Lanka. In this context the study points out the anomalies in the request-offer approach pertaining to India and Sri Lanka and suggests how they can be addressed through the FTA.

Table A 1: Indian Joint Ventures in Sri Lanka

Year-1978-2003			
Sl.no	**Sector**	**Board of Investment (Sri Lanka)**	**India Investment Centre (India)**
1	Business Service (including software)	15	13
2	Construction & Related Engineering Services	4	3
4	Financial Services	0	6
5	Health	2	2
6	Tourism & Travel Related Services	2	5
7	Audiovisual Services	5	1
8	Transport Services	5	1
	Total Services	**33**	**31**

Note: Joint ventures that are in operation from 1978 to 2004 are included.

Table A 2: Sampling Frame

Sector	Type of Respondents	Number of Respondents India	Number of Respondents Sri Lanka
1. Telecom			
	a) Telecom	4	3
	Total	**4**	**3**
2. Transportation			
	a) Ports and shipping companies	9	7
	b) Airlines	5	2
	c) Road & rail transportation services	0	2
	Total	**14**	**11**
3. Tourism			
	a) Hotels and Restaurants	7	5
	b) Travel agents/Tour Operators	9	5
	Total	**16**	**10**
4. Health			
	a) Doctors and Medical Practitioners	16	10
	b) Hospitals	17	4
	c) Patients	3	4
	d) Medical Training Institutes	3	0
	Total	**39**	**18**
5. Education			
	a) Institutions/University	14	5
	b) Students	16	5
	c) Research & development institute	0	2

	Total	**30**	**10**
6. Construction			
	a) Construction Companies	9	5
	Total	**9**	**5**
7. Software			
	a) Software firms	8	-
	b) IT Training Institutes	5	-
	Total	**13**	**8**
8. Professionals/ Professional bodies	a)Architects	4	3
	b) Engineering consultants	4	2
	c) Legal Practitioners	0	2
	d) Accountants	0	2
	e) Professional Bodies	5	1
	Total	**13**	**10**
9. Energy			
	a) Oil Retailing Companies	1	2
	Total	**1**	**2**
10. Retailing			
	a) Retail companies	4	2
	Total	**4**	**2**

11. Audio-visual sector			
	a) Television Broadcasters/ cable operators	7	5
	b) Television Production Houses	5	0
	c) Commercial Film Producers/ directors/ technicians/ exhibitors	6	7
	d) Music Company	3	2
	e) Public Broadcasters	2	2
	Total	**23**	**16**
12. Finance			
	a) Sri Lankan Bank in India	2	
	b)Banks, insurance, other financial institute in SL	6	4
	Total	**8**	**4**
13. Industry Association		**7**	**6**
14. Policy Makers/ Government Representative		**9**	**8**
TOTAL		**190**	**115**

Table A 3: Distribution of Respondent in India by Cities

State	Total Respondents in each city	Percentage of respondents in each city
Delhi	49	25.8
Mumbai	33	17.4
Chennai	67	35.3
Bangalore	32	16.8
Manipal	9	4.7
Total	**190**	**100**

Table A 4.1: National Statistics on Exports of Services from India (India)

(Percent share)

Services Export from India					
Sectors	**1997-98**	**1998-99**	**1999-00**	**2000-01**	**2001-02**
Transportation	**19.5**	**14.6**	**10.9**	**10.1**	**9.7**
Sea Transport	22.0	14.3	15.5	11.5	13.1
Air Transport	19.2	16.4	13.1	10.5	10.2
Freight on exports	52.6	53.3	62.4	70.6	69.1
Others	6.2	16.0	9.1	7.5	7.7
Travel	**30.9**	**22.7**	**19.3**	**16.8**	**14.3**
Insurance	**2.5**	**1.7**	**1.5**	**1.4**	**1.3**
Insurance on export	76.7	78.6	83.1	89.9	86.9
Premium	7.1	12.1	7.8	3.9	6.7
Commission on Business received from foreign companies	0.4	1.8	0.0	0.8	1.1
Others	15.8	7.6	9.1	5.8	5.2
Government not included elsewhere	**2.9**	**4.5**	**3.7**	**3.5**	**2.3**
Miscellaneous Services (Other Services) of which	**44.2**	**56.5**	**64.6**	**68.2**	**72.3**
Communication services	4.1	8.1	10.5	10.0	6.3
Construction services	2.4	2.0	3.8	5.2	1.1
Financial services	7.1	3.8	3.6	5.4	5.3
Software services	42.3	35.3	39.6	49.3	48.9
News agency services	3.7	3.5	3.4	0.9	0.0
Royalties, copyright & license fees	0.5	0.2	0.5	0.5	0.6
Management services	13.2	7.9	6.3	7.5	6.5
Other services(advertising, rentals, office, maintenance, prizes, exhibitions & other services)	26.6	39.2	32.3	21.2	31.3
Total (US$ million)	9429	13186	15709	18870	20286

Source: Years 1997-98 to1998-99 are taken from RBI Bulletin 2001.
Years 1999-00 to 2001-02 are taken from RBI Bulletin 2003.

Table A 4.2 : National Statistics on Import of Services into India

(Share %)

Services Import from India					
Sectors	**1997-98**	**1998-99**	**1999-00**	**2000-01**	**2001-02**
Transportation	**31.1**	**24.3**	**20.7**	**19.3**	**14.8**
Sea Transport	44.3	44.3	37.7	32.0	33.5
Air Transport	38.1	38.1	42.7	46.1	41.0
Freight on exports	10.6	10.6	12.6	19.4	20.9
Others	4.5	4.5	1.0	0.2	0.8
Travel	2.4	2.4	6.0	2.3	3.8
Insurance	**17.7**	**15.8**	**18.4**	**17.5**	**14.2**
Insurance on export	**2.3**	**1.0**	**1.0**	**0.7**	**1.6**
Premium	78.7	71.4	71.3	68.9	74.8
Commission on Business received from foreign companies	1.6	0.9	4.9	0.0	0.8
Others	19.7	27.7	23.8	31.1	24.4
Government not included elsewhere	**2.0**	**2.9**	**2.3**	**2.1**	**1.7**
Miscellaneous Services (Other Services) of which	**47.0**	**55.9**	**57.6**	**60.3**	**67.7**
Communication services	2.3	1.7	2.8	2.5	5.2
Construction services	1.7	1.6	0.8	2.2	4.7
Financial services	17.0	11.2	24.3	20.3	21.4
Software services	5.9	5.6	2.1	6.0	6.2
News agency services	3.7	1.7	1.3	3.0	2.9
Royalties, copyright & license fees	4.4	4.1	4.6	5.2	5.1
Management services	22.1	10.8	11.9	14.0	16.1
Other services(advertising, rentals, office, maintenance, prizes, exhibitions & other services)	43.0	63.4	52.2	46.8	38.3
Total (US$ million)	8110	11021	11645	16392	16087

Source: Years 1997-98 to1998-99 are taken from RBI Bulletin 2001.
Years 1999-00 to 2001-02 are taken from RBI Bulletin 2003.

Table A 5: National Statistics on Sri Lanka's Trade in Services

(Shares in %)

Subsector	1998	1999	2000	2001	2002	2003*
Share in Services Export						
Transport	44.0	41.8	42.6	28.3	40.5	39.9
Travel	25.2	28.3	26.4	15.7	28.6	30.1
Telecommunication	n.a.	n.a.	4.8	3.0	5.4	3.8
Computer & Information	n.a.	n.a.	n.a.	4.9	3.9	5.7
Construction	n.a.	n.a.	n.a.	3.0	2.7	2.7
Insurance	3.7	3.8	4.3	31.2	3.5	3.2
Other Business services	24.5	23.5	19.3	12.4	13.5	12.9
Government Expenditure n.i.e.	2.7	2.6	2.5	1.6	1.7	1.5
Total (million US$)	**914**	**968**	**953**	**1355**	**1268**	**1408**
Share in Services Import						
Transport	34.2	34.5	36.8	26.7	34.0	35.7
Travel	26.2	26.7	26.7	21.7	27.0	27.6
Telecommunication	0.0	0.0	5.2	0.5	0.8	0.8
Computer & Information	0.0	0.0	0.0	0.0	0.0	0.0
Construction	0.0	0.0	0.0	0.9	0.8	0.4
Insurance	2.3	2.4	2.4	27.5	2.8	2.9
Other Business services	32.9	33.4	25.6	21.5	31.3	29.5
Government Expenditure n.i.e.	4.4	3.0	3.3	1.3	3.2	3.3
Total (million US$)	**770**	**820**	**915**	**1151**	**974**	**1012**

Source: Central Bank of Sri Lanka

*Provisional

**Services receipts in 2001 include US$ 382.4 million received by Sri Lankan airlines as insurance claims for the aircraft destroyed by the attack on the airport in July 2001, while Services payments in 2001 include US$ 292.8 million paid to the looser of the aircraft.

Table A 6: Composition of India's and Sri Lanka's Services Trade

India								
Subsector	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Share in services exports								
Transport	27.9	27.1	21.3	15.2	12.7	10.3	9.5	10.2
Travel	38.1	38.6	31.7	25.2	20.7	17.3	14.1	12.1
Other services	34.0	33.0	47.0	59.6	66.5	72.4	76.4	77.7
Share in services import								
Transport	55.5	57.7	54.8	48.8	40.4	40.4	14.8	13.6
Travel	9.7	8.2	10.8	25.2	11.6	12.9	14.2	18.5
Other services	34.8	34.1	34.5	39.4	47.9	46.7	71.0	68.0
Share in services trade								
Transport	44.6	45.6	40.6	33.8	27.8	26.0	11.8	11.6
Travel	21.0	20.2	19.6	17.8	15.8	15.0	14.1	14.8
Other services	34.5	33.7	39.8	48.4	56.4	59.0	74.0	73.5
Sri Lanka								
Share in services exports								
Transport	40.9	44.3	44.5	43.9	41.8	42.6	29.2	40.5
Travel	27.6	21.7	23.9	25.1	28.3	26.4	15.6	28.6
Other services	31.5	34.0	31.7	30.9	29.8	31.0	55.3	30.8
Share in services import								
Transport	56.6	57.3	58.4	58.4	57.9	60.5	48.2	33.1
Travel	15.5	14.6	13.8	14.8	15.4	14.8	13.9	26.4
Other services	27.9	28.1	27.8	26.8	26.7	24.8	37.9	40.5
Share in services trade								
Transport	50.2	52.3	52.8	52.6	51.3	53.9	39.9	37.3
Travel	20.4	17.4	17.9	19.0	20.6	19.1	14.6	27.7
Other services	29.3	30.4	29.4	28.5	28.0	27.0	45.5	35.1

Source: Based on IMF BoP data.

Table A 7: Revealed Comparative Advantage

India			
YEAR	**Transport**	**Travel**	**Other services***
1995	1.14	1.19	0.86
1996	1.16	1.22	0.83
1997	0.92	1.02	1.13
1998	0.67	0.81	1.39
1999	0.56	0.67	1.54
2000	0.45	0.55	1.67
2001	0.42	0.47	1.74
2002	0.45	0.42	1.73
Sri Lanka			
YEAR	**Transport**	**Travel**	**Other services***
1995	1.68	0.86	0.80
1996	1.88	0.68	0.85
1997	1.91	0.77	0.76
1998	1.96	0.81	0.72
1999	1.86	0.91	0.69
2000	1.87	0.86	0.71
2001	1.25	0.52	1.28
2002	1.81	0.98	0.69

Source: BoP Statistics, Yearbook, Part 1,2 and 3,2001 and 2003(for the year 1995-2002, World, Sri Lanka and India).

*Other services exclude government services

Note: $R_{ih} = (X_{ih}/X_{it})/(X_{wh}/X_{wt})$

X_{ih} = Country i' s export of product h.
X_{it} = total export of country i.
X_{wh} = world export of product h
X_{wt} = Total world exports.

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