

ILEAP

INTERNATIONAL LAWYERS AND
ECONOMISTS AGAINST POVERTY

JEICP

JURISTES ET ECONOMISTES
INTERNATIONAUX CONTRE LA PAUVRETÉ



Background Brief No. 17

Negotiating IT-Enabled Services Under EU EPA's: India's Experience and possible lessons for African Countries

R.V. Anuradha

May 2009

This study was prepared as part of a broader project on Aid for Trade implemented by ILEAP. It was drafted under the coordination of Dr. Dominique Njinkeu (Executive Director, ILEAP) and has greatly benefited from the insight of several advisers ILEAP. The opinions expressed in this publication should never be attributed to ILEAP, or its Board or its funders, and even less to the institutions with which our senior advisers are associated. Comments can be sent to the secretariat of ILEAP to: (ileap@ileap-jeicp.org)

TABLE OF CONTENTS

| | |
|--|-----------|
| TABLE OF CONTENTS | 2 |
| EXECUTIVE SUMMARY..... | 3 |
| (a) <i>Phased Implementation.....</i> | 7 |
| (b) <i>EU Obligation to Provide Technical and Financial Assistance:</i> | 7 |
| (c) <i>No Consequences till Full Implementation:</i> | 8 |
| (d) <i>Commitments to Ensure Investment in ITeS and Contribute to growth of ITeS:</i> | 8 |
| INTRODUCTION | 9 |
| AFRICA, ITES AND THE EPA NEGOTIATIONS WITH THE EU | 11 |
| OUTLINE OF THE REPORT | 12 |
| PART I GROWTH OF IT-ENABLED SERVICES: OPPORTUNITIES AND CONSTRAINTS | 13 |
| A OVERVIEW OF ITES AND RANKINGS OF AFRICAN COUNTRIES | 13 |
| B NATURE OF OUTSOURCED SERVICES | 15 |
| C OTHER BENEFITS OF ITES | 16 |
| D ITES IN INDIA | 17 |
| POLICY INITIATIVES..... | 19 |
| LEGISLATIVE MEASURES..... | 20 |
| INDIA'S EXPERIENCE WITH THE EU..... | 21 |
| PART II ITES RELATED PROPOSALS FOR AFRICAN COUNTRIES 24 | |
| A ASSESSMENT OF 'COMPUTER AND RELATED SERVICES' UNDER THE EU-CARIFORUM EPA .. | 24 |
| PROVISIONS RELATING TO DATA PROTECTION UNDER THE CARIFORUM EPA..... | 25 |
| PROVISIONS RELATING TO COOPERATION IN INFORMATION AND COMMUNICATION TECHNOLOGIES UNDER CARIFORUM EPA..... | 26 |
| B SPECIFIC RECOMMENDATIONS FOR THE EPA NEGOTIATIONS..... | 27 |
| RECOMMENDATIONS FOR INTERNAL ASSESSMENT AND PREPAREDNESS FOR DEVELOPING ITeS CAPABILITIES..... | 27 |
| RECOMMENDATIONS FOR THE EPA NEGOTIATIONS WITH THE EU AND TEXT OF THE EPA..... | 29 |
| (i) <i>Phased Implementation.....</i> | 31 |
| (ii) <i>EU Obligation to Provide Technical and Financial Assistance:.....</i> | 31 |
| (iii) <i>No Consequences till Full Implementation:</i> | 31 |
| (iv) <i>Commitments to Ensure Investment in ITeS and Contribute to growth of ITeS:.....</i> | 31 |
| ANNEX 1: A.T. KEARNEY GLOBAL SERVICES LOCATION INDEX, 200733 | |
| BIBLIOGRAPHY | 34 |

EXECUTIVE SUMMARY

I INTRODUCTION

The focus of this paper is on the possibilities of Information Technology Enabled Services or “ITeS”, and the opportunities and challenges it could potentially present for African countries. ITeS, as the term indicates, refers to any service that can be delivered via the internet or any other medium that can deliver data. In the context of the terminologies used in Trade in Services, ITeS involves services delivered through Mode 1, i.e., cross-border supply of services through IT networks, where the service provider is in the ‘outsourcing’ or ‘off-shoring’ destination country, and the service consumer is in another country.

This presents particularly interesting opportunities since a service provider is not required to invest in establishment and other related expenses required for physical presence in the country where the service consumers are present. It therefore allows service providers to capitalize on their competitive advantages such as costs and skills, and harness Information Technology to deliver such service.

Several Asian and Latin American countries have benefited from the growth of the ITeS sector. African countries are relatively newer entrants in this sector. Countries such as Mauritius, Tunisia, Ghana, South Africa, Morocco and Senegal, have made significant headways in this sector. The full potential for African countries, however, remains to be recognized. In this regard, the experience of countries like India could hold valuable lessons for African countries. In particular, it may be interesting for African countries to understand how available IT skills have been enhanced and channelized through private and Government initiatives and policy frameworks to enable growth of a viable ITeS industry.

The complete report deals with an overview of the worldwide situation on ITeS, and focuses in some depth at India’s experience of becoming a significant global leader in providing these services. After doing so, it categorizes recommendations for African countries into two broad categories:

- (a) Recommendations for internal assessment and preparedness for offering ITeS; and
- (b) Recommendations for the EPA negotiations with the EU and suggestions for the text of the EPA.

This Executive Summary shall highlight the principal issues discussed in the report, and then highlights the recommendations for African countries.

II NEGOTIATING ‘ITES’ UNDER THE EPA WITH THE EU

For the purposes of the services classification used in Trade in Services negotiations, ITeS needs to be understood as comprising of two elements:

- (a) the category of ‘computer and related services’¹ which comprises of a variety of basic services pertaining to computer systems, software development and maintenance of the same; and
- (b) the use of the IT medium to deliver some other ‘core’ service, such as accounting services, or cultural content, or financial services, etc.

Negotiating ITeS under any Trade in Services negotiations therefore involves negotiating Mode 1 liberalization, i.e., ‘cross-border supply of services’ in the sector dealing with ‘computer and related services’, as well as the core service sector in which African countries would like to seek access for cross-border supply.

The experience of the African countries that have currently made forays into ITeS, seems to be in the nature of ‘call-centre’ services that provides back-office customer support in various areas. For operations of this nature, which do not involve ‘content’ services in any core sector, Mode 1 market access in ‘Computer and Related Services’, may be sufficient. While negotiating the EPA with the EU, however, African countries may need to think more creatively about other core services which they can potentially offer through the IT medium. This could range from entertainment services, to educational services, or research and development services, or any other sector that a country may be interested in. Mode 1 access in each ‘core service’ segment is a critical aspect of the negotiations.

By way of illustration, India’s evolution in this sector can be traced to back-office data-processing and call-centre operations for customer care services. Over a period of time, and with greater experience, this evolved into more mature advisory work, such as equity research and investment advisory services rendered through ITeS.

III DATA PROTECTION UNDER THE EU EPA

A particularly challenging aspect of EU’s recent EPA with the Cariforum countries, as well as its approach in several other FTAs, is its stringent requirement for a regulatory framework for ‘data protection’ in its trading partners. This requirement would have implications for any Mode 1 access involving ‘data’ from the EC. The preparedness of African countries to adopt and enforce ‘data protection’ legislation

¹ Classification of Service sectors used under the WTO’s General Agreement on Trade in Services is the Central Product Classification Division. CPC 84 refers to ‘Computer and Related Services’. Several WTO Members, including the EC, have proposed the following definition for ‘Computer and Related Services’:

Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide any of the following or any combination thereof:

- *consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;*
- *consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for software;*
- *data processing, data storage, data hosting or database services;*
- *maintenance and repair services for office machinery and equipment, including computers and*
- *training services for staff of clients, related to software, computers or computer systems, and not elsewhere classified.*

of the nature and standard specified by the EU under the Cariforum EPA, will therefore need to be evaluated. Assistance may also need to be sought from the EU in this regard to enact and implement such requirements.

The Chapter dealing with Personal Data protection in the EU-Cariforum EPA is perhaps the most elaborate one in all of EU's bilateral trade agreements so far. It begins by stating that 'appropriate' legal frameworks should be put in place; but then moves on to defining the scope of such 'appropriate' framework when it outlines the "content principles" and "enforcement mechanisms" for such a regulatory framework. It also goes into some detail in terms of the definitions of the key terms relevant for personal data, which is any data pertaining to any individual.

Other areas of the Cariforum EPA which reflect principles of data protection include the provisions on E-Commerce, Financial Services and General Exceptions.

Implementing these provisions could also be an important determinant of whether African countries can emerge as viable service providers of cross-border ITeS services for EU countries. Implementing the 'data protection' provisions of the EPA, therefore, is not just important for fulfilling a standalone obligation of the EPA itself; but also for ensuring that African countries can attract greater investment for ITeS from EU investors, and become service providers for a range of services delivered through the IT medium.

However, the nature of obligations to be implemented is highly onerous. African countries would therefore need to consider provisions for phased implementation, proactive technical assistance, financial assistance, and assistance for training and implementation of the legal requirements on data protection, and build these into the agenda for EPA negotiations.

IV DOMESTIC PREPAREDNESS OF AFRICAN COUNTRIES TO OFFER ITeS

Apart from negotiating market access under Mode 1 under the EPA with EU Members, African countries will also need to take certain measures to develop the IT infrastructure, as well as undertake several legislative, policy and administrative measures, in order to ensure that there is a robust internal framework that is capable of offering ITeS. There are several factors that make a country an attractive destination for ITeS. These include low costs, technical and language skills, mature vendors and supportive government policies relating to investment by IT companies, as well as supportive policies in relation to the costs of infrastructure (e.g., high-tech and telecom infrastructure) that are necessary for providing services through IT networks.

The following table highlights the various internal measures that a country would need to take in order to develop a robust ITeS market. These have been drawn from India's experience in developing this sector, as well as from UNDP's analysis of Asian countries, including India². These measures could be used as a checklist of

² This Table relies on recommendations of the UNDP in the 2006 Asia-Pacific Human Development Report, and lessons drawn from India's experience.

issues that African countries could use for assessing the status of their internal policy and legal framework, and assess further steps that may be required in this regard.

| TABLE 1: CHECKLIST OF DOMESTIC MEASURES TO PROMOTE ITeS | |
|--|--|
| Areas for Policy Action | Specific Measures |
| <i>Human resource development</i> | <p><u>Investments in education and training to:</u></p> <ul style="list-style-type: none"> – create a pipeline of manpower for lower-end activities – create a high-tech workforce – develop curricula, programmes, institutions, training infrastructure, specialized skills – ensure quality certification and recognition <p><u>Labour laws and standards for:</u></p> <ul style="list-style-type: none"> – welfare-oriented human resource management practices – employee retention and career development strategies |
| <i>Physical Infrastructure</i> | <p><u>Liberalize key sectors to attract private investment in development of infrastructure for telecommunications and internet-based services, by:</u></p> <ul style="list-style-type: none"> – dismantling the government monopoly of provision of such infrastructure – promoting competition in telecom services through deregulation, especially in Internet service provision and long-distance telephony – liberalizing laws and policies dealing with foreign direct investment – investing in satellite links – expanding bandwidth – promoting tele-working establishments by creating technology parks and outsourcing hubs – facilitating the acquisition of real estate, power, telecom links, and the procurement of equipment. |
| <i>Regulatory Framework & Enforcement</i> | <ul style="list-style-type: none"> - Legislation on governing IT services, Data Protection and piracy, with adequate remedies for violation - Consumer protection laws - E-commerce regulations - Regulation on cross-border payments and Internet transactions - Technology licensing frameworks <p>Any regulatory framework should also be accompanied by a strong implementation and enforcement mechanism.</p> |
| <i>Fiscal incentives</i> | <p><u>Tax incentives</u></p> <ul style="list-style-type: none"> – provide fiscal incentives in initial stages – bring the industry under the tax net once it has matured and grown in size – use fiscal resources to target industry-specific and wider investments in infrastructure, training - export incentives – provide import duty concessions and rebates for import of software and hardware related to the IT and ITeS sectors – discourage firm- or sector-oriented export subsidies that could distort trade – provide general infrastructural subsidies that are not trade-distorting. |

V WAY FORWARD AND NEXT STEPS FOR AFRICAN COUNTRIES

The way forward for African countries can be discussed under two broad categories: (a) Internal assessment and checklist of domestic measures to be

undertaken by African countries, and (b) Recommendations to be considered as part of Africa's list of requests to the EU.

A. Recommendations for Internal Assessment of Domestic Measures required for ITeS

African countries would need to examine their internal regulatory framework against the Checklist of Domestic Measures to promote ITeS activities, provided in Table 1 above, and identify suitable measures with regard to:

- Technical training and development of human resources for rendering ITeS;
- Development of a robust IT and telecom infrastructure, access to which is reasonably priced;
- Supportive laws and policies for enabling investment into the ITeS sector,
- Adequate incentives for attracting in-bound investment into the ITeS sector.

B. Recommendations for the EPA negotiations with the EU

- (i) ***Mode 1 in the 'Core Service'***: EU's Commitment under the category 'Computer and Related Services' does not specify any restrictions for Mode 1. This means that market access is available for EU markets for any support services using computers and IT networks as the medium, such as back-office support through call centres.

African countries should additionally evaluate the specific sectors in which they would like to engage in providing 'content'-based services through the IT medium. These could include any other service sector in which if African countries had Mode 1 access, then they could potentially supply services cross-border through IT networks. These could range from medical services to educational services to research and development services, or entertainment services and other cultural services. Requests to the EU to liberalize Mode 1 in such other service sectors of interest to African countries, should be considered.

- (ii) ***Data Protection***: As discussed above, Data Protection related obligations are fairly elaborate under the EU-Cariforum EPA. This is likely to be one of the more difficult areas to comply with. Considering the substantial costs of formulating, administration and implementation of EU-type requirements as may be required under the EPA, African countries would need to formulate their negotiating strategies carefully on this aspect.

In this regard, African countries could consider arguing for the following provisions under the EPA:

- (a) ***Phased Implementation***: The EPA should have provisions for phased implementation of the commitments on Data Protection.
- (b) ***EU Obligation to Provide Technical and Financial Assistance***: There should be a concrete obligation on the EU to provide technical and financial assistance for formulating and implementing the regulatory

framework for data protection, and the phased implementation should be linked to the fulfilment of such obligations.

- (c) **No Consequences till Full Implementation:** The requirements under the 'Data Protection' provisions of the EPA should be applicable for African countries only after the 'phased implementation' is complete and a robust regulatory framework is in place.
- (d) **Commitments to Ensure Investment in ITeS and Contribute to growth of ITeS:** Implementation of strong provisions on Data Protection would need to be accompanied by growth of the ITeS sector. There should therefore be a commitment from the EU on ITeS investment in African countries in order to make it a viable service sector.

(iii) ***Assistance on Regulatory, Infrastructure, Training and Capacity Building from the EU:*** Article 137 of the Cariforum EPA deals with cooperation and facilitation of support between the EU and Cariforum countries with regard to information and communication technologies. These provisions, is currently broadly worded, and relies on good faith alone for implementation. In order to ensure binding obligations under this provision, it is recommended that it is strengthened further by reflecting a concrete obligation on EU to:

- a) Provide research and development assistance and capacity building in the areas of ICT research and development;
- b) Provide technical and financial assistance for ICT-based research infrastructures;
- c) Ensure ICT capacity-building with, in particular, the promotion of networking, exchange and training of specialists, especially in the regulatory domain;
- d) Provide capacity building, training and financial assistance for putting in place appropriate legal framework that can facilitate growth of ICT and ITeS, while ensuring that such legal framework is suitable for countries where the ICT and ITeS industries are at a nascent stage of development. This should include regulatory frameworks for implementing the data protection related provisions of the EPA;
- e) Provide continued capacity building and training for ensuring implementation of the regulatory framework.

INTRODUCTION

This paper has been prepared in the context of negotiations for trade in services under Economic Partnership Agreements ('EPAs') between the European Communities ('EC') and African countries. African countries are currently engaged in fairly intensive negotiations with the EC on trade in services under the EPAs. A few African countries within various sub-regional groupings have signed interim EPAs with the EC at the end of 2007. A number of outstanding issues for negotiation remain to be resolved before comprehensive EPAs can be concluded. Key to this is a clear understanding of the scope and extent of services liberalization that African countries can undertake, and what they need to request to the EC countries.

The focus of this paper is on the possibilities of Information Technology Enabled Services or "ITeS", and the opportunities and challenges it could potentially present for African countries. Several Asian and Latin American countries have benefited from the growth of the ITeS sector. African countries are relatively newer entrants in this sector. Countries such as Mauritius, Tunisia, Ghana, South Africa, Morocco and Senegal, have made significant headways in this sector. The full potential for African countries, however, remains to be recognized. In this regard, the experience of countries like India could hold valuable lessons for African countries. In fact, there are already certain existing initiatives to create greater awareness between developing countries of each others' experiences. For instance, the World Bank Group launched a financing facility, the South-South Experience Exchange Facility, in October 2008 to provide a forum for developing countries to share their knowledge and expertise in promoting development objectives. This facility is a new multi donor trust fund that promotes the idea that the development successes in one country can be replicated in another. One of the initial focus areas of the facility is to explore ways to develop skills in the IT and IT Enabled service industry in Africa, based on India's experience.³

This paper will begin with a broad overview of the worldwide expansion of the ITeS sector. Specific emphasis will be placed on India's experience with ITeS, and how the available IT skills have been enhanced and channelized through private and Government initiatives and policy frameworks to enable growth of a viable industry. The challenges in outsourcing destination markets, especially the EU, will also be highlighted, and in this regard, the extent to which the EPA provisions could be used to promote a more proactive role for the EU in enabling the growth of this industry, will be discussed. At the outset, it is important to understand the contours of ITeS. In the context of the WTO's General Agreement on Trade in Services (GATS), ITeS involves services delivered through Mode 1, i.e., cross-border supply of services through IT networks, where the service provider is in the 'outsourcing' or 'off-shoring' destination country, and the service consumer is in another country.

³ See,

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTINFORMATIONANDCOMMUNICATIONANDTECHNOLOGIES/0,,contentMDK:22017768~menuPK:282828~pagePK:64020865~piPK:149114~theSitePK:282823,00.html>. The report on the World Bank site states that in this regard, a group of technical leaders from Tanzania, Kenya, Rwanda, Ghana, Nigeria, Mozambique and Madagascar will visit Hyderabad, Bangalore and Mumbai – three important technical hubs in India in early February 2009.

ITeS, as the term indicates, refers to any service that can be delivered via the internet or any other medium that can deliver data. For the purposes of the services classification under the WTO's GATS, ITeS needs to be understood as comprising of two basic elements: (a) the IT medium is governed by the category of 'computer and related services';⁴ and (b) for other 'core' services to be delivered through the IT medium, Mode 1 liberalization is required to 'enable' the cross-border supply of the service.

The EC and several other countries have proposed an Understanding under the GATS in relation to 'computer and related services' under CPC 84.⁵ This Understanding outlines the following components of ITeS:

“Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide any of the following or any combination thereof:

- *consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems;*
- *consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for software⁶;*
- *data processing, data storage, data hosting or database services;*
- *maintenance and repair services for office machinery and equipment, including computers and*
- *training services for staff of clients, related to software, computers or computer systems, and not elsewhere classified.”*

EC's document clarifies an important distinction between "computer and related services" that can "enable" a service; and the 'core service' that is enabled (e.g.: accounting, auditing and bookkeeping services, architectural services, medical and dental services, audiovisual services, educational services). It clarifies that 'computer and related services' does not cover commitments on the 'core service'. The core service will be covered by the relevant description in the schedule of commitments. This means that to ensure computer enabled services in relation to a specific service, Mode 1 (i.e., cross-border supply) service commitments in relation to that service need to be analysed and understood clearly.

In India, for instance, ITeS, started with basic data entry and processing tasks over a decade ago. Over the years the range of services delivered through ITeS has expanded to include increasingly complex processes involving highly skilled research, opinion and decision making. It now offers services such as knowledge process outsourcing (KPO) in areas such as

⁴ Classification of Service sectors used under the WTO's General Agreement on Trade in Services is the Central Product Classification Division. CPC 84 refers to 'Computer and Related Services'.

⁵ Communication from Albania, Australia, Canada, Chile, Colombia, Croatia, the European Communities, Hong Kong China, Japan, Mexico, Norway, Peru, the Separate Customs Territory of Taiwan Penghu, Kinmen and Matsu, Turkey and The United States, TN/S/W/60, 26 January 2007.

⁶ The term "software" may be defined as the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customized software) or using a combination of the two.

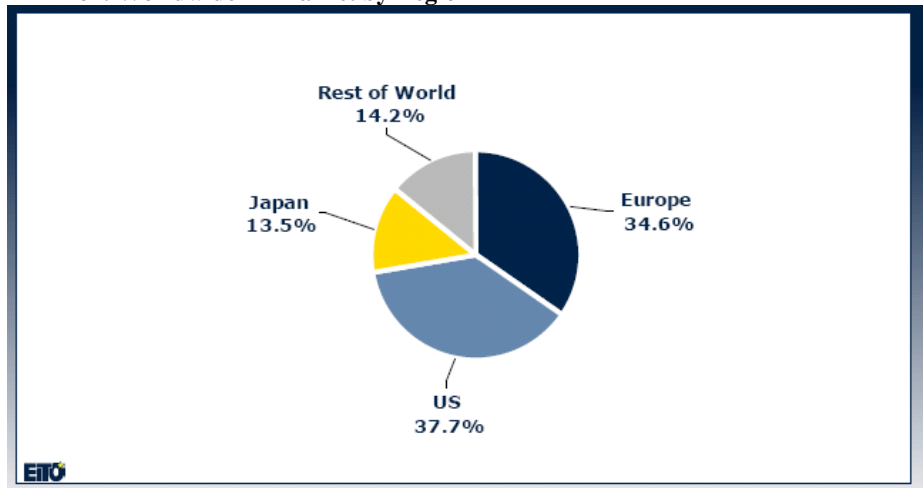
finance and accounting, human resource management services, content development, legal process outsourcing (LPO), animation, and design outsourcing, and other services including remote education, data search market research, network management and consultancy services.

The EC-Cariforum EPA uses the definition as in its proposed Understanding on Computer and Related Services, as discussed above. The Cariforum EPA has a separate its sub-chapter on Computer and Related Services. For the purposes of this report, ‘computer and related services’ will be referred to in its common usage as IT-Enabled Services, or ITeS, or outsourcing/off-shoring of IT services.

AFRICA, ITES AND THE EPA NEGOTIATIONS WITH THE EU

The ongoing EPA negotiations with the EU presents an important opportunity for African countries, to build in IT and ITeS as part of the agenda. The EU presents a significant opportunity since it has the world’s second-largest market for IT and ITeS services after the U.S. The European Information Technology Observatory has estimated that Europe (not just EU-25), accounts for 34.6 percent of the Information Technology (IT) market, slightly lower than the US at 37.7 percent. It constitutes the second most important regional market after the US in the global IT market. The distribution of the world IT market and growth rates by regions is shown in the figures below.

Box: Worldwide IT Market by Region



Source: Reproduced from European Information Technology Observatory (2007)

Traditionally, African countries have placed a greater degree of priority over Mode 4, i.e., movement of natural persons, and to a lesser extent on other modes of supply of services in their trade in services negotiations. However, other modes, and especially, Mode 1, may need to be considered more seriously in view of the vast potential it holds for services delivery through the medium of information technology. As discussed above, Mode 1 liberalization in sectors of interest to African countries, will be critical in order to realize the full potential of ITeS.

While countries like India and China have developed significant markets for IT services and ITeS, several African countries have made significant inroads into this sector as well. The Global Service Location Index, or GSLI, compiled by the consultancy group A.T. Kearney, analyzes and ranks the top 50 locations worldwide that provide the most common remote functions, including IT services and support, contact centers and back-office support. The ranking is done on the basis of the following criteria: financial attractiveness, people and skills availability (including professional skills in IT), business environment; compensation costs and relative experience of business process outsourcing (BPO) analysts in offshore locations. The complete list of rankings from the GSLI report is annexed as *Annexure I* to this report. The GSLI report reveals that African countries have been increasing their visibility in IT off-shoring services. The prominent African countries in the GSLI report, including their rankings among the top 50 locations, are as follows⁷:

| GSLI Ranking | Country |
|--------------|--------------|
| 25 | Mauritius |
| 26 | Tunisia |
| 27 | Ghana |
| 31 | South Africa |
| 36 | Morocco |
| 39 | Senegal |

Source: 2007 A.T. Kearney Global Services Location Index

The experience of countries like India, as well as of the African countries, coupled with the potential demand for these services in the EU, provides sufficient basis for considering the potential of ITeS as an important vehicle of expanding services trade, through the EPA negotiations. This report discusses some of the key issues that will need to be considered for ensuring domestic environment for developing this industry, as well as ensuring robust commitments from the EU as part of the EPA process for benefiting the growth of this sector.

OUTLINE OF THE REPORT

As required under the Terms of Reference, this paper shall have two broad components:

- Part I of this report will provide an analysis of the scope and value of IT-enabled services for African countries, drawing on the experience of India. This will include a description and analysis of the sectors and regions where IT-enabled trade is taking place and is most well developed. It will also include an analysis of what complementary measures would facilitate and promote development of the IT industries, and support such trade.
- Part II of this report will examine and elaborate proposals in IT-enabled sectors of interest to African countries, which may be used in the development of their individual requests to the EC within the context of the services negotiations on the EPAs. This will include suggestions for appropriate language to be inserted in a future agreement.

⁷ 2007 A.T. Kearney Global Services Location Index, pp. 5-7

PART I GROWTH OF IT-ENABLED SERVICES: OPPORTUNITIES AND CONSTRAINTS

1.1 This Part I will first examine the worldwide development of ITeS and emergence of IT services outsourcing as a significant area of growth. It will provide an overview of the countries that have a significant market share in off-shoring of IT services. It will then examine India's specific experience. It will highlight the legal and regulatory issues in the country of export of such services and the country importing such services that can impact growth of this sector. These would be relevant as negotiating points as and when the export potential of the sector develops.

A OVERVIEW OF ITES AND RANKINGS OF AFRICAN COUNTRIES

1.2 The rationale for 'out-sourcing' relies in the basic economic principles of 'competitive advantage'. It typically involves shifting functions from higher-wage to lower-wage economies, in efforts to increase efficiency and lower costs, thereby enabling a company to concentrate more on its core operations.

1.3 There are different factors that make a country an attractive out-sourcing destination. Some of the key ones are:

- Low costs,
- Technical and language skills,
- Mature vendors and
- Supportive government policies.

1.4 As cited in the introduction to this report, the Global Services Location Index of AT Kearney, places six African countries (Mauritius, Tunisia, Ghana, South Africa, Morocco and Senegal) among the top 50 outsourcing destinations worldwide. The GSLI report has analysed and identified the relative advantages of African countries as off-shoring destinations, as follows⁸:

- Mauritius, Tunisia, Morocco and have the ability to serve francophone markets.
- Mauritius and Tunisia have strong business environments.
- The advantages of Morocco and Senegal lies in lower costs and larger populations.
- Ghana is a low-cost English language location.
- South Africa's advantage lies in the improvements in its policy environment and infrastructure quality.

1.5 The GSLI report ranks India, China, Malaysia, Thailand, Brazil, Indonesia, Chile, Philippines, Bulgaria, Mexico and Singapore, as the top outsourcing destinations among 50 countries. Apart from these and the six African nations mentioned above, the others include several Asia, South American and European countries⁹. A complete list is available in Annexure 1 to this report.

⁸ Id.

⁹ A.T. Kearney, GSLI 2007

1.6 The GSLI report provides some further insights on ranking countries according to three critical factors that make a country a good outsourcing destination: (a) Financial Attractiveness; (b) People and Skills availability and (c) Business Environment. An examination of this list of factors actually reveal that on the basis of ‘Financial Attractiveness’ alone, African countries such as Ghana, Tunisia and Senegal, outrank or are equivalent to the topmost outsourcing destinations, i.e., India, China and Malaysia. The ranking apportioned to ‘business environment’ is also comparable between these countries. Where African countries are outranked however, is the factor on ‘People and Skills Availability’. The following tables provide a comparison of these factors.

Table: African Country rankings on GSLI 2007¹⁰

| Countries | Financial Attractiveness | People and Skills Availability | Business Environment |
|--------------|--------------------------|--------------------------------|----------------------|
| Ghana | 3.3 | 0.9 | 1.3 |
| Mauritius | 2.8 | 1.0 | 1.6 |
| Tunisia | 3.0 | 0.9 | 1.5 |
| South Africa | 2 | 1.2 | 1.6 |
| Morocco | 2.9 | 0.9 | 1.3 |
| Senegal | 3.2 | 0.8 | 1.1 |

Table: Top Outsourcing Destinations rankings on GSLI 2007¹¹

| Countries | Financial Attractiveness | People and Skills Availability | Business Environment |
|-----------|--------------------------|--------------------------------|----------------------|
| India | 3.2 | 2.3 | 1.3 |
| China | 2.9 | 2.3 | 1.4 |
| Malaysia | 2.8 | 1.3 | 2.0 |

1.7 Another interesting report which analyses the IT preparedness of countries worldwide, is the World Economic Forum’s Global Network Readiness Index (NRI), which examines how prepared countries are to use Information and Communication Technologies (ICT) effectively on three dimensions: the general business, regulatory and infrastructure environment for ICT; the readiness of the three key stakeholder groups, individuals, businesses and governments to use and benefit from ICT; and their actual usage of the latest information and communication technologies available¹². According to the NRI Index of the World Economic Forum, Tunisia at the 35th position, tops African countries, and beats even India (ranked at 50) and China (ranked at 57)¹³. Among the other African countries ranked among the 127 countries surveyed, are South Africa (51), Mauritius (54), Morocco (74), Senegal (85), Kenya (92), Nigeria (94), Tanzania (100), Zambia (112), Cameroon (118), Zimbabwe (125), Burundi (126) and Chad (127).¹⁴

1.8 On the basis of the above findings, it stands to reason that if countries with relatively low NRI such as India and China could effectively use their regulatory and policy frameworks and cost advantage, to gain substantial inroads into ITeS, African countries,

¹⁰ A.T. Kearney, GSLI 2007

¹¹ A.T. Kearney, GSLI 2007

¹² http://www.weforum.org/en/me5dia/Latest%20Press%20Releases/GITRreport2007_2008.

¹³ According to the WEF NRI rankings, Denmark is the most networked economy in the world, followed by Sweden, Switzerland, United States of America, Singapore, Finland, Netherlands, Iceland, Korea and Norway:

http://www.weforum.org/en/media/Latest%20Press%20Releases/GITRreport2007_2008.

¹⁴ Id.

especially those which are not very far behind on their rankings of ICT infrastructure, financial attractiveness and business environment, can enhance their outsourcing potential.

1.9 For this, several other factors are essential. For instance, countries that have scaled up their competitiveness as IT off-shoring destinations, have also taken several policy initiatives and measures to enhance their potential. A few examples of the same include the following¹⁵:

- Education: China increased university enrolment by more than 25 percent in 2006-07.
- Standard setting: China and all the ASEAN countries have increased the number of firms with Capability Maturity Model Integration (CMMI) and International Organization for Standardization (ISO) quality certifications, which show a commitment to higher standards that can attract higher investment, and higher level of performance and competitiveness¹⁶.
- Low infrastructure costs: Philippines has ensured that its telecom costs are low. Since a strong telecom backbone is key to any ITeS, this provides a significant advantage. Malaysia, Thailand, Indonesia and Vietnam also have low infrastructure costs.
- Business environment and Government policies: India's advantage has been to ensure friendly Government policies to facilitate ITeS companies to establish themselves.¹⁷

B NATURE OF OUTSOURCED SERVICES

1.10 There does not seem to have been any comprehensive analysis of the current nature of outsourcing activities from African destinations, its employment potential and contribution to the GDP. Most of the outsourcing activities seem to be concentrated on call-centres and support functions in Ghana¹⁸, South Africa¹⁹, Tunisia, Senegal, Mauritius and Morocco²⁰.

1.11 The experience of other outsourcing destinations provide some insights into the possibilities of outsourcing. Companies in the United States and Europe initially started out-sourcing work such as data entry and the maintenance, delivery and management of IT functions, to outsourcing destinations such as India, China, Israel, Malaysia, Mexico, the Philippines, South Africa, Viet Nam, etc. There has been a gradual enhancement in the range and complexity of out-sourced services and these now include services all along the value chain, from data entry to highly skilled tasks such as 3D modelling²¹. As mentioned in the introductory section of this report, India's evolution in this sector can be traced from back-office data-processing and call-centre operations for customer care services, to more mature advisory work, such as equity research and investment advisory services rendered through ITeS. Apart from India, other Asian countries too have matured into

¹⁵ The points highlighted rely on A.T. Kearney's GSLI report, as well as on several media reports

¹⁶ A.T. Kearney's GSLI report cites the example of how divisions of Neusoft Group Ltd. In China, which offers IT outsourcing and BPO services, became IS O 27001 certified in early 2007, making Neusoft the first of its kind to obtain such certification for both software outsourcing and BPO operations in China.

¹⁷ This aspect will be elaborated in section C of Part I below.

¹⁸ See,

http://www.cio.com/article/448424/Ghana_Launches_IT_Infrastructure_Software_Projects?source=artrel_top ;

¹⁹ A.T. Kearney, 2007 GSLI Report; Also see, <http://www.callcentres.net/CALLCENTRES/LIVE/me.get?site.SectionShow&CALL1795>

²⁰ http://www.kencall.com/iht_article.htm

²¹ UNDP, "Selling Services Across Frontiers", Chapter 5 of the Asia Pacific Human Development Report 2006.

more complex ITeS activities. A recent UNDP Study on services in the Asia-Pacific region categorizes the range of services that have emerged as the subject-matter of ‘outsourcing’ and delivered as ITeS in Asian countries, which provide insights into the range of services that can potentially be delivered through ITeS. These are summarised below.

OUTSOURCING SERVICES ALONG THE VALUE CHAIN

Global outsourcing of services can be classified into five broad categories, based on their contribution to value and their skill requirements:

1. Data entry, digitization, conversion, transcription. At the lowest end of the value and skill chain are back-office functions such as data entry, digitization, and conversion activities, and basic clerical services that do not require domain knowledge or specialized expertise. One of the most common of these is transcription services, whereby dictations by doctors or lawyers are converted to written medical or legal records.

2. Rule-based processing and simple support services. Next in the value chain are teleworking services, which involve rule-based processing and simple voice and on-line customer relations services, based on rules set by the client. These include call-centre services, email-processing, data processing, billing and payments, account opening, and screening of credit card applications – all at rates as low as \$10 per hour.

3. Activities involving problem solving and decision making. Slightly higher up the value chain are activities that involve problem solving and decision making, such as developing solutions for improving processes or streamlining systems. In developing countries like India these command rates of \$10 to \$15 per hour.

4. Complex multimedia support services. Next on the value chain are teleworking services that involve direct interaction with customers and more elaborate transactions with the client, but moving beyond pure voice-based support to mixed media-based support services and beyond writing routine software applications to the remote management of sophisticated networks. These include activities like web support, telemarketing, providing customer help desks, technical back office processing, e-customer relationship management, website design, software development for entire business processes, and hardware support services.

5. Specialized services requiring domain knowledge and skills. At the top end of the value chain are services that involve domain expertise and specialized skills. These include research and engineering services such as 3-D modelling, drawing up technical specifications for tenders, plant engineering, piloting prototypes, testing and optimization, redesigning for improving cost-performance ratios, financial analysis, risk management, equity research services, and consulting and advisory services.

Source: UNDP, “Selling Services Across Frontiers”, Chapter 5 of the Asia Pacific Human Development Report 2006.

C OTHER BENEFITS OF ITES

1.12 Expansion and diversification in ITeS, over a period of time, often has a variety of direct and indirect economic benefits. While a ‘low-cost’ destination attracts investment in ITeS, an interesting aspect to note is that growth in the IT and ITeS sectors, (typically accompanied by several other factors such as currency escalation, etc.), often results in better wages and standards of employment. Technically, this should mean dilution of the ‘low-cost’ advantage of that particular country. However, as seen in the case of India, China and Philippines and several other off-shoring destinations, wage increases

accompanied by an expanding skill set, have actually resulted in more opportunities for expansion of the sector²².

1.13 In fact the GSLI report emphasizes that the key to maintaining and enhancing long-term competitiveness lies in skills development, infrastructure investment and the regulatory environment; and not in attempts to control wages²³. The UNDP report on Asia-Pacific countries supports a similar conclusion. It states that outsourcing by multinationals like GE and IBM in countries like India and China has been accompanied by a significant upward movement in salary levels that reduces the incentive for skilled people to emigrate²⁴. UNDP also highlights the significant employment diversification in several countries, for instance, increasing employment for women in the IT and ITeS sectors in India, increasing job opportunities for physically challenged people, and greater opportunities for working at home since services are entirely IT enabled²⁵. An UNCTAD report states that women in the developing world, are increasingly turning to e-commerce and the internet as a way to earn income and save time and costs while also meeting their family responsibilities.²⁶ It estimates that women in some Asian and Latin American countries hold more than 20% of professional jobs in software services, because of the flexibilities it offers.²⁷

1.14 The development impact of ITeS liberalization, therefore, could potentially go beyond enhanced GDP and economic growth. The social impact of growth in this sector is significant as well.

D ITES IN INDIA

1.15 Before analysing India's experience with ITeS, it would be useful to highlight some statistics in relation to GDP, employment and foreign exchange, which reveal the IT and ITeS growth story:²⁸

- The IT/ITeS industry's contribution to the country's GDP has been steadily increasing from a share of 1.2% in 1998 to 5.2% in 2007;
- It has contributed to foreign exchange reserves of the country by increasing exports by almost 36%.
- Its direct employment has grown at a CAGR of 26% in the last decade, making it the largest employer in the organized private sector in India. Direct employment in the sector is expected to be 2.0 million by end of 2008.
- The IT/ITeS industry has also significantly contributed through socially relevant products/services and community initiatives in human resource development, education, employability, health, encouraging women empowerment and employment of differently abled and 'out-of-the-mainstream' candidates.

²² AT Kearney's 2007 Global Services Location Index

²³ Id.

²⁴ UNDP, "Selling Services Across Frontiers", Chapter 5 of the Asia Pacific Human Development Report 2006.

²⁵ Id. *See also*, NASSCOM & Deloitte Touche, "Indian IT/ITeS Industry: Impacting Economy and Society 2007-08", February 2008

²⁶ UNCTAD, E-commerce and Development Report, 2002 (UNCTAD/SDTE/ECB/2).

²⁷ Id.

²⁸ NASSCOM & Deloitte Touche, "Indian IT/ITeS Industry: Impacting Economy and Society 2007-08", February 2008

- Apart from contributing to the growing income of its direct stakeholders (promoters, shareholders and employees), the IT/ITeS industry has had a multiplier effect on other sectors of the economy with an output multiplier of almost 2 through its non-wage operating expenses, capital expenditure and consumption spending by professionals.
- By gradually spreading their business operations to smaller Tier II/III cities, the IT sector (besides generating revenue and employment) is also assisting in improving the supply of talent pool and development of physical and social infrastructure, either directly by themselves or by spurring the Government to action
- Growth in the IT sector kick-started Venture Capital activity in India which led to the creation of first generation of ‘India-centric’ Venture Capital funds. Other sectors, such as healthcare, manufacturing and financial services have also benefitted from this phenomenon as these sectors are now also being able to access this source of funding.

1.16 India’s exports of IT and ITeS services fall in three broad categories, IT services, Business Process Outsourcing (i.e., ITeS), and Engineering Services. Export values in these categories during the latest four years are given in the table below²⁹:

Segment-wise export value trends in IT-BPO industry (US \$ billion)

| | 2004-05 | 2005-06 | 2006-07 | 2007-08 (Estimated) |
|---|---------|---------|---------|------------------------|
| IT Services | 10 | 13.3 | 18 | 23.1 |
| ITeS-BPO | 4.6 | 6.3 | 8.4 | 10.9 |
| Software Products & Engineering Services | 3.1 | 4 | 4.9 | 6.3 |
| Total | 17.7 | 23.6 | 31.4 | 40.3 |

Source: NASSCOM Strategic Review 2008

1.18 India’s main export destinations for its IT and ITeS services are the U.S. and the EU. Within the EU, most of its exports are dedicated to the UK³⁰:

Destination of India’s IT-BPO Exports (Percentage)

| | 2002-03 | 2003-04 | 2004-05 | 2005-06 | 2006-07 |
|------------------|---------|---------|---------|---------|---------|
| USA | 67.7 | 68.2 | 66.5 | 66.5 | 61.4 |
| Europe | 22.3 | 22.6 | 23.1 | 25.1 | 30.2 |
| Of which UK | 14 | 14.5 | 14.0 | 15.3 | 18.1 |
| Rest of World | 10 | 9.2 | 10.4 | 8.4 | 8.3 |

Source: NASSCOM Strategic Review 2008

1.19 ITeS services or BPO services, accounts for about 27 per cent of total exports. Starting out with basic data entry tasks, the ITeS industry in India has acquired a reputation as the

²⁹ Planning Commission, Government of India, “Report of the High Level Group on Services Sector”, March 2008, pp. 51-53

³⁰ Id.

primary low-cost destination for voice-based customer contact / support services, finance and accounting, and a range of back-office processing activities. The past few years have seen the scope of these services expanding to include increasingly more complex processes involving rule-based decision making and research / analytics services requiring informed individual judgment and domain/vertical knowledge. Key categories within horizontal BPO services include³¹:

- Customer Interaction and Support (CIS),
- Finance and Accounting (F&A) and other related processing services,
- Knowledge Services,
- Human Resource Management (HRM).

1.20 Several ITeS providers in India have also gradually developed sufficient maturity to offer more specialized services in specific service sectors. Among the service sectors that account for the largest share of revenue are³²:

- Banking, financial services and insurance (40%),
- Telecom services (19%),
- Manufacturing services (15%),
- Retail services (8%),
- Others, including media, publishing and entertainment, construction and utilities, healthcare and airlines and transportation.

1.21 India's inherent advantages that lie at the core of its ITeS advancement, are labour costs, widespread use of English, strong education systems, deep technical skills, and increasingly open, well-regulated business environments with supportive government policies and maturity of vendors (i.e., the service sellers).³³ In this context, it would be useful to examine some of the initiatives developed at the institutional, policy and legislative level, undertaken to incentivise the growth of the ITeS sector in India.

POLICY INITIATIVES

1.22 India had a fairly restrictive investment climate till the early-1990s. It has however progressively dismantled barriers and is now an attractive investment destination. The Government has done away with the complex pre-entry approvals in most sectors, and Foreign Direct Investment can be made in most sectors. India is also a signatory to the Information Technology Agreement of the World Trade Organization, according to which WTO Member countries are committed to reduce and eliminate tariff barriers on the specified IT products. India has eliminated customs duty on all the specified 217 items.

1.23 Several policy measures have been undertaken to benefit IT and ITeS sectors. These can be categorized as: (a) Foreign Investment Policy; (b) Technology Transfer Policy and (c) Fiscal Incentives.

³¹ Id.

³² Id.

³³ 2007 Global Services Location Index

- 1.24 Foreign Investment Policy: Liberalization of foreign investment policies are critical for ensuring greater flow of capital and investment into critical aspects for the IT and ITeS sectors. Foreign Direct Investment is allowed in India up to:
- 100 per cent for manufacture of telecom equipment, call centres and IT-enabled services, Internet service (without international gateways), e-mail service and voice mail service;
 - 74 percent for Internet service (with international gateways), infrastructure providers and radio paging service;
 - 74 percent composite FDI permitted for international long distance, national long distance, unified access, basic telephone, cellular mobile and other value added services; and
 - Full repatriation norms for dividend income and capital invested.
- 1.25 Technology Transfer Policy: Technology transfer policies that allow the transferor to charge appropriate fees is another important aspect to ensure flow of high-end technology, which is often necessary for developing a strong backbone for rendering ITeS. Indian policies initially placed restrictions on the amount of technical know-how fees and royalty fees that can be charged by a foreign company, and approval was required for repatriation. This has been changed to allow for the following:
- Automatic approval for technical know-how fee up to US\$ 2 million;
 - Automatic approval for royalty up to 5 per cent for domestic sales and 8 percent for exports in telecom manufacturing;
 - Higher amount of technical know-how fee and royalty through specific approvals.
- 1.26 Fiscal Incentives: Several fiscal incentives have also been introduced for the benefit of the IT and ITeS sectors. These include:
- 100% repatriation of benefits allowed;
 - Zero customs duty for import of software;
 - Zero duty on import of hardware for certain projects;
 - Complete pass-through mechanism with single point taxation for venture capital funds;
 - Sweat equity, i.e., stock options for employees in the company, which acts as an incentive for retention; and
 - Setting up of IT Venture Capital Fund.

LEGISLATIVE MEASURES

- 1.27 A clear and robust legislative framework is essential for any service sector, and this is even more relevant for the ITeS sector where the service consumer is present in another jurisdiction. One of the driving forces for any company as a service consumer to out-source its work for delivery through IT channels, would be an assessment of how strong the laws and policies of a country are in relation to rights and remedies in any service sector, is the legal framework, and mechanisms for the enforcement of the rule of law.
- 1.28 An IT-specific law was enacted in India in 2000: the Information Technology Act. This is based on the Model Law on Electronic Commerce recommended by the United Nations International Trade Commission. The Act recognizes digital signatures, and imparts legitimacy to contract through electronic means. It also has strong liability

provisions in the event of data theft or fraud or any other ‘cyber-crime’. To make it consistent with other criminal statutes in India, appropriate amendments were also made to the Indian Penal Code and Evidence Act, to allow for admissibility of electronic evidence, and prosecution of offences in relation to the same.

- 1.29 Apart from the IT Act, India also has a robust framework of labour laws necessary for ensuring worker safety and that there is no exploitation of the workforce for providing ITeS. It also has statutes governing consumer safety and protection against any sub-standard service. It also has a strong judiciary that can ensure enforcement of laws and liability for non-compliance or violation of the laws.

INDIA'S EXPERIENCE WITH THE EU

- 1.30 As explained in the introductory part of this report, Mode 1 is the most relevant for the cross-border delivery of services as required under ITeS. Mode 1 in ‘Computer and Related Services’ is also an area where EU members have no restrictions. Where the service being delivered, however, is actually in the nature of a core service pertaining to another sector (e.g., financial advisory, or accounting, or legal), then, apart from market access in Mode 1, the extent to which Mode 1 is open in that core service, is also an important factor to be considered. In the areas where India has developed a niche market for itself, in general, Mode 1 access into the EU market, has not been an issue for service providers.

Data Protection

- 1.31 One aspect however, in respect of which the EU has been exerting pressure on India, is the need to have stronger laws on ‘Data Protection’. EU has very stringent norms for data privacy and protection, that requires compliance by all service vendors, whether they are present in the EU or not, provided they are dealing with EU-related data. There is an EU wide data protection directive but in addition, each country is governed by its own laws in this area. The emphasis of the EU laws is on data storage and transmission. Segments such as financial and contact center services which see and use live data are most affected by such regulations in terms of the extent and type of information that can be off-shored and thus the kinds of contracts that can be signed. The EC prohibits the transfer of personal data to non-EU nations that do not meet its standards for privacy protection. This stops jobs which involve data on EU nationals from being outsourced to non-EU countries.
- 1.32 India’s experience with the U.S. stands in sharp contrast with EU’s requirements. U.S. companies rely on bilateral contracts, supervision and cooperation with Indian vendors, and encourage self-regulation by vendors. The EU, however, has been exercising pressure on change of IT laws in India to introduce something that is identical to EU’s regulatory requirements on data protection. Introducing such stringent norms, however, may not be practicable in India, because of the administrative and enforcement costs attached to it. Another issue has been that such data protection requirements are relevant mainly for ITeS vendors. Incorporating it in IT a law that is applicable to all IT as well as ITeS industries, would therefore not be acceptable to the entire industry. In fact, U.S. based IT majors such as Oracle and IBM in India, are strongly opposed to EU-type requirements on data protection. This sharp contrast of views is reflected by NASSCOM- which is the

association for IT and ITeS industries in India. NASSCOM's approach has been to advocate for a Self-Regulatory Organization or SRO for monitoring data protection and safety.

- 1.33 The Indian Parliament is also in the process of considering certain amendments to the Information Technology Act, to introduce new provisions regarding enforcement and stringent liability in respect of cyber-crimes and e-commerce fraud. It also provides provisions dealing with compensation for unlawful loss or gain arising from unauthorised use of data. However, it does not deal with the issue of breach of privacy, which is one of the core requirements of EU's requirements on Data Protection. It is likely that these amendments to the IT Act may be finalized by early January 2009. However, even if these come into force, they will remain short of EU data protection requirements in the key areas of confidentiality, data retention and privacy.
- 1.34 Absence of a law on data protection that is commensurate with EU data protection standards, has impacted the flow of ITeS work into India. Provisions relating to 'data confidentiality' and 'data protection' in bilateral contracts, (typically referred to as Service Level Agreements or SLAs) with EU service consumers are often extremely stringent. Some EU clients have reportedly asked for the duration of the 'data confidentiality' obligation to be often for life time or for a period of 10 years, and also insist on the liability of the company in case of any violations. Such strict conditions are highly burdensome for small and mid-size ITeS companies in India. Even if work is subcontracted by the company to other vendors, the EU directives require even subcontracting parties to conform to the data protection laws. EU regulations also require empanelment of all vendors to which its companies outsource. In addition, the outsourcing company is subject to quarterly reporting requirements regarding its compliance with data protection norms, which impacts costs. The costs are particularly burdensome for small and medium IT companies.
- 1.35 Therefore, in India today, only larger IT players continue with their EU related off-shoring business. In a bid to attract EU customers, larger IT companies in India have invested in ensuring data security and raising awareness and that there are various layers of security to prevent data theft and pilferage. Several companies also have ISO 7700 security protocols. Actual compliance with EU requirements is achieved through bilateral contracts with EU customers. Attracting business from EU therefore hinges to a larger extent on the confidence that the consumer would have on the actual compliance by the Indian vendor, since the ultimate liability for compliance with EU requirements would vest on them.

Movement of Natural Persons- Mode 4

- 1.36 Another issue emerging from India's experience has been that, as ITeS evolves into more complex services such as software maintenance, consultancy, or any other activity for which physical movement of IT professionals becomes necessary, then Mode 4 access becomes a critical issue. Service delivery through Mode 4 essentially refers to the temporary movement of natural persons to another territory to render services. Over the years, Mode 4 has become increasingly important for Indian ITeS companies as work done off-shore often requires movement of professionals to the 'site' of the customer for short periods of time to render services. It is in this regard, specifically, that India has been facing several challenges in the EU.

- 1.37 The main challenges in India's experience, have been EU's complex immigration policies that make temporary movement of professionals in practically all sectors, extremely difficult. In addition to this, are expensive social security and taxation requirements, and labour market tests in some of the EU countries, that prevent temporary movement. Another barrier is intra-EU mobility of professionals. In other words, temporary entry into one EU member does not entitle a professional to move to another EU member country to render services to a service consumer that other EU member. These barriers impact the quality and nature of service ITeS service-providers can potentially provide to their EU customers.
- 1.38 Immigration and visa requirements, however, are traditionally viewed as part of the 'sovereign rights' of EU members, and outside the purview of any trade agreement. It may therefore be difficult to negotiate any specific concessionary treatment in relation to immigration requirements under any EPA. Aspects that can however be worked out, however, are bilateral agreements and understanding on social security. EU members should also be requested not to impose labour market and economic needs tests in relation to Mode 4, especially when the services are in the context of IT and ITeS.
- 1.39 In any case, Mode 4 may not be an immediate issue of concern to African countries that are still at a nascent stage in relation to their ITeS industry. The focus should be on developing and establishing this industry, and attracting clientele. Movement of natural persons for on-site work in EU countries should be explored only when the sector has been established and a robust framework is in place to ensure viability of the same in the relevant African country.

PART II ITES RELATED PROPOSALS FOR AFRICAN COUNTRIES

- 2.1 This Part II of the report will examine and elaborate proposals in IT-enabled services of interest to African countries, which may then be used in the development of their individual requests to the EC within the context of the services negotiations on the EPAs.
- 2.2 As mentioned in the introductory part of this report, African countries should undertake several steps to ensure a share in the fairly large EU market for IT-enabled services. Several of these steps need to be in the form of domestic policy and regulatory changes in order to bring about favourable conditions for growth of the IT and ITeS sectors. These need to be equally coupled with actions under the EPA, especially in terms of obligations on the EU to provide technical and financial assistance for ensuring adequate growth of the ITeS sector. Both sets of actions are complementary, rather than substitutes.
- 2.3 Before making specific recommendations for the EPA negotiations, it would be useful to obtain an overview of how ‘computer-related services’ is addressed under the EU-Cariforum EPA. It is likely that the Cariforum EPA will serve as a benchmark for the EU during the negotiations. An understanding of the same, and the areas on which improvements on the Cariforum EPA should be sought, will be highlighted below.

A ASSESSMENT OF ‘COMPUTER AND RELATED SERVICES’ UNDER THE EU-CARIFORUM EPA

- 2.4 EC’s approach to ‘Computer and Related Services’ under the Cariforum EPA is similar to the Revised Offer that it has placed at the GATS negotiations on further liberalization of trade in services. This approach essentially adopts the ‘Understanding on Computer Services’, which has been discussed in the introductory part of this report. The Understanding on Computer Services provides a broad and comprehensive approach to the content of ‘Computer and Related Services’. As pointed out in the introductory section, the Understanding on Computer and Related Services draws a distinction between the “Enabling” IT service and the “Core” service or the Content (e.g.: Financial Services or Accounting), and clarifies that the latter will not be covered under the enabling service of ‘web-hosting’, etc. In other words, if a country seeks to offer the ‘core service’, such as financial services or accounting services, over the internet as a IT-enabled service, then in that case, it is not enough that Mode 1 is allowed in ‘computer and related services’, but that Mode 1 is also in the specific ‘core’ service, such as financial services or accounting services.
- 2.5 There are no Mode 1 restrictions in relation to ‘Computer and Related Services’ in EC’s Schedule of Commitments, under the Cariforum EPA. African countries are still at a very nascent stage of growth in relation to ‘computer and related services’, and the focus of the fledgling ITeS industry seems to be on ‘support’ functions, such as support,

technical assistance, data processing, data storage, data hosting or database services. The EPA negotiations should however, equally focus on Mode 1 in the core services where African countries would like to obtain market access into the EU. Several of the areas where Mode 1 is restrictive in the EU Cariforum commitments, has been highlighted for discussion in the report titled 'Negotiating Trade in Services with the EC: Analysis of Options and Opportunities for African countries', submitted along with this report on ITeS.

- 2.6 A critical aspect of the Cariforum EPA, and of several recent FTAs being negotiated by the EC, is the requirements on 'Data Protection'. The Cariforum EPA however, represents the strictest formulation on data protection negotiated so far under any of the EU EPAs. The EPA has stringent regulatory requirements for data protection, which have implications for any Mode 1 service provider of 'computer and related services' who deals with 'data' from the EC. The preparedness of African countries to adopt 'data protection' legislation of the nature and standard specified by the EU under the Cariforum EPA, and the nature of assistance that is required from the EU to make this practically feasible, would have to be carefully evaluated.
- 2.7 Another aspect of the Cariforum EPA that will be discussed below is the provision relating to cooperation in Information and Communication technologies. Implementing this provision, through positive technical and financial assistance from the EU, could be critical in ensuring a robust framework for developing both ICT and ITeS as a viable service sector for African countries.

PROVISIONS RELATING TO DATA PROTECTION UNDER THE CARIFORUM EPA

- 2.8 Data Protection requirements are reflected at the following places in the Cariforum EPA:
- Chapter on E-Commerce (Chapter 6 on Part II of the EPA dealing with Trade in Services, Investment and E-Commerce).
 - The section of Part II on Trade in Services, dealing with 'Financial Services'.
 - Chapter on Protection of Personal Data (Chapter 6 of Part IV of the EPA dealing with Trade-Related Issues).
 - Chapter on 'General Exceptions'.
- 2.9 The Chapter on E-Commerce refers to the requirement for compliance with the "highest international standards of data protection in order to ensure the confidence of users of electronic commerce". In the absence of any specific elaboration of what such international standards might be, it is likely to be interpreted as something that is equivalent to EU's own system.
- 2.10 In the provisions on Financial Services, transfer of information electronically for data processing purposes in the course of business, is allowed. This is accompanied by a provision mandating adequate safeguards for protection of privacy and personal data.
- 2.11 The Chapter dealing with Personal Data protection is perhaps the most elaborate one in all of EU's bilateral trade agreements so far. It begins by stating that 'appropriate' legal frameworks should be put in place; but then moves on to defining the scope of such 'appropriate' framework when it outlines the "content principles" and "enforcement

mechanisms” for such a regulatory framework. It also goes into some detail in terms of the definitions of the key terms relevant for personal data, which is any data pertaining to any individual.

2.12 The Chapter on General Exceptions is principally in accordance with Article XIV of the GATS, except for a new provision which allows a party to the EPA to impose restrictions in violation of its commitments to ensure: “*the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts.*”³⁴ Under this provision, EU would have the right to suspend its preferential treatment if the obligations relating to data protection and safeguarding of personal data, is not implemented.

2.13 The afore-mentioned provisions under the EC-Cariforum EPA are prescriptive in nature on the elements of the regulatory framework that needs to be put in place to achieve EU’s standard of ‘data protection’. While it is unusual to find such provisions in a trade agreement, there may be little negotiating room for African countries in relation to adoption and implementation of these provisions. Implementing these provisions could also be an important determinant of whether African countries can emerge as viable ‘outsourcing destinations’ for EU countries. Also, given the requirements under EU laws, EU members would be in a position to outsource to a greater extent when the destination country has in place legal frameworks comparable with its own. Implementing the ‘data protection’ provisions of the EPA, therefore, is not just important for fulfilling a standalone obligation of the EPA itself; but also for ensuring that African countries can attract greater investment for ITeS and become service providers for a range of services delivered through the IT medium.

2.14 However, the nature of obligations to be implemented are highly onerous. Provisions for phased implementation, proactive technical assistance, financial assistance, and assistance for training and implementation of the legal requirements on data protection, is therefore an important element that will need to be built in as part of the EPA negotiations.

PROVISIONS RELATING TO COOPERATION IN INFORMATION AND COMMUNICATION TECHNOLOGIES UNDER CARIFORUM EPA

2.15 As highlighted in para 2.7 above, another provision of the Cariforum EPA that could have an important bearing on development of IT, ITeS and ICT sectors, is Article 137. This is a provision under the Chapter titled ‘Innovation and Intellectual Property’, and contains commitments relating to cooperation on information society and information and communication technologies. While the provisions are broadly worded, and do not specify any concrete obligations, they are significant starting points, on which African countries could build further.

2.16 The key areas where the EU and Cariforum countries have agreed on cooperation and facilitating support, is with regard to³⁵:

³⁴ Article 224(c)(3)

³⁵ Article 137(2)

- (a) dialogue on the various policy aspects regarding the promotion and monitoring of the information society;
- (b) exchange of information on regulatory issues;
- (c) exchange of information on standards and interoperability issues;
- (d) promotion of cooperation in the field of ICT research and development and in
- (e) the field of ICT-based research infrastructures;
- (f) development of non-commercial content and pilot applications in domains of high societal impact; and
- (g) ICT capacity-building with, in particular, the promotion of networking, exchange and training of specialists, especially in the regulatory domain.

2.17 As seen from the language of Article 137, however, there are no concrete binding obligations on how the objectives would be achieved. While negotiating the EPA with the EU, African countries should suggest appropriate language with regard to a concrete obligation on EU to especially ensure fulfilment of elements (d), (e), (f) and (g) highlighted above. This will be discussed further in the section on ‘Recommendations’ below.

B SPECIFIC RECOMMENDATIONS FOR THE EPA NEGOTIATIONS

2.18 From an analysis in Part I on the experience of other countries, and India in particular in relation to ITeS, the development of a ITeS market depends on several internal and external factors. Accordingly, the recommendations set forth herein will be broadly divided into two categories:

- (c) Recommendations for internal assessment and preparedness for offering ITeS; and
- (d) Recommendations for the EPA negotiations with the EU and suggestions for the text of the EPA.

RECOMMENDATIONS FOR INTERNAL ASSESSMENT AND PREPAREDNESS FOR DEVELOPING ITeS CAPABILITIES

2.19 As explained in Part I above, there are several factors that make a country an attractive destination for ITeS. These include low costs, technical and language skills, mature vendors and supportive government policies relating to investment by IT companies, as well as supportive policies in relation to the costs of infrastructure (e.g., high-tech and telecom infrastructure) that are necessary for providing services through IT networks.

2.20 All developing and less-developed countries have an inherent low cost advantage, and inherent advantage in language skills. However, several other measures need to be undertaken. These mostly pertain to:

- Technical training and development of human resources for rendering ITeS,
- Development of a robust infrastructure, access to which is reasonably priced,
- Supportive laws and policies for enabling investment into the ITeS sector,
- Adequate incentives for ensuring in-bound investment into the ITeS sector.

2.21 On several of the domestic regulatory and infrastructure related aspects, assistance for capacity building, and technical and man-power training should be sought from the EC, as discussed in para 2.17 above. These will be discussed further in the following section on recommendations for the EPA. This section focuses on domestic measures that African countries need to consider at the domestic level.

2.22 The following table highlights the various internal measures that a country would need to take in order to develop a robust ITeS market. These have been drawn from the experience of India as discussed in Part I, as well as from UNDP’s analysis of Asian countries, including India³⁶. These measures could be used as a checklist of issues that African countries could use.

| CHECKLIST OF DOMESTIC MEASURES TO PROMOTE OUTSOURCING | |
|--|--|
| Areas for Policy Action | Specific Measures |
| <i>Human resource development</i> | <p><u>Investments in education and training to:</u></p> <ul style="list-style-type: none"> – create a pipeline of manpower for lower-end activities – create a high-tech workforce – develop curricula, programmes, institutions, training infrastructure, specialized skills – ensure quality certification and recognition <p><u>Labour laws and standards for:</u></p> <ul style="list-style-type: none"> – welfare-oriented human resource management practices – employee retention and career development strategies |
| <i>Physical Infrastructure</i> | <p><u>Liberalize key sectors to attract private investment in development of infrastructure for telecommunications and internet-based services, by:</u></p> <ul style="list-style-type: none"> – dismantling the government monopoly of provision of such infrastructure – promoting competition in telecom services through deregulation, especially in Internet service provision and long-distance telephony - liberalizing laws and policies dealing with foreign direct investment – investing in satellite links – expanding bandwidth – promoting tele-working establishments by creating technology parks and outsourcing hubs – facilitating the acquisition of real estate, power, telecom links, and the procurement of equipment. |
| <i>Regulatory Framework & Enforcement</i> | <ul style="list-style-type: none"> - Legislation on governing IT services, data protection and piracy, with adequate remedies for violation - Consumer protection laws - E-commerce regulations - Regulation on cross-border payments and Internet transactions |

³⁶ This Table relies on recommendations of the UNDP in the 2006 Asia-Pacific Human Development Report, and lessons drawn from India’s experience.

| | |
|--------------------------|--|
| | <ul style="list-style-type: none"> - Technology licensing frameworks <p>Any regulatory framework should also be accompanied by a strong implementation and enforcement mechanism.</p> |
| <i>Fiscal incentives</i> | <p><u>Tax incentives</u></p> <ul style="list-style-type: none"> – provide fiscal incentives in initial stages – bring the industry under the tax net once it has matured and grown in size – use fiscal resources to target industry-specific and wider investments in infrastructure, training - export incentives – provide import duty concessions and rebates for import of software and hardware related to the IT and ITeS sectors – discourage firm- or sector-oriented export subsidies that could distort trade – provide general infrastructural subsidies that are not trade-distorting. |

2.23 Each of the above factors would need to be assessed specifically as they are applicable for each African country. Several African countries are already reportedly taking several steps towards ITeS. These would need to be evaluated, and further enhanced to meet the elements of the checklist presented above. African countries that have started emerging as significant players in the global market for ITeS, such as Mauritius, Tunisia, Ghana, South Africa, Morocco and Senegal, could also potentially become role models for other African countries in putting in place infrastructural and regulatory frameworks for promoting ITeS. The experience of these countries, and especially measures relating to the policy and legal framework adopted by these countries to incentivise development of ITeS, should be studied carefully, to design an Africa specific approach.

RECOMMENDATIONS FOR THE EPA NEGOTIATIONS WITH THE EU AND TEXT OF THE EPA

2.24 **Mode 1 in ‘Computer and Related Services’:** With regard to the nature of requests and textual recommendations on the EPA that should be presented to the EU, it is important that such requests are precise and focus on areas where there are immediate potential gains for the nascent IT and ITeS markets in African countries. The analysis and discussions above reveal that for a robust ITeS market, market access in Mode1, i.e., cross-border supply of ‘computer and related services’, is what is primarily required from the EU. EU’s Revised Offer at the WTO and its schedule of commitments under the EU-Carforum EPA, does not specify any Mode 1 restrictions. It is likely that a similar approach will be adopted under the EPAs negotiated with African countries as well. In the absence of any specified market access or national treatment restrictions in EU’s schedule, the legal basis to start marketing for ‘computer and related services’, therefore, is distinctly possible.

2.25 **Mode 1 in the ‘Core Service’:** The other aspects that are relevant for a viable ITeS framework are: (i) Mode 1 access in any specific ‘core service’ (e.g., financial services,

accounting, medical services, legal services, etc.) that is sought be delivered as a IT-enabled service; and (ii) Mode 4 access for IT professionals into the EU. In relation to the issue of Mode 1 in the core service sector, an evaluation would need to be made at the level of each African country on the nature of services they would like to focus on for ITeS development. There are several service sectors of potential interest to African countries, where Mode 1 has either not been committed at all, or is highly restricted in EU Members. By way of illustration, these include: (a) medical, dental, nursing and paramedic services; (b) educational services; (c) banking and financial services; (d) educational services; (e) entertainment services and (f) other cultural services. Requests to the EU to liberalize Mode 1 in these and other service sectors of interest to African countries, should be considered.

2.26 **Mode 4 related issues:** In relation to Mode 4, India's experience shows that as ITeS develops, Mode 4 access for IT professionals, i.e., movement of IT professionals temporarily to EU destinations to service consumers at their location, may be necessary. EU members, however have several restrictions in relation to movement of professionals, ranging from complex immigration and visa requirements, high tax and social security liabilities, and problems in intra-EU mobility. Each of these issues, however, are traditionally looked upon as 'non-trade' issues that are outside the purview of any trade agreement. It may therefore be quite futile to make any recommendations with regard to these issues as part of the current EPA negotiations. Furthermore, Mode 4 for IT professionals is not likely to be a key concern at this nascent stage of growth of the IT and ITeS sectors in the African countries. These are likely to become issues as the nature and scope of ITeS enhances in these countries. This issue is therefore simply being flagged as an issue of concern that may best be addressed at a bilateral level between the specific African country and the EU member in which market access is sought.

Apart from the barriers listed above, Mode 4 in relation to Contractual Service Suppliers and Independent Professionals, is subject to economic needs test in several EU Member states. The request to the EU should be made to remove these requirements in respect of computer professionals from African countries.

2.27 **Data Protection related concerns:** As discussed above (in paras 2.8 to 2.14), Data Protection related obligations are fairly elaborate under the EU-Cariforum EPA. This is likely to be one of the more difficult areas to comply with. As discussed earlier in this report, no other country in the world has as elaborate provisions on data protection as the EU. However, given the intricate linkage between ITeS and data protection, having a robust framework for protection may be an important determinant of the ability and comfort of EU Members in investing in ITeS in African countries, as well as outsourcing various categories of services to African countries. Therefore, the reality is that if African countries are interested in EU's ITeS market, compliance with data protection related requirements, is inevitable.

2.28 However, considering the substantial costs of formulating, administration and implementation of EU-type requirements as may be required under the EPA, African countries would need to formulate their negotiating strategies carefully on this aspect.

2.29 In this regard, African countries could consider the following:

- (i) **Phased Implementation:** The EPA should have provisions for phased implementation of the commitments on Data Protection.
- (ii) **EU Obligation to Provide Technical and Financial Assistance:** The phased implementation referred to in point (i) should be linked to the fulfilment of obligations on the EU to ensure adequate training, monitoring, supervision and financial assistance to the relevant African country to establish and implement a framework that would be in compliance with the chapter on Data Protection. Each 'phase' should clearly delineate EU's obligations regarding: (a) drafting and putting in place laws on data protection; (b) training and capacity building and financial assistance for the same; and (c) administrative and financial assistance for implementation of the law.
- (iii) **No Consequences till Full Implementation:** Till such time as the phased implementation is complete, the EPA should clearly provide that there would be no liability for non-compliance. In other words, the requirements under the 'Data Protection' provisions should be deferred till a robust framework is in place in African countries.
- (iv) **Commitments to Ensure Investment in ITeS and Contribute to growth of ITeS:** Implementation of strong provisions on Data Protection would need to be accompanied by growth of the ITeS sector. African countries should therefore also consider emphasising to the EU the need for a firm commitment on ITeS investment in African countries in order to make it a viable service sector.

2.30 **Assistance on Regulatory, Infrastructure, Training and Capacity Building from the**

EU: As discussed in paras 2.15 to 2.17 above, the Cariforum EPA comprises of certain key provisions relating to cooperation and facilitation of support between the EU and Cariforum countries with regard to information and communication technologies. The wording of Article 137 of the Cariforum EPA which reflects these provisions, is currently broadly worded, and relies on good faith alone for implementation. In order to ensure binding obligations under this provision, it is recommended that it is strengthened further by reflecting a concrete obligation on EU to:

- f) Provide research and development assistance and capacity building in the areas of ICT research and development;
- g) Provide technical and financial assistance for ICT-based research infrastructures;
- h) Ensure ICT capacity-building with, in particular, the promotion of networking, exchange and training of specialists, especially in the regulatory domain;
- i) Provide capacity building, training and financial assistance for putting in place appropriate legal framework that can facilitate growth of ICT and ITeS, while ensuring that such legal framework is suitable for countries where the ICT and ITeS industries are at a nascent stage of development. This should include regulatory frameworks for implementing the data protection related provisions of the EPA;
- j) Provide continued capacity building and training for ensuring implementation of the regulatory framework.

2.31 A Joint Committee of the two parties should be constituted to oversee the implementation of this provision, including through quarterly meetings to monitor the progress of implementation of these provisions. The chapter on obligations relating to Data Protection, should come into force only when the specific obligations as discussed above, are fulfilled by the EU. This Committee could report into the Trade and Development Committee that is likely to be constituted under the proposed EPA to

monitor implementation of development cooperation and technical assistance under the EPA.

ANNEX 1: A.T. KEARNEY GLOBAL SERVICES LOCATION INDEX, 2007

| Rank | Country | Financial attractiveness | People and skills availability | Business environment | Total score |
|------|---------------------------|--------------------------|--------------------------------|----------------------|-------------|
| 1 | India | 3.22 | 2.34 | 1.44 | 7.00 |
| 2 | China | 2.93 | 2.25 | 1.38 | 6.56 |
| 3 | Malaysia | 2.84 | 1.26 | 2.02 | 6.12 |
| 4 | Thailand | 3.19 | 1.21 | 1.62 | 6.02 |
| 5 | Brazil | 2.64 | 1.78 | 1.47 | 5.89 |
| 6 | Indonesia | 3.29 | 1.47 | 1.06 | 5.82 |
| 7 | Chile | 2.65 | 1.18 | 1.93 | 5.76 |
| 8 | Philippines | 3.26 | 1.23 | 1.26 | 5.75 |
| 9 | Bulgaria | 3.16 | 1.04 | 1.56 | 5.75 |
| 10 | Mexico | 2.63 | 1.49 | 1.61 | 5.73 |
| 11 | Singapore | 1.65 | 1.51 | 2.53 | 5.68 |
| 12 | Slovakia | 2.79 | 1.04 | 1.79 | 5.62 |
| 13 | Egypt | 3.22 | 1.14 | 1.25 | 5.61 |
| 14 | Jordan | 3.09 | 0.98 | 1.54 | 5.60 |
| 15 | Estonia | 2.44 | 0.96 | 2.20 | 5.60 |
| 16 | Czech Republic | 2.43 | 1.10 | 2.05 | 5.57 |
| 17 | Latvia | 2.64 | 0.91 | 2.00 | 5.56 |
| 18 | Poland | 2.59 | 1.17 | 1.79 | 5.54 |
| 19 | Vietnam | 3.33 | 0.99 | 1.22 | 5.54 |
| 20 | United Arab Emirates | 2.73 | 0.86 | 1.92 | 5.51 |
| 21 | United States (tier two) | 0.48 | 2.74 | 2.29 | 5.51 |
| 22 | Uruguay | 2.95 | 0.98 | 1.54 | 5.47 |
| 23 | Argentina | 2.91 | 1.30 | 1.26 | 5.47 |
| 24 | Hungary | 2.54 | 0.95 | 1.98 | 5.47 |
| 25 | Mauritius | 2.84 | 1.04 | 1.56 | 5.44 |
| 26 | Tunisia | 3.03 | 0.90 | 1.50 | 5.43 |
| 27 | Ghana | 3.27 | 0.90 | 1.25 | 5.42 |
| 28 | Lithuania | 2.60 | 0.83 | 1.98 | 5.42 |
| 29 | Sri Lanka | 3.18 | 0.96 | 1.22 | 5.36 |
| 30 | Pakistan | 3.23 | 1.00 | 1.11 | 5.34 |
| 31 | South Africa | 2.52 | 1.18 | 1.60 | 5.30 |
| 32 | Jamaica | 2.83 | 0.96 | 1.49 | 5.29 |
| 33 | Romania | 2.88 | 0.87 | 1.53 | 5.28 |
| 34 | Costa Rica | 3.00 | 0.86 | 1.36 | 5.22 |
| 35 | Canada | 0.77 | 2.09 | 2.30 | 5.16 |
| 36 | Morocco | 2.92 | 0.90 | 1.33 | 5.14 |
| 37 | Russia | 2.61 | 1.38 | 1.16 | 5.14 |
| 38 | Israel | 1.97 | 1.27 | 1.86 | 5.10 |
| 39 | Senegal | 3.19 | 0.82 | 1.05 | 5.06 |
| 40 | Germany (tier two) | 0.46 | 2.19 | 2.40 | 5.05 |
| 41 | Panama | 2.88 | 0.75 | 1.40 | 5.02 |
| 42 | United Kingdom (tier two) | 0.50 | 2.16 | 2.35 | 5.01 |
| 43 | Spain | 1.18 | 1.71 | 2.06 | 4.95 |
| 44 | New Zealand | 1.53 | 1.12 | 2.25 | 4.91 |
| 45 | Australia | 0.89 | 1.69 | 2.31 | 4.89 |
| 46 | Portugal | 1.59 | 1.14 | 2.11 | 4.84 |
| 47 | Ukraine | 2.76 | 0.98 | 1.09 | 4.83 |
| 48 | France (tier two) | 0.45 | 2.07 | 2.27 | 4.79 |
| 49 | Turkey | 2.06 | 1.31 | 1.14 | 4.78 |
| 50 | Ireland | 0.40 | 1.54 | 2.29 | 4.18 |

Note: The weight distribution for the three categories is 40:30:30. Financial attractiveness is rated on a scale of 0 to 4, and the categories for people and skills availability, and business environment are on a scale of 0 to 3.

Source: A.T. Kearney Global Services Location Index 2007

BIBLIOGRAPHY

Books and Reports

1. AT KEARNEY, Global Services Location Index, 2007.
2. NASSCOM & Deloitte Touche, “Indian IT/ITeS Industry: Impacting Economy and Society 2007-08”, February 2008, available at <http://www.nasscom.in/Nasscom/templates/NormalPage.aspx?id=53649>.
3. Planning Commission, Government of India, “Report of the High Level Group on Services Sector”, March 2008.
4. UNDP, Asia Pacific Human Development Report 2006.

Articles

1. Michael D. Birnhack, “The EU Data Protection Directive: An Engine of A Global Regime”, 24(6) Computer Law & Security Report (2008).
2. Sunni Yuen, “Exporting Trust with Data: Audited Self-Regulation as a Solution to Cross-Border Data Transfer Protection Concerns in the Offshore Outsourcing Industry”, 9 Colum. Sci. & Tech. L. Rev. (2007).
3. “Indian IT BPO Industry – an Overview of Information Security Practices and Standards”, India Chronicle, October 2006, Issue No. 017, retrieved from, <http://www.sunmediaonline.com/indiachronicleoctober06/infotech.html>.
4. Rupa Chanda, “Global Sourcing of Services: The Case of India”, Paper presented at the conference on Globalization and the Knowledge Economy, organised by OECD and French Ministry of Economy, Finance, and Industry, Paris October 9, 2006, retrieved from <http://www.oecd.org/dataoecd/49/40/37530736.pdf>.
5. Shailey Dash, “Services Outsourcing: Evaluating Changes in Revealed Comparative Advantage – The Case of the US and India”, Paper presented at the Fourth International Conference On Globalization & Sectoral Development, Organized by Academy of International Business- India, Feb 2006.
6. Niteen Dharmawat, “BPO - Destination India”, available at http://www.patni.com/resource-center/collateral/business-process-outsourcing/tp_bpodestination.pdf.
7. Ron Hira, “Outsourcing America’s Technology and Knowledge Jobs”, an EPI Briefing Paper, retrieved from <https://www.policyarchive.org/bitstream/handle/10207/8013/bp187.pdf?sequence=1>.
8. Ronald W. Jones, “Immigration vs. Outsourcing: Effects on Labor Markets”, retrieved from <http://www.econ.rochester.edu/Faculty/jones/Immigration%20vs.pdf>.
9. Shalley Dash, “The Economic Implications of Outsourcing”, retrieved from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=779005.
10. Michael H. Grote and Florian A. Täube, “Offshoring the Financial Services Industry: Implications for the Evolution of Indian IT Clusters”, retrieved from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=623201.

News Reports

1. Partha Iyengar, “No need to worry about the outsourcing industry”, The Economic Times, November 28, 2008.
2. “Attacks add to global crisis woes for IT industry”, The Economic Times, November 28, 2008.

3. Deepshikha Monga, "India's tech spending seen growing 17-24% by 2010", The Economic Times, October 20, 2008.
4. Durba Ghosh, "Indian IT Services market to grow to \$8.1 bn by 2011", The Economic Times, August 29, 2008.
5. "India emerging as global hub for data hosting services", The Economic Times, August 5, 2008.
6. "India most mature spot for offshore IT services", The Economic Times, July 15, 2008.
7. "IT, BPO to grow 10-15 pc in next 5 yrs: NASSCOM", The Economic Times, July 3, 2008
8. "Economic slowdown is a boom for the BPO sector", The Economic Times, June 30, 2008
9. "US slowdown will keep India as hot IT offshore spot", The Economic Times, April 25, 2008.
10. "Indian IT-BPO industry heads for slowdown", The Economic Times, April 12, 2008.
11. PP Thimmaya & J Padmapriya, "Nature of services to shield IT cos from US slowdown", The Economic Times, March 26, 2008.
12. "Smaller towns keep India on top in IT offshore world", The Economic Times, December 27, 2007.
13. Moumita Bakshi Chatterjee, "India's IT services exports touch USD 24 bn", The Economic Times, February 1, 2007.
14. Moumita Bakshi Chatterjee, "IT services, BPO set to log 26% growth in '07", The Economic Times, January 5, 2007.

ILEAP Analytical Support Structure



International Lawyers and Economists Against Poverty (ILEAP)

1240 Bay Street, Suite 602

Toronto, Ontario

Canada M5R 2A7

T +1 416 309 2330

F +1 416 309 2331

E ileap@ileap-jeicp.org

www.ileap-jeicp.org