



# Movement of People and the WTO



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# Movement of people and the WTO

- What is covered under trade rules?
- The negotiating context
- Why should migration authorities be interested?

# Movement of people in the WTO

- 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

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# 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?

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# 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

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# Why should migration authorities be interested?

- 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

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# 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

