Movement of people and the WTO

- What is covered under trade rules?
- The negotiating context
- Why should migration authorities be interested?
General Agreement on Trade in Services (GATS) concluded in Uruguay Round.

4 modes of supply:

- mode 1: cross-border (e.g., Mexican architect faxes drawing to Korean client)
- mode 2: consumption abroad (e.g., tourism)
- mode 3: commercial presence (e.g., Mexican architecture firm opens branch in Korea)
- mode 4: movement of natural persons (e.g., Mexican architect goes temporarily to Korea)
Defining mode 4

• Mode 4 is *temporary* movement
  – not defined, commitments range from several weeks (business visitors) to 3-5 years (intra-corporate transferees)
• BUT permanent explicitly excluded
  – GATS does not apply to measures affecting individuals seeking access to the employment market, nor to measures regarding citizenship, residence or employment on a permanent basis.
Defining mode 4

- self-employed or independent service suppliers (remuneration received in host country)
- employees of a foreign company who are sent to fulfill a contract with a host country client
- employees of foreign companies established in the host country (intra-corporate transferees)
- business visitors (short term stays, no remuneration received in host country)
Defining mode 4

• No clear definition, but can think in terms of duration and purpose of stay:
  – gain entry for specific purpose (to fulfil a contract)
  – normally confined to one sector (can’t move - vs general migrants)
  – temporary (not migrating permanently nor seeking entry to labour market)
The negotiating context

• Mode 4 introduced into GATS at the insistence of some developing countries
  – balancing movement of capital with movement of labour
• WTO Members cautious, few commitments
  – restricted access and only for highly skilled
  – less liberalisation achieved under mode 4 than other modes
The negotiating context

- New services negotiations commenced 1 January 2000
- WTO Ministerial in Doha agreed dates:
  - initial requests (30 June 2002)
  - initial offers (31 March 2003)
- End-date all negotiations 2005
The negotiating context

- 5 general proposals on mode 4
  - Colombia, India, Canada, EC, Japan, US.
- Also mentioned in proposals on specific sectors
  - e.g., professional, computer and related and construction and related engineering services
- Will also be raised in bilateral requests and offers for market access
The negotiating context

– Major issue for some developing countries
  • part politics, part real export interest (India)
– But other developing countries less interested
  • brain drain, lower-skilled labour
– Developed countries mixed views
  • pressure from companies operating globally to facilitate movement of people
  • short-term skills shortages in key areas
  • BUT concerns about migration and impact on labour market
– Linkages - nothing is agreed ……
The negotiating context

- What has been proposed?
  - common definitions of personnel
    - manager, executive, specialist
  - improving market access
    - sectoral commitments
    - better access for some (intra-corporate transferees)
    - expanding access to new groups
  - administrative procedures
    - GATS visa
    - transparency
Why should migration authorities be interested?

- Different policy communities, systems designed for different purposes
- Trade negotiators need your expertise on what is realistic and feasible, e.g.,
  - how practical is it to consider a GATS visa?
  - how much flexibility do we need?
  - what sorts of commitments can we realistically implement?
Why should migration authorities be interested?

– how to distinguish between service and non-service activities....
  • e.g., “business visitors”, “company managers”
– or to identify a service.....
  • temporary agricultural workers vs suppliers of fruit picking services
– which is commercial...
  • amateur and professional athletes
– falling under mode 4
  • working holiday makers
• Need to get it right - GATS commitments guaranteed minimum treatment
  – can alter, but owe compensation
• GATS schedules thus generally do not reflect current (more liberal) entry regime
• Challenge is to balance try to make progress in negotiations and retain flexibility
Why should migration authorities be interested?

- Greater dialogue to understand the needs and constraints of both communities
- Close policy coordination to come up with possible avenues to make progress
Thank you