TRADE IN SERVICES AND THE WTO GATS

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PART 1

SERVICES: CHARACTERISTICS AND IMPORTANCE

Definition of Services

Value-adding Activities either

- Directly to another person,
- Or to a good belonging to another person

Characteristics of Services

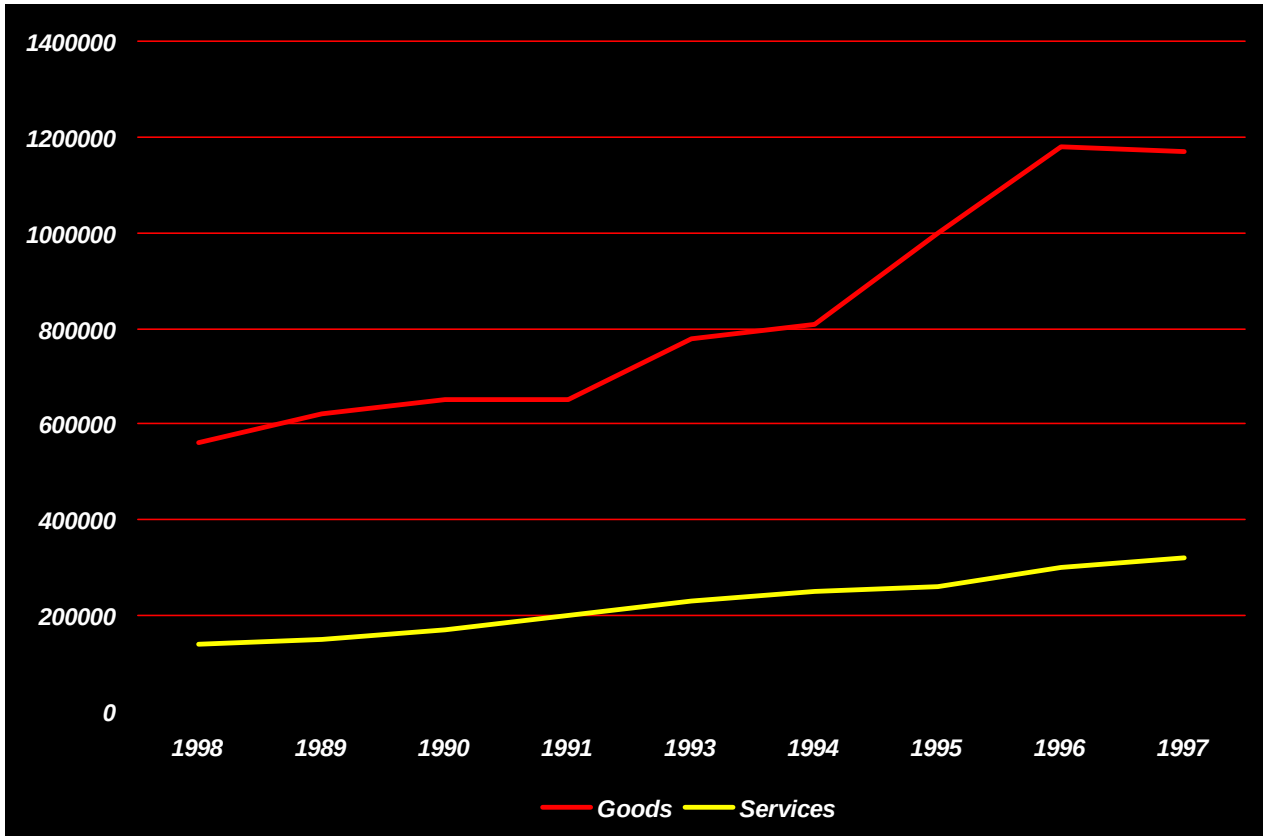
- Non-tangible
- Non-storable (now exceptions to this)
- Simultaneous nature of service transactions require proximity between producers and consumers
- [Used to be considered non-tradable]

Large Variety of Services

Business services
Communication services
Construction and related engineering services
Distribution services
Educational services
Environmental services
Financial services
Health-related and social services
Tourism and travel-related services
Recreational, cultural and sporting services
Transport services
Other services not included elsewhere

Services Sectoral Classification List
(GNS/W/120, based on UN CPC)

Growth -Trade in Goods & Services 1988-1998



Sources WTO 1999. Annual Report, Special Chapter: Globalization and Trade

Services in National Output

- Services account for around two-thirds of GDP for countries on average ; around 70% in OECD countries

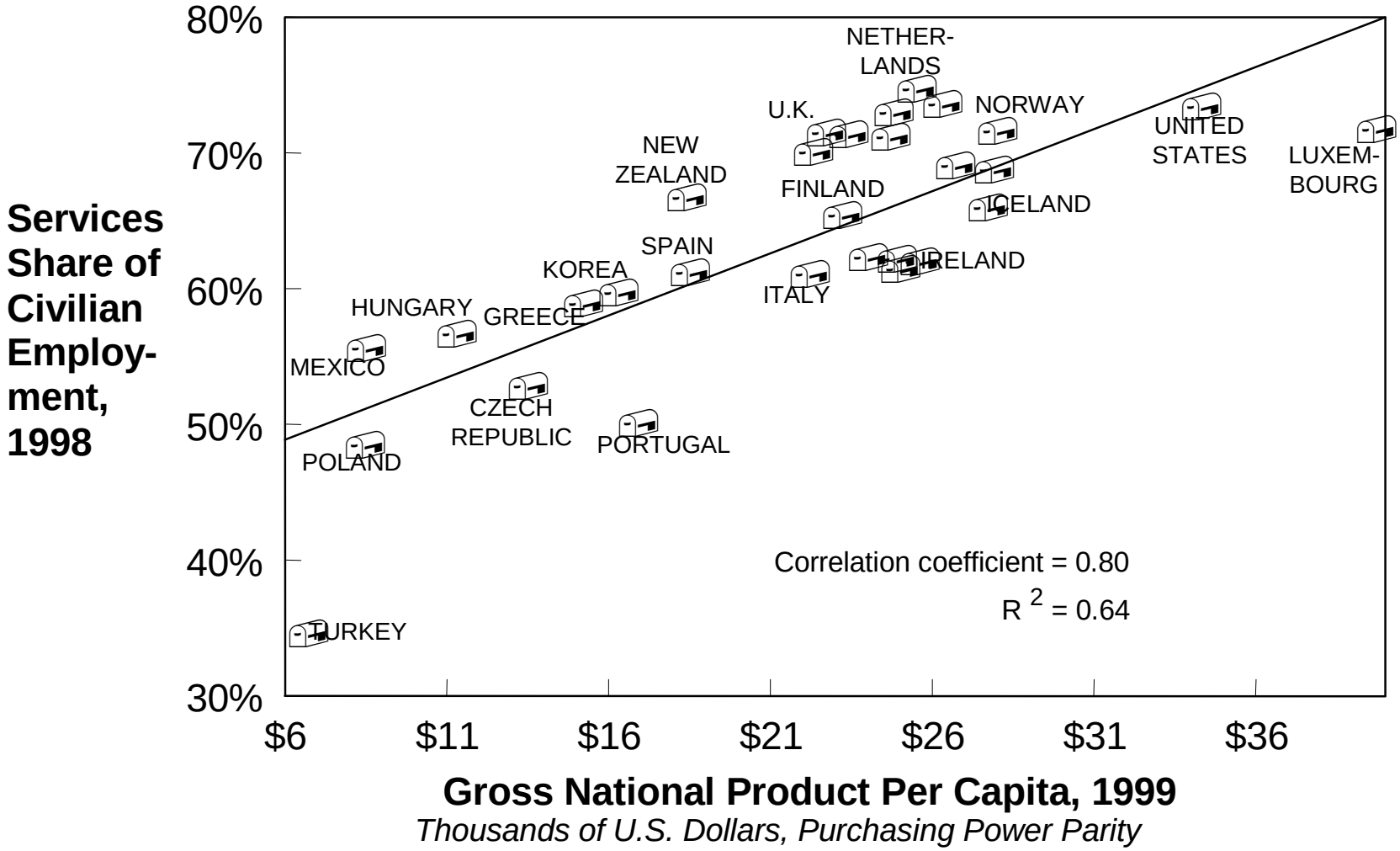
- The services sector accounts for around 53% of South Africa's real GDP

Employment in Services

- Services account for a substantial and rising share employment in the economy - over 75% in developed countries
  - The share of skilled workers in numerous services sectors lies above 30% as compared to 20% in manufacturing

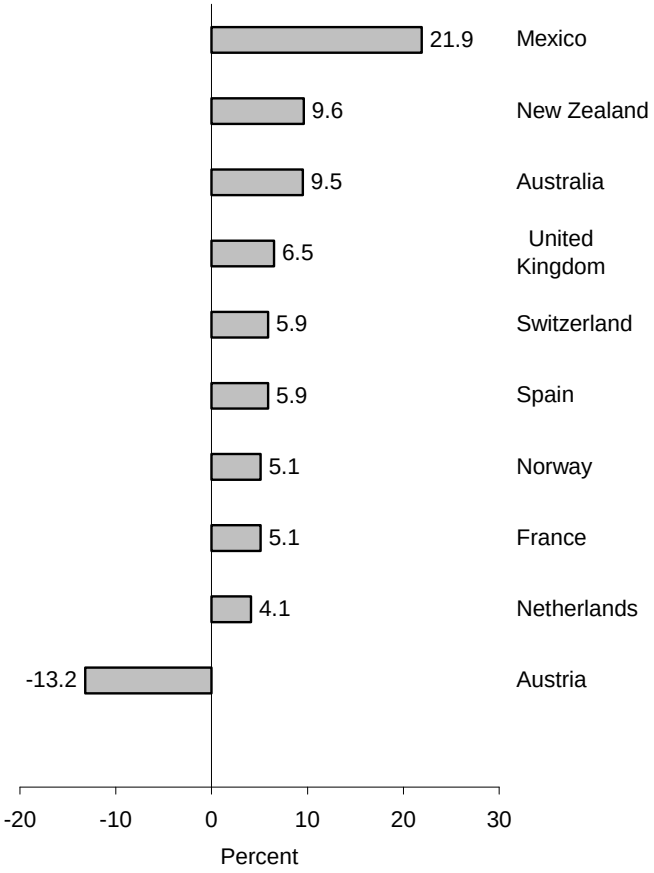
- Share of employment in services - proxy of an economy's development level

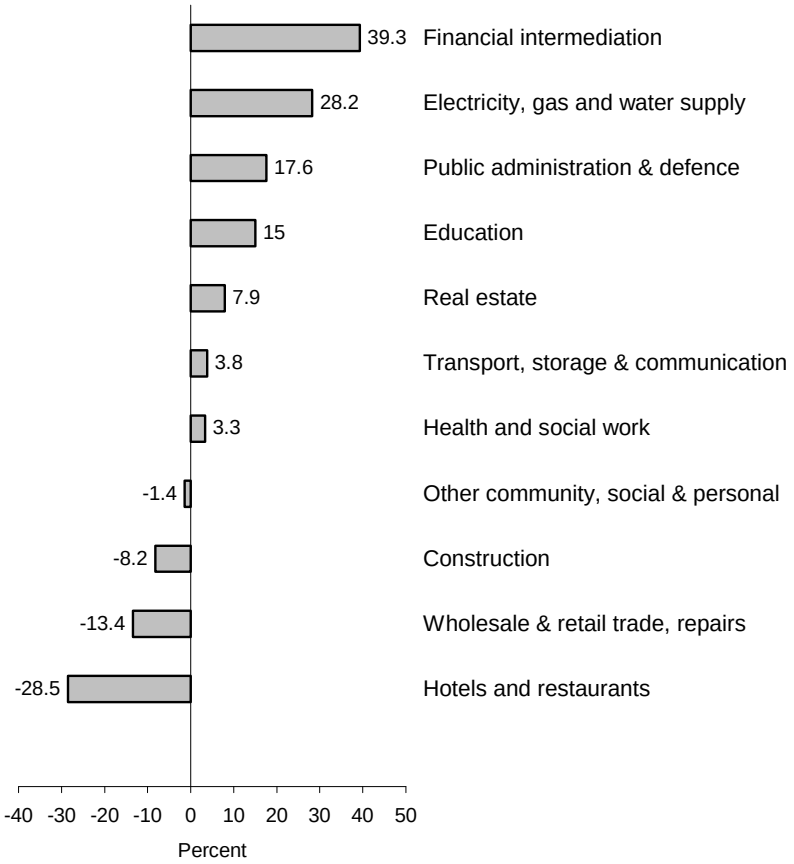
Relationship between services employment and national income



Source: Calculated from OECD data, Sauvé, 2002.

Relative Wage Levels in Services Sectors: Percentage Difference With Wages in Manufacturing, Selected Countries and Sectors





Source: Sauvé, 2002

Egypt’s Services Sector

- The services sector is vital to Egypt's economy, with a share of about 48% in GDP. The two most important sources of foreign exchange are Tourism and Transport (e.g. fees for using the Suez Canal)

- Egypt's Tourism Industry has continued to perform well since 1999, despite a slump in 2001/02; however, recent security-related events may affect its growth prospects

- Financial Services reforms are planned for the near future; they include the privatization of state-owned banks and insurance companies, and the establishment of a deposit insurance scheme

- The Telecommunications Law stipulates that Telecom Egypt will relinquish its monopoly status as domestic and international fixed-line operator by 31 December 2005

PART 2

SERVICES AND INTERNATIONAL TRADE

Services Share in World Trade, 1980-2000

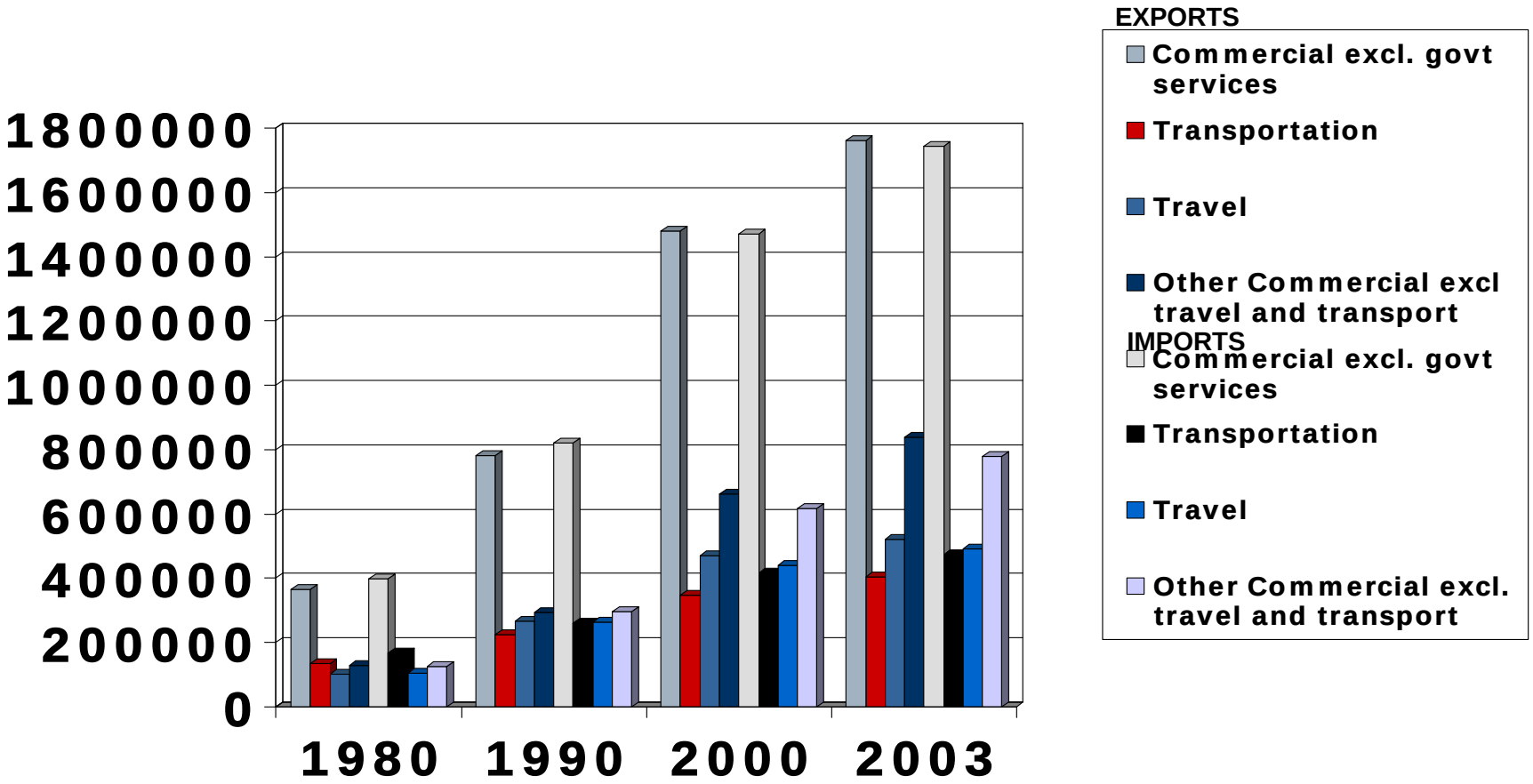
(billions of dollars and percentage)

	Value			Share		
	1980	1990	2000	1980	1990	2000
Goods	4,107	4957	6,272	82	77	78
Services	762	1224	1,570	18	23	22

Source: WTO, 2002

Cross-Border Trade in Services

$US at current prices (Millions)



Figures: WTO Statistics data base, 09/23/2004

Growth of Trade in Commercial Services

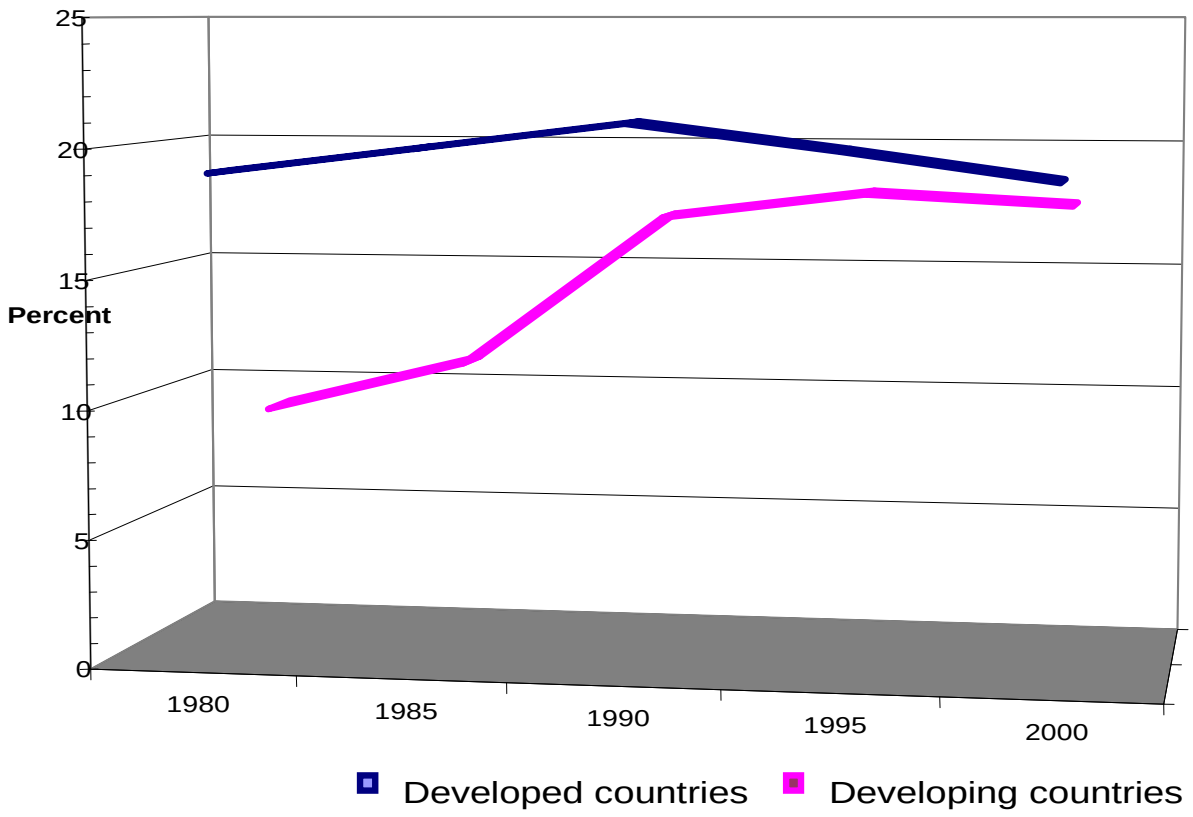
- From 1990-2003, trade in commercial services grew by about 6 % per year on average.

- Commercial services are services minus government services. They are further sub-divided into transport, travel, and other commercial services.
  - Transport
  - Travel
  - Other commercial services which include:
    communication services;
    construction services;
    financial services;
    computer and information services;
    royalties and license fees;
    other business services;
    personal, cultural, and recreational services.

Source :WTO, 2004

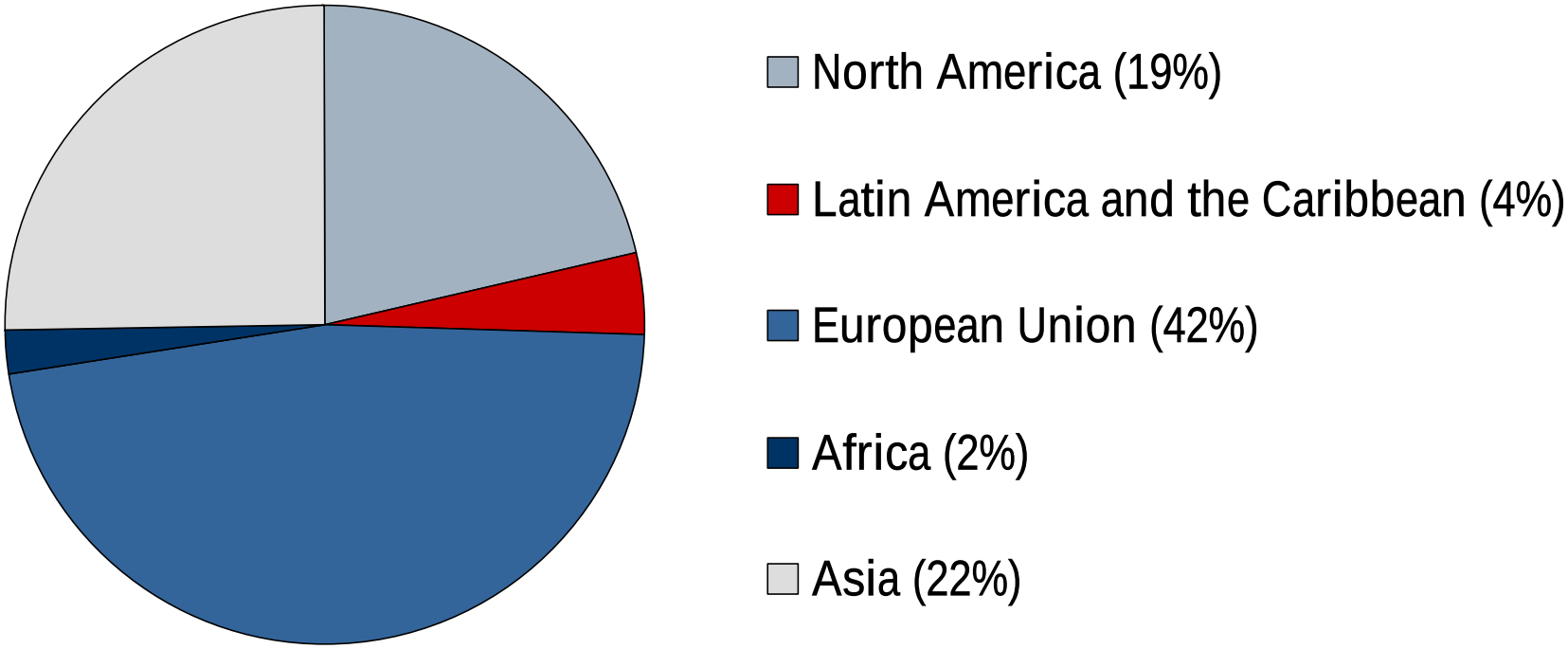
Converging Trends in Services Trade

Share of services in total trade, 1980-2000



Source: Sauvé, 2002

Service Exports by Major Region



Services Trade: Welfare Effects

When services are traded, there are gains

- Theory of comparative advantage holds for services
- Gains on the consumer side (lower prices, wider choice, improved quality)
- Gains from movement of individuals
  - Remittances
  - Spill-over effects

However distributional effects must be considered

What Type of Barriers Exist to Services Trade?

Mostly Non-Tariff measures such as:

- Quantitative measures restricting Market Access
  - ex. Prohibition on Foreign Investment
- Discriminatory treatment of foreign services and services providers
  - ex. Exclusion from Educational Grants or Subsidies
- Other measures
  - ex. Non- recognition of Professional qualifications
  - ex. Cultural Barriers

Instruments of protection in Services

"BEHIND THE BORDER"

Non-transparent; Difficult to quantify impact

- Quotas
- Internal discriminatory practices
- Domestic regulations
  - Non-quantitative
  - Non-discriminatory
  - Negative impact on foreign service providers

PART 3

SERVICES IN THE MULTILATERAL TRADING SYSTEM: THE GATS

Trade in Services

- Trade in services differs in some ways from trade in goods
- This is reflected in definitions adopted for negotiating trade agreements- the WTO General Agreements on Trade in Services (GATS) and others

How are Services Traded? As Defined by GATS

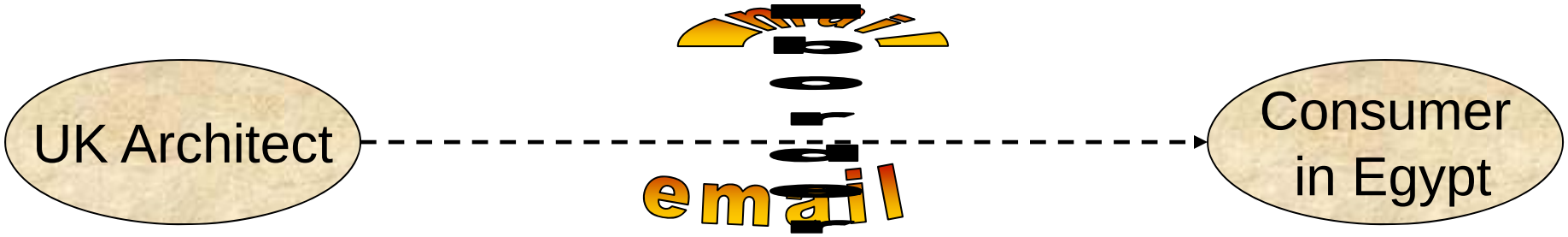
- Mode 1: Cross-Border Trade
- Mode 2: Consumption Abroad
- Mode 3: Commercial Presence
- Mode 4: Movement of Natural Persons

→ Each of these modes may be necessary for services trade. Often they are complementary.

Mode 1

- Electronic or physical movement of the service across the border.
- Facilitated by access to Information Technology.
- Often linked to Mode 3

  Ex. – Air and Maritime transport, financial trading over the internet, international calls
  - Provision of a British architecture's blueprint to Egypt by mail or e-mail.

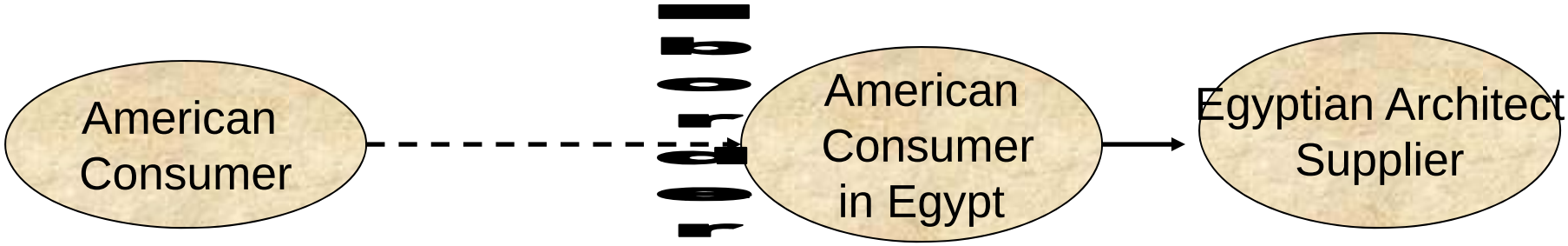


Mode 2

- Movement of service consumers to a foreign country
- Normally Free. Except in case of:
  - Controls/Limits Transactions in Currencies
  - Restrictions on Obtain of Visas
  - Prudential Rules

Ex. – Tourism; Education (foreign degree)

- An American visit to the office of an architect in Egypt.

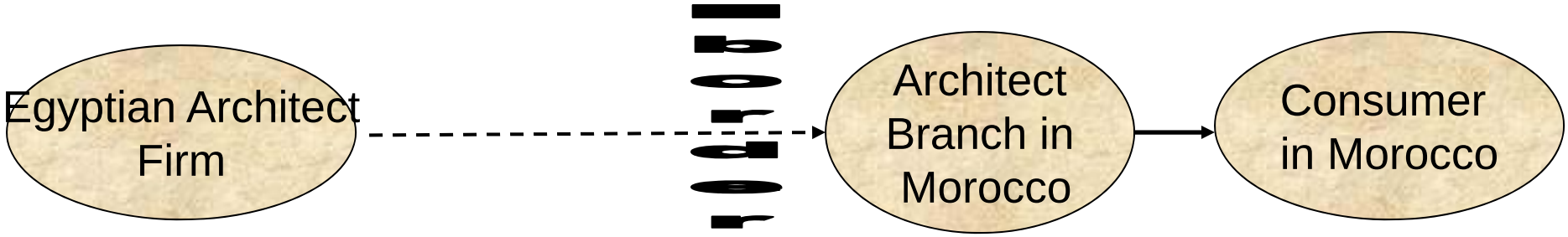


Mode 3

- Commercial Presence through foreign direct Investment- subject to National Laws on Investment
- Not Captured in statistics for most countries

  (FATS: Foreign affiliates trade statistics)

Ex. Provision of Egyptian architecture services through establishing a branch office in Morocco.



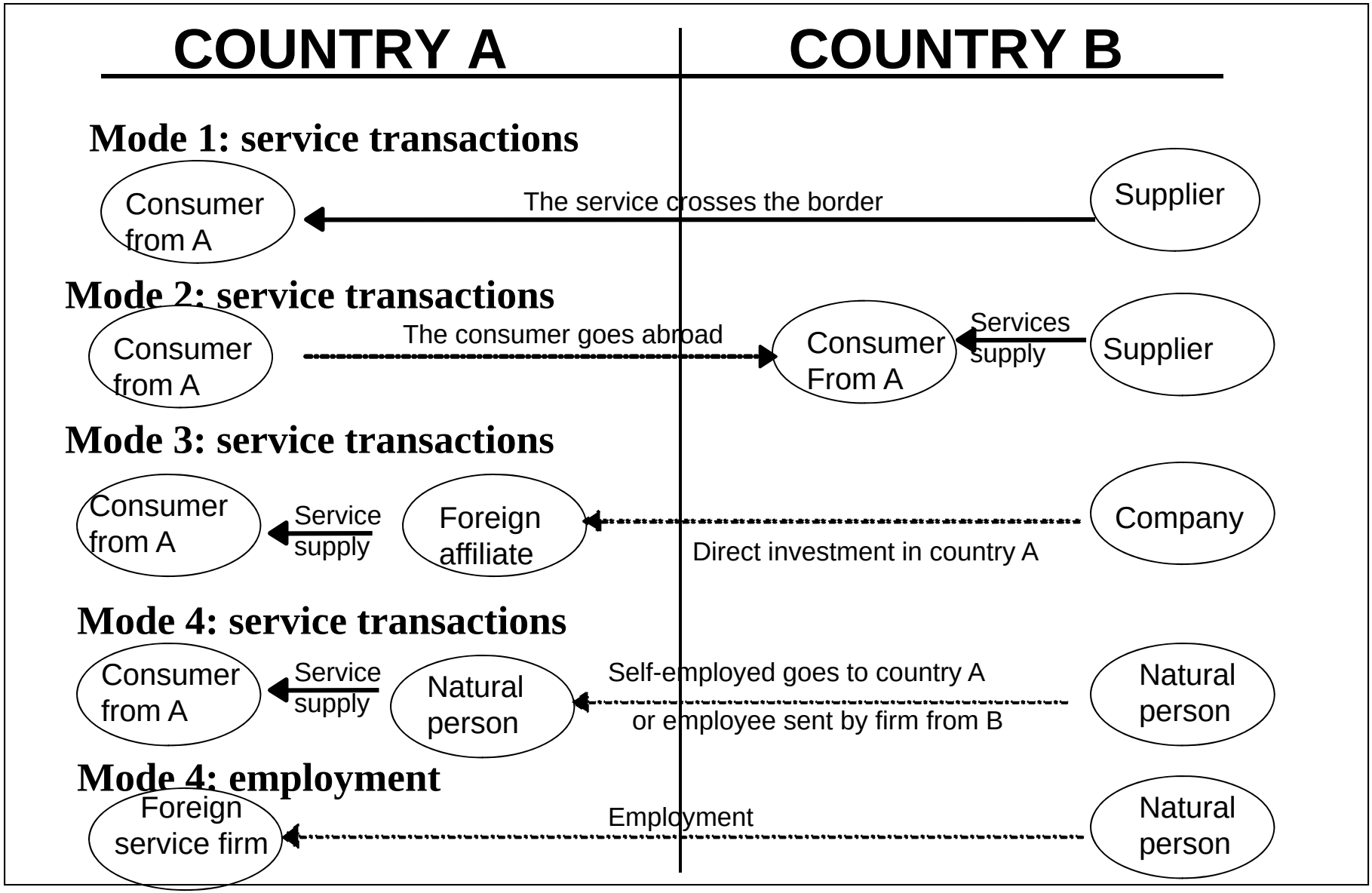
Mode 4

- Temporary Movement of a service provider to provide services in a foreign country
- Highly protected and regulated . Not very significant for services trade at present
- Subject to National Laws on Immigration
- Often linked to Mode 3

  Ex. - Business Consulting, Construction, Nurses

  - Consulting services provided by the Egyptian architect in Jordan.

MODES OF SUPPLY



Source: MSITS manual: Chart 2, page 23

Summary:
How does services trade differ?

- **<u>Way of trading:</u>**
  - Several modes of delivery. Broader than just Cross-border.
  - Some trade carried out within the border (FDI)
  - Need for mobility of labor and/or capital for 3 modes

- **<u>Way of protecting markets:</u>**
  - Difficulty of imposing border measures. Few price-based measures.
  - Nearly all restrictions are non-tariff in nature and behind the border

What Services does the GATS cover?

- **Any service in any sector**

  Except:

  - Government services: Services supplied under governmental authority (in non-competitive conditions and on a non-commercial basis) – no precise definition – subject to government discretion

  - Air traffic rights.

GATS Disciplines of General Application

- Most-Favored-Nation Treatment (Art. II)
- Transparency (Art. III)
- Domestic Regulation (Art. VI)
- Recognition (Art. VII)
- General Exceptions (Art. XIV)

Most-Favored-Nation Treatment

- **Identical definition to that of the GATT**
- **Unconditional in nature**
- **No less favourable treatment to be accorded to all WTO Members than that accorded to "like services and service suppliers of any other country".**
- **MFN Exemptions - Annex, Article II**

  (for 10-year period only; listed measures are now under negotiations)

Transparency

- **Unconditional in nature**
- **Obligations:**

  --To publish all measures affecting services trade

  --To notify any new or changes to existing, laws or regulations that affect services trade covered by a WTO member's specific commitments

  --Respond to requests for information on any measure through establishment of an enquiry point

GATS Disciplines of Specific Application

- **Market Access (Art. XVI)**
- **National Treatment (Art. XVII)**

Both Only apply to Scheduled Commitments

Six types of Market Access Restrictions under GATS (Art. XVI)

Limitations/ measures on

- The number of service suppliers;
- The total value of service transactions or assets;
- The total number of service operations;
- The total number of natural persons may be employed;
- The participation of foreign capital;
- Specific types of legal entity.

Unlimited National Treatment Restrictions under GATS (Art. XVII)

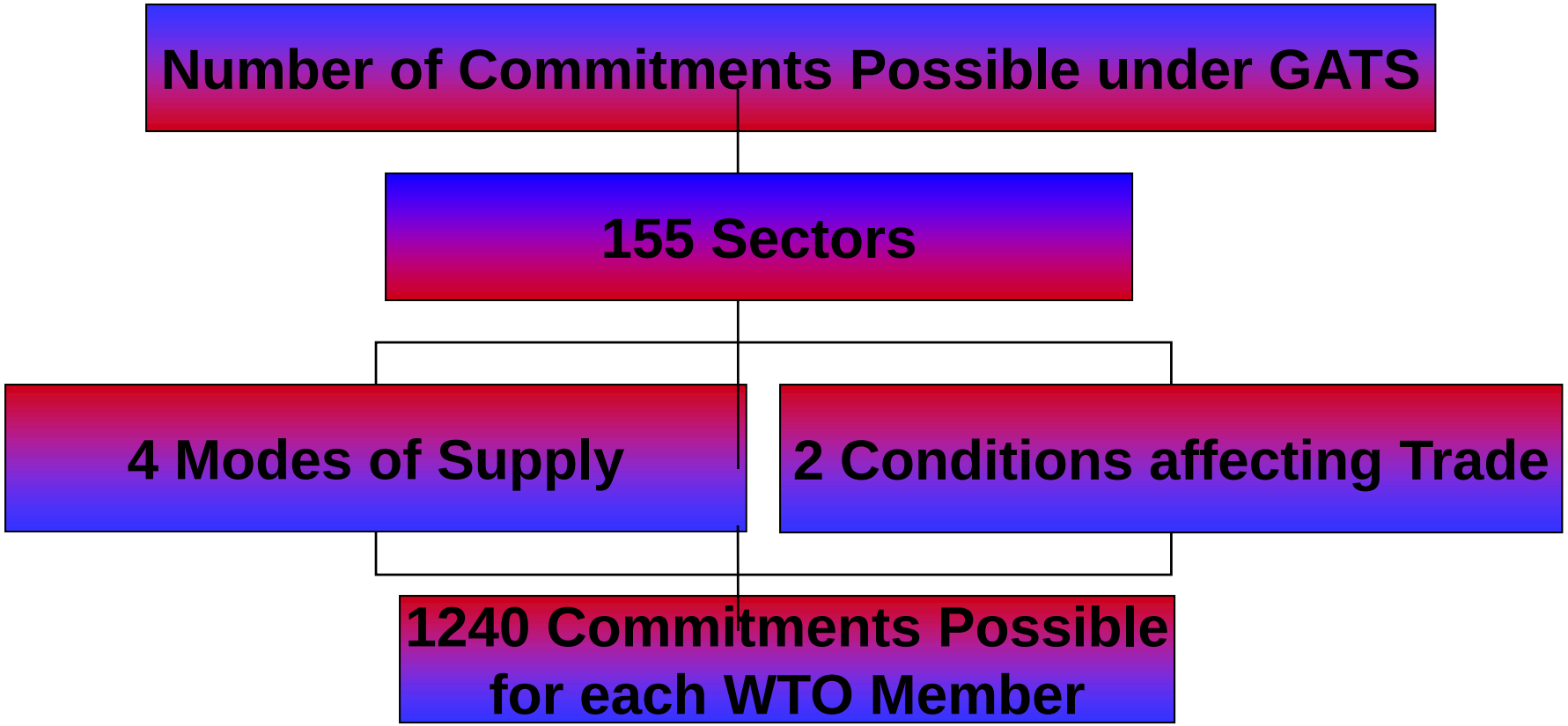
Examples of National Treatment Limitations :

- Restrictions on the international movement of payments and remittances;
- Recognition requirements for professional qualifications;
- Requirements for practice and experience in the country;
- Nationality/and or residency requirements;
- Restrictions on the acquisition of real estate;
- Partnership requirements with local firms.

Sample Schedule of Specific Commitments

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Coding	**Sector or subsector**	**Limitations on market access**	**Limitations on national treatment**	**Additional commitments**
	7. FINANCIAL SERVICES B. <u>Banking and other Financial Services excluding Securities and Insurance</u>			
81115-9	a) Acceptance of deposits and other repayable funds from the public	1) Subject to a maximum of 40 per cent equity participation	1) Composition of the Board should reflect the ownership structure	
8113	b) Lending of all types including mortgage credit, factoring and financing of commercial transactions	2) Unbound with the exception of 'C' "guarantees and commitments"[1]	2) Unbound with the exception of 'C' "guarantees and commitments"[1]	
81199	c) Guarantees and commitments	3) Companies must be incorporated in Nigeria	3) None	
8112	d) Financial leasing	4) Unbound	4) Unbound	
81339	e) All payments and money transmission, services, including credit, payment and similar cards. Travellers cheques and cheques.			
	f) Trading for account of Customers:			

Number of Services Commitments Possible - GATS



PART 4

SERVICES:
MARKET ACCESS

Services Market Access

- Basic elements of a services negotiation
  - Schedules of commitments
    - Sectoral/sub-sectoral coverage
    - Market access/national treatment through
      - Cross border mode
      - Movement of consumer mode
      - Commercial presence mode
      - Movement of natural person mode
    - Additional commitments (non-discriminatory regulation)

Services Market Access

Developing Countries & GATS

- Special provisions for developing countries
  - Access to developed country markets (Art. IV)
  - Less market access liberalization than for industrialized countries (Article XIX)

Services Market Access

- Negotiating techniques
  - Request and offer
    - Reflects diversity and heterogeneity of services regulation
    - More user-friendly to developing countries
  - Formula approach
    - Identifies basket of sectors where full or nearly full commitments are made
    - “None” in all modes of delivery as agreed by sector
    - Mode three: Agreed foreign equity share in joint-ventures

Services Market Access

- Negotiating techniques
  - Staging or phase-in possibilities
    - By each mode
    - By sub-sector
    - By sectoral safeguard
  - Cross-sectoral trade-offs/links

Preparation for Services Market Access

- Identification of requests of other members
  - Requires internal analysis of export opportunities
  - Consultation with S.A. services exporters
- Anticipation of offers
  - Examination of “omissions” in current schedules
  - Strategic considerations that fulfill national liberalization objectives
  - Close consultation with domestic services regulators and dominant providers

Cross-Sectoral Trade-offs

- Absence of credible services statistical data makes this difficult
- Political complexity. Only “single undertaking” can satisfy Balance of Benefits objective
- Satisfactory services outcome should reflect
  - Export gains
  - Domestic competition objectives

Commitments by sectors

Sector	Number of WTO Members	Conditions Attached per commitment					
		On number of suppliers	On value of transaction or assets	On number of operations	On number of natural persons	On type of legal entity	On participation of foreign capital
Business*	89	0.2	**3.4**	0.0	0.8	**4.0**	**3.6**
Communication	85	**3.9**	**2.1**	0.2	0.5	**4.3**	**3.8**
Construction & related engineering	60	0.1	0.9	0.0	0.2	0.9	0.9
Distribution	38	0.2	0.7	0.0	0.1	0.4	0.4
Education	32	0.1	0.3	0.0	0.0	0.9	0.5
Environment	40	0.2	0.7	0.0	0.1	0.7	0.6
Financial	91	**4.6**	**4.3**	1.4	0.9	**8.6**	**4.4**
Health and Related social	34	0.2	0.3	0.1	0.2	0.6	0.4
Tourism and travel related	114	0.2	0.4	0.1	0.1	0.5	0.4
Recreation cultural and sporting	49	0.1	0.3	0.0	0.1	0.5	0.2

* Including professional services

Source: WTO Services Database

LIBERALIZATION IN THE GATS

- Little real liberalization as result of Uruguay Round except in area of telecom
- National schedules very disparate
- In the current Doha Round, offers of improved or new commitments have been made by 69 WTO Members
- Most of the proposed new commitments are in business or telecommunications sectors.

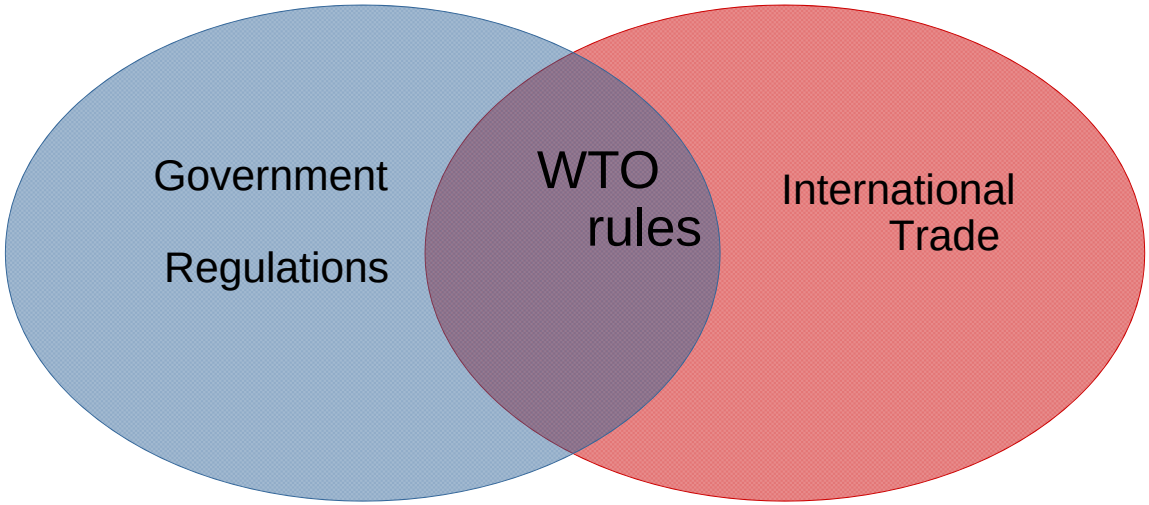
Egypt’s Commitments in the GATS

- ✓ In the Uruguay Round, Egypt made specific commitments in four of the twelve major sectors in the WTO classification
- ✓ Egypt's Schedule of Specific Commitments under the GATS includes:
  - commitments on commercial presence
  - and the presence of natural persons
  - for a number of service sectors, most notably in telecommunications, construction and related engineering services, financial services, tourism, and transport.
- ✓ In general, Egypt's GATS commitments tended to bind the policy framework existing at the time of the Uruguay Round negotiations. However, recent reforms have made the applied policy more liberal than Egypt's commitments.
- ✓ Egypt has acceded to the Basic Telecommunications Agreement and has accepted the Fifth Protocol to the GATS on Financial Services
- ✓ Egypt's initial offer in the ongoing multilateral services negotiations provides for an expansion of its horizontal as well as sector-specific commitments.

SERVICES AND DOMESTIC REGULATION

REGULATING SERVICES

- Most services are heavily regulated but the reasons vary by sector
- Regulations are put in place to address market imperfections or achieve social objectives
- Regulations can sometimes impact on trade



Domestic Regulation

Market failures	Services sectors	Multilateral approach
Monopoly/ oligopoly	Network services: -transport - telecommunications (terminals & infrastructure) - environmental services (sewage) - energy services (distribution networks).	Generalize key disciplines in telecom reference paper to ensure cost-based access to essential facilities, be they roads, rail tracks, terminals, or sewers
Asymmetric information	Intermediation and knowledge based services: - financial services - professional services, etc.	Non-discrimination and generalization of the "necessity" test. Use the test to create a presumption in favor of economically efficient choice of policy in remedying market failure.
Externalities	Transport, tourism, etc.	
Social objectives: Universal service	Transport, telecommunications, finance, education, health	

Source: Mattoo, 2001

National Regulatory Rights and the WTO GATS

- **Regulation is a sovereign right**
- **WTO does NOT pronounce on the content of national regulation or on the policy objective**
- **Main GATS obligation on regulation only applies to scheduled sectors at this time and only with respect to:**

  -- qualification requirements and procedures

  -- technical standards

  -- licensing requirements
- **For these areas, GATS requires that regulation not constitute "an unnecessary barrier to trade in services"**

Problems encountered by service providers with Domestic Regulation

- No means to discuss the impact of new regulations in advance
- Changes in regulations without prior warning
- Ambiguous criteria for approval of licenses
- Long waiting periods for licenses, without response
- Differing licensing requirements between states/ provinces Numerous licenses and different bodies for the same activity
- Excessive minimal capital requirements
- Prior membership in the local professional association
- Excessively high costs involved in application procedures
- Non-recognition or equivalence for credentials/ diplomas earned abroad
- Long and non-transparent visa procedures – cancellation or lack of approval without reasons

WTO Disciplines on Domestic Regulation: GATS Art. VI

- **For all service sectors:**
  - Ensure that all measures are administered in a reasonable, objective and impartial manner (VI.1)
- **For listed service sectors:**
  - Regulation *not more burdensome than necessary* to ensure the quality of the service
  - Regulation based on objective and transparent criteria, such as competence
  - In the case of licensing procedures, not themselves a restriction on the supply of the service (VI.4)

WTO Disciplines on Accountancy

- Elaborated in 1998
- Do not set standards for the accountancy sector
- Do not provide for the review of national standards
- Governments choose the level of protection they wish
- Purpose: to increase transparency and information about regulations, standards and licensing procedures
- Will come into force at the end of the Doha Round

PART 6

BENEFITS OF SERVICES LIBERALIZATION

Benefits of Services Liberalization

- **Why are there substantial gains from liberalizing services?**
  - large component of GDP
  - intermediate inputs into all output
  - significant impact on economic performance, e.g. financial services, telecommunications

Stylised Facts:
Productivity & Liberalization Benefits

Benefits from services trade liberalization:

(i) Improved economic performance

(ii) Reduced cost for imported world-class services

(iii) Faster innovation

(iv) Gains/ savings to consumers from higher quality of services and new, innovative services

(v) Greater transparency and predictability

(vi) Technology transfer

Countries who have benefited from Liberalized Services Trade

- **Mexico:** 30 % reduction in operating costs in the port of Veracruz
- Chile: 50% cut in rates in long distance telephone market
- Ecuador: 60% cut in operating costs in the port of Guayaquil

Experiences with Regulatory Reform and Performance

Regulatory reform in	8 OECD countries long-run (15 to 20 years)	Impact on GDP growth (percentage)
• electricity • air travel • road freight • telecommunications • retail distribution	United States	0.9
	Japan	5.6
	Germany	4.9
	France	4.8
	United Kingdom	3.5
	Netherlands	3.5
	Spain	5.6
	Sweden	3.1

Source: Sauvé, 2002

Gains from Services Liberalization

- **Gains are greater when:**
  - limits to entry are eliminated (competition)
  - good regulation is implemented
  - credibility is present

Challenges for Liberalizing Services

- Clear understanding of incidence of protective measures on Services Trade
- Government negotiators' knowledge of services
- Knowledge of the nature of the transactions/ Characteristic of services
- Liberalizing path/ sequence for regulatory reform important
  - partial reform can worsen welfare

Strategies for Successful Services Liberalization

- Emphasis on competition
- Credibility in policy application
- Pursuit of social objectives with economic efficiency

  * Liberalization must be combined with Introduction of competition and regulatory reform to be effective.

Current WTO Services Negotiations

- ***2000 Negotiations:*** Commitment by WTO Members to progressively liberalize trade in services set forth in GATS Article XIX (paragraph1)

- ***March 2001 Negotiating Guidelines agreed*** *(S/L/92; S/L/93)*:
  - - No change in existing structure and principles of the GATS
  - - Main negotiating method would be **REQUEST and OFFER**

- ***December 2005 Hong Kong Ministerial Meeting***: Complementing the current Bilateral Request and Offer approach with "**COLLECTIVE REQUESTS**" and negotiations linking groups of WTO Members with shared sectoral interests (Request and Offer on a plurilateral basis)

Collective Requests Process

- At the December 2005 WTO Hong Kong Ministerial, Ministers decided that groups of like-minded countries should develop common or “collective” requests to provide a kick-start to the previously sleepy services talks, and submit them to the countries whose markets they seek to access
- The deadline for submission of requests was February 28, 2006
- 21 “collective requests” have been tabled in the following sectors and modes of supply: Air Transport Services, Agricultural Services, Architectural and Engineering Services, Audiovisual Services, Computer-Related Services, Construction Services, Cross Border Supply, Distribution Services, Education Services, Energy Services, Environmental Services, Financial Services, Legal Services, Logistic Services, Maritime Transport, MFN Exemptions, Mode 3 Services, Mode 4 Services, Postal and Courier Services, and Telecommunications

Requests and Offer Process

- To be pursued bilaterally but also on a plurilateral basis
- Various types of content not mutually exclusive
- **Types of Content**:

  1. The addition of new sectors
  2. The removal of existing limitations
  3. The undertaking of additional commitments
  4. The termination of MFN Exemptions

Services Negotiations Timeframe

- **Initial requests** by 30 June 2002(a)
- **Initial offers** by 31 March 03(a) or ASAP(b)
- **GATS Rules:** Domestic Regulation, Procurement, and Subsidies: prior to conclusion of negotiations on commitments;(c)
- Safeguards: entry into force not later than results of current round (subject to outcome of the mandate)d
- **Revised offers** by May 05(e)
- **Plurilateral requests** *should* be submitted by 28 Feb 06 or ASAP(b)
- **2nd round of revised offers** *shall* be submitted by 31 July 06(b)
- **Final draft schedules** *shall* be submitted by 31 Oct 06(b)

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(a) Doha Declaration (Nov. 2001)
Ministerial Declaration (Dec. 2005)
(b) Hong Kong
(c) Negotiating Guidelines (March 2001)
(d) CTS Decision of 17 March 2004
(e) Doha Work Programme (GC, 1 August 04)

State of Play (March 2007)

- **Initial offers:**
  69 Schedules (covering 93 Members*)

- **Revised offers:**
  29 Schedules (covering 54 Members*)

*Counting EC Members (EC 25) individually

Egypt and Current Services Negotiations

- ✓ Submitted initial and revised offers.
- ✓ Participated in the Collective Requests Process as a **demandeur** in one request on Mode 4 dated March 2006 and jointly with Argentina, Brazil, Chile, China, Colombia, Dominican Republic, Guatemala, India, Mexico, Morocco, Pakistan, Peru, Thailand, and Uruguay. The request targeted: United States, EC, Australia, Canada, Japan, New Zealand, Switzerland, Norway and Iceland.
- ✓ Has also participated as a member of **target groups** of collective requests made by WTO Members on cross-border trade and mode 3 and in the following sectors: energy, environmental services, construction, computer related services, telecommunications, financial services, maritime transport, legal services, postal services, air transport, and logistics services.