

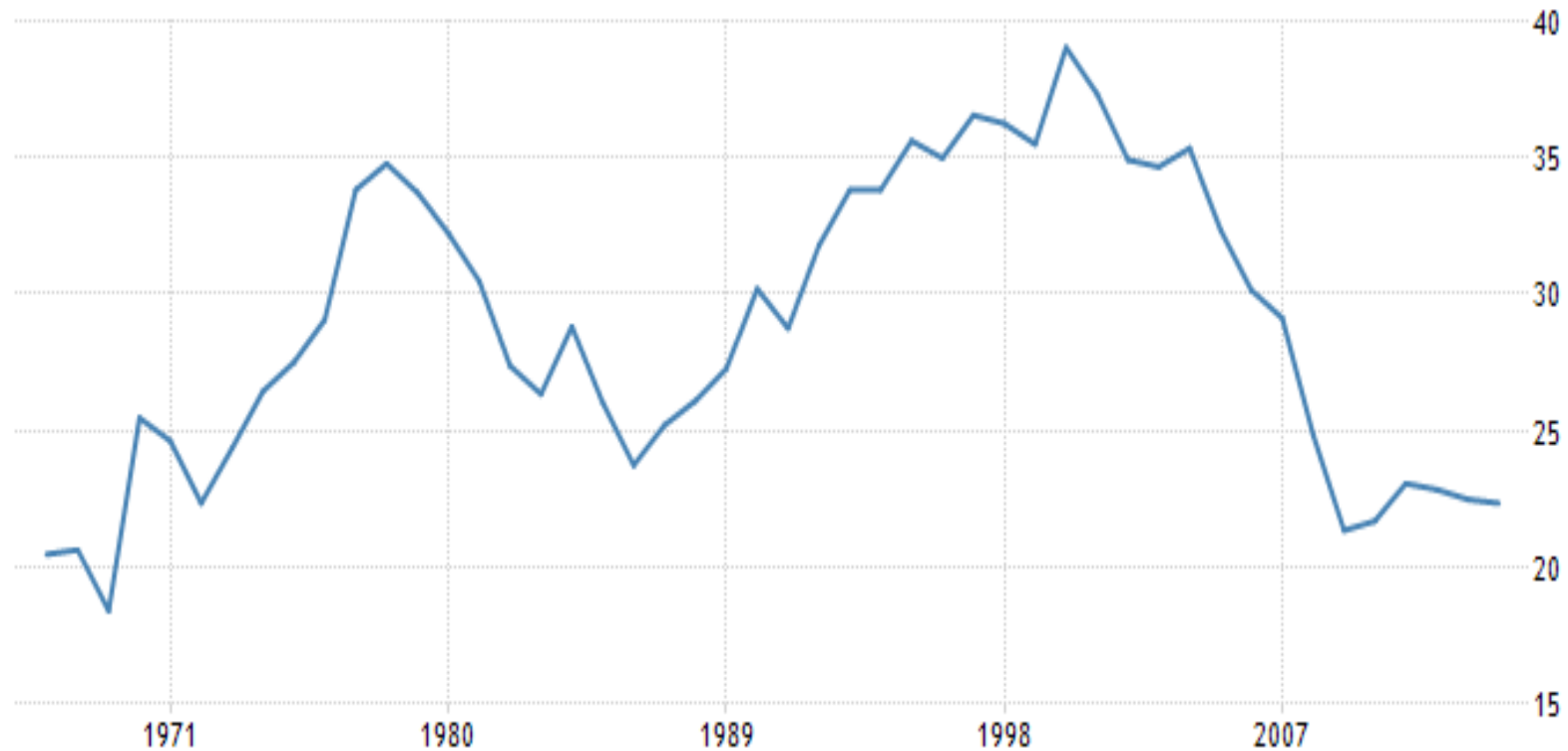
# Implications of trade agreements for construction services

Rohan Samarajiva

Chamber of Construction Industry, 28 March 2016



# Why agreements? Sri Lanka's exports of goods & services as % of GDP, 1971-2014



# On the past

- Wrong to say ILFTA favored India
- Source: W.A. Wijewardana in FT.lk

## Trade under ILFTA 2000-2013

Year	Total Exports to India \$ million	Exports to India under ILFTA \$ million	% of exports to India under ILFTA	Total Imports from India \$ million	Imports from India under ILFTA \$ million	% of Imports from India under ILFTA	Normal trade gap with India (Deficits in brackets) \$ million	Trade gap with India under ILFTA (Deficits in brackets) \$ million
2000	55.6	8.6	16	600.0	53.9	9	(544.4)	(45.3)
2001	70.1	15.9	23	601.5	113.1	19	(531.4)	(97.2)
2002	168.8	114.2	68	834.7	81.7	10	(665.9)	32.5
2003	241.1	238.8	99	1076.2	150.4	14	(835.1)	88.4
2004	385.5	339.9	88	1358.0	394.7	29	(972.5)	(54.8)
2005	559.2	543.0	97	1440.0	246.2	18	(880.8)	296.8
2006	494.0	431.1	87	1822.1	459.3	25	(1328.1)	(28.2)
2007	516.4	398.2	77	2749.6	385.3	14	(2233.2)	12.9
2008	418.0	309.3	74	2848.4	541.4	18	(2430.4)	(232.1)
2009	324.8	218.5	67	1709.9	371.7	22	(1385.1)	(153.2)
2010	466.6	358.4	77	2546.2	573.7	23	(2080.2)	(219.3)
2011	521.5	391.5	75	4349.4	579.6	13	(3827.9)	(188.1)
2012	566.3	379.5	67	3517.2	156.4	4	(2950.9)	223.1
2013	543.3	354.8	65	3092.6	393.4	13	(2549.3)	(38.6)

Source: EDB and calculations of the author

Experience with agreements  
covering goods & services

# NAFTA (1994): US, Canada & Mexico

- Mexico has since entered into 44 trade deals, more than any other country.
- The World Bank calculates that Mexico is one of the most open large economies in the world: exports plus imports are equivalent to 66% of GDP, compared with 26% for Brazil and 42% for China.
- The Boston Consulting Group finds in a survey that its people take a positive view of the future: 77% of Mexicans say they are optimistic, and only 6% that they are very pessimistic.
- When the North American Free Trade Area (NAFTA) was created in 1994 it was as controversial in Mexico as it was in the United States: a *Yanqui* conspiracy, according to those on the left, designed to turn their country into a colony of *El Norte*.
- Today the Mexican elite speaks with one voice on the subject. Mexico is now one of the world's top 15 manufacturing economies and one of its top five car producers. The output of the ten largest car plants rose from 1.1m vehicles in 1994 to 2.9m in 2012.
- Mexican consumers now have access to a huge range of multinational brands: marketers refer to young, middle-class Mexicans as the “children of NAFTA”, because their taste is so cosmopolitan.

Vietnam joined WTO in 2006. Additional Trade agreements since then

- TPP (signed, not yet in effect)
- Russia, Kazakhstan, Belarus (signed, not yet in effect)
- ASEAN Free Trade Area
- ASEAN-Australia+NZ FTA
- ASEAN-India CECA
- ASEAN-Japan CEP
- ASEAN-China CECA
- ASEAN-Rep of Korea CECA
- Chile-Vietnam FTA
- Japan-Vietnam ECA
- Rep of Korea-Vietnam FTA

# Results: Exports increased x 9.5 (v x 2.1 for Sri Lanka) in 2000-2014

	Vietnam (2000)	Vietnam (2014)	Multiple	Sri Lanka (2000)	Sri Lanka (2014)	Multiple
FDI (USD millions)	1,298	9,200	7.1	173	1,616	9.3
Exports (USD billions)	17	161	9.5	5.5	11.3	2.1

Source: Sri Lanka BOI

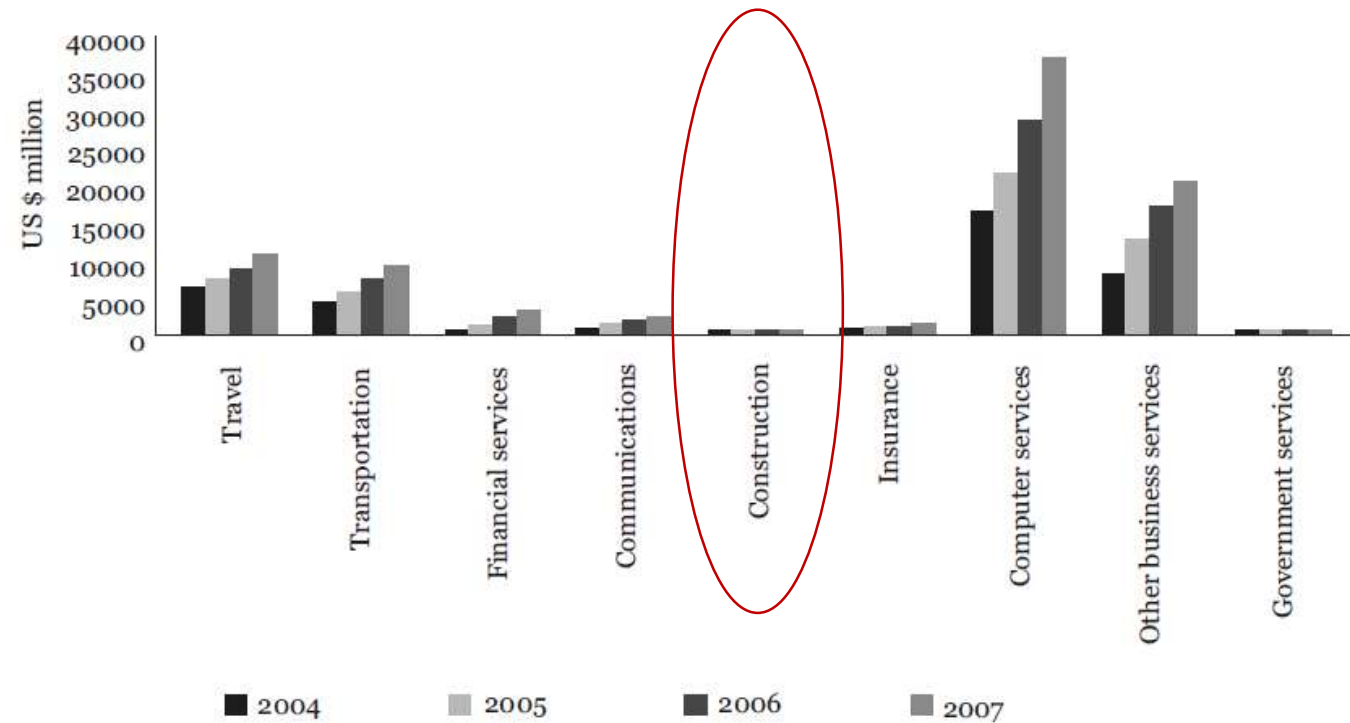
# Services trade: data and problems thereof

Mukherji, I.N. & Iyengar, K. (2013). *Deepening economic cooperation between India and Sri Lanka*. Manila: ADB.



# India's service exports by sector, 2004-07

Figure 6.3: Indian Service Exports by Sector



Source: ITC Trade in Services Statistics

# India's service exports by sector, 2004-07

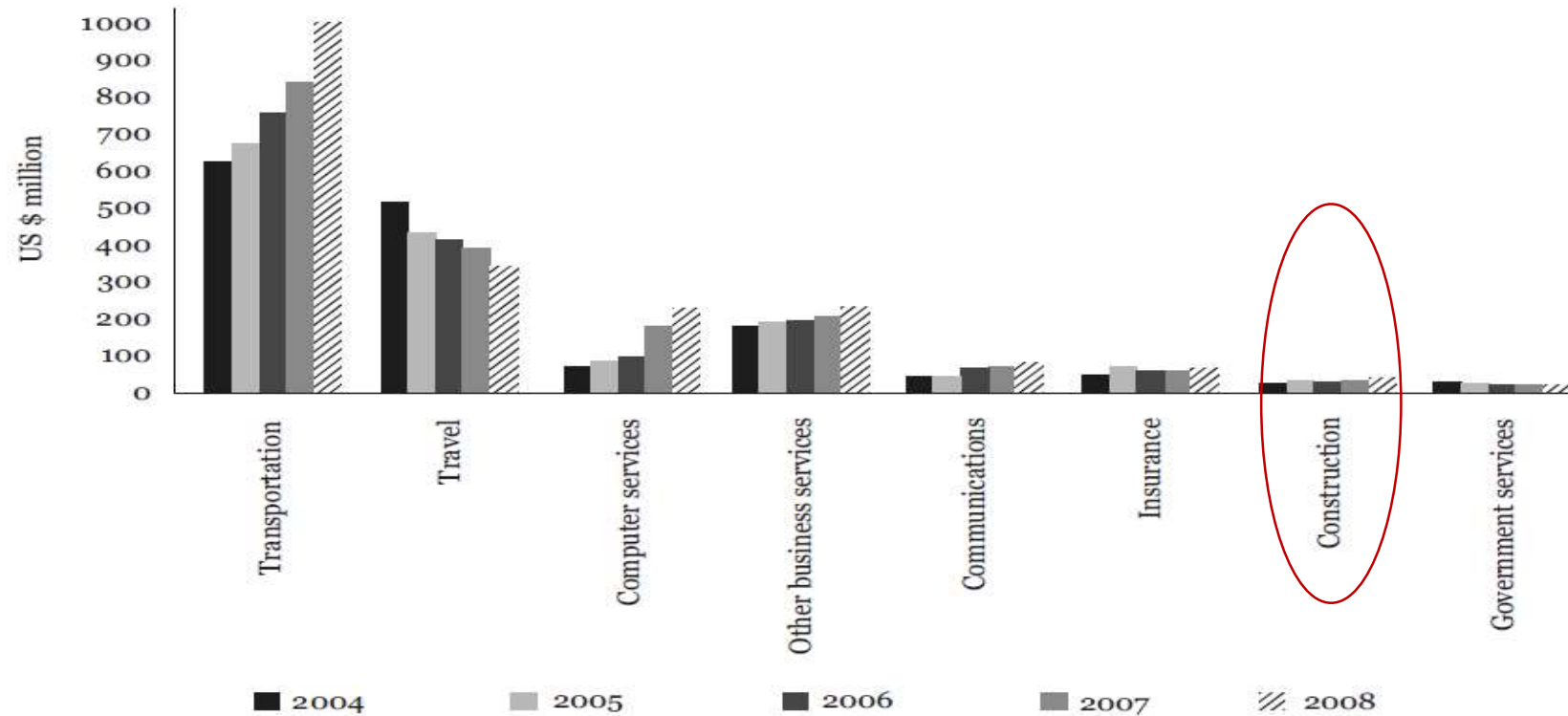
Table 6.1: India's Service Exports by Sector  
(\$ million)

	2004	2005	2006	2007
Travel	6169.69	7492.85	8633.89	10729
Transportation	4372.78	5754.08	7561.01	9035.32
Financial Services	341.18	1143.02	2356.97	3378.96
Communications	1093.76	1565.92	2181.08	2347.93
Construction	516.17	345.78	618.94	753.2
Insurance	841.83	941.08	1113.18	1506.7
Computer Services	16344.3	21874.9	29088.1	37491.2
Other Business Services	8152.62	12764.4	17535.5	20733.6

Source: ITC Trade in Services Statistics

# Sri Lanka's service exports by sector, 2004-08

Figure 6.4: Sri Lankan Service Exports by Sector



Source: ITC Trade in Services Statistics

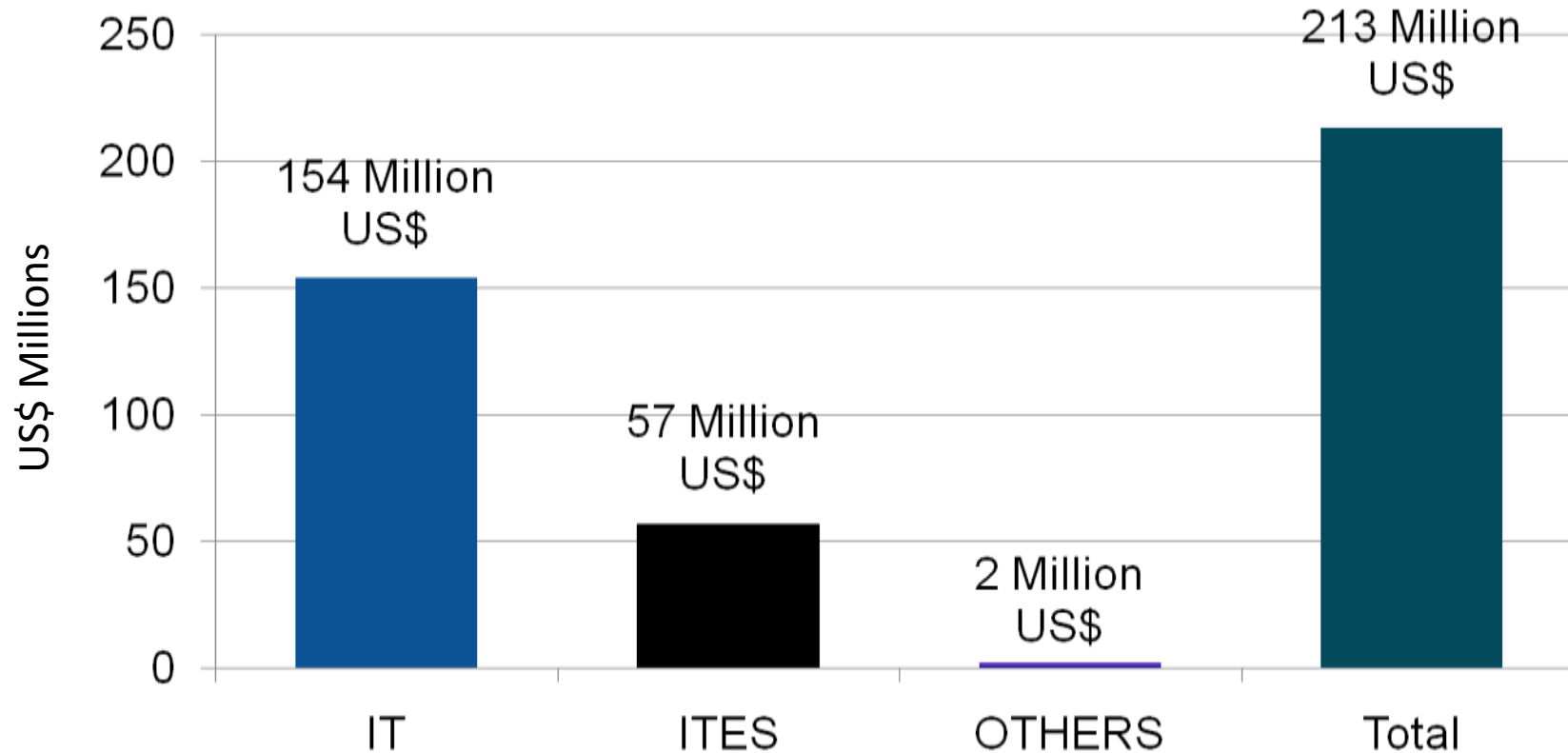
# Sri Lanka's service exports by sector, 2004-08

Table 6.2: Sri Lanka's Service Exports by Sector  
(\$ million)

	2004	2005	2006	2007	2008
Transportation	624.16	673.37	750.7	837.8	999
Travel	512.88	429.06	410.3	385.3	342
Computer Services	72	82.47	98	175.2	230
Other Business Services	178.21	187.64	190.4	196.4	222
Communications	42.81	43.87	67.9	72	81
Insurance	50.33	72.97	57.2	55.2	68
Construction	25.89	29.36	29.2	32.8	40
Government Services	20.32	21.39	21.21	20.3	21

Source: ITC Trade in Services Statistics

# Software/BPO Export Revenue 2007



How can the differences, 175m v 154m (IT) & 196m (bus svs) v 57m (ITES), be explained?

# Problem with data on services trade

- No customs checkpoints → no reliable data sources
- Actors have incentives to overstate/understate
- One of the world's best statistical agencies, StatsCan, uses mandatory questionnaires administered to a sample
  - “Roughly 3,200 firms receive the international trade in services questionnaires, 2300 of which are surveyed annually and 900 of which are surveyed once every 3 years. The surveys are believed to cover most of the large corporate importers and exporters of services.
  - “Responding to this survey is mandatory.”
    - <http://www.statcan.gc.ca/cgi-bin/imdb/p2SV.pl?Function=getSurvey&SDDS=1536&lang=en&db=imdb&adm=8&dis=2>

What the CEPA negotiators did  
prior to 2008, re construction  
services

# Revealed comparative advantage by sector, 2007-08

Table 6.5: RCAs in Various Services between Sri Lanka and India

<i>Sector</i>	<i>Country</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Travel	Sri Lanka	1.05	0.97	0.87
	India	0.54	0.48	0.47
Transport	Sri Lanka	1.95	2.09	2.12
	India	0.49	0.49	0.49
Communications	Sri Lanka	1.25	1.73	1.71
	India	1.31	1.29	1.14
Construction	Sri Lanka	0.95	0.86	0.86
	India	0.33	0.42	0.40
Insurance	Sri Lanka	2.53	1.66	1.44
	India	0.96	0.75	0.80
Computer and related services	Sri Lanka	1.27	1.30	2.06
	India	9.89	8.99	8.98
Other business services	Sri Lanka	0.50	0.49	0.46
	India	1.01	1.06	0.99
Government services	Sri Lanka	0.55	0.52	0.50
	India	0.25	0.16	0.16

Source: Calculated using ITC data



# On revealed comparative advantage in construction services

Though neither India nor Sri Lanka enjoys significant RCA in construction services, domestic construction has been growing at a significant rate in recent years due to renewed efforts at infrastructure development and in particular, post-conflict reconstruction in Sri Lanka. Therefore the emergence of large firms involved in construction provides potential for future international expansion and provision of services through mode 3 and to a lesser extent through mode 1. Both countries have been exporting construction services through mode 4, particularly to the Middle East and the Maldives, however many of these have been in low-skilled categories, and this is unlikely to be a potential area of commercial services exchange. Nonetheless, in modes 3 and 1 there is scope for construction and engineering services to be exchanged on a commercial basis between the two countries since the demand for such services is likely to increase in the medium term in both geographies.

# Why construction services were not included in Sri Lanka offers under CEPA

Concerns included legislative problems (in construction services), regulatory issues (in architecture), and market immaturity (in other business services). For instance, it was impossible to make a commitment in construction services since the Construction Services Act had failed to get parliamentary approval due to a series of delays. Therefore, it was not advisable to schedule a commitment in a legally binding bilateral agreement without finalization of the national act of the industry. Similarly in the architecture sector, the Institute of Architects does not have the provision to register foreign architects and at present only local architects are registered with the institute—a commitment in architectural services in CEPA would have required a change in the local legislation. Local legislation was a concern in many sectors for trade in services in mode 1—where the local legislation more often than not had no reference to electronic exchange of services, and stakeholders were reluctant to agree to

Scheduling of commitments in  
services-trade agreements

# Flexibility in scheduling of service sector commitments

1. limitations on the number of service suppliers,
2. limitations on the total value of service transactions or assets,
3. limitations on the total number of service operations or on the total quantity of service output,
4. limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ,
5. measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service, and
6. limitations on the participation of foreign capital.

# Singapore's schedule of limitations on market access & national treatment in CECA with India

<b>Pre-erection work at construction sites (511)</b>	1) None 2) None	1) None 2) None
<b>Construction work for buildings (512)</b>	3) None 4) Unbound except as indicated in the horizontal section	3) None 4) Unbound
<b>Construction work for civil engineering (513)</b>		
<b>Assembly and erection of prefabricated constructions (514)</b>		
<b>Special trade construction work (515)</b>		

# All sector commitments are subject to following horizontal limits on national treatment

ALL SECTORS INCLUDED IN THIS SCHEDULE			
		1), 2), 3), 4):  Unbound for all subsidies and grants and any conditions attached to the receipt or continued receipt of such subsidies or grants.	
		3) Commercial presence, right of establishment and movement of juridical persons are subject to compliance with the following provisions: <ul style="list-style-type: none"><li>- a foreigner who wishes to register a business firm must have a local manager who should be a Singapore citizen or a Singapore permanent resident or a Singapore Employment Pass holder. (However, a foreigner who is a Singapore permanent resident or a Singapore Employment Pass holder can register a business without</li></ul>	

# India's schedule of limitations on market access & national treatment in CECA with Singapore

<p>a. General Construction Work for Buildings (CPC 512)</p> <p>b. General construction work for civil engineering (CPC 513)</p> <p>c. Installation and assembly work (CPC 514, 516)</p> <p>d. Building completion and finishing work (CPC 517)</p> <p>e. Others (CPC 511, 515, 518)</p>	<p>Mode 1: None</p> <p>Mode 2: None</p> <p>Mode 3: None, subject to incorporation in India.</p> <p>Mode 4: Unbound except as in horizontal commitments for independent professionals and employees of juridical persons and subject to contract with final client in India.</p>	<p>Mode 1: None</p> <p>Mode 2: None</p> <p>Mode 3: None, subject to incorporation in India and also subject to the condition that prescribed minimum capitalisation norms must be adhered to.</p> <p>.</p> <p>Mode 4: Unbound except as in horizontal commitments for independent professionals and employees of juridical persons and subject to contract with final client in India.</p>
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# All sector commitments are subject to following horizontal limits on market access & national treatment

<p>ALL SECTORS INCLUDED IN THIS SCHEDULE</p>	<p>Mode 3: Prior Government approval shall be required where a joint venture or technology transfer/trademark agreement existed in the 'same' field except in the case of investment by Venture Capital Funds registered with the Security &amp; Exchange Board of India or where in the 'existing' joint venture investment by either of the parties is less than 3% or where the existing joint venture is defunct or sick.</p> <p>Mode 3 and 4: Access to Scheduled areas and Tribal Areas covered under the V and VI Schedule of the Constitution of India may be denied.</p>	<p>Mode 3:</p> <ul style="list-style-type: none"><li>- For transfer of equity in an existing company to the investor of the other party where Security &amp; Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 as amended, are Applicable.</li><li>- Repatriation of sale proceeds of immovable property is subject to prior approval of Reserve Bank of India.</li><li>- Taxation laws for domestic and foreign service suppliers, as per the provisions of the Income tax Act, 1961, shall apply.</li><li>- Subsidies, where granted, shall be available only to domestic service suppliers.</li><li>- In case of collaboration with public sector enterprises or government undertakings as joint venture</li></ul>
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Mode 4 is excluded from ETCA,  
but useful to understand

# Why a legal framework for Mode 4?

- Services trade in Modes 1 and 2 are difficult to police (or even get data on)
  - But generate demand for Mode 4 (also generated by investment in agriculture and manufacturing)
- Modes 3 & 4 are integrally connected to investment and are de facto liberalized; why oppose de jure liberalization?
  - Countries that want foreign direct investment will get it, with or without rules [not discussed in interests of time]
  - Particularly where Mode 4 is not rule-governed, power relations likely to dominate
    - Investors will bring in the personnel they want on a case-by-case basis (what happens now, under BOI)
      - But officials/politicians may use discretionary power to extract rents

Mode 4 rules do not abolish immigration laws; simply reduce discretion & increase certainty

- **Highly liberal form of regulating trade-related movement of natural persons**
  1. Both countries to take full commitment within CEPA on independent professionals delinked from commercial presence.
  2. To put in place a visa system to ensure the fulfillment of Horizontal and Sectoral Commitments undertaken.
  3. Undertake to put in place a Visa system ensuring grant of multiple entry visas to professionals.
  4. Allow inter-firm mobility to professionals.
- **Milder version would link professionals to commercial presence & exclude independent professionals**

# Mode 4 variations

