An initiative of
United Nations ESCAP

# ARTNeT POLICY BRIEF

Asia-Pacific Research and Training Network on Trade - www.artnetontrade.org - Tel: +66 2 288 2087 - Email: artnetontrade@un.org

# Liberalization of Market Access in GATS Mode 4 and its Importance for Developing Countries

Rahul Sen, ISEAS and Ramkishen Rajan, NUS*

Brief No. 4, September 2005

## INTRODUCTION

Services constitute a large and growing share of economic activity in developing countries. This is especially so in middle and upper income developing countries where the services sector makes up about 60 per cent of GDP on average. Concomitantly, many developing countries have also developed substantial comparative advantages in various services activities. Apart from its direct contribution to output, employment and export revenue, the services sector plays an integral role in terms of its links to the other parts of the economy. Indeed, an efficient services sector helps boost a country's manufacturing and overall global economic competitiveness. It is in this context that the liberalization of services trade under the multilateral framework of GATS assumes importance, particularly in the ongoing Doha Round.

Among the four modes of supplying cross-border services, there appears to have been least forward movement in the multilateral liberalization of Mode 4 or Movement of Natural Persons (MNP). While negotiations on this mode began as far back as the Uruguay Round of 1986-93, its liberalization commitments under the GATS have not been forthcoming. This is despite the fact that studies have indicated that liberalization of Mode 4 could generate welfare gains to developing countries ranging from US$ 150-300 billion per annum directly, in addition to complementing services liberalization in other modes, e.g. commercial presence (Mode 3) (Winters, 2001 and 2003).

This policy brief has three broad objectives. First, it highlights the acute difficulties in estimating Mode 4 trade and analyzes the importance of liberalizing Mode 4 trade and the gains that could potentially be reaped by developing countries by doing so. Second, it focuses on the increasing importance of bilateral agreements as vehicles to enhance Mode 4 trade. Finally, it briefly discusses some policy implications going forward with reference to possible paths towards enhancing the participation of developing countries in Mode 4 trade.

## MODE 4 TRADE LIBERALIZATION AND EXPECTED GAINS FOR DEVELOPING COUNTRIES

As defined in GATS article 1.2(d), Mode 4 refers to the *"supply of a service... by a service supplier of one member, through presence of natural persons of a Member in the territory of any other Member".* This presence is deemed to be temporary, although no time frame is specified. The maximum length of stay permitted under this mode has often varied across different categories of professionals, with business visitors being allowed to stay for up to 90 days and intra-corporate transferees between two to five years. However, members have the right to regulate the entry and stay of persons in their territory regardless of their GATS obligations. To date only five developed members of the WTO (Australia, Canada, EU, Norway and Switzerland), and only one developing member country (India) have improved upon their Uruguay Round commitments. These improvements on their GATS obligations have entailed partial liberalization with respect to entry for additional categories of foreign service suppliers and extension of their duration of stay in the country, with specific commitments being largely directed more towards promoting MNP that is related to commercial presence (Mode 3) (Carzaniga, 2003).

Data on Mode 4 is usually measured from the BOP statistics in the three categories: (a) "labour income", i.e. wages, salaries and other compensation received by individuals working abroad for less than one year; (b) "worker remittances", i.e. transfers from workers who stay abroad for a year or longer; and (c) "migrants transfers", i.e. flows of goods and changes in financial assets associated with international migration. Based on available statistics on these three categories only, recent estimates by the WTO have found Mode 4 to have accounted for just over 1 per cent of world services trade (WTO, 2002). However, it is important to keep in mind that BOP statistics offer only a partial picture of the total value of Mode 4 trade, and hence the above estimates are likely to underestimate the actual value of trade involved.

** Dr. Sen is a Fellow, Institute of Southeast Asian Studies, Singapore and Dr. Rajan is a Visiting Associate Professor, LKY School of Public Policy, National University of Singapore. The views presented here are those of the authors and do not necessarily reflect the views of the United Nations.* *The technical and financial support of the UN Economic and Social Commission for Asia and the Pacific and the International Development Research Centre, Canada, are gratefully acknowledged.*

Gauging the economic impact of Mode 4 trade is made difficult by the fact that it not only relates to international trade in services, but also to issues of migration. In general, since developed countries increasingly face problems of skill shortages and an ageing labour force, they constitute the countries generating demand for Mode 4 trade, while it is the developing countries with large pools of competitive manpower that generate supply. In a widely quoted study, Alan Winters (2003) notes:

> *In the case of Mode 4 trade, potentially large returns would be feasible if medium and less skilled workers, which are relatively abundant in developing countries, were allowed to move and provide their services in developed countries. The review of existing empirical studies of factor mobility and the new estimates agree that there are huge returns to even relatively small movements of labour. An increase in developed countries' quotas on the inward movements of both skilled and unskilled temporary workers equivalent to 3 per cent of their workforces would generate an estimated increase in world welfare of over $US150 billion p.a. (p. 59).*

Indeed, there is a large and growing body of case studies that support the notion that Mode 4 trade can positively contribute to growth and development in developing countries. One of the prime examples in the developing country context is the Indian state of Kerala. A large number of Kerala natives moved to the Middle East to work in services industries (oil rigging, construction, etc.). In the case of Kerala, cash remittances have constituted almost 10 per cent of the state's domestic product. The repatriation of worker remittances helped to partly finance the construction of the international airport in the state's capital city, Cochin through a private-public partnership. Remittances from foreign workers have played similarly positive roles in other developing countries in the Asia-Pacific such as Sri Lanka, Philippines and Bangladesh. The fact that these remittances now constitute the second largest (and most stable) component of capital inflows after FDI indicates their potential for stimulating long-run economic development (Rajan, 2004). It also highlights that Mode 4 trade could be a useful tool for poverty reduction in developing countries, with remittances playing a particularly key role.

Another well known case in which a developing country has benefited from Mode 4 trade liberalization is India in the Information and Communication Technology (ICT) services sector, which has been fuelled by the increasing demand for on-site services such as custom applications, software development and maintenance work. The main destination for such services exports is the United States of America (USA), where services are delivered mainly in the insurance, banking, energy and telecommunications industries. On-site services provided by Indian programmers, coders, systems analysts and maintenance personnel, which involves temporary movement of Indian IT professionals mainly to the USA, accounted for as much as 50 per cent of export revenue in the IT sector,

Increasingly, there appears to be a virtuous cycle in motion – well-educated Indians are returning to their home country after having developed the contacts, management know-how and amassed some amount of financial resources, which they use to establish their own businesses in India. Those who do not become entrepreneurs have been instrumental in stimulating MNCs to establish or intensify business operations in India. It is in this way that Mode 4 trade has helped to sell India as an attractive destination for trade and investment by foreign investors and an attractive destination to outsource services, which in turn has generated demand for Mode 4 trade itself. Other developing countries in the Asia-Pacific such as China, Malaysia and Singapore have shared broadly similar experiences.

## BILATERALISM AS AN EMERGING VEHICLE FOR LIBERALIZING MODE 4 TRADE

Given that multilateral liberalization on Mode 4 has moved forward rather slowly, many WTO members are increasingly using bilateral trade agreements (BTAs) as an instrument to achieve a greater degree of liberalization. While there are certain Preferential Trade Agreements (PTAs) that involve full mobility of labour, e.g. European Union (EU) and the European Free Trade Association (EFTA), there are others that provide restricted market access for temporary service providers. While some of these PTAs follow the GATS model, many of them include some additional provisions (Nielson, 2003).

Although bilateral liberalization of Mode 4 has been a common feature in BTAs involving the EU and the US, it has figured only recently in BTAs in the Asia-Pacific region. Singapore has been the most pro-active in this regard, though other neighbouring countries are also beginning to negotiate Mode 4 trade bilaterally. For instance, ongoing negotiations for a Philippines-Japan agreement are expected to partially liberalize requirements for entry of a limited number of Filipino nurses into Japan.

In the case of Singapore, almost all its free trade agreements (e.g. with Japan, New Zealand, Australia, USA and India) include provisions relating to the freer movement of natural persons. Singapore's enforced BTAs have applied provisions for temporary entry of professionals for business visitors, investors and intra-corporate transferees, in which the time period for their stay in the partner countries has been extended, depending upon the activity they intend to undertake and their hierarchy in the organization. The basic aim is to enhance business interactions, economic cooperation and people-to-people contacts that go beyond those committed multilaterally.

However, it is important to keep in mind that the specifics of the agreements negotiated by Singapore are quite diverse in terms of their scope, coverage, and commitments for liberalizing Mode 4 trade across sectors. For instance, the USA-Singapore FTA (USSFTA), the Japan-Singapore Economic Partnership Agreement (JSEPA) and the India-Singapore Comprehensive Economic Cooperation Agreement (CECA) each devote separate chapters on the issue with more detailed offers, while EFTA-Singapore FTA (ESFTA) and the Singapore-New Zealand FTA have included separate articles with much less specificity (Sen, 2005). In most cases, cross-border skilled labour flows betweens partner countries have been exempted from labour certification or economic needs test while entering the domestic market for providing services either directly or through commercial presence (Mode 3). However, they are still subject to the terms, conditions, reservations or limitations scheduled by both countries for each service under their list of specific commitments. The typical duration of stay allowed for business visitors and investors in most of these bilateral FTAs is about three months, while that for intra-corporate transferees of partner countries have ranged from a year to 3-4 years. The eligibility criteria are carefully defined to be restricted to citizens and permanent residents of BTA partners who represent a service supplier, and in certain cases, as in the USSFTA, temporary entry is subject to numerical restrictions on cross-border labour flows (MTI, 2005).

In spite of the measures taken by developed and developing countries towards partial liberalization of Mode 4 bilaterally, several important barriers remain to be dismantled. These relate mainly to issuing of visas and work permits for Mode 4 trade and that of mutual recognition of qualifications and differential treatment of foreign and local workers with respect to tax and social security benefits. Thus, while some countries, viz. India, have proposed a separate GATS visa for temporary entry of professionals under Mode 4, it has not been taken up seriously at either the multilateral or the bilateral level (Chanda, 1999). Further, many of the BTAs that have made partial commitments under Mode 4 have fallen short of negotiating a mutual recognition agreement (MRA) for recognition of qualifications to allow skilled professionals to take up employment.

One recent case in point is the India-Singapore CECA. Under this Agreement, both countries have agreed to liberal norms for temporary entry for four categories of business persons – business visitors, short-term service suppliers, professionals, and intra-corporate transferees – to provide services for a period ranging from 2 months (for business visitors) to as long as 8 years (for intra-corporate transferees). However, while professionals from 127 sub-sectors of occupations are granted temporary entry, they will be allowed to practice only in five professions i.e. auditing, architecture, medical doctors, dental and nursing, subject to the successful negotiation of an MRA between the two countries over 2005-06[1].

All in all, bilateral trade agreements, which undertake partial steps towards liberalization of Mode 4 trade, could provide important lessons for negotiations at the multilateral level.

## CONCLUDING REMARKS

Significant data caveats notwithstanding, it is evident that liberalizing Mode 4 trade will lead to substantial gains for both developed and developing countries by taking advantage of factor cost differences (as in the case of merchandise trade). Recently proliferating regional and bilateral initiatives have indicated the willingness from both developing and developed countries to partially liberalize Mode 4 trade. However, these are at best second and third best options, with considerable gains to be reaped from multilateral liberalization.

For multilateral liberalization to go forward, substantial improvements in the existing institutional and regulatory framework for negotiations to facilitate Mode 4 trade under the GATS are needed, in order to improve market access under this mode for developing countries. Approaches for extending MFN treatment for natural persons that are currently covered under bilateral agreements should be considered. Genuine steps at the multilateral level to ensure that domestic regulation does not undermine market liberalization achieved for MNP should also be taken. Ongoing negotiations should achieve transparency in detailing the qualification requirements and procedures for obtaining recognition of qualifications. Further, there is also an urgent need to notify and review labour regimes in a dedicated committee under the Council for Trade in Services, as proposed by UNCTAD (2003).

[1] Chapter 9 of the Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore negotiates Mode 4 separately on a bilateral basis. See MTI (2005) for details.

Given that developed countries are concerned that temporary migration might become permanent, it is highly likely that the model chosen for eventual negotiation at the multilateral level will be a mix of partial labour mobility and a limited degree of market access, especially in those sectors faced with acute labour shortages. Conversely, developing countries are likely to move forward in other areas of the multilateral negotiations only if there is significant forward movement in commitments by the developed countries on Mode 4 in the GATS.

## REFERENCES


Carzaniga, Antonia (2003), "The GATS, Mode 4 and Pattern of Commitments" in Aditya Mattoo and Antonia Carzaniga (eds.) *Moving People to Deliver Services,* The World Bank and Oxford University Press, Washington D.C., pp. 21-26.

Chanda, Rupa (1999), *"Movement of Natural Persons and Trade in Services: Liberalizing Temporary Movement of Labour under the GATS",* Indian Council for Research on International Economic Relations, India (accessible at the following address: www.icrier.org).

Ministry of Trade and Industry (MTI) Singapore (2005), Legal text of the USA-Singapore FTA and the India-Singapore CECA, available at www.fta.gov.sg.

Nielson, Julia (2003), "Labour Mobility in Regional Trading Agreements", in Aditya Mattoo and Antonia Carzaniga (eds.) *Moving People to Deliver Services,* The World Bank and Oxford University Press, Washington D.C., pp. 93-112.

Rajan, R. (2004), "Financing Development in the Asia-Pacific Region: Trends and Linkages", *Studies in Trade and Investment,* UN-ESCAP.

Sen, Rahul (2005), *"New Regionalism in Asia: A Comparative Analysis of Regional Trading Agreements (RTAs) involving ASEAN, China and India",* paper presented at the CESifo Venice Summer Institute 2005 Workshop on Global Economic Negotiations, Venice International University, San Servolo, Venice, Italy, 20-21July 2005.

UNCTAD (2003), *"Increasing the Participation of Developing Countries through Liberalization of Market Access in GATS Mode 4 for Movement of Natural Persons Supplying Services",* note by the UNCTAD Secretariat, TD/B/COM.1/EM.22/2. 18 June 2003.

Winters, L. Alan (2001), "Assessing the Efficiency Gain from Further Liberalization: A Comment", in Sauvé, P., Subramaniam, A., (Editors), *Efficiency, Equity and Legitimacy: The Multilateral Trading System and the Millennium,* Chicago University Press, Chicago, 2001.

Winters, L. Alan (2003), "The Economic Implications of Liberalizing Mode 4 Trade", in Aditya Mattoo and Antonia Carzaniga (eds.) *Moving People to Deliver Services,* The World Bank and Oxford University Press, Washington D.C., pp. 59-92.

WTO (2002), Joint WTO-World Bank Symposium on movement of natural persons (Mode 4) under the GATS, *"GATS, Mode 4 and the Pattern of Commitments: Background Information – WTO Secretariat",* WTO, Geneva, 11-12 April 2002.


---

This and other policy briefs, as well as guidelines for authors, are available online at www.artnetontrade.org. Your comments and feedback on ARTNeT briefs and other publications are welcome and appreciated (Email: artnetontrade@un.org).

***What is ARTNeT?*** *The Asia-Pacific Research and Training Network on Trade (ARTNeT) is an open regional network of research and academic institutions specializing in international trade policy and facilitation issues. Network members currently include about 15 leading national trade research and academic institutions from as many developing countries from East, South, and Southeast Asia and the Pacific. IDRC, UNCTAD, UNESCAP and the WTO, as core network partners, provide substantive and/or financial support to the network. The Trade and Investment Division of UNESCAP, the regional branch of the United Nations for Asia and the Pacific, provides the Secretariat of the network and a direct regional link to trade policy makers and other international organizations.*

*ARTNeT aims at increasing the amount of policy-oriented trade research in the region by harnessing the research capacity already available and developing additional capacity through regional team research projects, enhanced research dissemination mechanisms, increased interactions between trade policy makers and researchers, and specific capacity building activities catering to researchers and research institutions from least developed countries. A key feature of the network's operation is that its research programme is discussed and approved on an annual basis during a Consultative Meeting of Policy Makers and Research Institutions. For more information, please contact the ARTNeT Secretariat or visit www.artnetontrade.org.*