

IL-CEPA: Trade in Services

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Outline

- The Basics
- Structure of the Agreement
- Indian Offers to Sri Lanka
- India's current multilateral commitments
- Sri Lanka's offers to India
- Potential and Caveats
- Way forward

The Basics

- Like trade in goods – involves removal of barriers that prevent exchange of services between suppliers and consumers in different countries
- Mode 1 : Cross border services – eg. Energy, international telephony, BPO
- Mode 2 : Consumption abroad – Tourism, education.
- Mode 3 : Commercial presence – Foreign bank operating in SL
- Mode 4 : Temporary Movement of natural persons – Foreign doctor working in SL
- Liberalisation of services includes the reduction of restrictions on market access (MA) and reducing discrimination against foreign suppliers (NT)

Structure of the Agreement

- Positive List, Request –Offer, Progressive Liberalisation
- Flexibility - can keep restrictions on MA (eg. Number of suppliers, volume/value of supply, equity limits) and NT (subsidies for local suppliers, licensing, exams etc.)
- Less than full reciprocity given the asymmetry between the two sides
- Commitments can be altered after 3 years subject to compensation
- Government procurement is excluded from the agreement

Indian Offers to Sri Lanka – Horizontal Commitments

- Horizontal Commitments – applies to all sectors scheduled
- Certain market access restrictions in mode 4 but access for;
- Business Visitors (BV) - for sale or to secure agreements for trade in services or for employees of a Juridical Person (JP) to set up commercial presence – 180 days and the BV will not receive remuneration in India
- Intra-Corporate Transferee (ICT) - employee of a JP in SL who is transferred to a JP in India owned or controlled by the JP in SL, for temporary provision of services. – limited to managers, executives and specialists. Maximum 5 years.

Indian Offers to Sri Lanka – Horizontal Commitments

- Contractual Service Supplier (CSS)- employee of a JP owned or controlled by SL who travels to India to perform a service pursuant to a contract between the JP in SL and the client in India. CSS for periods up to 1 year. Engineering, Travel Agency, hotels and restaurants, Computer and Related Services (CRS)
- Independent Professionals (IP) – natural persons traveling to India or short periods up to 1 year to perform a service pursuant to a contract between him and the client in India. Same sectors as above.
- These conditions apply to all the relevant mode 4 commitments in the specific schedules

Indian Offers – Specific Commitments

- Generally liberal in modes 1, 2 and 3 with restrictions in mode 4.
- Almost all mode 3 commitments with requirement of “FIPB approval in case of prior collaboration in that sector in India”
- Major sectors and sub-sectors offered:
- Accounting – mode 1 and 2
- Architecture – 1,2, 3 (JV), 4(BV, ICT)
- Urban Planning – ibid.
- Engineering – 1,2,3,4 (BV, ICT, CSS, IP)
- Medical and dental – 1 (provider to provider and 2nd opinion), 2, 3 (max 74% equity and latest tech), 4 (BV, ICT)
- Veterinary services – 1,2,3,4 (BV, ICT)

Indian Offers – Specific Commitments

- Computer and Related – 1,2,3,4 (BV, ICT, CSS, IP)
- R&D (natural sciences) – 3, 4 (BV, ICT)
- R&D (agricultural sciences) - 1
- R&D social sciences – 1,2,3,4 (BV,ICT)
- Real estate services – 1,2,3,4 (BV,ICT)
- Rental and leasing services – 3,4 (BV,ICT)
- Management consultancy 1,2,3,4 (BV, ICT)
- Technical testing and analysis 1,2,3,4 (BV, ICT)
- Services incidental to energy distribution 1,2,3,4 (BV,ICT)
- Maintenance and repair of equipment 1,2,3,4 (BV, ICT)
- Building cleaning services 1,2,3,4 (BV, ICT)
- Packaging services 1,2,3,4 (BV, ICT)
- Convention services 1,2,3,4 (BV, ICT)

Indian Offers – Specific Commitments

- Telecom Services – FDI is allowed in the following areas subject to obtaining a license. Service provision will be based on license conditions. Mode 1 generally unbound. Mode 4 (BV, ICT)
- Voice and cellular (Max 49% equity)
- Packet switched data transmission (Max 49% equity)
- Radio paging (Max 49% equity)
- Circuit switched data transmission
- Facsimile
- Private leased circuit services
- Data services such as e-mail, voice mail, EDI (Mode 1 allowed subject to commercial arrangements with licensed telecom service suppliers)
- V-SAT (Max 49% equity)

Indian Offers – Specific Commitments

- Motion picture or video distribution – 3 (through representative office and quota on titles that can be imported)
- Construction 1,2,3,4 (BV, ICT)
- Wholesale trade 1,2,3 (subject to RBI approval), 4 (BV, ICT)
- Higher education 1,2,3 (subject to regulations on pricing by regulator), 4 (BV, ICT)
- Environmental services (refuse disposal, sanitation) – 1,2,3,4 (BV, ICT)
- Tourism – hotels, travel agency and tour guiding 1,2,3,4 (BV, ICT)

Indian Offers – Specific Commitments

- Maritime Services
- Maritime transport – liner and bulk shipping – Mode 1 - 40% cargo reserved for Indian flag vessels and first right of refusal for Indian flag vessels for Government cargo. Mode 3 – to run Indian flag principal place of business must be India.
- For the following maritime services there will be no restrictions on modes 2 and 4 while for mode 3 must register under state or central act and principal place of operation must be India
- Maritime cargo handling services
- Storage and warehousing
- Customs clearance services
- Container station and depot services
- Ship broking services

Indian Offers – Specific Commitments

- For the following maritime services there will be no restrictions on modes 1, 2 and 4 while for mode 3 must register under state or central act and principal place of operation must be India
- Maritime agency services
- Maritime freight forwarding services
- Maintenance and repair of sea vessels

India's existing multilateral offers

- Uruguay Round offers – major sectors
- Engineering Mode 3 (Max 51% equity)
- CRS Mode 3 (Max 51% equity)
- Telecom Mode 3 (Max 51% equity)
- Construction Mode 3 (Max 51% equity)
- Health Mode 3 (Max 51% equity)
- Travel Mode 3 (Max 51% equity)

Sri Lanka Offers

- Horizontal Commitments – Only for business visitors
- Specific Commitments – built on Doha Initial Offer and a few additional sectors
- Telecom – Same as Doha round offers but instead of numerical quotas on number of licenses, for commercial presence allows service provision once a license is obtained.
- Computer and Related Services – 1,2,3 and 4 (only for expert trainers and technical staff at 10% of total staff for each US\$ 100k)
- Convention services – 1,2,3 (JV with registered PCO)

Sri Lanka Offers

- Audiovisual Services– 50% Indian ownership allowed in 25 physical cinema establishments
- Health – 1 (between medical institutions or for 2nd opinion), 2, 3 (outside WP)
- Tourism and travel agency – 1,2,3.
- Maritime services – passenger transportation – 1,2,3 (40% equity).
- Freight forwarding – 1,2,3 (40%)
- Maintenance and repair – 1,2,3,4 (naval architects, skilled welders and fitters, project/ship managers, repair engineers, automation engineers and technicians).

Potential and Caveats

- Export interests – limited export of services but export of services on the increase.
- Specially in areas like BPO, KPO Rs. 12 Bn export earnings in 2007 up from 10 Bn in 2006, and remittances US\$ 2.5 bn in 2007.
- Given weak investment climate in Sri Lanka greater interest in firms exporting services through M3.
- Construction firms in Middle East
- Hotel services in India, Maldives
- IT firms in SL providing services in India (Interblocks – internet banking solutions sold to Indian banks, Microimage – provided Tamil SMS adoption to Airtel India)

Potential and Caveats

- Potential from Market access in Indian schedules
- Accounting mode 1 – SL among the highest qualified CIMA graduates
- Engineering and construction services
- CRS
- Environmental services
- Tourism and tour guide services
- Maintenance and repair of sea going vessels
- Import interests – addressing shortages and competition resulting in dynamic benefits for consumers. (Though multilateral is a better option)
- Caveats – equivalent of NTB's – recognition, bureaucratic requirements eg. In the past difficulties in opening bank accounts, repatriation etc.

Way Forward

- Progressive Liberalisation – can improve on commitments at both ends
- Identify further export interests and request market access
- Identify constraints to exports of services to India and deal with them through CEPA
- GATS Plus – aviation
- SL should make further commitments in mode 3 given the liberal investment climate that we maintain.
- Also mode 4 – specially horizontal commitments at least for intra-corporate transferees as a further encouragement for investment

Conclusions

- Regardless of SL's capability to take advantage of the market access in the SR, it is useful and important to be integrated with a large dynamic economy such as India.
- Spillover benefits of such economic integration with India is a key route for Sri Lanka to integrate into the global economy in the LR.
- Also important in the context of export diversification – both in terms of export destination and export of services as opposed to goods.
- In all such agreements there are opportunities and challenges, it is important for the private sector and government to work in tandem to identify and address the latter in order to take advantage of the former.

Thank You

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