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Ongoing Negotiations on the GATS FSA: Bangladesh's Concerns and Position

Paper 33

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The present paper, ***Ongoing Negotiations on the GATS FSA: Bangladesh's Concerns and Position***, has been prepared under the CPD programme on **Trade Policy Analysis and Multilateral Trading System**. This programme aims at strengthening institutional capacity in Bangladesh in the area of trade policy analysis, negotiations and implementation. The programme, inter alia, seeks to project the civil society's perspectives on the emerging issues emanating from the process of globalization and liberalization. The outputs of the programme will be available to all stakeholder groups including the government and policymakers, entrepreneurs and business leaders, and trade and development partners.

The present paper titled ***Ongoing Negotiations on the GATS FSA: Bangladesh's Concerns and Position*** has been prepared by **Dr Ananya Raihan**, Research Fellow, CPD, Dhaka.

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Acronyms

BIS	Bank of International Settlement
BOP	Balance of Payments
EC	European Council
FCB	Foreign Commercial Bank
FDI	Foreign Direct Investment
FSA	Financial Services Agreement
GATT	General Agreement on Trade and Tariff
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
LDC	Least Developed Country
LIBOR	London Interbank Offered Rate
MFN	Most Favoured Nation
NCB	Nationalised Commercial Bank
NPA	Non-performing Asset
PCB	Private Commercial Bank
PPP	Purchasing Power Parity
ROA	Return on Asset
SAR	Special Administrative Region
UAE	United Arab Emirates
US	United States
WTO	World Trade Organisation

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Section I
Fifth Protocol: The Financial Services Agreements under the GATS

1.1 Introduction

The FSA as a supplementary agreement to the GATS covers all additional measures unique to the financial services sector as the **Annex on Financial Services** and the **Understanding on Commitments in Financial Services,** popularly known as *Fifth Protocol***.** The Fifth Protocol (or Financial Services Agreement) and its annexes contain market opening commitments made as a result of global negotiations on financial services, including areas such as insurance, merchant and consumer banking. A key provision of the **FSA** is the prudential carve-out, which is not common for other services. It preserves the right of countries to maintain or introduce measures for prudential reasons, including for the protection of investors, depositors, policyholders or persons to whom a fiduciary duty is owed by a financial service supplier. This is key to ensuring that regulatory authorities have sufficient flexibility to safeguard the integrity and soundness of the financial system.

The financial services deal also brings the financial sector under other general important disciplines of the WTO. For example, the dispute settlement and enforcement provisions (Article XXIII) of the WTO will also apply in case of FSA. A unique feature for financial services is the assurance of the participation of financial experts in dispute settlements panels involving financial matters.

1.2 Definition of the Financial Services in FSA

A financial service is defined in the FSA broadly as any service of a financial nature offered by a financial service supplier. Financial services are separated in two subsectors:

1) all insurance and insurance-related services; and
2) all banking services and other financial services (excluding insurance).

The financial services sector has expanded rapidly in recent years. The employment in this sector has increased by 25 to 50 per cent in a number of industrialized countries since 1970 and now represents 3 to 5 per cent of total employment. Value-added in the financial service sector has also grown considerably over the past 25 years and now reaches between 7 and 13 per cent of GDP in Hong Kong, Singapore, Switzerland, and the United States.

The box below provides an illustrative list of activities included as financial services for the purposes of the Annex on Financial Services.

"Understanding on Commitments in Financial Services" is a voluntary “high” standard of commitments in the financial services sector. It encompasses broader liberalization commitments than those required under the general provisions of the GATS. The Understanding was negotiated under the UR and most of the developed countries and a small number of developing countries have adopted it.

Box 1: Financial Services under Annex on Financial Services

Description of financial services

In the **insurance services** subsector, financial services include the following activities:

direct insurance, including life and non-life;
reinsurance and retrocession;
insurance intermediation, such as brokerage and agency; and
services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

In the **banking and other financial services** subsector, financial services include:

acceptance of deposits and other repayable funds from the public;
lending of all types, including consumer credit, mortgage credit, factoring and finance of commercial transaction;
financial leasing;
all payment and money transmission services, including credit, charge and debit cards, Traveler's check and bank drafts;
guarantees and commitments;
trading for own account or account of customers, whether on an exchange, in an over-the-counter market or otherwise:

a) money market instruments (including checks, bills, certificates of deposits)
b) foreign exchange
c) derivative products including, but not limited to, futures and options;
d) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
e) transferable securities
f) other negotiable instruments and financial assets, including bullion.

participation in issues of all kinds of securities;
money broking;
asset management;
settlement and clearing services for financial assets;
provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
advisory, intermediation and other auxiliary financial services.

Source: GATS Agreement (FSA), WTO, 1997.

One key element of the "Understanding" is a standstill commitment, i.e. a freeze on the introduction of additional restrictions for all financial services. The "Understanding" also embodies MFN and national treatment with respect to government procurement of financial services from suppliers established in the market. Countries signatory to the "Understanding" also guarantee foreign financial institutions the right to offer new financial services products as they are developed, the right to move and process data across the border, and the right to let personnel enter the country on a temporary basis.

The instrument used by a GATS signatory to undertake commitments in services sectors, including financial services, is referred to as **Schedule of Commitments**. Each member who undertakes a commitment in a specific sector must inscribe that sector in its Schedule of Commitments. In those sectors where commitments are offered, a member is allowed

to take reservations from market access and national treatment. For example, a country committing to include “financial services” in its offer may take a reservation to not allow foreign institutions to establish subsidiaries. The Schedule is therefore essentially a “negative list” of commitments, these barriers are presented in the country commitments as "exemptions".

If a country introduces any barrier that is not provided for in its "Schedule of Commitments" in sectors where commitments are made, it may be subject to challenge by other countries under the dispute settlement mechanism and possibly be subject to compensation requirements or retaliatory actions.

Commitments undertaken in the GATS context by a member are only a floor of undertakings, a member may operate with a more open regime than it is legally committed to in the GATS context. In these circumstances, if MFN treatment is offered by the member, the member is bound to offer the same more open regime to all foreign financial institutions on a non-discriminatory basis.

Commitments in specific sectors are taken in the form of four different modes of supply (Article I) – referred to as:

mode 1- cross-border,

mode 2- consumption abroad,

mode 3- commercial presence and

mode 4- presence of natural persons.

In **mode 1**, cross-border, the supply of the service is from the territory of one country into the territory of another country. The service, for example, could be supplied through telecommunication or e-mail. In the financial services sector, one example would be where an insurance company from a country without a presence in another country advertises and sells a policy to a consumer in that country or receiving credit card using Internet banking facilities.

In **mode 2**, consumption abroad, the supply of the service is in the territory of a country to a consumer of another country. This will often imply that a consumer (or the consumer's property) seeks the service abroad or crosses the border to consume the service abroad. One example in the financial services sector is where a consumer contacts a foreign bank and opens a checking account in the foreign country.

In **mode 3**, commercial presence, the service supplier of a country establishes a commercial presence in the territory of another country through which it intends to provide a service. Commercial presence is defined as any type of business or professional establishment including through i) the constitution, acquisition or maintenance of a juridical person (e.g., a corporation, trust, partnership, joint venture, sole proprietorship or association) or ii) the creation or maintenance of a branch or a representative office. By defining trade to include sales through commercial presence, the Agreement includes in its domain foreign direct investment, which accounts for a large share of all services transactions, particularly in financial services.

In **mode 4**, natural persons, the supplier of a country provides a service in the territory of another country through the presence of natural persons (e.g., self-employed), e.g., independent financial consultants or bank managers, of one Member in the territory of another Member. The annex on the *movement of natural persons* permits the governments to negotiate specific commitments applying to the temporary stay of the people for the purpose of providing a service. It does not apply to persons seeking permanent employment

or residence in a country. The appendix 9 shows number of countries making commitments so far about various financial services included under FSA.

Besides the specific principles of the FSA all general provisions of the GATS are applicable for the commitments under the FSA. GATS requires publications of all laws, regulations and other government measures of general application ("transparency") (Article III:1) and administration of all measures of general application in a reasonable, objective and impartial manner (Article VI:1). The GATS permits regional liberalization in services trade through customs unions and free trade areas, as does the GATT (Article XIV). It permits monopolies and exclusive providers, but requires that they act in a manner consistent with the Member's services commitments (Article VIII), similar to the obligation in GATT Article XVII. GATS also contains general exceptions and security exceptions modeled after the GATT (Articles XIV and XIV *bis*).

Under the GATS the MFN and national treatment obligations, as well as liberalization of market access limitations, are voluntary. Article II:2 permits WTO Members to provide non-MFN treatment, as long as they record the exceptions in their WTO schedule of services commitments. Such exceptions "normally" expire after ten years and expressly are "subject to negotiation" in future rounds of multilateral trade negotiations (paragraph 5 of Annex on Article II Exemptions). Similarly, a Member is not obligated to provide national treatment, as under GATT. Rather, it provides national treatment only for those service categories that it chooses and only to the extent recorded in its schedule of WTO services commitments (Article XVII). Agreements to eliminate or reduce limitations to market access (such as limits on the number of service suppliers or value of transactions or restrictions on type of legal entity or percentage of foreign capital participation) also are voluntary, applying only to those service categories included in a Member's schedule and only to the extent specified therein (Article XVI).

The *market access* provision prohibits six types of limitations, unless they have been inscribed by a Member in its schedule. These are: (a) limitations on the number of suppliers; (b) limitations on the total value of service transactions or assets; (c) limitations on the total number of service operations or on the total quantity of service output; (d) limitations on the total number of natural persons that may be employed; (e) measures which restrict or require specific types of legal entity or joint venture; and (f) limitations on the participation of foreign capital. In scheduled sectors, the existence of any of these limitations has to be indicated with respect to each of the four modes of supply, described above.

Section II
Current Level of Commitments by Countries under the FSA

2.1 Introduction

Given the voluntary nature of these key obligations, it is not surprising that few Members actually reduced existing access barriers or discriminatory treatment to any significant extent. Rather, most Members were selective about the service categories as to which they undertook any obligations, and the "commitments" they did schedule often reflected the degree of openness and of limitations and discrimination existing in their market at the time.

Nearly 110 WTO members have made commitments in financial services – more than for any other trade sector, except tourism. The types of financial services and countries with commitments are presented in the Annex I.

2.1.1Insurance

The commitments of African and Eastern European Members are more liberal than the all-country average. African Members' are placed ahead of the Eastern Europeans because of their willingness, in general, to make liberal commitments not only on commercial presence, but also on the first two modes. The commitments of the Asian Members, while less liberal than the average, were significantly more liberal than those of the Latin American Members.

There are significant differences between individual participating countries in the extent of binding and the restrictiveness of scheduled limitations. Full liberalization across all three modes is rare. Out of the 52 countries who made commitments on direct insurance, only 4 small countries, Bahrain, Gambia, Guyana and the Solomon Islands, together accounting for less than one-half per cent of participants' GDP, committed to removing all barriers. The only exception to the relative paucity of liberal commitments on the first two modes was Africa, where 5 countries, including relatively large Egypt and South Africa, guaranteed an absence of restrictions on consumption abroad. Otherwise, there was also hardly any evidence that countries were more willing to make fully liberal commitments with respect to consumption abroad than to cross-border supply. Several countries such as Hong Kong, Israel, Malaysia, Peru do not allow soliciting or advertising under cross-border supply and consumption abroad. There are several reasons to expect more liberal commitments on consumption abroad than on cross-border supply. First, it could have been presumed that governments would be less concerned (or less able to do anything) about transactions which take place outside their jurisdiction than those which take place within their jurisdiction. Secondly, as noted above, while commitments on cross-border supply carry the obligation to allow any essential movement capital, those on consumption abroad do not. However, the lack of a clear distinction between the two modes may have made government's choose a cautious approach to scheduling.

In all geographical regions, commercial presence is clearly the mode through which Members prefer to guarantee access to domestic markets for direct insurance services. As many as 19 countries, accounting for nearly a quarter of participants' GDP, guaranteed the absence of restrictions (other than on legal form) on commercial presence. Eastern Europe as a region represents potentially the most liberal market for foreign investment in direct insurance. Next in degree of openness is Africa, where 7 out of the 13 countries, including Nigeria and South Africa, accounting for two-thirds of participants' GDP, impose no restrictions other than on the legal form of commercial presence.26 Egypt, Gabon and Mauritius apply economic needs tests or discretionary procedures in allowing new entry,

while Morocco has included a reciprocity condition in its schedule. Egypt is perhaps the only country in these negotiations which has specified the basis for carrying out an economics need test and has committed to relaxing the test in future. Egypt, Ghana and Kenya (in life insurance) impose equity limitations but Ghana and Kenya already allow majority foreign ownership. Egypt currently limits foreign equity to 49 per cent, but will raise the limit to 51 per cent in the year 2000 for life and 2003 for non-life insurance.

The number of assurances of fully open markets for foreign investors is higher in Asia and the Pacific (7 out of 17) than in Latin America (3 out of 18). Furthermore, several relatively large Asian markets (including Hong Kong, Indonesia, Israel and Turkey, accounting for 32 per cent of Asian participants' GDP) have no significant restrictions on the establishment of foreign commercial presence, but this is only true for the smaller Latin American economies (Guyana, Panama and Paraguay, accounting for only 1 per cent of Latin American participants' GDP). The nature of restrictions in place in the two regions reveal an interesting difference: the Latin group seems primarily reluctant to guarantee free entry, whereas the Asian group seems reluctant also to assure full foreign ownership.

In the Latin group, eleven Members (including Argentina, Brazil and Chile)27 do not assure fully liberal entry conditions (i.e. unbound, subject to discretionary licensing, limitations or reciprocity conditions), two Members (Cuba and Mexico) impose only equity limitations, and two (Dominican Republic and the Honduras) both. In the Asian group, entry limitations are accompanied in eight cases (including India, Malaysia, Philippines and Thailand) by restrictions on foreign equity as well, one Member (Korea) imposes only equity limitations whereas just one Member (Qatar) imposes only limitations on entry. The implications of these differences are discussed more fully in a subsequent section. However, the contrast between regions may be less stark than it appears because the discretion that Latin American countries retain to impose conditions on new entry could also apply to foreign equity participation.

2.1.2 Banking

There are more commitments in core banking services than in insurance: countries accounting for 97 per cent of the GDP of non-developed Members, made commitments on the acceptance of deposits and lending of all types. Again, in both numerical and GDP-weighted terms, country participation was highest in Eastern Europe (all WTO Members made commitments) and lowest in Africa (18 countries out of 41, accounting for 84 per cent of the region's GDP). But African participation in banking, as well as that of Asian and Latin American countries, was higher than in insurance.

The smaller countries have generally tended to be more forthcoming in liberal commitments than the larger countries. As in insurance, the commitments of African and Eastern European Members are more liberal than the all-country average while those of the Asian and Latin American Members are below average. But there are some notable differences from the pattern in insurance. While Africa again leads in openness for the acceptance of deposits, it is second to Eastern Europe in openness for lending. And in banking, it is the Latin Americans which have on average made more liberal commitments than the Asians.

The 10 countries which have guaranteed virtually unconstrained access by all modes of supply, however account for only 1 per cent of participants' GDP and include only the smaller economies: 5 are in Africa (Ghana, Kenya, Malawi, Mozambique and Sierra Leone), 2 in the Pacific (Papua New Guinea and the Solomon Islands) and 3 in the Latin American group (Guyana, Haiti and Panama).

The number of liberal commitments on the first two modes was significantly higher than those in insurance. Over half of the Asian participants (including Hong Kong, Indonesia, the Philippines and the UAE) committed to liberal consumption abroad, and nearly one-third to liberal crossborder supply (including Indonesia and several smaller economies). In Africa, nearly half the participants guaranteed unrestricted access by each of the first two modes, but in Eastern Europe and Latin America, very few Members were prepared to do so. Only in Asia was there any evidence that countries were more willing to make liberal commitments with respect to consumption abroad than cross-border supply.

The number of fully liberal commitments for foreign investors in banking (mode 3) was on the whole comparable to those in insurance: 26 participants, accounting for over a fifth of participants' GDP. However, the regional pattern was different. Asia was the only region where fewer countries assured full openness under mode 3 than under each of the first two modes. In all other regions, the pattern in insurance was more or less repeated, with commercial presence being the relatively most liberalized mode.

Again, it is Africa which is next in degree of openness, with 10 out of the 18 countries, accounting for 78 per cent of the region's GDP, guaranteeing virtually unconstrained rights of commercial presence. In addition to the countries which impose no restrictions on any mode (named above), Egypt, Lesotho, Nigeria, and South Africa are fully open to investment. Among the less open markets are Benin, Gabon, Mauritius and Tunisia which apply economic needs tests or discretionary procedures in allowing new entry, and Zimbabwe which imposes a 60 per cent limit on foreign equity. Morocco applies a reciprocity condition to commercial presence as well as discretionary limits on foreign equity participation. Gambia is the only country which has left the commercial presence mode unbound in the core banking services.

The number of countries which guarantee free access to foreign investors is higher in Latin America than in Asia and the Pacific - reversing the picture in insurance. In Latin America, the 8 such markets (including Argentina, Panama and Paraguay) account for a fifth of the regional participants' GDP, whereas the 3 such markets in Asia and the Pacific (Israel, Papua New Guinea and the Solomon Islands) account for only one-twentieth of the regional participants' GDP. However, the nature of restrictions in place in the two regions mirrors that in insurance. In the Latin group, 9 Members (including Chile, Colombia, Peru and Venezuela) impose only entry restrictions of some form (either unbound, limited, subject to discretionary licensing or a reciprocity condition), 1 Member (Mexico) only equity limitations (aggregate for the sector), and 2 (Brazil and the Dominican Republic) both. In the Asian group, entry limitations are accompanied in 10 cases (including India, Indonesia, Korea, Malaysia, Pakistan, Philippines and Thailand) by restrictions on foreign equity as well, 1 country (Bahrain) imposes only equity limitations whereas 4 (including Hong Kong and the UAE) impose only limitations on entry.

Another difference is the frequency in Asia of numerical restrictions on branches of foreign banks. In Latin America, several countries, such as Colombia and Costa Rica, do not allow entry through branches but most (with the exception of Brazil and Venezuela) do not impose any subsequent restrictions on the scale of operations. Interestingly, India is the one country which allows entry only in the form of branches of foreign banks licensed and supervised as banks in the home country. This may reflect the desire to shift the regulatory and supervisory burden to the home country.

2.1.3 LDC Commitments under FSA

Only a few LDCs committed [see Annex II] for liberalization of the financial sector under the WTO FSA. While Haiti, the only Caribbean LDC, offers deep liberalization commitments, the African LDCs commitments are diverse and more restrictive in general. The commitments of five LDCs are presented below.

2.1.3.1 Angola

Cross-Border Supply

There are no limitations on national treatment; the total financial sector is open for all the nations under GATS for *acceptance of deposits and other repayable funds from public*, *lending of all types and liquidation and monetary transfer services*. However authorization is required from Angolan National Bank for residents requesting *loan from abroad for all lending types*. *Acceptance of deposits and other repayable funds from public* is free and liquidation and monetary transfer services are unbounded.

Consumption Abroad

All the 3 banking sub-sectors, *acceptance of deposits and other repayable funds from public*, *lending of all types and liquidation and monetary transfer services*, are free to the GATS nations for the limitations on national treatment. On the other hand, for market access resident legal persons must transfer all their accounts to abroad unless specified otherwise. In case of lending of all types residents may request loans abroad prior to the authorization of the National Bank of Angola. However, *liquidation and monetary transfer services* are free.

Commercial Presence

In case of commercial presence 3 banking sub-sectors like in for consumption abroad (*acceptance of deposits and other repayable funds from public, lending of all types and liquidation and monetary transfer services*), are free to the GATS nations under the limitations on national treatment. Under market access *acceptance of deposits and other repayable funds from public* is free as long as banks and financial institutions in Angola abide by the regulations of the country. The situation with lending of all types is totally unbounded. Whereas liquidation and monetary transfer services for branches of foreign institutions are obligatorily accountable for the principal order after having fulfilled the commitment.

Movement of Natural Persons

The commitments on movement of natural persons are similar to the consumption aboard and commercial presence for 3 banking Sub-sectors (*acceptance of deposits and other repayable funds from public, lending of all types and liquidation and monetary transfer services*) under national treatment. In market access *lending of all types and liquidation and monetary transfer Services*, are unbounded. On the other hand at least half the personnel of subsidiaries, branch offices and agencies of foreign financial institutions must be Angolan for the *acceptance of deposits and other repayable funds from public*.

2.1.3.2 Benin

Cross-Border Supply

Both for market access and national treatment, *acceptance of deposits and other repayable funds from public is totally free*. National treatment for *lending of all types* is free even though limitation on market access resembles that residents may take out loans abroad,

having the authorization from the Finance Ministry in conformity with the exchange control regulations for loans of over CFAF 50 million.

Consumption Abroad

Acceptance of deposits and other repayable funds from public (under limitations on market access) is free but in case of lending of all types residents may take out loans abroad, having the authorization from the Finance Ministry in conformity with the exchange control regulations for loans of over CFAF 50 million. *Both for acceptance of deposits and other repayable funds from public and lending of all types*, national treatment is none.

Commercial Presence

The lending of all types is totally restricted. Though market access for *acceptance of deposits and other repayable funds from public is free*, the approval of Finance Ministry (Law No. 90-108 of 27 July 1990) is necessary to set up a banking institution. Moreover banks must be public limited companies with fixed share capital in the businesses of Benin or specified otherwise.

Movement of Natural Persons

Under market access without a Benin nationality a person may not manage a financial institution unless the agreements for the establishment of the bank provide for assimilation of Benin nationals (*acceptance of deposits and other repayable funds from public*) There is no discrimination on national treatment for the same sub-sectors. While lending of all types is unbounded, except for measures affecting the entry and temporary stay of natural persons who are employees of a company and transferred to a company incorporated in Benin belonging to the following: Directors, Senior Managers and Specialists with knowledge essential for the provision of service (market access). In this case national treatment is none.

2.1.3.3 Gambia

Cross-Border Supply and Consumption Abroad

In these two supply modes both the sub-sectors, all insurance and insurance related services and banking and other financial services, are totally free.

Commercial Presence

All insurance and insurance related services are free but in the banking and other financial services limitations on market access are unbounded (except as indicated in the horizontal commitments) even though limitations on National Treatment are free.

Movement of Natural Persons

All Insurance and Insurance related services and Banking and other Financial services, are unbounded (except as indicated in the horizontal commitments).

2.1.3.4 Haiti

Cross-Border Supply

All the 9 sub-sectors (reinsurance and retrocession, acceptance of deposits and other repayable funds from the public, lending of all types including, *inter alia*, consumer credit, mortgage credit, factoring and financing of commercial transactions, financial leasing, all payment and money transmission services, guarantees and commitments, money market instruments, foreign exchange and transferable securities) in this Mode are free for the GATS nations.

Consumption Abroad and Commercial Presence

The limitations on market access of Reinsurance and retrocession sub-sector are unbounded. The rest of the 8 sub-sectors including the limitations on national treatment for reinsurance and retrocession sub-sector are free.

Movement of Natural Persons

The Reinsurance and retrocession sub-sector is unbounded. The rest of the 8 Sub-sectors are totally free for the nations in the GATS.

2.1.3.5 Sierra Leone

Cross-Border Supply and Consumption Abroad

All Insurance Services and Insurance Related Services sub-sector in these two modes are totally unbounded. For the banking and other financial services (excluding insurance) are free for the GATS nations.

Commercial Presence

For all insurance services and insurance related services several limitations are in place. Initially, the investor shall be a foreign insurance company with 10 years of establishment. To enter the market, foreign insurance companies require holding twice the capital, than that of a local insurance company. The parent company should verify pay off, incase of bankruptcy. For the requirement of reinsurance, a foreign insurance institution shall make its own arrangements to bail out the company. Limitations on National Treatment include assurance from the parent authority of reciprocal treatment of request for establishment of a branch or subsidiary in that country by a Sierra Leonean bank in future. For banking and other financial services (excluding insurance), foreign banks must incorporate subsidiaries in Sierra Leone to undertake the business of banking.

Movement of Natural Persons

For both the sub-sectors, insurance and banking, the movement of natural persons are unbounded (except as indicated in the horizontal).

2.2 South Asian Commitments in Financial Services

Among the South Asian countries India, Pakistan and Sri Lanka made their commitments in financial services. Bangladesh and Maldives have not made any commitment in the financial services sector. Bhutan and Nepal are on the process of acceding to WTO, as a result it is premature for them to commit.

All three selected SAARC member countries have strong similarities with minor differences which are consistent for all sub-sectors for both market access and national treatment [see Annex III].

2.2.1 Insurance

In "All insurance and insurance related services" the limitations on market access in these countries, India does not have any commitment in life insurance whereas Pakistan and Sri Lanka are "Unbound" in all modes of supply except for the commercial presence. Pakistan allows 25% equity participation to foreign shareholding in existing foreign life insurance services providers and this participation has increased upto 51 % in new life insurance companies. Sri Lanka permits new establishments only after the approval from the government of Sri Lanka. So far for the nonlife insurance services providers, all three countries have made unbound commitments in all modes of supply except for the

commercial presence. India and Sri Lanka are bound with some specified provisions in the area of reinsurance and retrocession but Pakistan is unbound in all modes of supply, in this regard, except for the commercial presence where it does not have any commitment. With regard to the "services auxiliary to insurance (including broking and agency services)", only India has made some commitments. In regard to the limitations on national treatment in this sector, these countries are either unbound or do not have any commitment with a number of exceptions.

2.2.2 Banking and other financial services

For India, Pakistan and Sri Lanka, the first and second mode of supply are generally unbound. In the case of the fourth mode of supply, there is also the condition of being unbound except for the condition as "indicated under the horizontal measures." However, for Sri Lanka in the categories of "Advisory and other auxiliary financial services." and "Provision and transfer of financial information" there are no limitations except for those "provided in the General Conditions." Further for Pakistan, in terms of "Advisory and other financial services", there are no restrictions except for those "provided in the General Conditions." The greatest variation was in terms of the third mode of supply (i.e. commercial presence). While all sectors of commitments for India, Pakistan and Sri Lanka require that approval be taken from the relevant authorities and incorporation in the country, with significant equity participation generally around 50% (in some cases, 49% while in others 51%), there were some notable differences. For example, India limited the number of service providers to twelve and put a cap on the total assets foreigners in the banking system, but this was not the case in the other two countries. Further, for "Advisory and other auxiliary financial services" Pakistan diverges with India and Sri Lanka by allowing 100% subsidiary companies in commercial presence.

With respect to the limitations on national treatment India, Pakistan and Sri Lanka are unbound in the first two modes of supply except for "Advisory and other auxiliary services" where the limitation for Sri Lanka in the first and second mode of supply is "None except those provided in the General Conditions." For the fourth mode of supply, it is either unconditionally unbound or unbound "except as indicated under the horizontal measures." Just as in the prior paragraph, the variation is high in the third mode of supply. In India a foreign bank should constitute a "Local Advisory Board." In Pakistan, this mode of supply is generally unbound except for some limitation such as on the transfer of shares as well as no limitations on both "Asset management.." and "Advisory and other auxiliary financial services..". For Sri Lanka, this mode of supply is limited to the general conditions which require approval of the relevant authorities and provide maximum of 49% of equity share.

In "Others" these three countries are Unbound in all the four modes of supply for both market access and national treatment.

Section III
Doha Agenda and Ongoing Negotiations

3.1 Introduction

The Doha Ministerial Declaration provided that the services negotiations should ". . . aim to achieve progressively higher levels of liberalization . . . with a view to promoting the interests of all participants on a mutually advantageous basis . . .." It added that "[t]he process of liberalization shall take place with due respect for national policy objectives, the level of development and the size of economies of individual Members . . .."

A few countries have submitted negotiating proposal as part of the built in agenda both in pre-Doha [but post fifth protocol period] and post-Doha period. The United States stresses on the benefits of financial services liberalization. The EC declares that liberalization leads to stronger institutions, greater efficiency and more manageable capital flows, which ". . . are, in turn, likely to increase financial sector stability." However, the EC recognizes that ". . . it must still be possible for Members to take the appropriate temporary measures, as required and in accordance with the relevant provisions of the GATS, to control capital movements." Canada asserts that liberalization enhances the functioning of the financial services sector, which contributes to enhanced stability in the sector. It then declares that appropriate prudential regulation is necessary to protect investors and the soundness of the financial system. Switzerland shares Canada's views – "liberalization of trade in financial services must not be confused with deregulation. On the contrary, the liberalization of financial flows calls for a strict framework to protect consumers, preserve financial stability and manage systemic risks."

The three developing countries that have already submitted negotiating proposals (Korea, Colombia and Cuba), on the other hand, stress the dangers of "imprudent" liberalization. Korea states that "[i]ll-prepared liberalization of financial services lacking sound financial infrastructure and strong supervisory system actually weakened financial system and eventually resulted in [the 1997 Asian] financial crisis." Therefore, Korea says that the negotiations ". . . should aim at achieving more orderly and sequenced liberalization in accordance with the levels of developments of financial market and supervisory system of member countries." Colombia declares that the pace of liberalization must take into account the Member's level of economic and institutional development.16 Cuba is even more blunt: *The current negotiations must take Members' individual levels of development into account. Many developing countries have fragile financial systems, and therefore need to implement regulatory measures to protect themselves from speculative capital and asymmetrical competition from transnational corporations.*

3.2 U.S. Proposal

The most contentious U.S. proposal is that all Members should eliminate restrictions on cross-border provision of those financial services where that is possible (principally in the insurance sector). The EC, Canada and Switzerland support the proposal, but Korea and Colombia strongly oppose it, arguing that cross-border supply would be difficult to regulate and would increase the volatility of financial systems. Also certain to be contentious, though not countered by the three developing countries submitting proposals to date, is the U.S. proposal to strengthen commitments relating to provision of financial services through temporary entry of natural persons. This proposal, supported by the EC and Australia, is limited to temporary movement of key personnel to provide specific services. India, and doubtless many other developing countries, are certain to propose instead that barriers to relocation by all natural persons wishing to provide services should be removed.

The U.S. proposal to eliminate restrictions on the number of service suppliers – in the form of quotas or an economic needs test – also is highly contentious. It is supported by the EC, Australia and Switzerland, but it is strongly opposed by Colombia and Cuba, which argue that an economic needs test is necessary for some Members since "[a] surfeit of banking institutions or uncontrolled competition in the financial services sector can bring in their wake . . . systemic risks which can eventually become destabilizing." The United States also proposes that Members should be prohibited from restricting a financial services provider's form of commercial presence and level of equity participation. This proposal is supported by the EC, Australia and Switzerland.

In addition, the United States makes a number of proposals to increase transparency during the development and application of financial services regulations. It also advocates full transparency in the licensing process – including publication of all activities for which a license is required and of all procedures and criteria to obtain or renew a license.

3.3 EU Proposal

The EC's most controversial proposal is that the Understanding on Commitments in Financial Services should be used by all Members as the basis for scheduling their financial service commitments. The Understanding inverts the normal basis for scheduling – providing that Members accept the listed commitments unless they specifically take an exception. Switzerland supports this proposal, but Korea opposes it. The EC declares that prudential measures are important to ensure the integrity and stability of the financial system, but that the negotiation should seek to develop ways to ensure that such measures are not used as a means of avoiding commitments. Switzerland and Korea agree.

The EC, supported by Canada and Australia, also proposes negotiations aimed at reducing restrictions on consumption abroad of financial services.

Section IV
GATS Commitments on Financial Services and Policy Concerns

4.1Introduction

There is a general concern in the developing world that any commitments under GATS will reduce the scope for retaining the freedom to pursue certain domestic policy objectives.

4.2 Prudential Regulation

In financial services, specific commitments are made in accordance with the Annex on financial services which complements the basic rules and definitions of the GATS taking into account the specific characteristics of financial services. Of particular significance is Paragraph 2(a) which states that:

Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system.

The same paragraph goes on to say that where prudential measures do not conform with other provisions of the GATS, they must not be used as a means of avoiding commitments or obligations under the Agreement. Nevertheless, regulators would seem to have considerable discretion in their choice of prudential measures – especially since no definition or indicative list of such measures is provided in the Annex. Such measures presumably include capital adequacy requirements, restrictions on credit concentration or portfolio allocation, and disclosure and reporting requirements, as well as licensing criteria imposed on financial institutions which are not more burdensome than necessary to ensure the solvency and the healthy operation of those institutions.

4.3 Macroeconomic Policy

In macroeconomic management government practices various policy measures, which are essential to keep the macroeconomic indicators under control. For example, when a central bank conducts open market operations, conditions in the financial sector could be affected through the impact of such interventions on the money supply, interest rates or exchange rates. It is notable that services supplied in the exercise of governmental authority, including activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies, are excluded from the scope of the GATS [Under Article I:3 of the GATS and the Annex on Financial Services]. Furthermore, a wide range of measures for macroeconomic management, such as reserve requirements on banks, could presumably be justified as measures to ensure the integrity and stability of the financial system under the terms of the Annex on Financial Services.

4.4 Capital Mobility

While capital mobility is essential for competitive supply of financial resources and cross-border financial transaction, all developing countries does not want to invite any sort of repetition of financial crises. Thus the question how far do GATS commitments oblige a Member to allow capital mobility is important for Bangladesh in deciding for commitments for financial services. GATS provisions in this regards are as follows. If a Member undertakes a market access commitment in relation to the cross-border supply of a service and if the cross-border movement of capital is an essential part of the service itself, that Member is committed to allow such movement of capital. Furthermore, if a Member undertakes a market access commitment in relation to the supply of a service through commercial presence, that Member is committed to allow related inflows of capital into its

territory. Thus, Members do not have any obligations with respect to capital flows related to consumption abroad, and with respect to capital outflows related to commercial presence. This can be inferred by reading Article XI, the provision on international payments and transfers together with footnote 8 to Article XVI, the market access provision. Furthermore, the Agreement also allows a Member to impose restrictions on current or capital transactions in the event of serious balance-of-payments and external financial difficulties or the threat thereof (Article XII). However, the Article XII stipulates that the restrictions shall not discriminate among Members, shall be consistent with the Articles of Agreement of the Fund, and shall be temporary and be phased out progressively as the situation improves.

4.5 Other Domestic Regulation

Other domestic regulations that governments maintain, which are not prudential in nature, but which nevertheless can affect the conditions of operation and competition in a market, are also important to investigate before formulating a position as regards the financial sector commitments. Such measures could include, for example, a requirement to lend to certain sectors or individuals, or lending mandated on the basis of preferential interest rates. Even though such measures may not be the most efficient means of achieving particular objectives, these policies are not necessarily subject to commitments made under the GATS. If they are neither discriminatory nor intended to restrict the access of suppliers to a market, then such domestic regulatory measures would be permitted provided they met certain basic criteria, such as impartiality and objectivity (specified in Article VI of the GATS). There has often been concern about the potential for selective servicing by foreigner suppliers. It is feared that the latter will only service profitable market segments and that the resulting underprovision of retail banking in rural areas, for example, could then have detrimental effects on the economy. It would seem possible under GATS to impose certain requirements, such as universal service obligations, as part of licensing requirements provided these do not discriminate between foreign and domestic financial institutions. Social objectives could then be met without sacrificing the efficiency benefits of competition.

4.6 Fallout of Asian Financial Crisis

It is already apparent that the major issue will be what are the lessons of the Asian financial crisis and how they should be reflected in revisions to GATS provisions relating to financial services. The five developed country Members that have submitted negotiating proposals (the U.S., EC, Canada, Australia and Switzerland) share the view expressed by the WTO Secretariat in 1997 – trade liberalization in the financial services sector does not cause financial crises. The key causes are unsound macroeconomic policies, inadequate prudential regulation and government supervision, and inappropriate government intervention in financial markets (such as government-directed lending). Trade liberalization can exacerbate problems, though, so there should be “careful preparation” prior to liberalizing.

Section V
Current Liberalisation Status of Bangladesh Financial Sector

It should be mentioned here that "liberalisation" applied to financial services under GATS refers to opening domestic market to foreign competition. WTO concerns with market liberalisation is different from capital account liberalisation or convertibility, a term referring to capital inflows and outflows of varying maturities. Domestic financial liberalisation refers to removal of financial repression, which consists of a set of restrictions on market competition that yields a protected environment for financial intermediaries. The most common restrictions are:

(a) Guaranteed intermediation margin through fixation of lending and deposit rates or direct subsidy programs;

(b) Controls on international capital flows and foreign competition;

(c) Barriers to exit for financial intermediaries often accompanied by unlimited (conjectural) deposit insurance;

(d) Barriers to exit for major industrial clients of financial intermediaries, i.e. conjectural loan insurance for the largest loans in the portfolio;

(e) Guaranteed business activity through government funded credit allocation programs to key economic sectors.

The Bangladesh financial system experienced domestic reform and deregulation during 1990s. The system of guaranteed intermediation margins through fixation of lending and deposit rates was abolished. Financial institutions are now free to fix their own lending and deposit rates. But the direct subsidy system still exists, though only for the export sector. Barriers on foreign competition have been largely removed, and the current account has been liberalized substantially. However, capital account controls, in terms of capital outflows, still exist. The existence of barriers to exit for financial intermediaries with unlimited conjectural deposit guarantee exist explicitly. The absence of a modus operandi to exit from the market place creates serious moral hazard problems, since both financial intermediaries and big borrowers exercise excessive risk with public money. Barriers to exit for major industrial clients of financial intermediaries still exist although a Bankruptcy Act has been legislated. This barrier is considered as one of the major causes of huge bad loans of the local financial institutions. Guaranteed business activity through government funded credit allocation programs to key economic sectors exists and creates a huge burden on the economy by the state enterprises. The status of major financial liberalization processes in Bangladesh can be observed from the Annex IV.

In order to understand Bangladesh's position (in terms of financial liberalization and internationalization measures) for fulfilling the GATS and FSA requirements, one may look into Annex V, which basically depicts the requirements for opening and running foreign commercial banks and off-shore banking in Bangladesh. Though the MFN treatment is provided by Bangladesh for opening of commercial bank branches, the market access facilities have been interrupted for foreign banks by asking them to fulfil the minimum capital requirement of $10 million, which (capital) is much lower for locally incorporated banks. Bangladesh follows the reciprocity principle while allowing foreign banks to open branches in Bangladesh. Foreign banks are also required to extend a "satisfactory" level of investment in industrial and agriculture sectors for ensuring their (foreign branches) contribution in economic growth. In terms of presence of natural persons, a minimum of one must be a local, out of three top foreign executives whilst all other officers/employees must be locally recruited. Moreover, while licensing the foreign banks, their impact on the banking sector, specially the issue of technology transfer, will be

considered. The foreign banks willing to operate in Bangladesh must be "financially solvent" and "internationally reputed". In terms of regulations, there is no such variation between domestic and foreign banks, reflecting the fulfilment of "domestic regulation" requirements of FSA.

If we analyze the commitments structure of the FSA in the form of four different modes of supply, the position of Bangladesh in external liberalization of the financial sector will be clear regarding the measures already taken in Bangladesh.

In mode 1, cross-border, the supply of the service is from the territory of one country into the territory of another country. The service, for example, could be supplied through telecommunication networks or e-commerce. In the financial services sector, one example would be where a financial institution from a country without a presence in another country, sells a derivative or swap financial product to a consumer in that country. The position of Bangladesh regarding this mode of supply is still not clear. Bangladesh has not formulated any policy on this issue, i.e., whether a foreign financial institution can run a business without a commercial presence. In the securities market of Bangladesh, non-residents cannot issue securities in Bangladesh.

In mode 2, consumption abroad, the supply of the service is in the territory of a country to a consumer of another country. This will often imply that a consumer (or the consumer's property) seeks the service abroad or crosses the border to consume the service abroad. One example in the financial services sector is where a consumer contacts a foreign bank and opens a checking account in the foreign country, or, a foreigner opens business accounts with local banks. Another example may be obtaining service of a bank (either local or foreign) in a foreign country. The banking financial services involving mode 2 are largely available and permissible in Bangladesh.

Foreign direct investment (FDI) requires internationalization of financial services and flows and largely fulfils the features of modes 1 and 3. To attract FDI, Bangladesh has gone far ahead of any other country. There is no ceiling on direct foreign private investment. Tax Holidays are granted for period of upto nine years, depending on the location. Foreign owned or joint venture companies can obtain foreign currency loans from abroad or working capital from local banks without any restriction. By allowing these facilities, Bangladesh rather violates (!) the principles of national treatment of GATS in favour of foreign entities, thus discriminating against local entrepreneurship. Authorized dealers may remit profits of foreign firms, banks, insurance companies and other financial institutions operating in Bangladesh subject to ex post inspection by Bangladesh Bank. Requests for repatriation of the proceeds from liquidation of the direct investments are subject to the prior scrutiny of Bangladesh Bank.

Private industrial units may borrow funds from abroad without the approval of the Board of Investment, if the interest rate does not exceed 4 percent above LIBOR, the repayment period is more than seven years, and the down payment is less than 10 percent. It is not mentioned whether a domestic bank may borrow funds from abroad. Authorized dealers in foreign currency may obtain short-term loans and overdrafts from overseas branches and correspondents for a period not exceeding seven days at a time. Non-residents need prior approval of Bangladesh Bank to get a loan from a local bank.

In the securities market of Bangladesh non-residents may buy Bangladesh securities through stock exchanges against payment in freely convertible currencies remitted through banking channels. Proceeds from sales including capital gains and dividends earned on securities may be freely remitted. However, these transactions are not allowed on money

market instruments. The residents cannot purchase securities from a foreign stock exchange.

In mode 3, commercial presence, Bangladesh adopts a mixed policy. Commercial presence is restricted only to "internationally reputed" and "financially sound" financial institutions. The commercial presence must be on a reciprocal basis. Bangladesh has no equity restrictions on commercial presence of a foreign bank, i.e., a foreign bank can open a branch freely and a bank can be opened with 100 percent foreign participation. However, the foreign banks must have an initial capital of U.S. dollar 10 million. They are also asked to contribute satisfactorily in the economic growth process.

In mode 4, natural persons, the supplier of a country provides a service in the territory of another country through the presence of natural persons (e.g., self-employed). In Bangladesh, foreign nationals may remit 50% of net salary in connection with service contracts approved by the government. The entire amount of the leave salaries and savings can also be transferred freely. Outward transfers of capital require approval. However, in case of foreign banks, as said earlier, they are required to locally recruit at least one out of three foreign top executives.

Besides the modes of supply in the financial services relating to international trade, Bangladesh has liberalized its foreign exchange market. At present, the exchange rate determined by Bangladesh Bank is not mandatory but only indicative. In determining the indicative rate the central bank, however, still maintains the basket pegging system. Authorized dealers are free to fix their own buying and selling rates. Forward contracts are permitted covering a period of upto six months for export proceeds and import payments, but Bangladesh bank does not transact in the forward market. Authorized dealing banks are allowed to retain their working balances with their foreign correspondents. Banks are required to maintain interest rates on deposits in foreign currency in line with international market rates. Beginning from January, 1997, Bangladesh Bank sets the net open foreign exchange position limits at 12.5 percent of capital.

Payments for invisibles related to authorized trade transactions are generally not restricted. No prior permission is required for the remittance of royalties and technical fees of upto 6% of sales, and of training and consulting fees of upto 1% of sales. Upto 5% of export receipts may be remitted without prior approval of Bangladesh bank. Bangladesh nationals residing abroad, foreign nationals, companies and firms registered or incorporated abroad, commercial banks, etc. are permitted to open foreign currency accounts denominated in DM, yen, pound sterling, US dollar, and also in Euro.

Section VI
Should Bangladesh Commit for Financial Services Under GATS?

Although the above mentioned discussions provide grounds for taking a decision on whether Bangladesh should go for commitments, virtually on the basis of a positive answer to the first question, the second question should be "to what extent and to what detail should Bangladesh commit to financial sector liberalization?" It is worthwhile to mention that as an LDC Bangladesh should have the flexibility to make commitments and implement then[1]. Any commitment can be implemented in a phased manner within a stipulated ten years period. The LDC modalities are under discussion in Geneva which will provide further flexibility to the LDCs for compliance. It was decided that the outstanding issues should be resolved first before negotiations on sectoral liberalization. However, this decision was violated. This is a outstanding issue which really matters to Bangladesh, because the preferential lending is necessary for the development objectives, the decision on subsidies can provide valuable input in making commitments in lending services, for example.

From the status of financial sector liberalization it is obvious that Bangladesh achieved a certain level of market liberalization which exceeds the levels of Pakistan and Sri Lanka. Non-commitment by Bangladesh would give wrong signals to the global market and may dampen FDI flow. Once we decide about commitment, the second question is about the extent of commitment. There three possible levels of commitment: status quo plus, status quo, and less than status quo. The level of commitments largely depends on identification of sources of vulnerability and realistic potential for controlling those sources of vulnerability.

The financial vulnerability of a country may originate from either indigenous or exogenous sources or from both. If we would like to consider the exogenous sources of financial vulnerability, first of all, we will need to consider the nature of the integration of the Bangladesh economy into the global economy. The international trade participation of Bangladesh as a percentage of purchasing power parity (PPP) GDP is lagging behind all the three groups of countries: low income countries, middle income countries and high income countries. The other indicator of integration with the global economy, gross private capital flows and gross FDI flows, also demonstrate a very low share for Bangladesh [Annex VI].

In Bangladesh, capital account transactions are regulated and the exchange rate is also technically fixed. Moreover, short term foreign capital inflow, in the form of portfolio investment and borrowing, which are vulnerable to reverse flow (thus forcing the domestic currency to depreciate) is minimal in Bangladesh. The ratio of short-term debt to total debt is consistently less than 2 percent since 1990, and portfolio equity inflow is tiny in comparison with the other countries. So, the possibility of a crisis through this channel is insignificant. In this sense, at a first glance, the Bangladesh economy is less vulnerable in the short run to the external effect of global capital flow volatility.

The external vulnerability of an economy may also be generated from export price expectation failure, rapid trade liberalization and falling foreign aid flows due to failures in economic reform or diversion of aid funds to new destinations. If we want to measure the currency risk exposure of an economy (other than the conventional measures such as integration of the country with the world economy), it may be done through the

[1] GATS Article IV (3): "Particular account shall be taken of the serious difficulty of the LDCs in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs."

determination of export and import dependence to a common group of countries (countries, from and to which we are importing and also exporting). For Bangladesh, if we consider the 10 largest exporting and importing countries (which cover more than 90 percent of international trade), the common group of countries account for 85 percent of our export and 25 percent of imports of Bangladesh (please see, key Indicators of Developing Asian and Pacific Countries, ADB, 2000). The figures imply that any systemic devaluation of the Taka against the currencies of this common group and beyond does not constitute much of a threat for Bangladesh.

Other external conditions can also play a role in financial instability. Most notable may be sudden, large shifts in the terms of trade and in world interest rates. An unanticipated drop in export prices, for instance, can impair the capacity of domestic firms to service their debts, and can result in a deterioration in the quality of our bank's loan portfolios. Moreover, Bangladesh's balance of payment (BOP) stability and international reserves also largely depends on export earnings. The present global recession has led to a decline in demand as well as loss of markets for exportables from Bangladesh. This situation (along with the surge in imports because of drastic trade liberalization in the early 1990s) has increased pressure on our international reserve position.

The price elasticity of raw materials of Bangladeshi exportables is less than the price elasticity of our finished export products. Besides, the value addition of Bangladeshi exportables is very low due to dependence on imported raw materials and our participation in the lower quality end of the global market. This exposes our exports to the risk of losing our competitive edge in the international market because of the ready scope of entry into our end of the market by other low wage economies. Furthermore, countries producing similar goods to ours but using local raw materials, definitely enjoy higher price flexibility than Bangladesh. In this situation, Bangladesh's exportables may thus further lose the export market which could further deplete our international reserve position. In these circumstances, a natural calamity such as flood, earthquake or cyclone may compel us to eat into our foreign reserve for import of food grains and other essentials. The cumulative huge pressure on foreign reserve may trigger a large devaluation of the Taka. So, the inability to realize our expectations in the export sector may expose the vulnerability of the external sector as well as trigger a financial and banking crisis in Bangladesh.

Historically, Bangladesh has been dependent on foreign aid for underwriting its development effort and maintaining its BOP gap within a tolerable range. Aid inflows have largely been in concessional term (above 95 percent), which has helped to maintain a favourable debt-service ratio (below 10 percent). Aid flows to Bangladesh have tended in stagnate over the last decade. Aid to Bangladesh now tends to come with a rising list of conditionalities to carry out policy reforms prescribed by our donors. The failure in implementing these prescribed economic reforms may lead to further reduction in new aid commitments. This decline in aid flows may have several implications; firstly, a currency crisis may occur due to pressure on our international reserves. However, in the 1990's Bangladesh has significantly reduced its aid dependence so that it is much less vulnerable to a reduction in aid flows. This one should not underestimate the difficulties which may be imposed on Bangladesh if aid flows were to be substantially reduced within a short period of time.

In recent years Bangladesh's foreign reserves have fallen sharply. The highest level of reserve was in 1994, amounting to 3,175 million US dollars. The reserve position started to fall steadily, it reaching 1,604 million US dollars in 2000, which was enough to cover import demand for only 2.1 months. The foreign reserve fell further in financial year 2001, to 1200 million U.S. Dollars. The declining trend in foreign reserve was prevented and it has been improving during first six month of the FY 2003. Although it is not possible to

explain at this point of time the reason behind such improvement, it is to be recognised that the reserve situation is still within a dangerous belt.

The BOP crisis whether it originated from aid crisis or export shock or from any other sources may trigger domestic financial crisis mainly in form of currency crisis. The currency crisis generally evades purchasing power of domestic currency and thus jeopardizes the domestic financial market through interest rises. As a result, production is discouraged which creates further pressure on international reserves. The devaluation of local currency discourages imports. As a result of a fall in imports due to disequilibrium in the foreign exchange market, the export sector suffers from incompetitiveness in the world market.

The vulnerability/instability of Bangladesh's financial system may also originate from indigenous sources. In developing countries, financial vulnerability (domestic) is associated with bank runs. In general, runs on banks are the result rather than the cause of banking problems. Banking crises generally stem from the asset side of a banks' balance sheets -- from a protracted deterioration in asset quality. This suggests that variables such as the share of nonperforming loans in the banks' portfolios, large fluctuations in real estate and stock prices and indicators of business failures, could be used to identify crisis episodes. The crises have usually originated from a combination of events -- such as the forced closure, merger, or government takeover of financial institutions, runs on banks, or the extension of government assistance to one or more financial institutions.

In terms of banking variables, classified loans as percentage of total loans, are the highest in Bangladesh among the countries in South Asia. The problem of non-performing assets has persisted for almost two decades, though the situation has improved in the recent years. The classified loans as a percentage of total outstanding loans were 46.98 and 38.56 percent and 28.98 and 22.01 percent on the part of NCBs and PCBs respectively, during 1999-2000. Likewise, the provisioning shortfall decreased from 64 percent to almost 63 percent and 41 percent to almost 33 percent for NCBs and PCBs respectively. The capital shortfall of NCBs stood at 45 percent whereas PCBs had a comfortable capital surplus as on December, 2000.

The extension of government assistance (recapitalization) to financial institutions is also observed for nationalized commercial banks, but their financial position did not improve substantially even after the infusion of assistance. A Financial Sector Reform Program was undertaken (in the 1990s) mainly to correct the severe problem of NPA. Several steps have been taken in this regard. But all these measures have not been able to improve the NPA position significantly, specially for the NCBs.

But how does the Bangladesh banking sector still survive (almost two decades) without a single case of bank failure? One explanation may involve the disguising of weakness of banks' balance sheet that helped to keep public faith in banks. Besides, the rate of growth in deposits is faster than the growth rate of bank assets. An alternative explanation may be underutilization of loanable funds. The cost of underutilized loanable funds are met through resort to high spreads, which tend to be as high as seven percent. Considering the above situation, one can easily realise the severe banking problems of Bangladesh in an era of globalisation. A large withdrawal of deposits from the existing banks due to the offer of higher interest rate by newly formed banks may also trigger a crisis by creating a liquidity problem in the affected banks.

In a comparatively liberalized financial environment weak regulation appear to have created moral hazard problems by encouraging financial institutions in Bangladesh, with low capital ratios, to assume imprudent risks. This has also tended to increase the mistakes

financial institutions made in evaluating and monitoring risks in a more competitive environment. Although partial privatization and deregulation are in place in Bangladesh, government involvement remains large. As a consequence, banks often make decisions that are not based on purely commercial criteria, thus increasing the risks for their banks' assets. Moreover, because of their limited experience under a deregulated financial system, NCBs tend to be more vulnerable to the competitive pressure that emerges when the financial services sector is deregulated.

From the point of view of vulnerability to crisis through the external sector, Bangladesh is not immune from attack. Yet the banking system is the weakest link in continuing the effects of a financial crisis on in Bangladesh. A sound banking system is essential not only for averting such crises but also for supporting sustained economic growth of the economy.

The absence of a strong and well-supervised financial system has been one of the important causes of recent financial turmoil in the East Asian countries. Even after moving towards financial openness, countries such as Hong Kong SAR, Singapore and India did not suffer the same fate as the East Asian countries because of the presence of a better supervised financial system. A liberalized well functioning banking system hinges on an effectively designed supervisory and regulatory structure and an enforceable legal infrastructure.

It is to be observed that foreign bank entry, measured as the change in the share of foreign banks in the total number, affects the operation of domestic banks. Generally, the entry of foreign banks reduces the profitability of domestic banks. There is also some evidence that the non-interest income and the overall expenses of domestic banks are also negatively affected by foreign bank entry. Following Amel and Liang (1997), an analysis was performed by Choudhury and Raihan (2002) on the interrelationships between foreign bank presence and profitability (and other characteristics of domestic banks). It was observed that a high foreign bank presence is associated with low domestic bank profitability.

If we consider the situation of operational penetration through market share both by deposit collection and advances, we observe that the domestic banks hold consistently higher market shares. For the period of 1987-1994 the deposit share of domestic banks showed a rising trend (from 92.76 percent in 1987 to 95.52 percent in 1994). However, during 1995 to 2000 domestic banks lost about 3 percent of their market share. In the case of advances, domestic banks remained dominant clearly. For the period of 1987-1992 the share of advances by local banks rose from (93.37 percent in 1987) to almost 96 percent in 1992. The share of advances from local banks contracted slightly in 1993-2000 to 94.46 percent in 2000 (annexure table 13).

The potential threat to the local private banks, from the growth of business of the foreign banks, remains significantly higher than for the nationalized commercial banks (NCB) during the whole of the 1990s. (annexure table-14). However, all said and done, the penetration of foreign banks into the Bangladesh financial system is not that significant.

Raihan and Morium (2000) conducted a break-even analysis to examine how far Bangladesh's financial system can sustain foreign bank penetration. In this context, they considered three situations: i) break-even position without considering the loan loss provision, ii) breakeven position considering the required loan loss provision, and iii) break-even position considering the actual loan loss provision. Their study concluded, "if we can contain poor loan quality then we do not have to be afraid of foreign penetration. The poor asset management, political intervention and absence of enforcement of legal frameworks make the situation complicated. It has been observed that foreign penetration may have a negative impact in domestic banking if the lending and loan recovery environment is not improved. The potential danger for the Bangladeshi financial system in the context of competition does not actually originate from foreign penetration but from the

non-performing assets of the local commercial banks. Moreover, foreign penetration could help in technology transfer in our domestic banking system which would help in improving operational efficiency."

The expenses/ asset ratio reflects the bank's expenses associated with its deposit and loan operations as well as any other activities as a percentage of total assets. Foreign banks can be expected to face high costs if they have to overcome large informational disadvantages involved with retail transactions, but they may have low expenses if they engage mostly in wholesale transactions. In Bangladesh, foreign banks incurred lower expenses (as a percentage of total assets) than domestic banks, till the mid-1990s. After, 1995-96, the FCBs operational expenses tended to be much higher than for the NCBs and almost the same as that of the PCBs. The reason behind the rise in the expenses of foreign banks since 1996-97 is their large investment in modernization of business.

In Bangladesh, foreign banks do not suffer from a provisioning shortfall. On the other hand, local banks (both nationalized and private commercial banks) suffer from chronic provision shortfall. The provisioning coverage by the nationalized and private commercial banks reaches around 40 percent and 70 percent respectively in 2000 as compared to their required levels.

Operational productivity is a measure of overall performance of a bank. It is calculated as a ratio of total expenses to the total income of banks for a given period. Until mid 1990s, the operational productivity of FCBs was significantly higher than those of NCBs and PCBs. Since 1996-97, the operational productivity of FCBs came down to the level of local banks. This is mainly because of the huge technology related expenditure made by FCBs during the second part of the 1990s. However, in 2000-01, the operational productivity of FCBs rose again to almost double that of the NCBs and PCBs.

Likewise, manpower productivity (measured as profit per employee) for the foreign banks is several times higher than that of the local banks. In 1990-91 when the profit per employee in the foreign bank was Taka 0.2 million, this figure for the nationalized banks was negative and for the private banks it was around Taka 12 thousand. The differences in manpower productivity between local banks and foreign banks has widened during the 1990s. In 2000-01 the manpower productivity for NCBs was Tk. 32 thousand per employee, for PCBs it was Tk. 0.16 million and for FCBs it was more than Tk. 1.6 millions).

The profit per branch measure for the different categories of banks varies very widely. The data for the nationalized commercial banks show that in 2000-01, the per branch profit for the nationalized banks was only Taka 0.6 million, for the private commercial banks it was more than Tk. 3.3 million, but the profit per branch of foreign banks amounted to Taka 59.5 million. All the figures of manpower productivity, operational productivity and profit per branch show that the presence of foreign banks could not help the local banks to improve their efficiency. However, the situation is much better for the local private banks than nationalized banks. The above analysis also shows that the threat to the local banking sector is not coming from the outside, but the problem is indigenous to the local banking system.

Although the FSA guarantees free access to the world financial system to all members, some systemic and market problems make it difficult, even impossible for Bangladeshi financial institutions to penetrate into the world financial system. It has already been observed that in developed countries it is difficult for foreign institutions to realize higher interest margin compared to local institutions. Given the capital adequacy requirements set by BIS, the capital adequacy situation of the Bangladeshi financial Institutions will not

allow them to penetrate into the foreign market. In December 2000, no nationalized commercial bank had adequate capital as required as the BIS though most of the private commercial banks fulfilled the BIS requirements.

In Bangladesh the ROA of FCBs is around 20 times higher than that of the nationalized commercial banks, whereas it is twice that of the local private commercial banks. Even if Bangladeshi financial institutions improve their efficiency to the extent that they earn a ROA which is higher than the foreign banks, foreign penetration by them may be difficult because of competition with well-established firms already present in the market.

6.1 Bangladesh's Commitments

The above analysis provides with the arguments that the level of commitments for Bangladesh should be below status quo, i.e., the commitments should be less than current level of financial liberalization. There is no scope for a revision of commitments once made. Any commitment and compliance is legally binding. Given the specific nature of enforcement in the country, it is prudent to go for a less than status quo level of commitment. The specific nature of the commitments are discussed in the following text.

6.1.1 Insurance

The banking and securities sub-sectors are under the control of Bangladesh Bank and Ministry of Finance. However, the insurance sub-sector is under the control of Ministry of Commerce. As a result, making commitments and subsequent follow-up requires close coordination among the respective government authorities. As the insurance market is out of regularity and prudential supervision of the central bank, in an open market environment it will be difficult to pursue any policy by the central bank to control any adverse development in the insurance market. Until Bangladesh can proceed with a reform in the insurance sector the commitment in the insurance sub-sector should be "unbound" in all modes both under market access and national treatment limitations.

Comprehensive research should be commissioned to understand the status of the insurance sub-sector in Bangladesh and its potential. On the basis of the study and dialogues among stakeholders, Bangladesh should move to the second phase of commitments, where the number of companies should not exceed 10 and equity control should be in place with a ceiling of foreign participation at 49 percent.

6.1.2 Banking and other Financial Services

Market Access: It is proposed to go with "unbound" in all modes, except for the commercial presence. Commercial presence should be allowed to foreign banks and financial institutions with limitations upon equity participation.

Type of limitation	***Restriction***	***Description of limitation***
limitations on the number of suppliers	Yes	For each 5 urban branches there should a one rural branch. Total number of foreign banks should not exceed 20.
limitations on the total value of service transactions or assets	Yes	The total volume of service should not exceed 10 percent of total volume of transaction of the market.
limitations on the total number of service operations or on the total quantity of service output	Yes	The number of services should target all segments of the consumers.
limitations on the total number of natural persons that may be employed	Yes	For each three top management position, there should be at least one person of Bangladeshi origin. All other staffs should of Bangladeshi origin.
measures which restrict or require specific types of legal entity or joint venture	No	Foreign finance company cannot establish branches
limitations on the participation of foreign capital	Yes	100 percent foreign equity is allowed for establishment of a subsidiary, a foreign bank must have total asset more than USD 10 billion. Otherwise the foreign bank should operate through joint venture. For a joint venture bank, the assets of the foreign partner should be at least USD 5 billion and the joint venture must have registered capital at least 200 m in Taka and 600 million in USD.

The foreign financial institutions should have a strong reputation and sound financial health in order to have market access. A ranking may be followed by the domestic licensing authority. In general, under national treatment, the commitment should be totally "unbound" for all modes of supply.

6.1.3 Conclusion

Further analysis is required for developing domestic reform measures which is coherent with the WTO FSA commitments with a graduation mechanism from a lower level of commitments to commitments for a open financial system.

The domestic financial reform is more important and urgent in the context of weak financial soundness of the banking sector. The relationship with central bank and Ministry of Finance should also be clear. The issue of rationalization of public ownership of the banks should also be resolved. The coverage of the financial sector should be compliant with the international practice, where insurance sector is considered as a part of the financial system. Development of a road map for the financial sector is becoming crucial for Bangladesh financial sector.

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Annex I
Committing Countries for Financial Services

#	Category of Financial Services	Developed Countries	Developing Countries	Least Developed Countries (LDCs)
1	Financial Services - Banking and Other Financial Services - Acceptance of deposits and other repayable funds	Australia, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Poland, Qatar, Romania, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Brazil, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ghana, Guyana, Honduras, India, Indonesia, Kenya, Korea RP, Macau, Malaysia, Mexico, Mongolia, Morocco, Netherlands Antilles, Nicaragua, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Uruguay, Venezuela, Zimbabwe	Angola, Benin, Gambia, Haiti, Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands
2	Financial Services - Banking and Other Financial Services - Provision and Transfer of Financial Information	Australia, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Poland, Qatar, Romania, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Brazil, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ghana, Guyana, Honduras, India, Indonesia, Kenya, Korea RP, Macau, Malaysia, Mexico, Morocco, Netherlands Antilles, Nicaragua, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Uruguay, Venezuela, Zimbabwe	Angola, Benin, Gambia, Haiti, Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands
3	Financial Services - Banking and Other Financial Services - Financial Leasing	Australia, Canada, European Community, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Qatar, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Brazil, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, Ghana, India, Indonesia, Korea RP, Macau, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Papua New Guinea, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Uruguay, Venezuela, Zimbabwe	Gambia, Haiti, Malawi, Mozambique, Sierra Leone, Solomon Islands
4	Financial Services - Banking and Other Financial Services - All Payment and Money Transmission Services	Australia, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Poland, Qatar, Romania, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Brazil, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ghana, India, Indonesia, Korea RP, Macau, Malaysia, Mongolia, Morocco, Netherlands Antilles, Nicaragua, Nigeria, Pakistan, Panama, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Venezuela, Zimbabwe	Angola, Benin, Gambia, Haiti, Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands
5	Financial Services - Banking and Other Financial Services - Guarantees and Commitments	Australia, Canada, European Community, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Poland, Qatar, Romania, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Brazil, Bulgaria, Colombia, Cuba, Czech Republic, Ecuador, Egypt, Ghana, India, Indonesia, Korea RP, Macau, Malaysia, Mongolia, Morocco, Netherlands Antilles, Nicaragua, Nigeria, Pakistan, Panama, Papua New Guinea, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Venezuela, Zimbabwe	Gambia, Haiti, Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands

#	Category of Financial Services	Developed Countries	Developing Countries	Least Developed Countries (LDCs)
6	Financial Services - Banking and Other Financial Services - Trading for own account or for account of customers	Canada, Hong Kong, Hungary, Israel, Kuwait, Liechtenstein, Poland, Qatar, Singapore, Slovak Republic, Switzerland, USA, United Arab Emirates	Argentina, Aruba, Bulgaria, Chile, Colombia, Cuba, Egypt, El Salvador, Gabon, Ghana, Indonesia, Korea RP, Malaysia, Mexico, Morocco, Netherlands Antilles, Nicaragua, Panama, Papua New Guinea, Philippines, Tunisia, Turkey, Venezuela	Haiti, Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands
7	Financial Services - Banking and Other Financial Services - Participation in Issues of all Kinds of Securities	Australia, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, New Zealand, Norway, Poland, Qatar, Singapore, Slovak Republic, Switzerland, USA	Argentina, Aruba, Brazil, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ghana, India, Indonesia, Korea RP, Macau, Malaysia, Mexico, Mongolia, Morocco, Netherlands Antilles, Nicaragua, Pakistan, Panama, Philippines, Slovenia, South Africa, Thailand, Tunisia, Turkey, Venezuela, Zimbabwe	Gambia, Malawi, Mozambique, Sierra Leone, Solomon Islands
8	Financial Services - Banking and Other Financial Services - Money Broking	Canada, Hungary, Kuwait, Liechtenstein, Qatar, Romania, Singapore, Switzerland, USA	Argentina, Aruba, Colombia, Cuba, Egypt, Ghana, India, Korea RP, Malaysia, Mexico, Pakistan, Panama, Philippines, Turkey, Venezuela	Lesotho, Malawi, Mozambique, Sierra Leone, Solomon Islands
9	Financial Services - Banking and Other Financial Services - Asset Management	Canada, Hong Kong, Hungary, Japan, Kuwait, Liechtenstein, Poland, Qatar, Singapore, Switzerland	Argentina, Aruba, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Egypt, Gabon, Ghana, India, Indonesia, Korea RP, Malaysia, Mexico, Mongolia, Nigeria, Pakistan, Panama, Philippines, Tunisia, Turkey, Venezuela	Malawi, Mozambique, Sierra Leone, Solomon Islands
10	Financial Services - Banking and Other Financial Services - Settlement and Clearing Services for Financial Assets	Canada, Hungary, Kuwait, Liechtenstein, Qatar, Singapore, Slovak Republic, Switzerland	Argentina, Aruba, Chile, Colombia, Cuba, Egypt, El Salvador, Ghana, India, Korea RP, Malaysia, Philippines, Turkey, Venezuela	Malawi, Mozambique, Sierra Leone, Solomon Islands
11	Financial Services - Banking and Other Financial Services - Advisory and other Auxiliary Financial	Australia, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, Norway, Poland, Qatar, Romania, Singapore, Slovak Republic, Switzerland, USA	Argentina, Aruba, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Egypt, El Salvador, Gabon, Ghana, Guatemala, India, Indonesia, Malaysia, Mexico, Mongolia, Pakistan, Panama, Paraguay, Philippines, Slovenia, Thailand, Tunisia, Turkey, Uruguay, Venezuela	Malawi, Mozambique, Sierra Leone, Solomon Islands

#	Category of Financial Services	Developed Countries	Developing Countries	Least Developed Countries (LDCs)
	Services			
12	Financial Services - Banking and Other Financial Services - Provision and Transfer of Financial Information	Australia, Brunei Darussalam, Canada, European Community, Hong Kong, Hungary, Iceland, Japan, Kuwait, Liechtenstein, Norway, Poland, Qatar, Singapore, Slovak Republic, Switzerland, USA	Argentina, Aruba, Bulgaria, Chile, Colombia, Cuba, Czech Republic, Gabon, Ghana, Guatemala, Korea RP, Malaysia, Morocco, Panama, Philippines, Slovenia, Turkey, Venezuela	Malawi, Mozambique, Sierra Leone, Solomon Islands

Country			Modes of Supply			
			Cross-Border Supply	**Consumption Abroad**	**Commercial Presence**	**Movement of Natural Persons**
ANGOLA	Acceptance of deposits and other repayable funds form public	Limitations on Market Access	None	Resident legal persons must transfer all their accounts to abroad unless specified otherwise.	None. Banks and Foreign institutions in Angola may operate as long as they abide by the regulations of the country.	At least half the personnel of subsidiaries, branch offices and agencies of foreign financial institution must be Angolan.
		Limitations on National Treatment	None	None	None	None
	Lending of all types	Limitations on Market Access	After the authorization from the Angolan National Bank residents may requests loan abroad.	Residents may request loans abroad prior to the authorization of the National Bank of Angola.	Unbound	Unbound
		Limitations on National Treatment	None	None	None	None
	Liquidation and Monetary Transfer Services	Limitations on Market Access	Unbound	Unbound	Branches of foreign institutions obligatorily accountable for the principal order after having fulfilled the commitment.	Unbound
		Limitations on National Treatment	None	None	None	None

Country			Modes of Supply			
			Cross-Border Supply	**Consumption Abroad**	**Commercial Presence**	**Movement of Natural Persons**
BENIN	Conference Centres	Limitations on Market Access	None	None	None	Unbound, except for measures affecting the entry and temporary stay of natural persons who are employees of a companyand transferred to a company incorporated in Benin belonging to the following: Directors, Sr. Managers and Specialists with knowledge essential for the provision of service
		Limitations on National Treatment	None	None	None	None
	Acceptance of deposits and other repayable funds form public	Limitations on Market Access	None	None	To engage in banking activities the approval of the Finance Ministry, Law No. 90-018 of 27 July 1990 on the regulation of banking is necessary. Banks must be public limited companies with fixed share capital in the businesses of Benin or by special authorization of the Finance Ministry after consulting the Banking Commission in the form of cooperative or mutual societies with variable share capital.	In accordance with Benin labor law. Plus, without a Benin nationality a person may not manage a financial institution; unless the agreements for the establishment of the bank provide for assimilation to Benin nationals.
		Limitations on National Treatment	None	None	None	None

Country			Modes of Supply			
			Cross-Border Supply	**Consumption Abroad**	**Commercial Presence**	**Movement of Natural Persons**
	Lending of all types	Limitations on Market Access	Residents may take out loans abroad, having the authorization from the Finance Ministry in conformity with the exchange control regulations for loans of over CFAF 50 million.	Residents may take out loans abroad, having the authorization from the Finance Ministry in conformity with the exchange control regulations for loans of over CFAF 50 million.	Unbound	Unbound, except for measures affecting the entry and temporary stay of natural persons who are employees of a companyand transferred to a company incorporated in Benin belonging to the following: Directors, Sr. Managers and Specialists with knowledge essential for the provision of service
		Limitations on National Treatment	None	None	Unbound	None
GAMBIA	All insurance services and insurance related services (CPC: 812, 8121, 8129)	Limitations on Market Access	None	None	None	Unbound, except as indicated in the horizontal section.
		Limitations on National Treatment	None	None	None	Unbound, except as indicated in the horizontal section.
	Banking and other financial services (CPC: 81115, 81119, 8113, 8112, 81339, 81199, 81333, 81321, 81339, 8132, 8131)	Limitations on Market Access	None	None	Unbound, except as indicated in the horizontal section.	Unbound, except as indicated in the horizontal section.
		Limitations on National Treatment	None	None	None	Unbound, except as indicated in the horizontal section.
HAITI	Reinsurance and retrocession (CPC: 81299*[*])	Limitations on Market Access	None	Unbound	Unbound	Unbound
		Limitations on National Treatment	None	None	None	Unbound
	Acceptance of deposits and other repayable	Limitations on Market Access	None	None	None	None

[*] Applies only to rural training centres.

Country			Modes of Supply			
			Cross-Border Supply	**Consumption Abroad**	**Commercial Presence**	**Movement of Natural Persons**
	funds from the public	Limitations on National Treatment	None	None	None	None
	Lending of all types including, inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions (CPC: 8113)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	Financial Leasing (CPC 8112)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	All payment and money transmission services (CPC 81339)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	Guarantees and Commitments (CPC 81199)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	Money market instruments (cheques, bills, certificates of deposits etc.) (CPC 81339)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	Foreign Exchange (CPC 81333)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None
	Transferable Securities (CPC 81321)	Limitations on Market Access	None	None	None	None
		Limitations on National Treatment	None	None	None	None

Country			Modes of Supply			
			Cross-Border Supply	**Consumption Abroad**	**Commercial Presence**	**Movement of Natural Persons**
SIERRA LEONE	All insurance services and insurance related services (CPC: 812 - 8140)	Limitations on Market Access	Unbound	Unbound	Qualifications to set up a foreign insurance institution: - The investor shall be a foreign insurance company with 10 years of establishment. - To enter, foreign insurance companies require holding twice the capital, than that of a local insurance company. The parent company should verify pay off, incase of bankruptcy it should.	Unbound, except as indicated in the horizontal section.
		Limitations on National Treatment	Unbound	Unbound	Requirement of Reinsurance: a foreign insurance institution shall make its own arrangements.	Unbound, except as indicated in the horizontal section.
	Banking and other financial services (excluding insurance)	Limitations on Market Access	None	None	None, other than foreign banks must incorporate subsidiaries in Sierra Leone to undertake the business of banking. Branches of foreign insurance companies seeking to enter require holding twice the capital, than that of a local insurance company. The parent company should verify pay off, incase of bankruptcy it should.	Unbound, except as indicated in the horizontal section.
		Limitations on National Treatment	None	None	None other than assurance from the parent authority of reciprocal treatment of request for establishment of a branch or subsidiary in that country by a Sierra Leonean bank in future.	Unbound, except as indicated in the horizontal section.

Annex III
Comparative Review of FSS Commitments For India, Pakistan and Sri Lanka

	Market Access	National Treatment
Similarities	**A. Insurance:** All three countries are "Unbound" in all four modes of supply of life and non-life insurance except for commercial presence in life insurance. Some other exceptions are India and Pakistan who are bound in cross border supply and commercial presence in reinsurance and retrocession. **B. Banking and Other Financial Services:** All countries are "Unbound" in all three modes of supply except, in some cases, for commercial presence such as for India and Pakistan in financial leasing.	**A. Insurance:** All three countries are "Unbound" in all modes of supply with regard to life insurance, non-life insurance, and reinsurance and retrocession. **B. Banking and Other Financial Services:** All countries are "Unbound" in all four modes of supply and require the approval of the respective authorities.
Differences	**A. Insurance:** All countries varied in terms of the degree and form of limitations for commercial presence. For example, Pakistan and Sri Lanka are bound with some commitments in commercial presence with regard to life and non-life insurance but not India etc. **B. Banking and Other Financial Services:** All countries varied in terms of the degree and form of limitations for commercial presence. For example, India permits only through branch operations whereas Pakistan and Sri Lanka permit to open a new licensed bank under commercial presence etc.	**A. Insurance:** All countries varied in terms of the degree and form of limitations for commercial presence. For example, Sri Lanka has no commitment in Commercial presence for life insurance etc. **B. Banking and Other Financial Services:** All countries varied in terms of the degree and form of limitations for commercial presence.

Annex IV

Financial Liberalization Measures Already Taken and Proposed to be Taken [by Banking Reform Committee (BRC)]

	Already Taken	**Proposed by BRC**
Measures	▪ Decontrol of deposit and lending rates and making them flexible according to market forces ▪ Strengthening of criteria/procedure for loan classification and provisioning ▪ Providing greater autonomy or self regulation of banks ▪ Improvement of capital positions of NCBs and PCBs ▪ Replacement of refinance facilities with a single discount window ▪ Rationalization of branch network ▪ Strengthening of Bangladesh Bank's role in the field of supervision of banks ▪ Protection of banks from shouldering the cost of subsidized loan and transferring the cost to the government ▪ Adoption of indirect and market oriented monetary policy instruments ▪ Strengthening the operations of NCBs and PCBs ▪ Ensuring enabling legal environment by enacting Bank Companies Act, 1991, Money Loan Court Act, 1990 and Bankruptcy Act, 1996. ▪ Opening of current account and making Taka convertible ▪ Computerization of banks	▪ Aggressive institutional renewal program for Bangladesh Bank ▪ Fundamental reforms in NCBs ▪ Strengthening the legal process and institutions for expediting recovery of debt, better internal governance both NCBs and PCBs ▪ Compliance with capital standards ▪ Introduction for penalties for insider and imprudent lending ▪ Announcement of banking policy statements ▪ Establishment of financial infrastructure. ▪ Amendment of Bangladesh Bank Order, 1972 to give Bangladesh Bank legal autonomy over its affairs ▪ Reforms of Bangladesh Banks (Nationalization) Order, 1972 to give autonomy to NCBs' Boards to run on commercial consideration ▪ Introduction of Deposit Insurance Scheme to protect depositors interest ▪ Amendments to Bank Companies Act, 1991 to effectively handle problem banks ▪ Precluding crony (insider/connected) lending ▪ Ensuring credit discipline. ▪ Supervisory and regulatory restructuring
Goals	▪ Imposing financial discipline in the short run ▪ Making the banks operate increasingly on the basis of market forces as well as achieving operational efficiency and financial deepening/developments in the long run.	▪ "Three pillars of banking - effective legal system, good management and strong and effective central bank - need to be rebuilt" ▪ Emphasis on core aspects rather than on peripheral aspects.

Annex V
The Requirements of FSA and Bangladesh Position on Foreign Commercial Banking

GATS Principle	Specification	Bangladesh Status
Most Favoured Nation	Each member should accord to any other member treatment no less favourable than that it accords to any other country	Bangladesh extends MFN treatment to all countries
Market Access	quantitative restrictions on the number of suppliers	No such restriction, but principle of reciprocity is to be considered
	on the value of transactions or assets	No such restriction. But there has to be sizable trade and business relationship between Bangladesh and the country whose bank is allowed to open a branch in our country.
	on the number of operations or the quantity of output	No restriction on number of branches. A "Satisfactory" level of investment must be made in industrial and agricultural sector for ensuring participation in economic growth.
	on the number of natural persons	Minimum one must be local out of three (3) top foreign executives. All other officer/employees must be local.
	restrictions on forms of legal entity or joint venture	Joint venture is to be encouraged.
	restrictions on foreign equity participation	No restriction. But the initial minimum capital is 10 million Dollar. The amount should be brought from abroad and kept deposited in Bangladesh.
National Treatment clause	Each member shall accord any other member treatment no less favourable than that provided to its own domestic sector.	The national treatment is maintained except capital requirement and natural persons.
Domestic Regulation	For those financial services listed in a member's schedule of commitments, and where any authorizations are required for the supply of a service (e.g., a stockbroking license), authorizations must be made within a reasonable period of time. As well, licensing or other qualification requirements must be based on objective and transparent criteria, such as ability to supply the service, and not constitute unnecessary barriers to trade in services.	The opening of a branch of a foreign bank will be allowed after considering its impact on local banking sector and technology transfer. However, it must be financially solvent and internationally reputed.

Source: Formalities for Opening A Foreign Bank Branch in Bangladesh (Bangladesh Bank Circular) and GATS document.

Annex VI
Bangladesh Integration with the Global Economy

Items	Bangladesh		Low Income Countries		Middle Income Countries		High Income Countries	
	1989	1999	1989	1999	1989	1999	1989	1999
Trade in Goods								
% of PPP GDP	4.1	6.8	7.2	7.8	14.1	16.9	28.5	37.4
% of Goods GDP	30.0	53.0	41.3	60.0	69.0	81.5	93.5	123.5
Gross Private Capital Flows, % of PPP GDP	0.2	0.8	0.8	1.2	1.9	4.9	12.7	29.2
Gross FDI, % of PPP GDP	-	0.1	0.2	0.3	0.4	1.6	2.9	7.2

Source: World Development Indicators, 2001. World Bank, pp. 320-322.

Annex VII
Global Financial Flows: Bangladesh Situation

(Figure in Million $)

Items	Bangladesh		Low Income Countries		Middle Income Countries		High Income Countries	
	1990	1999	1990	1999	1990	1999	1990	1999
Net Private Capital Flows	70	198	6,630	2,083	36,030	216,992	-	-
Foreign Direct Investment	3	179	2,201	9,830	22,064	175,577	176,213	699,045
Portfolio Investment Flows (Both Bonds and Equities)	0	4	559	68	3,359	59,832	-	-
Bank and Trade Related Lending	67	15	3,870	-7,816	10,606	-18,418	-	-

Source: World Development Indicators, 2001. World Bank pp: 340-342.

Annex VIII
Aggregate Net Resource Flows and Net Transfers (Long Term) of Bangladesh

(Figure in Million $)

Items	**1990**	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**
Net Resources Flows:	1,687	1,480	834	1,395	1,033	1,182	1,247
Net Flow of Long Term Debt (Excluding IMF)	913	661	121	756	302	332	390
FDI (Net)	0	11	2	14	141	190	179
Portfolio Equity Flow	0	48	33	30	11	3	4
Grants (Excluding Technical Corpention)	1,001	760	678	595	579	657	675
Net Transfers:	1,524	1,296	655	1,182	833	982	1,025
Interest On Long Term Debt	164	184	179	201	176	169	187
Profit Remittance On FDI	0	0	0	12	25	30	35

Source: Global Development Finance, 2001, World Bank, pp. 84-86.

Annex IX
Status of Financial Liberalisation in Bangladesh The Light of the GATS

Feature	**Status**
Market Access	Foreign Institutions Operating in Domestic Financial Sector
Quantitative Restrictions	No Quantitative Restrictions on Number of Suppliers
Restrictions on Value of Transactions or Assets	No Restrictions on Value of Transactions or Assets
Limitations on Market Access	Branch Opening depends on Sizable Business Between Bangladesh and Interested Country
Number of Natural Persons	1 local: 3 Foreign at Top Management level. All Other Stuffs Should be local
Legal Form	No Restriction, but Joint Venture Encouraged
Foreign Equity	No Restriction
National Treatment	Present Except Capital requirement and Natural Persons
Domestic Regulation	Opening of Branch Depending on Impact on Local Banking Sector and Technology Transfer