

KENYA'S TRADE IN SERVICE: A 'STATE OF PLAY' PAPER

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Kenya's Trade in Services: The State of Play

1.0 Introduction

The forthcoming review of WTO Agreements provides a good opportunity for developing countries to re-assess their position in various multilateral trade agreements including the General Agreement on Trade in services (GATS). Previously, many developing countries had not fully understood the special needs, capacities, obstacles, short-term and long-term interests of their service sectors. This partly explains why many of these countries have been reluctant, slow and often apprehensive in making decisions on the schedule of commitments to make as part of services liberalization within the GATS framework. The intervening period since the conclusion of the WTO agreement at the end of Uruguay Round at the end of 1994 has given some of these countries time to have a closer look at their service sectors. During the period, a large number of these countries have made commitments with regard to various service activities, giving them a chance to assess the impacts of these on both short-term and long term needs and interests of their service activities and the overall economy. Such experience is expected to inform these countries' negotiations and positions in the forthcoming review.

In the case of Kenya, a national committee on WTO issues, with members from both public and private sectors, has been in existence for the last few years to act as a think tank in handling and strategizing on issues related to the WTO. In addition, the country has already made commitments in a few service sectors as this paper will show.

The paper attempts to depict the current 'state of play' of Kenya's service sector, as part of the background preparations for the Year 2000 CAPAS sub-regional African seminars on Trade in services. The paper is guided by the following terms of reference:

- 1) Review and explain Kenya's service commitments at the end of the Uruguay Round and the underlying rationale for those commitments at the time;

- 2) Identify areas of service export interest for Kenya, develop ideas for possible new market access request (concessions) that Kenya may make to other contracting parties during the next round of GATS negotiations (year 2000) including the rationale for the requests;
- 3) Identify areas where Kenya might improve its binding including the domestic limitations that she may be willing to bind in return for the requested market access, using the sectors studied under CAPAS I and II as the focus, and the underlying rationale for that willingness; and
- 4) Identify areas, in the case of both possible market access request and possible market opening bindings, where it might be possible to develop a coordinated position among countries within the same sub-regional grouping or in the framework of the African Group.

1.1 **The Service Sector in Kenya's Economy**

The service sector has been key in the Kenyan economy in the last three decades. This is well illustrated by the sector's overall growth record and its contribution to the country's gross domestic product (GDP), wage employment and balance of payments. The average annual growth rate of the sector has been generally higher than that of many countries in the sub-Saharan African region since the 1970s (Table 1). In the second half of the 1970s, Kenya's service sector registered an annual growth rate of 7.4 per cent compared with 5.0 per cent growth rate recorded by the sub-Saharan Africa region as a whole (Table 2). This relatively better performance remained more or less the same in the 1980s and 1990s. In terms of growth, Kenya's service sector has performed better than those of even Zimbabwe and South Africa, countries whose economies are substantially stronger than Kenya's. In recent years, particularly since the second half of the 1980s, however, small countries like Uganda have registered faster growth in services than Kenya. Thus, while Kenya's service sector had a much more impressive growth rate than that of Uganda's sector during the second half of 1970s and first half of 1980s, the position had been reversed in the second half of 1980s and first half of 1990s with Uganda registering higher rates than Kenya (Table 2).

Table 1: Contribution of Services to GDP, selected sub-Saharan African countries, Percentages.

| Country | 1970 | 1980 | 1990 | 1993 | 1997 |
|----------|------|------|------|------|------|
| Kenya | 45.7 | 45.5 | 49.4 | 52.6 | 54.0 |
| Uganda | 21.8 | 27.2 | 33.1 | 33.4 | 39.0 |
| Tanzania | 30.2 | 36.9 | 30.0 | 27.5 | 31.0 |
| Zimbabwe | 43.6 | 46.2 | 50.0 | 50.7 | 41.0 |

Source: ADB, *African Development Report*, various years

The share of services to Kenya's GDP has been much larger than those of the broad primary or secondary sectors of the economy since 1970s and has risen steadily over time from 45.7 per cent in 1970 to 54 per cent in 1997 (Table 3). This had risen further to about 57 per cent in 1998 (Republic of Kenya 1999a). For most of the 1990s, the share of the sector in the country's GDP has been more than 50 per cent. By 1997, the share of services in the GDP was almost double that of agriculture (29%) and 5 times that of manufacturing (11%).

The overall contribution of Kenya's service sector to GDP has remained substantially higher than the contribution of services in most of the countries in the region. Even in the case of Uganda, which had recorded higher annual growth rates than Kenya in the last decade, the share of services to the total GDP was 39 per cent in 1997 compared to Kenya's 54 per cent. The corresponding figures for Zimbabwe and Tanzania were 41 and 31 per cent respectively (Table 1).

The importance of services in Kenya's economy is even more pronounced when its contribution to wage employment is taken into consideration. By 1970, the sector accounted for 49.6 per cent of the total wage employment, which stood at 644,500 people. Ten years after, this share had risen to 55.3 per cent with 555,500 people working in the sector. This growth trend continued in the 1990s so that by 1998, about 1,031,800 people were employed in the services sector, accounting for almost 62 per cent of the total wage employment in the country (Table 4).

Table 2: Average Annual Growth in Services for selected sub-Saharan African countries, percentages.

| Country | 1975-80 | 1980-85 | 1986-90 | 1990-95 |
|--------------------|---------|---------|---------|---------|
| Kenya | 7.4 | 4.2 | 5.3 | 3.1 |
| Uganda | -4.2 | 1.8 | 6.3 | 8.2 |
| Tanzania | 4.2 | 0.8 | 3.7 | 1.7 |
| Zimbabwe | 1.0 | 2.9 | 2.6 | 1.7 |
| sub-Saharan Africa | 5.0 | 2.1 | 0.6 | 1.5 |

Source: UNDP, *African Development Indicators*, various years and World Bank (1997), *World Development Report 1997*.

The leading service sub-sector in the country's wage employment is "Community, Social and Personal Services", which accounted for 36% and 42.8% of total wage employment in 1970 and 1998 respectively. The second most important service sub-sector with regard to employment since 1980s has been "Wholesale and Retail Trade, Restaurants and Hotels, with a share of 7% and 9.1% of the total wage employment in 1980 and 1998 respectively. Transport and Communication occupies the third position, having been displaced by the 'Wholesale and Retail Trade, Restaurants and Hotels' sub-sector by the end of 1970s (Table 4).

Table 3: Share of Services in the Kenyan economy, 1970-97.

| | 1970 | 1980 | 1990 | 1993 | 1997 |
|---|-------|-------|-------|-------|-------|
| Real GDP, constant 1988 Dollars (millions) | 3,156 | 5,306 | 8,137 | 8,293 | 9,443 |
| share of GDP, factor cost (%) | | | | | |
| . Agriculture | 37.3 | 33.3 | 31.5 | 28.3 | 29.0 |
| . Industry | 17.0 | 21.2 | 19.2 | 19.2 | 17.0 |
| - Manufacturing | 7.5 | 11.9 | 12.2 | 12.7 | 11.0 |
| . Services | 45.7 | 45.5 | 49.4 | 52.6 | 54.0 |

Source: ADB, *African Development Report*, various years.

Table 4: Wage Employment by Industry, in Kenya 1970-1997.

| INDUSTRY | 1970 | | 1980 | | 1990 | | 1995 | | 1998 | |
|---|----------------|-------|----------------|-------|----------------|-------|----------------|-------|----------------|------|
| | Number (000's) | % | Number (000's) | % | Number (000's) | % | Number (000's) | % | Number (000's) | % |
| Agriculture and Forestry | 204.5 | 31.7 | 231.4 | 23.0 | 269.7 | 19.1 | 294.0 | 18.9 | 308.8 | 18.5 |
| Mining and Quarrying | 2.9 | 0.5 | 2.3 | 0.2 | 4.1 | 0.3 | 4.7 | 0.3 | 5.0 | 0.3 |
| Manufacturing | 82.3 | 12.7 | 141.3 | 14.0 | 187.7 | 13.3 | 204.8 | 13.1 | 216.9 | 13.0 |
| Electricity and Water | 4.8 | 0.8 | 10.1 | 1.0 | 22.4 | 1.6 | 22.9 | 1.5 | 23.2 | 1.3 |
| Building and Construction | 30.8 | 4.7 | 63.2 | 6.3 | 71.4 | 5.1 | 76.4 | 4.9 | 79.3 | 4.8 |
| Wholesale and Retail Trade, Restaurants and Hotels | 32.5 | 5.0 | 70.5 | 7.0 | 113.9 | 8.1 | 134.9 | 8.7 | 150.7 | 9.1 |
| Transport and Communications | 44.9 | 7.0 | 55.2 | 5.5 | 74.5 | 5.3 | 79.1 | 5.1 | 85.0 | 5.1 |
| Finance, Insurance, real estate and Business Services | 10.0 | 1.6 | 39.7 | 4.0 | 65.3 | 4.6 | 78.0 | 5.0 | 84.0 | 5.05 |
| Community, Social and Personal Services | 231.8 | 36.0 | 392.1 | 39.0 | 600.3 | 42.6 | 662.2 | 42.5 | 712.1 | 42.8 |
| Total Wage Employment | 644.5 | 100.0 | 1005.8 | 100.0 | 1409.3 | 100.0 | 1557.0 | 100.0 | 1664.9 | 100 |
| Total Services | 319.2 | 49.6 | 557.5 | 55.4 | 854.0 | 60.0 | 954.2 | 61.3 | 1031.8 | 61.5 |

Source: Calculated from Republic of Kenya, *Economic Survey* (various years).

The contribution of the services sector in Kenya's balance of payments position has also been highly significant throughout the last three decades. Foreign exchange earnings from services have been an important component in the country's current account balance, both in terms of inflows as well as outflows.

In 1970, forex inflows related to services (invisible credits) stood at K£103.1 million, accounting for 50.3 per cent of total current account credit. The corresponding figures for 1997 were K£ 4817.4 million and 44.9 per cent (Table 5). Forex payments related to service imports are also important, although they accounted for a smaller proportion of total current account outflows throughout the period under consideration. In 1970, outflows related to service imports amounted to K£ 70.1 million, accounting for 34.2 per cent of the total current account foreign exchange inflows and 31.5% of total current account outflows. The leading sources of foreign exchange inflows among the service sectors in 1970 were the export of transport services (9.1%), foreign travel (9.0%), and shipping (5.4%). During the same year, current account debits or outflows were incurred in connection with importation of services mainly in form of transportation (4.2% of total current account debits), and foreign travel (3.2%). The share of services in the current account debits and credits had risen to 37% and 62.1% respectively by 1990, but declined to 27.4% and 45 per cent respectively in 1997 (Table 5). Thus, between 1970 and 1997, services accounted for approximately a third of the total current account outflows and about 50% of inflows. The corresponding figures for 1998 were 24% and 43.2% (Republic of Kenya, 1999a).

The current position regarding the contribution of individual service sectors to total services trade in Kenya is shown in Table 6. Travel and communications are the only service sectors which had a net trade surplus in 1997 but the surplus registered by the former was strong enough to ensure an overall surplus in service trade for that year.

Table 5: Kenya's Current Account and the Role of Services, 1970-1997*

| | 1970 | | | | 1980 | | | | 1990 | | | | 1995 | | | | 1997 | | | |
|---------------------------------------|------------|------|-------------|------|--------|------|---------|------|---------|------|---------|------|---------|------|---------|------|----------|------|----------|------|
| | Debit s | % | Credit s | % | Debits | % | Credits | % | Debits | % | Credits | % | Debits | % | Credits | % | Debits | % | Credits | % |
| Merchandise | 152.5 | 68.5 | 102.0 | 49.7 | 976.8 | 85.1 | 461.0 | 56.4 | 2297.61 | 63.0 | 1157.75 | 37.9 | 6787.22 | 67.1 | 4822.4 | 53.0 | 8579.18 | 72.6 | 5898.75 | 55.5 |
| Shipment | 0.1 | 0.1 | 11.1 | 5.4 | 0.5 | 0.04 | 25.6 | 3.1 | 367.83 | 10.1 | 58.37 | 1.9 | 1086.59 | 10.7 | 295.73 | 3.3 | 1045.68 | 8.8 | 291.77 | 2.7 |
| Other Transportation | 9.3 | 4.2 | 18.7 | 9.1 | 18.3 | 1.6 | 128.8 | 15.4 | 122.13 | 3.4 | 322.83 | 10.6 | 296.38 | 2.9 | 635.10 | 7.0 | 255.08 | 2.2 | 811.61 | 7.6 |
| Foreign Travel | 7.4 | 3.3 | 18.5 | 9.0 | 8.6 | 0.7 | 88.5 | 10.6 | 43.86 | 1.2 | 533.30 | 17.5 | 372.43 | 3.7 | 1249.64 | 13.7 | 570.73 | 4.8 | 1131.82 | 10.6 |
| International Investment Income | 25.0 | 11.2 | 16.9 | 8.2 | 76.0 | 9.3 | 16.9 | 2.1 | 480.09 | 13.2 | 5.30 | 1.7 | 901.38 | 8.9 | 65.95 | 0.7 | 657.50 | 5.6 | 67.50 | 0.6 |
| Unrequited transfer | 10.1 | 4.5 | 19.2 | 9.4 | 9.4 | 0.8 | 67.2 | 7.5 | 64.1 | 1.8 | 493.50 | 16.2 | 118.1 | 1.2 | 1400.9 | 15.4 | 0.00 | 0.0 | 185.22 | 7.3 |
| Invisible Balance | 70.1 | 31.5 | 103.1 | 50.3 | 169.3 | 14.6 | 367.2 | 44.0 | 1350.53 | 37.0 | 189.54 | 62.1 | 3340.33 | 33.0 | 4274.27 | 47.0 | 3244.80 | 27.4 | 4817.35 | 45.0 |
| Visible Balance | 152.5 | 68.5 | 102.0 | 49.7 | 994.6 | 85.5 | 468.0 | 56.0 | 2297.61 | 63.0 | 1157.75 | 37.9 | 6787.22 | 67.1 | 4822.42 | 53.0 | 8579.18 | 72.6 | 5898.75 | 55.1 |
| Total Current Account | 222.6 | 100 | 205.1 | 100 | 1163.9 | 100 | 835.2 | 100 | 3648.14 | 100 | 3052.29 | 100 | 10116.6 | 100 | 9096.69 | 100 | 11823.98 | 100 | 10,716.1 | 100 |

* Debits and credits are measured in K£ millions.

Source: Republic of Kenya, *Economic Survey*, Various years

Trade in services is thus a highly significant factor in Kenya's balance of payments. During 1970 – 97 period, service exports accounted for between 43 and 51% of total current account foreign exchange inflows and between 14 and 37 per cent of total current account foreign exchange outflows (Table 5). Exports of services have continued to be a stabilising factor in Kenya's balance of payments position with external trade in services always enjoying overall net surplus, unlike trade in merchandise which is always in net deficits.

Table 6: Kenya's Trade In Services (1997), US\$ millions.

| Type of service | Service exports | Service imports |
|--------------------------|-----------------|-----------------|
| Transport | 334 | 366 |
| Travel | 385 | 194 |
| Communications | 24 | 6 |
| Insurance | 15 | 86 |
| Royalties & License fees | 4 | 39 |
| Other business | 2 | 39 |
| Construction | - | - |
| Computer and Information | - | 2 |
| TOTAL | 764 | 731 |

Source: WTO (1999)

2.0 Review of Key Service Sectors in Kenya

In this section of the paper, the key service sectors in Kenya are reviewed. The sectors are briefly described, their contribution to the economy evaluated, their trade discussed, and the obstacles hindering faster growth in their production and export identified and discussed. This review prepares the way for subsequent analyses of specific issues related to trade and the GATS.

2.1 Tourism and Travel Related Services

Tourism has been Kenya's leading source of export revenue, having surpassed coffee and tea in 1987. It has, however, been recently overtaken by tea. Export being largely through mode 2

(consumption abroad), tourism earnings reached an all time high of K£1,405 million in 1994. Since then, earnings have dropped at an annual average rate of 7.5%, to reach K£875 million in 1998 (Republic of Kenya, 1999a). The largest drop occurred in 1998 when tourism earnings fell by 22.7%. This decline was evident in virtually all indicators, including tourist arrivals and departures, length of stay, hotel bed occupancy and visitors to parks and game reserves.

As a result of this general poor performance in the tourism sector, Kenya's share of world and African tourism, which had risen to 0.19% and 5% respectively in 1990, shrunk to 0.16% and 4% respectively in 1998. Kenya currently stands at number six in tourism earnings in Africa, behind South Africa, Morocco, Tunisia, Mauritius and Tanzania, in that order, having dropped from position four in 1994. By 1998, Kenya's foreign exchange earnings were only 16.9% of those of South Africa. This decline in tourism has had major adverse effects in many sectors of the economy as all enterprises that offer transportation, accommodation, shopping, entertainment, recreation and other personal services depend heavily on sustained tourist flows.

A number of factors account for the general decline that has occurred in Kenya's tourism sector. The number of tourist arrivals into the country experienced problems for the first time in the decade in 1991 due to the adverse effects of the political tensions that characterised the country's transition from a single party regime to a multi-party political system, the high travel costs caused by sharp increases in oil prices, increasing insecurity, high incidences of tourist attacks by criminal elements in the country and the tribal clashes which occurred in some parts of the country during that year. After 1991, the sector picked up to attain its peak performance in 1994. This upturn was unfortunately short-lived as most of the indicators started to register another decline, which reached a crisis level in the 1997/98 period. The decline continues.

The decline that has occurred after 1994 was largely attributable to the sharp increase in insecurity following ethnic clashes in Mombasa and the crumbling infrastructure especially in the form of poor roads and inadequate supply of clean water. The terrorist bombs that simultaneously rocked the American embassies in Kenya and Tanzania in August 1998 aggravated the problem. The experience of the past few years has demonstrated the vulnerability of Kenya's tourism sector to negative publicity and an unstable socio-political domestic environment. This vulnerability is

reflected in the decline of the country's tourism that occurred following the Likoni clashes of August 1997. Before these clashes the country was receiving at least 33 charter flights of tourists every week, a number that dropped to only 11 by early 1999 with most of them down sized. Inadequate marketing efforts in an environment of increasing competition for tourists in East Africa and the rest of the continent also contributed to the drop in the number of tourists visiting Kenya. Other potential obstacles standing in the way of tourism in Kenya include environmental degradation in such reserves as the Maasai Mara and the Amboseli that are exposed to intense utilisation and an inefficient bureaucracy that is largely unable to cope with the emerging challenges in global and regional competition for tourists.

Europe, principally Germany followed by the UK, continues to be the leading source of tourists into Kenya. In 1985, Europe accounted for about 59% of all tourists visiting the country. By 1998, this share had risen to 64% (Republic of Kenya, 1999a). Africa continues to be the second most important source of tourists into the country, with a share of 21% in 1985 and 15% in 1998. Africa's share of Kenya's total tourists reached a peak of 30% in 1989, but started to decline in the 1990s. This was contrary to expectations that following the strengthening of regional integration efforts, the introduction of the PTA travellers cheques and insurance policies within the COMESA preferential trade area, Africa's share of tourist exports from Kenya would rise.

Tour companies are an important component of tourism. In 1994, Kenya was estimated to have more than 600 tour companies, ranging from small one-man firms to large transnationals (Ikiara et al., 1994). Business in this sub-sector is dominated by such foreign owned companies as United Touring Company (UTC) of Britain, Express Travel of USA, Abercrombie and Kent (U.K.) and Pollmans (Germany). Tour operators in the country estimate that about 80 per cent of tourists visiting Kenya are handled by overseas tour operators based in and out of the country. Owing to recognition and registration by such international bodies as the International Air Travel Association (IATA), World Air Transport Association (WATA) and the Society of Incentive Travel Executives (SITE), these large tour companies have a major advantage over local competitors. This and their affiliation to some of the major hotels enable them to provide a chain of integrated export services including tours, car hire, hotel and lodge bookings and air ticketing. Kenya hosts a number of

international hotel chains including Hilton, Hotel Intercontinental, Serena, Block Hotels and Holiday Inn.

Since IATA, WATA and SITE do not recognise small tour firms, the majority of the locally owned firms cannot effectively compete. They are often forced to operate as sub-agents of the recognisable larger companies. The small tour companies complain that there is no fair competition since the existing environment has largely favoured the large multinational tour operators. Formation of large regional tour companies through joint efforts by neighbouring countries, that have branches in all the countries, is one of the ways in which this disadvantage could be overcome by facilitating economies of scale to boost the competitiveness and international recognition of tour companies from developing countries.

The persistent downturn of tourism in the country has stimulated new and renewed promotional efforts in both the public and private sectors. The Kenya Tourist Board (KTB) has been highly visible, as has been the Ministry of Tourism and Wildlife, in the last few months in its role of coordinating tourism promotional activities. The government made a larger budgetary allocation to the KTB. In June, 1999, visa waivers were announced for tourists from many parts of the world as a way of attracting more tourists into the country. Tourists and tour operators have been complaining that the Kenyan visa was rather expensive and bureaucratic to obtain.

In summary, tourism in Kenya and other developing countries is currently facing a number of challenges. First, competition has become stiffer as a result of the increasing number of destinations and expanding global capacity. Countries have to compete through improved quality of service, diversification of tourist attractions, travel products and markets. Secondly, poor infrastructure, inadequate communications and human resources coupled with political and economic instability have emerged as bottlenecks to the country's tourist services. Thirdly, demand side constraints come in the form of developed country tourists who demand increasingly high quality services. Fourthly, a negative image, poor marketing plans and undeveloped private/public sector partnerships have impeded the growth of tourism in Africa¹. Fifthly, expensive airfares and insufficient air routes have further reduced the competitiveness of Africa as a tourist market. The maintenance of social and

¹ The Courier, No. 175, May-June, 1999.

cultural heritage, natural and manmade environment and the enhancement of competitiveness and openness of markets are emerging as critical ingredients of a viable tourism sector. Other factors include partnerships embracing the private and public sectors and civil society and promotion of regional co-operation. These should constitute the goals and strategies of the Kenyan and African tourism development programmes in the next decade, if the region is to increase its share of this dynamic and rapidly growing global service sector.

Since information is the travel industry's life-blood, the developments in information technology that have occurred in the 1990s are revolutionising tourism. The internet, telecommunication connections and other technologies have intensified interactions between tourism consumers and producers. The world wide web has emerged as a fast growing area of the internet, increasing the distribution of multimedia information, including textual data, graphics, pictures, video and sounds, thereby facilitating timely exchange of ideas and products. In the next century information technology (IT) will be tourism's key partner, underscoring the need to liberalise and privatise telecommunications services in Kenya to raise the efficiency of service provision and stimulate investment in telecommunications infrastructure.

2.2 Financial Services

Kenya's financial sector has experienced rapid growth in the post-independence period making it one of the strongest financial markets in the region. The number of licensed commercial banks has risen from 9 in 1963 to 56 by the end of 1998. In addition to the commercial banks, Kenya's financial sector included 13 non-bank financial institutions, 4 building societies, 2 mortgage finance companies, 44 foreign exchange bureaux and a stock exchange market by the end of 1998. The Nairobi Stock Exchange (NSE) market, one of the oldest in Africa had, by the end of 1998, 20 stockbrokers and 58 listed companies (Republic of Kenya, 1999a).

Kenya's financial sector continues to be heavily dominated by two multinational banks, Barclays Bank and Standard Chartered Bank, and one government controlled bank, the Kenya Commercial Bank (KCB). These three top banks control about 60 per cent of the total deposits in the country's banking sector. Foreign and government domination of Kenya's financial sector is gradually

changing, with the multinational banks and the government owned banks extending minority shareholding to the Kenyan public through the Nairobi Stock Exchange in the 1990s.

The Kenyan financial sector has remained fairly liberal and competitive. Entry into the Kenyan financial market by foreign investors has remained largely unrestricted. One of the restrictions introduced in 1986 was the requirement for higher minimum paid-up capital for foreign owned banks compared with locally owned banks. Thus, to start a new bank, foreign investors were required to have Kshs 150 million as the minimum paid-up capital while a local investor needed only Kshs 15 million. The 1999 Budget made large upward adjustments to this minimum core capital. Without differentiating between foreign and locally owned banks, the budget raised the figures to Kshs 500 million for banks and mortgage finance companies, Kshs 375 million for non-bank financial institutions and to Kshs 150 million for building societies (Republic of Kenya, 1999b). The existing financial institutions were allowed three years to build up their capital to the statutory levels.

These changes were partly aimed at stabilising the financial sector that has experienced several crises in the last decade, leading to the collapse of a number of newly established indigenous banks. The collapse of these banks and the consequent loss of confidence by customers has been a major setback in the efforts to indigenize the banking industry.

Trade in Financial Services

Kenya is heavily involved in export and import of financial services, both within the region and globally. The country's commercial banks have established wide regional and international links with other banks. The well-established banks have, in addition, created links with the PTA Trade and Development Bank. The PTA agreement, which has been expanded into COMESA to which Kenya is a member, has stimulated the establishment of an important institutional infrastructure that is expected to strengthen intra-regional trade. The infrastructure includes a monetary clearing house, PTA traveller's cheques, an insurance scheme, the Federation of Chamber of Commerce and Industry, and a PTA bank.

The country has much greater potential for external trade in financial services. This potential can, however, be tapped only if the financial sector increases investments in new technologies, especially in computerisation and electronic banking and reduces operational costs in order to enhance its competitiveness.

Political and managerial problems have dogged efforts aimed at enhancing the domestic financial services production capacity and export competitiveness. They include imprudent and unsecured lending, under-capitalisation of the financial institutions, over-reliance of indigenous institutions on deposits from large public funds such as the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) leading to serious instability, weak inspectory and regulatory performance of the Central Bank of Kenya (CBK), low liquidity, lack of specialization in banking and political interference.

2.3 Insurance Services

Insurance is another service sector that has registered high growth rates in the last two decades, particularly in the last five years when the average annual rate of growth was 20%. By 1997, total industry premiums stood at Kshs 15 billion, of which 60% was used to settle claims. By end of 1998, there were 38 insurance companies and 2 re-insurance companies operating in the country, with a large number of other actors (Table 7). Kenya today has one of the largest insurance service sectors in Eastern Africa, playing a crucial role in the mobilisation of loanable funds in the country.

Table 7: Composition of the Kenyan Insurance Industry, 1998

| Category | Number |
|-----------------------------|---------------|
| Insurance Companies | 38 |
| Re-insurance Companies | 2 |
| Risk Managers | 3 |
| Loss Assessors | 163 |
| Loss Adjustors | 25 |
| Insurance Surveyors | 19 |
| Claims Settling Agencies | 1 |
| Registered Insurance Agents | 491 |

Source: Republic of Kenya (1999a)

External Trade in Insurance Services

Kenya's exports of insurance services amounted to US\$15 million while imports stood at US\$86 million in 1997, creating a deficit of US\$71 million (Table 6). Insurance exports are largely in the form of re-insurance with the Kenya Re although a few foreign-owned companies operating in Kenya are setting up commercial presence in Tanzania. The latter constitutes an export of services from the country as all foreign insurance companies are required to have local shareholding. It is estimated that 20% of all the re-insurance business generated in Kenya is transacted outside the continent as the three continental re-insurance firms (Kenya Re, Zep Re and Africa Re) to which insurance companies are legally required to place 25%, 10% and 5% of their business, respectively, lack capacity to absorb all the entire re-insurance business. These services are therefore imported. The re-insurance premium payments made overseas have reached an estimated Kshs 1 billion. Some insurance firms in Kenya, in addition, import actuarial consultancy services as these are in acute shortage locally.

For most of the post independence period, entry into the Kenyan insurance sector was fairly liberal, like in the case of the banking sector. However, since the 1980s, a number of amendments to the country's Insurance Act have led to a number of restrictions and regulations for insurance firms operating in the Kenyan market.

The entry and operation of foreign insurance companies in the Kenyan market is, for instance, limited by the requirement that at least one-third of the shareholding as well as board membership must be held by Kenyan citizens and restriction over the proportion of the investment funds that can be invested outside the country. The main reason behind these market access limitations has been the desire by the authorities to increase the local ownership and control of the industry and to protect consumers by ensuring that insurance companies retain within the country sufficient funds to meet local statutory requirements and liabilities. Mandatory cessions, totalling 40%, to local and regional reinsurance companies has been another obstacle to the entry of foreign insurance companies into the Kenyan market. These cessions, however, apply equally to Kenyan owned firms. This explains why the insurance sector in Kenya has had a highly significant foreign presence. By mid 1980s,

about 45 per cent of the insurance companies in the country had majority shareholding in the hands of foreign investors (Keppler, 1985).

Obstacles to Growth of Insurance Services

Factors that have adversely affected the growth of insurance services range from a restrictive legislation particularly on the investment of insurance funds (insurance companies are required to invest 25% of their funds in government securities and 65% with statutory bodies); poor discipline and supervision; shortage of qualified personnel in actuarial and other technical areas; restriction on the incentives insurance firms can offer to clients; impediments associated with limited liability requirements and unrealistic court awards; the huge and persistent losses in the motor insurance business occasioned by high rates of vehicle theft and road accidents; general economic problems related to poor infrastructure, low level of literacy and awareness, and low ability to save; mandatory cessions to reinsurance companies that erode profits; government-fixed commission rates payable to insurance brokers; technological constraints; high and restrictive standards in European markets; excessive bureaucracy in the office of the commissioner of insurance; and political interference.

2.4 Transport Services

Transport services sector has continued to be a key activity in Kenya's overall services sector not only in its contribution to the country's employment and income generation but also in its strategic role in the economy and the country's external trade. The most important transport services include road transport, rail transport, maritime transport and air transport. In all these transport services, Kenya has well developed infrastructure relative to many of the countries in the region. This has enabled the country to derive substantial benefits from both domestic and external trade in various forms of transport.

The most important category of transport services on the basis of output is road transport. Its share of total output of the transport sector was 33.7% in 1998, having declined from its peak of about 45.1 per cent in the second half of 1980s. The other main transport services in 1998 were air transport (25.2%) and water transport (15.8%) (Table 8). A relatively new form of transport service is the pipeline transport, that is, transportation of refined petroleum products from Mombasa through

Pipeline to Nairobi, Eldoret and the Ugandan border. Its share of total transport sector output was 10.8 per cent in 1998.

With the Mombasa port and its strategic location in relation to the neighbouring countries, some of them landlocked, Kenya has been in a position to benefit from dynamic and important domestic and external trade in transport services over the years in all the six types of transport services.

Kenyan transporters are well placed to exploit the regional transport potential by using various forms of transportation to move cargo from the port of Mombasa to the landlocked neighbours, Sudan and some parts of the Democratic Republic of Congo (DRC). There is considerable competition between Kenyan transporters with transporters from these other countries. The position of the Kenyan transporters has been substantially strengthened by the formation of the Kenya Transport Association (KTA), which tries to minimise cut-throat competition, protect members' interests, lobby for favourable transport and tax rates and facilitate contracts between the Kenyan transporters and clients in the countries that use the port of Mombasa.

However, despite the advantages Kenya enjoys with regard to transport services, the country continues to suffer deficits in some of the services, particularly in the freight services. Shipment services and insurance for imports are the key transportation services imported by Kenyans. The country has a sizeable surplus in its current account for passenger transport services. The other transport services exported from Kenya include freight, insurance, port services such as fuel and ships' stores, port handling, repairs and servicing of foreign ships, repairs and servicing of foreign aircraft, and other services.

Table 8: Structure of Kenya's Transport Service Sector *

| Type of Services | 1975 | | 1980 | | 1985 | | 1990 | | 1995 | | 1998 | |
|------------------|--------|------|--------|-------|--------|-------|--------|-------|--------|-------|--------|-------|
| | OutPut | % | OutPut | % | Output | % | Output | % | Output | % | Output | % |
| Road Transport | 35.8 | 24.4 | 92.3 | 33.1 | 248.8 | 45.1 | 476.9 | 44.3 | 810.7 | 36.3 | 870.7 | 33.7 |
| Railway | 25.4 | 17.3 | 32.9 | 11.8 | 57.7 | 10.5 | 94.5 | 8.8 | 225.0 | 10.1 | 187.4 | 7.3 |
| Water Transport | 34.5 | 23.6 | 62.7 | 22.5 | 89.2 | 16.2 | 134.2 | 12.5 | 372.3 | 16.7 | 408.6 | 15.8 |
| Air Transport | 39.9 | 27.2 | 41.6 | 14.9 | 86.8 | 15.8 | 268.2 | 24.9 | 471.1 | 21.1 | 650.5 | 25.2 |
| Services | 10.9 | 7.4 | 31.2 | 11.2 | 45.2 | 8.2 | 72.7 | 6.7 | 153.8 | 6.9 | 186.7 | 7.2 |
| Pipeline | - | - | 18.6 | 6.7 | 23.4 | 4.2 | 31.1 | 2.9 | 197.8 | 8.9 | 278.0 | 10.8 |
| Total | 146.5 | 99.9 | 279.3 | 100.2 | 551.1 | 100.0 | 1077.6 | 100.1 | 2230.7 | 100.0 | 2581.9 | 100.0 |

*Output is measured in millions of Kenyan pounds. The percentage figures refer to the share of each transport service in the total transport sector's output.

Source: **Republic** **of** **Kenya,** *Economic* *Survey,* **Various** **Years**

The demand for transport services in the region is substantially high and is set to rise even more with the growing regional economic co-operation among the three East African countries, and the Eastern and Southern African countries, in the context of EAC and COMESA. There are already some regional arrangements that are boosting transportation in the Eastern and Southern African region. These include the Northern Corridor Transit Agreement (NCTA) that unifies transportation rates and regulations in Kenya, Uganda, Rwanda and Burundi and PTA's communications development program that tries to strengthen the regional transport network and collaboration. Some of the concrete steps taken in this direction include the identification of centres for aircraft maintenance and training (engine maintenance in Ethiopia and Zimbabwe; avionics in Zambia and Tanzania; small aircraft maintenance in Kenya; and personnel training in Ethiopia, Kenya, Uganda and Zambia), the opening up of the Kenya-Uganda border to allow free movement of trains in 1993, and the introduction of the PTA Travellers Cheques to facilitate travel and promote regional tourism in 1988.

2.4.1 **Road Transport**

That Kenya enjoys a surplus in its current account for passenger transport services underscores the importance of road transport in the country's economy. This is so because the provision of passenger transport services in Kenya is dominated by passenger vehicles. Road transport is a key sector of export interest to Kenya.

Road transport accounted for about 45% of Kenya's output from the transport sector between 1985 and 1990. This share had, however, dropped to 36.3% by 1995 and to 33.7% by 1998 (Table 8) largely due to the deteriorating road infrastructure and slackening demand for passenger and freight transport services associated with the depressed state of the Kenyan economy. Road transport in Kenya is dominated by local privately owned light commercial vehicles and passenger cars, constituting over 50% of all firms in this sub-sector. Road transporters have continued to complain of the high cost of imported spare parts, tyres, diesel oil and licences and other costs that have eroded their profit margins. High insurance premiums and frequent increases in wages for drivers are other elements that have contributed to cost escalation and reduced competitiveness in Kenya's road transport sector. The dilapidated nature of most of the Kenyan roads, including the crucial

Nairobi-Mombasa highway, has raised transportation costs enormously and contributed to cargo congestion at the port of Mombasa.

For Kenya to increase her production and export of road transport services, a number of existing obstacles will need to be removed or reduced. Repair of the Nairobi-Mombasa highway is one of the main ways of enabling the country to reap more benefits from road transport. In addition, regional initiatives under the EAC and COMESA to facilitate road transport need to be strengthened and broadened to cover all weak aspects of road transportation.

2.4.2 **Rail Transport**

Rail is also an important mode of transport in Kenya, accounting for about 7% of the value of total output from the transport sub-sector in 1998 (Table 8). The relative significance of rail transport in the country's transportation sector has, however, been on a decline. In 1975, for instance, rail transport accounted for 17.3% of the total output from Kenya's transport sector. Kenya Railways, a public corporation that is privatizing some of its services, has a 2,050km - long metric - gauge single track with connections to Uganda and Northern Tanzania.

In addition to being a major courier for Kenya's commodity exports and imports, Kenya Railways exports some services to Uganda and other landlocked countries. KR carries out repair and maintenance services for some of the foreign transporters as additional exports. KR's capacity to expand the latter services is substantial given that its engineering workshop is the biggest in Eastern Africa and has capacity to produce a range of spare parts such as nuts, bolts, brake pads and discs.

KR faces a number of constraints, constraints that have led to a serious deterioration of the corporation's service provision especially in the latter part of the 1980s and 1990s. It is these bottlenecks and increasing competition from other modes of transportation that have contributed to the declining output from rail transport relative to the other modes, as table 8 shows. These include a persistent shortage of wagons and locomotives², a rail track which is old and in disrepair, frequent

² At any moment, a large proportion of KR's locomotives are not operational. In 1993, for instance, 120 out of 199 locomotives were not in use.

derailment and the consequent confidence crisis, fragile relations between Kenya and some of her neighbours, serious underutilization of KR's engineering workshop resulting from lack of funds to acquire and maintain the necessary plants and equipment, state control and interference with KR's commercialization of services, and declining freight transport especially from the landlocked countries as a result of increasing shift to the use of Tanzania's port of Dar es Salaam due to congestion and inefficiency at Mombasa. The constraints facing KR could be summarized as technical, financial and operational. They must be overcome if the country is to tap the full potential existing in the export of rail transport services.

There are plans to restructure the operations of the corporation in such areas as tariff adjustments, commercialization of services, privatization of some services, award of locomotive maintenance contract to the General Electric Corporation of the USA, termination of unprofitable services, cost cutting measures including staff reductions, aggressive marketing, and management. This is expected to place KR at a vantage point, and could greatly increase its capacity to produce quality services for local consumption and for export to the COMESA region.

2.4.3 Maritime Transport

Water transport (shipping) services in Kenya are provided by the Kenya Ports Authority and Kenya Railways, with the latter providing inland water transport. Shipping has been a significant export service for Kenya and will remain of export interest to the country although the country has a large and perpetual trade deficit for shipping services (Table 5). Besides transport, other shipping and related services exported from Kenya include repair of marine vessels. These services are offered by shipping companies, which are wholly locally owned.

The port of Mombasa handles transit cargo for Uganda, Tanzania, Rwanda, Burundi, Zaire, Zambia and Sudan, making it one of Africa's busiest ports. Since 1982, the volume of cargo handled and the number of cargo vessels calling at the port of Mombasa have fluctuated tremendously but the general trend has been that of a decline. The declining trend has been attributed to the diversion of cargo from Uganda, Rwanda and Burundi to the port of Dar es Salaam due to high inefficiency at Mombasa; long delays in loading and off-loading; higher tariffs at Mombasa relative to Dar; border

conflicts between Uganda and Kenya; declining transit cargo resulting from political and economic instability in the region; inadequate facilities at the port of Mombasa; and planning difficulties associated with uncertain demand for services from the neighbouring countries. Firms providing vessel repair services complain that high port tariffs at Mombasa relative to other regional ports have adversely affected their business as most ships avoid Mombasa in preference to cheaper proximate ports. Frequent congestion at the port has increased vessel turn-around time and forced shipping lines to impose surcharges³ on exporters and importers. Inefficiency in road and rail transport often translates into congestion and delays at the port of Mombasa, reflecting the extent of integration and interdependency of transport services in the country. It also underscores the role of a holistic approach to the management of these services in the country.

Virtually all shipping lines operating at the port of Mombasa are foreign owned, albeit with local representatives, while the majority of shipping agencies in Kenya are locally owned, either privately or publicly. The Kenya National Shipping Line (KNSL), a government owned line established in 1990, is the only locally owned shipping line. KNSL does not own any ships but leases them, especially from Britain. Foreign shipping lines are now required to share domestic cargo with the KNSL (Ikiara et al., 1994). This is one avenue by which the nascent KNSL is protected and supported. To prevent complacency from KNSL and to ensure it attains efficiency and competitiveness the level and nature of protection should, however, be rationalized.

2.4.4 Air Transport

Air transport has occupied a significant position in Kenya's service exports and is set to remain an area of export interest for the country as long as tourism thrives and Kenya Airways continues its growth. As already indicated, air transport is the second most important category of transport services in Kenya, in terms of its share in total value of output from the transport service sector. The value of output in air transport rose from K£ 73.8 million in 1984 to 408.8 million in 1994 and to K£ 650.5 million in 1998. The share of air transport in the value of total output from the country's

³ The most recent of these amounted to US\$ 100, imposed by the East African Conference Lines in June 1999.

transport sub-sector was 27.2% in 1975, 15.8% in 1985, 21.1% in 1995 and 25.2% in 1998 (Table 8).

The aviation industry in Kenya is highly competitive and heavily dominated by foreign investors. It comprises of the national airline (Kenya Airways), over 15 foreign commercial airlines with regional offices in the country, 27 other foreign airlines which operate in the country but without regional offices, and a few local private airlines. Leading international airlines including British Airways, Air France, KLM, Swissair, Alitalia, SAS and South African Airways fly in and out of Kenya. This indicates that Kenya imports a substantial amount of air travel services as many nationals fly with these airlines. The country's important horticultural exports, moreover, are air lifted by these airlines as well as by Kenya Airways. Some of the firms offering charter services in Kenya are owned by powerful politicians, often in partnership with foreign investors.

Other components of the country's aviation industry include airports, landing strips, other infrastructure, and other actors. Kenya has three international airports, Nairobi, Mombasa, Eldoret and a smaller one, Wilson Airport. Wilson airport handles regional and domestic flights especially for the small privately owned airlines. There are, in addition, a number of landing strips in the country. Aviation Luxeken Ltd (ALL) offers aviation consultancy services in the country and the COMESA region while the Kenya School of Flying (KSF) offers professional flight and ground training. The 99 Flying Club also offers pilot training while Wilken Aviation provides telecommunications and installation facilities in East Africa. The Nairobi Airport Services (NAS) provides catering services to airlines.

Kenya Airways (KA), originally fully government owned, has been privatized with KLM acquiring 26% of the shares and the public getting a significant proportion through the Nairobi Stock Exchange market. Before its privatization, KA had experienced persistent financial losses associated with overstaffing, operation of old and fuel inefficient aircraft, escalating costs of operation, poor management and lack of skilled manpower, operation in unprofitable routes, and political interference with commercialization of services. These costs, coupled with inadequate quality of service and poor marketing, high insurance premiums, and slow technological adaptation had constrained the growth of services provided by KA.

The privatization of KA and contracting of its management to a British firm remarkably turned the airline around. The airline has not only increased its flights under the partnership with KLM but is increasingly making larger profits and has staff with higher morale than previously, a factor that has led to considerable improvement in the quality of services. The airline's control of the domestic and regional market is increasing rapidly as more and more passengers use it. KA was voted Africa's best airline for 1999. Export of air travel services is going to be of much greater interest for Kenya in the coming years, as Kenya Airways attempts to increase its volume of business and increase its share of the market.

Some of the factors that have adversely affected the performance of the aviation sector include shortage of trained personnel, high duty and VAT on aircraft and spare parts, inadequate facilities at airports, depreciation of the Kenyan shilling and high inflation rates that have made tickets costly and thus reduced demand for air transport, and high operational costs resulting from high jet fuel prices and landing costs. Despite these bottlenecks, however, Kenya Airways' performance has been impressive, placing it in a position to expand its share of the regional and international air transport industry. Partnerships and regional agreements that could enhance the country's capacity to export air transport services and the removal of obstacles that stand in the way of provision of more competitive services are some of the measures needed to facilitate faster growth of Kenya's air transport.

2.4.5 Pipeline Transport

The Kenya Pipeline has become an important mode of transport in Kenya for petroleum products. From 1.5 million cubic metres of petroleum transported during 1980, pipeline transport had reached 2.2 million cubic metres in 1995 and 2.7 million in 1998 (Republic of Kenya, 1999a). Countries using the Pipeline transportation services are the landlocked countries of Uganda, Rwanda and Burundi, who usually pick their petroleum products from Eldoret for onward road and/or rail transportation to the final destination.

2.4.6 Communication Services

Communication services include postal services, telecommunication services and information and mass media. These are crucial infrastructural services as they are critical inputs into the production of not only commodities but also other services as well. Because of this fact and on the basis of other rationale, this paper has argued strongly that Kenya ought to commit these services. It is encouraging that the Kenyan government has noticed these facts and offered basic telecommunications for liberalization under the terms of GATS.

Although Kenya has a relatively more developed telecommunication network compared with her East African neighbours (table 9 and 10), the low level of development of telecommunication services remains a major constraint in the provision of various services both in terms of high costs as well as limited accessibility to the country's population. Currently, the country has only 290,000 telephone lines to serve a population of about 30 million people. Only about 1% of this population is served with fixed telephone lines. There are only about 9,000 mobile telephones in the country due to relatively high installation and running costs.

Kenya's teledensity, the number of telephone lines per 1000 people, is low by developed country and South African standards. This is, indeed, lower than the sub-Saharan African average (Table 10). By the beginning of 1999 the teledensity was only 1% or 10 telephone lines. Kenya's

telecommunication sector, in addition to being a strategic sector, is a significant sector in the country's economy, contributing about US\$307 million or 4% of GDP at the beginning of 1999 (Table 9)

Table 9: Telecommunication Network in East Africa, January 1999

| | Kenya | Tanzania | Uganda |
|--|--------------|--------------|-------------|
| Telephone lines | 290,000 | 94,000 | 52,000 |
| Telephone lines per 1,000 people (%) | 1.0 | 0.30 | 0.25 |
| Contribution of telcoms sector to GDP, in millions of US\$ and in percentage | 307 (4.0) | 39 (0.85) | 72 (0.6) |

Source: Communications Commission of Kenya, 1999

While Kenya's communications network has expanded and modernized considerably, some areas have lagged behind others. For instance, all postal services except the number of private letter boxes have declined in the 1990s. Telephone exchanges, public call boxes, card phones, mobile telephones and the number of paid telephone minutes (both outgoing and incoming) have, on the other hand, recorded remarkable growth. For instance, while there were only 8.6 telephone service-million paid minutes in 1980 the usage had risen to 108.5 million by 1998 (Republic of Kenya, 1999a) at an average annual growth rate of 61%. The number of mobile telephones has also recorded tremendous growth, from only 1,727 in 1994 to 8,826 in 1998, growing at an average annual rate of 82.2%. This growth is likely to increase as the cost of mobile telephones has recently dropped by about 60% following the ongoing liberalisation of the previously monopolistic telecommunications market.

Table 10: Telephone, radio, and television availability, in selected African countries (1994-96)

| | Sub-Saharan Africa | Kenya | Uganda | Tanzania | Zimbabwe | S. Africa |
|--|--------------------|-------|--------|----------|----------|-----------|
| Telephone mainlines (per 1,000 persons) | 11 | 9 | 2 | 3 | 14 | 106 |
| Waiting list for telephone connection (thousands) | 1133 | 71 | 6 | 108 | 113 | 127 |
| Mobile phones (per 1,000 persons) | - | 0 | 0 | 0 | - | 22 |
| Average cost of telephone call (US \$ per 3 minutes) | - | 0.06 | 0.19 | 0.08 | 0.03 | 0.09 |
| Radios (per 1,000 persons) | - | - | 123 | 398 | - | 179 |
| Television (per 1,000 persons) | 43 | 19 | 26 | 16 | 29 | 123 |
| Daily newspapers (per 1,000 persons), 1996 | - | 13 | 2 | 8 | 18 | 33 |
| Personal computers (per 1,000 people), 1996 | - | 1.6 | 0.5 | - | 6.7 | 37.7 |
| Internet hosts, July 1997 (per 10,000 persons) | - | 0.16 | 0.01 | 0.02 | 0.24 | 30.67 |

Source: World Bank (1999), *African Development Indicators 1998/99*, and World Bank (1999), *World Development Report 1998/99*.

The decline of the postal services provided by the Kenya Posts and Telecommunications Corporation (KPTC) in the 1990s, is attributable to slow down in economic growth, increasing liberalization of the sector and the consequent growth of courier firms and internet services (Republic of Kenya, 1999a).

Until the beginning of July 1999, postal and telecommunications services were provided solely by the state-owned monopoly, the KPTC. However, as a result of over-staffing, poor management and

lack of competition, KPTC came to be associated with inefficiency, poor quality services and corruption.

As a result of KPTC's monopoly over a long period of time, there is currently low foreign presence in Kenya's telecommunications services sub-sector. The KPTC, however, has two antenna which provide direct links between Kenya and the rest of the world, enabling the country to export services via cross-border and consumption abroad modes. The US telecommunications giant, American Telephone and Telegraph (AT&T) Company, chose Kenya as its regional distributor in 1992.

The monopoly status of the KPTC was dismantled when an Act of Parliament, effective from 1st July 1999, was passed. The Act split KPTC into three entities: Telkom Kenya Limited (TKL), the Postal Corporation of Kenya (POSTA), and the Communications Commission of Kenya (CCK). The role of CCK is to regulate the sector and license service suppliers. It has already issued licences to TKL and POSTA and will also be responsible for licensing their competitors. Other activities that will constitute the mandate of CCK include regulation of prices, managing radio frequencies and approval of equipment. This restructuring is set to open up the postal and telecommunication services sub-sector to foreign competitors. Twenty six per cent (26%) of TKL, for instance, is earmarked for sale to a strategic external investor (Republic of Kenya, 1999b).

Vodafone, a reputable British mobile phone giant, has expressed keen interest and is being encouraged to acquire 40% of Safaricom, TKL's GSM service subsidiary. Moreover, Safaricom will have the first competition in the mobile phone services sub-sector by March 2000. Already, six reputable international mobile phone companies, in partnership with local outfits, have been shortlisted and the successful bidder will be known before the end of this year. The foreign firms bidding to enter the mobile phone market in Kenya are required to have 60% local shareholding. These developments reflect Kenya's recent commitment of the voice telephone services and a few other services within the telecommunications sector.

The on-going reforms of the telecommunications sector are expected to make the sector more significant in the economy in the coming decade and help the country become more competitive in

the delivery of other services which depend on efficient telecommunication services. These reforms are, therefore, likely to expand the level of export of telecommunication services.

Telkom Kenya Ltd (TKL) has been created as a public limited company and is responsible for the provision of telecommunication services in the country. TKL is expected to enjoy some protection for a number of years as more competitors are licensed.

Posta, on the other hand, is responsible for the provision of postal stamps and letter boxes, where it will have monopoly power. The corporation will, however, face competition with regard to other postal services, some of which private sector firms have already been licensed to supply. The latter include delivery of parcels and courier services.

Information Technology and the Internet

Information is now recognised as the future engine of growth not only in the services sector but of the entire economies. It is for this reason that Kenya should put in place the necessary infrastructure to push herself into the information superhighway. The on-going liberalisation of the telecommunications sector, including taking reputed international companies on board, is a step in the right direction. As noted elsewhere in this paper, internet services have become more or less indispensable if any country has to become internationally competitive.

While Kenya does not have adequate capacity in the area of computer technology and internet services, she has, nevertheless, done quite well relative to other East African countries and the rapid growth occurring in the area indicates that capacity is expanding fast. As Table 10 shows, Kenya had 1.6 personal computers per 1,000 people in 1996, very few compared to 6.7 in Zimbabwe and 37.7 in South Africa. Kenya, thus, needs to formulate appropriate strategies to expand her capacity in computer technology for she cannot tap the potential associated with the internet without increasing computer usage.

Kenya, at the moment, has more than fifteen internet service providers (ISP) and the number of cyber cafes and telephone bureaux offering internet services is rising.⁴ These are not using the entire

⁴ *The Daily Nation*, August 10, 1999, Business week.

band width capacity available from Telkom Kenya. Since the installation of Jambonet, the internet backbone in Kenya, internet capacity has expanded tremendously. The cost of band width has also dropped by about 50% in the last two years; In fact, only two of the ISPs in Kenya are currently using bandwidths (highway capacity) higher than 64 kilobits per second (Kbps) yet Telkom Kenya can provide up to 2,048 kbps for each ISP. The use of low-capacity bandwidths have the disadvantage of causing congestion in the highways, In fact, corporate users of internet services in the country are being highly inconvenienced by this congestion.

The obstacles that are facing the country's Internet services capacity include insufficient installations of telephone lines and modems by ISPs, a higher number of customers per each ISP than the latter's capacity allows, high operational costs for ISPs largely as a result of use of low capacity bandwidths whose unit cost is higher, prices of bandwidths from Telkom Kenya which are considered high by ISPs, and high initial capital outlays for ISPs, estimated at about Kshs 10 million.

Even though Kenya has a higher internet usage than her East African neighbours (Table 10), she is still far below South African and advanced country standards. The obstacles cited above have to be addressed urgently to provide Kenyans with greater access to the internet.

3.0 Structure of Kenya's External Trade in Service

This section discusses further the structure of Kenya's external trade in services, which has been touched on briefly in the preceding section. Kenya's exports of services over the last decade is a useful indicator of the country's areas of export interest in the coming decade. This is, however, only a rough indicator, for the following reasons. First, the statistics underestimate the country's exports of services. For instance, the balance of payments statistics cover only two (cross-border and consumption abroad) of the "four modes of supply" of trade in services under GATS. The statistics further ignore "foreign affiliates trade (FATS)" although there is significant sale of services to local foreign companies as well as a substantial South-South trade. Second, there are a number of potential areas of service exports that the country has not tapped due to various bottlenecks. This section discusses both areas where export activity is already taking place and existing potential in the export market.

While Kenya's current account merchandise balance is more or less in perpetual deficit, the invisible balance is usually in a surplus, helping to reduce the overall current account deficits. While Kenya's leading service export in 1970s was transportation it had been slightly overtaken by foreign travel (tourism) by 1980 with the latter earning K£8.6 million compared with K£ 8.3 million earned from transportation (excluding shipping). By 1995, the gap between export earnings from transportation and foreign travel had greatly widened, with foreign exchange earnings from tourism reaching K£1250 million compared with K£635 million from transport.

Exports of transport services arise largely from the use of Kenya's rail and road transport by the neighbouring countries which use the Mombasa port for their commodity exports and imports. Kenya exports the following transport and related services: freight insurance, passenger services, port services (fuel and ships stores, port handling, repairs and servicing of foreign ships), servicing of foreign aircraft and others.

Tourism, the single most important foreign exchange earner for Kenya, after tea, remains an important service export for Kenya. The sector, however, experienced a major decline in 1998, after ethnic fighting hit parts of Mombasa, the country's most popular tourist destination.

The services that feature significantly in Kenya's external trade include transport, travel, communication, insurance, royalties and license fees (Table 6). It is mainly in travel, passenger transport services, other transport services that the country enjoys surplus in external trade (tables 5 and 6). These are likely to continue to be the country's leading service sectors of export interest in the foreseeable future, partly because of experience already gained. Freight, principally shipping services, and insurance on imports are the main services imported into the country.

The most dynamic components of commercial services in the developing countries are finance, construction, computer and information, and communications services (UNCTAD, 1998). This dynamism does not seem to be reflected very well in Kenya as these do not feature prominently in the country's external trade. Even though financial services do not feature in Kenya's services exports, it is one of the more dynamic service sectors, having accounted for about 11% of Kenya's GDP in 1998 (Republic of Kenya, 1999a).

Kenya's services sector has not been aggressively export-oriented, partly due to the country's poor infrastructure and low pace of technological advancement. Many firms in the sector are not competitive beyond the Kenyan border. However, in the survey carried out in 1994, about 72% of the firms exported some of their services. Firms engaged in shipping, insurance, air and road transport, and tourism were found to be more export oriented (Ikiara, et al., 1994). That survey identified a number of factors as constraints to service exports. These include:

- High port tariffs at Mombasa that create a disincentive for ships to dock. This led to loss of business for firms that offer repair services to foreign marine vessels.
- Border insecurity, bureaucracy, convertibility of local currencies, and an underdeveloped road infrastructure, which had adverse effects on passenger and road transport.
- Technological constraints, government controls and political interference and discriminatory legislation in some sectors.

- Weak regional co-operation links.

Regional economic co-operation needs to be strengthened, infrastructure developed, barriers to labour and capital movement removed, barriers to money transfer removed, and regional currencies made convertible if service providers are to become more export oriented. Countries better endowed in financial and human resources, technology, and data and information networks have greater advantage in penetrating the global market for services.

4.0. Kenya's Services Commitments after Uruguay Round and the Underlying Rationale

Making GATS commitments has benefits. These, according to Honeck (1999), include the satisfaction of trading partners' demands for market access; increasing the transparency of policies for both foreign and domestic investors; provision of predictability and therefore attraction of investors as the commitments are legally binding and therefore unlikely to be altered suddenly; improved economic efficiency as a result of access to internationally competitive services especially the infrastructural services such as telecommunications, transport and financial services; and the facility to overcome domestic resistance to change.

Perhaps as a recognition of these benefits, a few African countries have committed a large number of service sectors. Gambia leads in Africa, followed by Lesotho and South Africa. Kenya is in the category of countries that have committed much fewer sectors under the WTO. Out of the 12 main categories of sectors of services, as classified under GATS, Kenya has committed five them, namely financial services including insurances, communication services, tourism and travel related services, transport services, and 'other' services. The last category in the GATS classification, consists of services not included in the other eleven categories⁵ The details of these commitments are discussed in this section of the paper.

One of the sectors in which the country made early commitment was financial services. The details of the specific financial services commitments and the limitations on market access and

⁵ These eleven categories are Business Services; Communication Services; Construction and Related Engineering Services; Distribution Services; Educational Services; Environmental Services; Financial Services; Health Services; Recreational, Cultural and Sporting Services; and Transport Services.

on national treatment for each mode of supply are contained in Kenya's "Schedule of specific commitments" (supplement 1) GATS/SC/47/suppl.1, dated 26 February 1998. The specific services committed are:

1. Banking and other financial services (excluding insurance) sector:

- (i) acceptance of deposits and other repayable funds from the public.
- (ii) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction.
- (iii) all payments and money transmission services
- (iv) guarantees and commitments
- (v) participation in issues of all kinds of securities and provision of services related to such issues except underwriting
- (vi) asset management except pension fund management
- (vii) advisory and other auxiliary financial services

2. Transport Services

The following transport services were committed in 1994:

- (i) Aircraft repair and maintenance
- (ii) Sale and marketing of aircraft transport services.
- (iii) Road transport:
 - Passenger Transportation
 - Freight transportation
 - Rental of commercial vehicles
 - Maintenance and repair of road transport equipment.
 - Support services for road transport services.
- (iv) Meteorological data/information.

3. Insurance services sector:

- (i) Life insurance
- (ii) non-life insurance
- (iii) broking
- (iv) agency services
- (v) auxiliary services, assessors, intermediaries and loss adjustors
- (vi) re-insurance and retrocession.

4. Communication Services: Kenya has also recently committed voice –telephone services.

5. Tourism and Travel Related Services:

Within this sector, Kenya has committed:

- hotels and restaurants services
- travel agencies and tour operators
- tourist guide services.

The nature of the commitments made in the financial and insurance service sectors is described in details in the following paragraphs. These were some of the earliest commitments made by Kenya in the services sector. Commitments made in tourism and communications are also discussed but in less detail.

Modal market access has different limitations for each of these financial and insurance services. In general, however, there are horizontal restrictions in the case of mode 4 (movement of natural persons), that is, the limitations on this mode of services supply apply to all services sectors committed. The specific limitations with regard to this mode are that entry is allowed only for intra-corporate personnel and to areas of the economy in which skills are needed. In the case of cross-border supply (mode 1), there are no market access limitations except with regard to:

- (i) participation in issues of securities where securities issued in a foreign jurisdiction are not allowed to be traded or offered in the Kenyan market;
- (ii) life insurance, where this mode of supply is unbound;
- (iii) non-life insurance, where it is unbound except for aviation, marine and engineering services;

- (iv) broking, where it is unbound;
- (v) agency services, where it is unbound except for re-insurance services; and
- (vi) re-insurance and retrocession, where market access for mode 1 is granted on condition that mandatory cessions are placed as follows: 25% with Kenya Re, 10% with Zep Re and 5% with Africa Re.

Market access for consumption abroad (mode 2) is also generally limitless with the exception of life insurance services where it is unbound; non-life insurance services where it is unbound except for aviation, marine and engineering services; broking services where approval of the Commissioner of Insurance is required before Kenyan business can be placed with an insurer who is not registered under the Kenya Insurance Act; agency services where access is unbound; and re-insurance and retrocession services where mandatory cessions must be placed with Kenya Re, Zep Re and Africa Re (in the proportions indicated in vi above) as a condition for market access.

Market access with regard to commercial presence (mode 3 of services supply) is also limited in several of the financial services committed by Kenya. In most of the limitations for this mode of supply, foreign services suppliers seeking to establish commercial presence in Kenya are required to have a specified minimum capital controlled by Kenyan nationals. In other words, commercial presence is restricted to fixed equity limits. Thus, to be allowed to establish commercial presence with the objective of accepting deposits and other repayable funds, foreign firms must be approved as banks as per the terms of the Banking Act. For this recognition, some of the capital must be controlled by Kenyan nationals. Moreover, foreign owned banks face minimum capital requirements ten times larger than locally owned banks. Foreigners seeking to establish commercial presence in Kenya in order to supply asset management services can only do so if 30% of the firm's paid up capital is held by Kenyan nationals. In the case of life insurance, one third of the paid up capital must be held by Kenyan nationals. The corresponding share in the case of broking services is 60% and 100% for insurance agency services. The limitation of commercial presence through fixed equity limits is also reflected in the ongoing liberalization of the telecommunications sector. Foreign firms recently shortlisted for possible licensing to supply mobile phone services were required to have at least 60% loan shareholding.

Commercial presence in the re-insurance and retrocession services is allowed on condition that mandatory cessions have to be placed with the Kenya Re, Zep Re and Africa Re in the same proportions indicated above. Foreign companies wishing to set up in Kenya for the purpose of participating in issues of securities are restricted in that foreign investors can hold a maximum of only 40% of the shareholding of any locally listed company and can take a maximum of 40% of the shares floated to the public by any listed company.

Offering qualified market access has considerable appeal in the country. It is seen as a measure that allows the country to retain some control in crucial service sectors. It is also regarded as a measure that enhances scope for negotiations aimed at maximizing national economic benefits, employment for nationals, and other conditions that reflect the country's development needs.

In comparative terms, national treatment limitations are more serious than market access limitations in Kenya, indicating that some degree of discrimination exists against foreign controlled service providers. This, however, may not be the reality on the ground given that public procurement is often in favour of the large multinational service providers as a result of the perception that the quality of their services is superior. Retaining such national treatment limitations while the reality is so different gives Kenya an image of being closed up and undeserving of greater openness from her trading partners without compensation advantage to her national service providers. This situation should be changed.

Like in the case of market access, there are horizontal limitations with regard to the movement of natural persons. With regard to cross-border mode of supply, national treatment is unbound for all the financial and insurance services committed except lending; payments and money transmission; advisory and other auxiliary financial services; agency services; auxiliary services, assessors, intermediaries and loss adjusters; and re-insurance and retrocession services. In all these services there are limitations to national treatment.

There are no national treatment limitations in the case of consumption abroad in almost all of the services committed by Kenya. Notable exceptions are life insurance, non-life insurance and

agency services. The opposite picture emerges in the case of commercial presence, which is unbound in most of the services committed. It is only in the following services where commercial presence is not limited: life insurance, brooking, auxiliary insurance services, and re-insurance and retrocession services.

Tourism

Tourism and travel-related services is the services sector with the highest number of GATS commitments due to its popularity with developing countries (Honeck, 1999). By September 1998, a total of 112 WTO member countries had committed at least one sub-sector of tourism and travel-related services even though the number of sub-sectors committed and the modal market access and national treatment restrictions listed varied across these countries.

Kenya, Uganda and Tanzania are among the WTO members who had committed some sub-sectors of tourism and travel-related services by September, 1998. While Tanzania has committed the hotels and restaurants sub-sector only Uganda has committed this sub-sector and travel agencies and tour operators sub-sector. Kenya has committed these two and the tourist guides sub-sector. In fact only the 'other' sub-sector of tourism and travel-related services is not yet committed by Kenya.

The rationale for Kenya's commitments in the tourism services sector is, to a considerable degree, based on the fact that the sector is the country's leading foreign exchange earner and that capacity to lay the infrastructure required to meet international standards in tourism services is inadequate locally. That the sector has been largely liberalized even before GATS was another reason why the country found it easier to make commitments on tourism.

While GATS commitments and the attendant liberalization certainly have benefits, Kenya ought to approach it carefully and strategically. In tourism and travel-related services, it is doubtful whether opening up of such sub-sectors as tourist guides is beneficial. Tanzania has committed only hotels and restaurants sub-sector, a factor that perhaps explains why she earns more from tourism relative to Kenya and yet she receives less than 50% of the tourist arrivals that Kenya

does. It is possible that Tanzania's restriction of some sub-sectors enables her to retain a higher proportion of its tourism earnings within the country.

5.0 Areas of Further Bindings and the Underlying Rationale

As already discussed above Kenya has bound a number of services. Available evidence indicates that generally developed countries have committed more sectors than developing countries. Bindings also vary widely across sectors, with tourism leading in terms of the number of countries involved while education has the lowest level of binding.

The level and nature of service imports should suggest sectors that can be profitably committed. For Kenya, tables 5 and 6 suggest that the country could bind transport, travel, insurance and several other services. In the case of services that are not being produced in the country, the more liberalized the market the better it would be as competition would stimulate efficiency and usher in competitive prices. The issue Kenya must pay more attention to, is to ensure that sectors are committed with restrictions allowed under GATS that enable the country to take advantage of prevailing opportunities. Restrictions should include economic needs, employment criteria, local content criteria, export performance conditions, transfer of technology, and training conditions. GATS also allows developing countries to liberalise in a gradual and piece meal fashion and to seek special and differential arrangements with other trading partners. Kenya and other East African countries have not utilised these advantageous provisions effectively.

One of the service areas that Kenya has indicated its offer for liberalisation is the telecommunications sector. The country has committed voice-telephone services and a few other services. One of the reasons for Kenya's willingness to liberalise her telecommunications services is that the sector is already going through major restructuring towards liberalization, largely as a result of pressure from donors pushing for economic reforms under the Structural Adjustment Programme. Secondly, it is widely recognised that the only way to boost the country's telecommunications infrastructure and raise the efficiency with which other services are provided and their quality, is by allowing foreign suppliers and investors into the sector. There is thus increased pressure for technological developments in telecommunications, internet, and electronic commerce to stimulate

the country's cross-border trade in various services. Services such as accountancy, architectural, engineering and consultancy are increasingly supplied electronically, further underscoring the importance of an efficient, competitive and sophisticated world class telecommunication network.

Kenya's commitment of voice-telephone services is, thus, a step in the right direction. Nevertheless, given the crucial role of telecommunication services and the low level of development in the sector, Kenya should commit more services as a way of facilitating technology transfer.

Promising developments have occurred, in recent months, in the East African regional telecommunication system. First, both Uganda and Kenya have committed certain communication services. This is expected to attract foreign service suppliers and investors especially through the establishment of commercial presence, with consequent improvement in efficiency and competitiveness not only of telecommunication services but also other services as well, especially those whose principal mode of supply is cross-border. This is also expected to stimulate substantial technological transfer. For the purpose of projecting East Africa as a single market to attract more foreign direct investment it will be necessary for the three countries to adopt a common strategy and coordinate their commitments. The three countries should also consult with each other to determine the optimal regional liberalisation of telecommunications and to design strategies for foreign investors. Secondly, East African countries have started initiatives to boost regional telecommunications infrastructure. Thus, Kenya and Uganda have advertised tenders for the setting up of a digital telecommunication transmission system in East Africa, which is expected to transform information and communications technology in the region. This will and raise attractiveness of this East African region to both local and foreign investors.

Thirdly, Kenya has embarked on serious privatisation of her telecommunications service sector. Already, a British mobile phone company (Vodafone) has indicated its interest to be partner in Safaricom, Kenya's mobile phone company. Vodafone is expected to acquire 40% of Safaricom. The Kenyan public will also get an opportunity to acquire some shareholding in Telkom Kenya. From the year 2000, competitors of Telkom Kenya will be licensed. Thus, another mobile telephone company (with at most 40% foreign shareholding) is expected to enter the Kenyan market by

March 2000 to compete with Safaricom. These privatization measures are likely to expand the existing infrastructure, raise efficiency and reduce service prices.

Another sub-sector of communications which Kenya should seriously consider making binding commitment is information, computer, and internet services. Kenya is already implementing measures aimed at stimulating the growth of information technology. One significant example of these measures is the recent reduction of the tax rate on imported computer equipment. These measures are, however, inadequate and need to be strengthened. One way in which this could be done under the GATS is to commit for liberalization computer software and computer services. The USA is by far the world's leader in this service sector. By opening her market for computer software and computer services to the USA, Kenya could request for a reciprocal market access in other services in which she has comparative advantage. An immediate advantage to Kenya from such an arrangement would be significant transfer of computer services know-how more cheaply with consequent improvement in the efficiency of supply and export of other services, including data-entry encoding, one of the areas in which developing countries have developed an export business.

Rather than liberalizing only cross-border (Model) trade in these software and computer services, Kenya could obtain greater benefits by committing mode 3 (commercial presence). The benefit would include creation of employment for Kenyans, faster and greater transfer of technology and know-how, and reduced foreign exchange payment for imported services. To ensure that these benefits will accompany the liberalization process, Kenya should try to provide qualified access, with specified benefits to the country as conditions for access.

In the maritime transport service sub-sector, Kenya does not have comparative advantage in actual shipping but has advantage in port facilities. African countries such as Liberia, Somalia and Egypt have better developed shipping industries and Kenya is in no place to compete with them. To create business opportunity for the port of Mombasa and the road and rail transporters, Kenya could commit her shipping services sub-sector. This would ensure greater competition and lead to more efficient and competitive services. To be able to effectively negotiate for and acquire greater market access into the sub-regional and continental markets, which absorb an

important proportion of the country's service exports, Kenya could grant preferential treatment in the area of shipping services to African countries that have export capacity.

Another rationale for Kenya to commit shipping services is that foreign owned shipping lines already dominate the sub-sector. The sub-sector could, therefore, be committed without significantly changing the actual access situation from what it is currently.

That Kenya Airways has acquired a reasonable level of international competitiveness, that the country's aviation industry is already heavily dominated by foreign investors, and that efficient and competitive air travel services are crucial for the growth of tourism, make a strong case for Kenya to commit this sub-sector. Commercial presence and movement of natural persons should be particularly encouraged in this sub-sector but these should be conditional on such requirements as transfer of technical and managerial know-how and restriction of certain level of labour cadres to the nationals.

Since negotiation requires a spirit of give and take, Kenya could reduce market access and national treatment limitation in the five service sectors she has made commitments, in addition to committing new sectors. To ensure that new commitments and further liberalization of committed services are beneficial to the country, mechanisms and structures for consultation, evaluation, discussion, and decision making should be put in place. The national committee on the WTO needs to be strengthened and financially empowered to discharge its duties. National efforts in this direction could be complemented at the regional and continental levels to ensure that East Africa and Africa present coordinated requests to WTO trading partners.

6.0 Need for Sub-regional and Regional Coordination in Services Trade Negotiations

Kenyans appreciate that globalization is here to stay, that globalization has both positive and negative consequences, and that the Kenyan government and other African governments, therefore, need to approach it strategically.⁶ While globalization, of which trade in services forms a part, is boosting the global production of goods and services, there is increasing distributional inequity. Thus, sub-Saharan Africa has become increasingly marginalized. Twenty per cent (20%) of the world's poor countries, majority of which are in Africa, receive only 1% of global investment and only 0.2% of the world's internet service users come from 20% of the world's poorest countries (UNDP, 1999). According to the UNCTAD, the East Asian financial crisis, largely attributed to unbridled liberalization of the financial services sector, cost about \$260 billion in 1998 alone, a loss that was equivalent to the annual income of sub-Saharan Africa.⁷

African countries have become more aware of the inequities in the distribution of benefits that has characterized the multilateral trading system. In the second WTO Ministerial Conference, held in May 1999 in Geneva, African ministers of trade issued a joint statement in which they identified three factors behind Africa's disadvantaged position in global trade. These include weaknesses inherent in the global trading system that disproportionately affect the least developed countries, the internal structural and physical limitations of developing countries, and the reluctance of the developed countries to fulfil their commitments made under the WTO system.

UNDP's *Human Development Report 1999* notes that poor countries have no influence on policy related to globalization. It is for this reason that the sentiment among the majority of Kenyans and Africans is basically the same: that wholesale globalization must be discouraged in favour of a better thought out, gradual and sectoral approach. The country and the region should liberalize

⁶ These positions came out clearly in discussions with leaders of professional associations, from the reports of a recent seminar for members of the Kenyan parliament held to discuss the position of the country with regard to the WTO, and from the views of participants attending a workshop held at Moi University (Kenya) on July 14, 1999, to launch UNDP's *Human Development Report 1999*. The launch was attended by a battery of professors and other professionals.

⁷ Reported in the *African Agenda*, Number 16, 1998.

only those sectors in which they stand to benefit either in terms of increased exports or importation at lower prices.

International agencies involved in trade issues – the WTO, UNCTAD, ITC, World Bank, IMF and the UNDP – too recognize that unequal partners cannot be expected to trade and globalize on an equal and fair footing. It is for this reason that all these six institutions are involved in the comprehensive and integrated WTO plan of action for least developed countries (LDCs) adopted at the first WTO Ministerial Conference held in Singapore in 1996. This initiative was conceived to help LDCs benefit from the international trade regime. It is also for this reason that this study was commissioned as part of many activities aimed at enhancing the participation of developing countries in the multilateral trade negotiations.

So far only technical assistance has emerged as a concrete measure out of the integrated plan of action. Aimed at supporting the trade and trade-related activities of the LDCs, the integrated framework for technical assistance focuses on human and institutional capacity building. The procedure for accessing this technical assistance, which is applied on a case-by-case basis, involves the individual country carrying out a needs assessment, presenting this and a proposal of possible solutions to a committee made up of the six participating institutions. What is important to note regarding this scheme is that the country is required to request for assistance in the areas it identifies as important.

The widespread agreement that LDCs cannot be expected to fairly compete in the international market with developed countries is reflected, additionally, in the special and differential rights of developing countries contained in the Uruguay Round agreement.

Not only have Kenya and other African countries failed to take advantage of the technical assistance and special and differential rights, but the developed countries have been only too eager to attack these S&D provisions. In addition, the assistance program and the special and differential provisions have been sometimes incorrectly conceived. There have been complaints that WTO's agenda for least developed countries suggests an incorrect diagnosis of the technical problems facing LDCs by the organization. For instance, WTO has identified the absence of

technical capacity as the main problem, in complete disregard of the role of the unsuitability of some of its rules.⁸ Rather than helping developing and least developed countries to enhance their capacity to exploit the special and differential provisions and rights, the technical assistance programme only helps these countries to meet their obligations under WTO agreements and to meet the standards for investment, production and commerce required in the international trade regime.⁹ The integrated initiative, furthermore, introduces political divisions between African LDCs and non-LDCs as the technical assistance programme is meant for the former group of countries only.¹⁰

These missed opportunities and misconceptions regarding the problems hindering Africa's greater participation in global trade should engage the minds of governments and other development partners in Kenya and Africa and should constitute part of the agenda of all sub-regional, regional and continental meetings and the main issues for discussion and negotiation at WTO fora. One of the avenues by which Kenya and Africa could increase their influence in the WTO negotiations is the adoption of a regional approach and strategy. This is widely recognized today in Africa and enshrined in OAU treaties and in agreements between groupings of countries.¹¹ It is acknowledged that regional cooperation and integration has strategic importance in enhancing the capacity of African countries to negotiate among themselves and expand their productivity and export capacity, and provide a strong and collective political base for joint strategizing as far as WTO and other international fora are concerned. At the second WTO Ministerial Conference (held in May, 1999) African trade ministers referred to regional integration as an insurance against the marginalization inherent in globalization.¹²

While the issuance of the statement by African ministers represents a positive and encouraging step, their demands or suggestions indicate that they need greater preparation in order to effectively conceptualize the problems facing the continent. The African position on the exact problems facing the continent's economies and their demands on the global trade system, for

⁸ *The African Agenda*, Number 16, 1998

⁹ *ibid*

¹⁰ *ibid*

¹¹ *ibid*

¹² *ibid*

instance, lacked clarity.¹³ Some of the positions African negotiators should push for include a review and reformulation of the existing WTO agreements including GATS, a flexible multilateral trading system that is responsive to the vulnerability of the African economies, investment agreements that recognize the right of African countries to protect and promote development of local investment capacity, and raising the capacity to take advantage of existing special and differential provisions and rights.

To strengthen and streamline the existing African regional groupings, multiple memberships to overlapping and different trade agreements should be rationalized; the formulation, negotiation and implementation of regional cooperation programmes enhanced, and common positions within and between the continent's regional groupings struck.¹⁴ National committees on the WTO should arrange frequent and joint meetings, both regionally and continentally, to thrash out mutually beneficial and effective approaches to GATS and WTO issues.

There are a number of service sectors that hold the greatest promise as far as regional/joint approaches to the WTO and GATS are concerned. Transport services, particularly air transport and shipping services, is one of the service sectors with immense potential for benefits under a coordinated regional and African approach to negotiations at the GATS. Through consolidation of the regional and continental capacity in the provision of these transport services together with strong and unified negotiations, East Africa and Africa could reduce foreign domination in the provision of these services and raise the volume of exports from the continent.

Professional services are another service sector in which African countries stand to benefit enormously from a coordinated approach in the next round of GATS negotiations. First and foremost, most African countries lack the capacity to absorb all their professionals. Secondly, there are currently serious obstacles to the free movement of natural persons due to immigration and other regulations. African countries, thus, need to formulate strong joint negotiation programmes to request greater access for their professionals and the international recognition of local qualifications of their professionals. Thirdly, professionals who get a chance to work

¹³ ibid

¹⁴ ibid

alongside more skilled and experienced counterparts in developed countries could return with substantial skills that could benefit the economies.

Tourism could benefit greatly from co-operation among neighbouring countries from economies of scale in areas such as training and information sharing, joint programmes on environmental conservation and marketing. Joint ventures in tour companies among members of regional and sub-regional groupings presents an avenue through which East Africa and Africa could acquire tour companies that can be recognized by international bodies such as IATA, WATA and SITE.

7.0 **Summary and Conclusion**

The service sector, as a whole, is the most important sector of the Kenyan economy today, with its share of national gross domestic product and employment being larger than the combined share of agriculture and industry. The sector, with an overall net surplus in Kenya's current account, also plays a crucial role in the country's balance of payments position. The on-going process of liberalisation of trade in services within the World Trade Organisation Agreement will therefore have an immense impact on virtually all aspects of the economy.

At the time the General Agreement on Trade in Services (GATS) was launched at the end of the Uruguay Round Multilateral trade negotiations in 1994, there was limited understanding of the services sector in many countries, which explains why Kenya and other developing countries were rather cautious in their schedule of commitments with regard to liberalisation of trade in services. So far, Kenya has made commitments in a limited number of services sectors, viz, banking and other financial services, insurance services, tourism and travel related services, transport services and communication services. Discussions with stakeholders in various service sectors show that there is still considerable fear arising from uncertainty about the impact of immediate and full liberalisation of trade in services. Some of the fears, however, seem unfounded because for most of the post-independence period, the country has had a rather liberal policy on trade in most services. Some of the restrictions which exist against foreign suppliers of services or foreign investors are relatively recent, with many of them having been introduced in the 1980s. Thus, the impressive growth and performance of various service sectors in Kenya in the last three decades took place in a largely competitive environment.

The most important service sectors for Kenya today, in terms of external trade, are tourism which has been an indispensable foreign exchange earner in the 1990s and transport, especially road, air, pipeline transport and other services related to port and shipping activities. These two service sectors play an important role in the country's current account balance, with net surpluses most of the time. Communication, computer, information and other services are increasingly important export sectors for Kenya. On the other hand, the most important service imports for Kenya are shipping and insurance services.

Kenya's interests in international trade in services will continue to lie much in foreign travel (tourism), transport, insurance, professional services, communication services and information technology in the foreseeable future. These should constitute the main areas of interest for Kenya in the forthcoming review of GATS. Some of the specific issues which the country can pursue in order to maximize its interests in international trade in services include the following:

- Binding those services which already enjoy little or no protection and pushing for reciprocal actions from other WTO members.
- Liberalise and make commitments on those sectors where the country would benefit from transfer of technology for the benefit of consumers and producers, through lowering of the costs of supplying the services. A good example is with regard to the country's telecommunication and information technology where the domestic competitiveness is currently weak. Opening up and making firm commitments through GATS framework would facilitate inflow of highly required foreign investments to allow these services to enjoy the existing modern technology.
- There are, however, service areas which will require some restrictions to foreign suppliers and investors in order to allow domestic firms to restructure and prepare themselves to face global competition. This will be the case especially in those sectors where there is a considerable number of domestic firms already involved in the supply of certain services. Some of the sectors that are likely to benefit from such restricted access include financial, insurance, and transport services. Some of the conditions could be in terms of the cadres of labour force that should be confined to nationals, proportional shares that can be held by

foreign investors in joint ventures, for a given period of time, and parts of the country for the exclusive operation of local suppliers. A good example of the latter is restricting provincial and district air transport market to local firms.

- There are a number of areas in which Kenya could request for more market access, both at the regional and international levels. These are:
 1. increased mobility of professional, skilled, semi-skilled and unskilled labour force across national boundaries. The country could benefit much more given its large pool of well trained manpower after three decades of intensified investments in education and training, both at the national and individual levels.
 2. recognition of local qualifications in areas such as accounting, auditing and other professional fields would allow the country to export some of the existing surplus of well trained labour force.
- in order to have an impact in the forthcoming negotiations on GATS, there is need for a co-ordinated regional approach in the negotiations, especially in the case of services where there are broad common interests among the member states.
- Members states belonging to regional and sub-regional groups should consider granting preferential market access and national treatment in services to each other but not to third countries as a way of facilitating the development of local services production capacities. For the same purpose member states should consider pooling resources for the joint provision of such services as shipping, air transport, tourism and other services where economies of scale could benefit these countries' economies.

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