

ILO Decent Work Across Borders Migration Notes

GATS Mode 4: Movement of Natural Persons and Protection of Migrant Workers' Rights

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GATS Mode 4: Movement of Natural Persons and Protection of Migrant Workers' Rights

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Executive Summary

Intergovernmental agreements on temporary migration at the multilateral level have been taking place since 1994 under the aegis of the World Trade Organization, as GATS Mode 4 agreements, part of the negotiations on trade in services. Even while proceeding at a slow pace, these agreements have by-passed the issue of migrant worker rights, following a perception among trade negotiators that labour standards undermine the expansion of trade, since countries could use them as a subterfuge for trade protection. The paper shows how the WTO's National Treatment principle, a potentially powerful instrument for protecting the rights of temporary migrant workers, has been emasculated, as the vast majority of countries have predicated their Mode 4 agreements on numerous exceptions on national treatment. Many of these exceptions go against the basic rights of workers, as recognized in various international migrant worker instruments. Also, an overwhelming emphasis on market access under the WTO's existing framework has left little scope for countries to commit to protect foreign workers during the various stages of the migration process.

The paper indicates that while labour standards might affect the international trade in goods, there is no indication that they actually slow down international migration. Rather, in the changed global scenario since the Uruguay Round, escalating demands for temporary overseas workers necessitates the incorporation of migrant worker protection clauses into any multilateral framework that deals with temporary migration. The paper suggests several ways by which the International Labour Organization, as the leading international organization on workers' rights, can influence the debate on GATS Mode 4 - both by collaborating with the WTO and also independently, by using its unique tripartite structure, international outreach and technical assistance.

Introduction

Temporary travel overseas to deliver a good or service is thousands of years old - religious missionaries, diplomats and traders have been doing it for centuries. International migration has been discussed at the intergovernmental level in the International Labour Organization since its inception in 1919, and in the International Organization for Migration and its previous Intergovernmental Committee on European

Migration, since 1952. The primary focus in both organizations initially has, however, been on permanent migration, with temporary migration being discussed only as a sub-set of migration in general.


Intergovernmental discussions directed exclusively on temporary migration are a relatively recent development. They began during the Uruguay Round of international trade negotiations, which started in 1989 and ended in 1994 with the establishment of the World Trade Organization (WTO). The Uruguay Round, in addition to updating the conventional agreement on trade in merchandise goods called GATT, introduced several new trade agreements, including a new international agreement for trade in services called the General Agreement for Trade in Services or GATS.

GATS introduced new terminology into the world of global trade negotiations. Unlike goods trade that takes place when merchandise is physically transported across borders in exchange for a consideration, trade in services was described as occurring in four different ways: **Cross-border supply of services (Mode 1)** took place when a firm or person located in one country provided a service to consumers in another country; e.g. when a doctor sells medical prescriptions to an overseas patient via the internet. **Consumption abroad (Mode 2)** was the second way of conducting international trade in services; e.g. when patients come from overseas to avail of medical treatment ('medical tourism'). The third way of trading in services was through **Commercial presence (Mode 3)**; e.g. when a hospital headquartered in one country supplied its services abroad by opening a branch in another country. Finally, international trade in services also took place through temporary migration or the **Presence of Natural Persons (Mode 4)**, when an individual who was either self-employed or employed by a firm, physically went overseas to provide a service to consumers; e.g. nurses working on short-term contracts with a hospital in a foreign country¹. Thus, with the signing of the GATS in 1994, a new term – *Mode 4* - came into the lexicon of the literature on international trade as well as international migration.

The exact WTO definition of Mode 4 can be found in Article I 2 (d) of the GATS, which refers to "the supply of a service ...by a service supplier² of one Member, through the presence of natural persons of a Member in the territory of any other Member." This definition is further qualified in a

¹ The WTO uses the phrase 'natural persons' to distinguish workers traveling overseas (Mode 4) from juridical persons such as firms traveling overseas (Mode 3).

² The preference for the term 'service supplier' over 'migrant worker' in the GATS is probably aimed to avoid any complications that could arise from the use of the latter term in the schedules of commitments. For example, a country could be quizzed in the General Conference of the International Labour Organization for taking an exception to wage parity in its Mode 4 schedule when it had already ratified ILO conventions on migrant workers' rights.



GATS Annex, which states that GATS rules, negotiations and commitments do not apply to persons seeking citizenship, residence or employment on a permanent basis.³

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Mode 4 thus implies at least two things: first, the overseas travel by the worker has to be temporary in nature; second, it must have been undertaken in order to perform a specific job, the supply of a service.

It is important to understand that though akin to it, Mode 4 has specific characteristics that distinguish it from the broader phrase of temporary migration. For one, Mode 4 applies only to temporary migration of workers in services sector occupations and not to temporary foreign workers employed in the manufacturing, mining or agricultural sectors of another country. Furthermore, foreign workers employed by a firm of their host country are not covered by the definition of Mode 4, as they do not belong to a service supplier of one WTO member country that is providing services in the territory of any other member country.

Examples of temporary migration that is not Mode 4 include seasonal farm labor employed on agricultural lands and plantations overseas, foreign workers in major mining projects and workers employed in labor-intensive manufacturing activities, say, during an export boom in a foreign country. Foreign employees of a bank located in its own country are also not regarded as Mode 4 workers as the migrant worker must be employed by a firm of his/her home country to be classified as a Mode 4 worker. Temporary overseas travel undertaken for tourism or for obtaining medical assistance or education is called “Consumption Abroad” in the GATS and classified under Mode 2 and excluded from Mode 4. Finally, government servants posted overseas and providing important diplomatic and consular services are not regarded as Mode 4 since “services supplied in the exercise of government authority” have been kept outside the purview of the WTO. Clearly then, the definition of Mode 4 covers only a portion of all temporary migrant workers in the world. However, it is a significant proportion, given that globally, around 40% of migrant workers are employed in service sector occupations. (World Bank, 2006a)

For the sake of simplicity, the terms ‘temporary migration’ and ‘Mode 4’ will be used interchangeably in the rest of the analysis. However, it is important to keep the sui generis nature of Mode 4 in mind when attempting to extend the conclusions, lessons or best practices drawn from temporary migration in general to the more specific type of temporary migration covered by the WTO.

³ GATS Annex on the Movement of Natural Persons Supplying Services under the Agreement.


Overview of Mode 4 agreements in the WTO

The GATS requires that WTO member countries negotiate with each other with the aim of progressively liberalizing trade in services. A WTO member can make concessions in each service sector or sub-sector that it wants to allow foreign competition in - in one, some, or all of the 4 modes of supply. Negotiations take place around a list prepared by the WTO during the Uruguay Round, of around 155 activities covering 12 services sectors (WTO, 1991). The 12 sectors are (1) Business Services (which includes the legal, engineering, medical professions as well as the computer and real estate sectors); (2) Communications services (which includes the postal, telecommunications and audio-visual sectors); (3) Construction and Related Engineering services; (4) Distribution services (wholesale and retail trade); (5) Educational Services; (6) Environmental services; (7) Financial Services (insurance, banking etc.); (8) Health and Social Services; (9) Tourism and Travel services; (10) Recreational, Cultural and Sporting services; (11) Transport Services and (12) Other services not included elsewhere.

Further sector-specific examples of Mode 4 migration include senior managers posted abroad to manage operations of a multinational firm operating in the services sector of a foreign country (supply of Business Services via mode 4); IT technicians traveling overseas to provide backup technical support for computer hardware or software (supply of Computer Services via mode 4); Academic faculty traveling to a foreign university on short-term teaching assignments (supply of Higher Education Services via mode 4); Household helpers hired for a specific period as au pair by families abroad (supply of Social Services via mode 4); An accomplished doctor traveling to a foreign country to perform complicated surgery (supply of Health Services via mode 4); Cultural troupes performing overseas (supply of Entertainment Services via mode 4) and unskilled and semi-skilled workers from one country employed on contract on construction sites in other countries (supply of Construction Services via mode 4).

The final outcome of the negotiations is published in the list of concessions or “schedules of commitments” that each country has to submit to the WTO. This schedule in fact, constitutes that country’s multilateral migration agreement in the WTO. The schedules of commitments are comprised of two parts – the “horizontal section” which lists the concessions that apply across all the services for which commitments have been made by a country; and the “schedule of specific commitments” that contains the concessions made in individual services sectors and sub-sectors. All concessions are governed by two fundamental WTO principles – the concession cannot be selective but must be made available to all WTO member countries (the Most Favoured Nation or MFN principle); secondly, all foreign service suppliers must be treated at par with local suppliers (the principle of National Treatment). This second principle is critical for migrant workers’ rights for it implies that a WTO member must treat a migrant worker at par with a local worker – a goal enshrined in several migrant worker Conventions of the ILO.

However, while making their concessions, countries can specify limitations or conditions under which they will allow foreign services and service providers under the four modes of supply into their domestic market and compete with domestic services and service providers. These limitations or conditions can be with respect to "market access" or to "national treatment." The ostensible reason given by the WTO for allowing countries to place conditions on their concessions



is to enable countries, especially developing countries, to open their services sectors to foreign competition at the pace they choose to. It will be shown subsequently in this paper, how this facility has (a) slowed down the pace of Mode 4 liberalization and (b) acted as an impediment to the cause of workers' rights, especially the right to equal treatment for temporary migrant workers.

To ensure the implementation of these agreements the WTO has a Dispute Settlement Body (DSB) before which complaints of non-compliance can be lodged. After a quasi-judicial process, the DSB can authorize a country at fault to pay compensatory damages to the country filing the complaint. In case damages are not paid, the DSB can authorize the aggrieved country to impose trade sanctions (e.g. higher tariffs) on the country guilty of violating its commitments.

Unlike the UN or its specialized agencies where penal action in the shape of economic sanctions is rare, and entails a cumbersome process requiring majority voting by member countries, individual countries in the WTO can obtain the requisite authority to impose trade sanctions in a relatively brief period of time. This is an important distinguishing feature of the WTO process, which, while it vests the organization with significant clout, may also be a reason why many countries are hesitant to make bold agreements in a politically sensitive area like international migration.

Member countries of the WTO submitted their first Mode 4 commitments in 1994, at the conclusion of the Uruguay Round. Subsequently, a few countries submitted supplementary commitments between 1995-1998, mainly for Telecommunications and Financial services, following additional negotiations that took place in these service sectors during this period. Fresh GATS negotiations began in 2000 and have yet to be concluded. An analysis of Mode 4 agreements in the WTO is per force -based on the commitments schedules submitted by the 128 WTO founder member countries in the last decade plus those made by the 32 countries that have acceded to the WTO since 1995.

To date, 128 out of a total of 160 WTO members have signed GATS Mode 4 agreements in the WTO. Among the countries with very few Mode 4 agreements are least developed countries (LDCs) - only twelve out of 35 LDC members of the WTO have formally agreed to permit entry of Mode 4 migrants. Of the 155 services, developed countries as well as economies in transition have, on average allowed Mode 4 workers in more than 100 of them. Developing countries have allowed foreign workers in around 50-60 services, while LDCs in just around 25 sectors on the average. As Figure 1 shows, the service sectors with the largest agreements are Tourism services, Financial services, Business services and Telecommunications services, in that order. For reasons explained subsequently in this paper, comparatively few countries have agreed to formally allow migrant health workers from overseas.

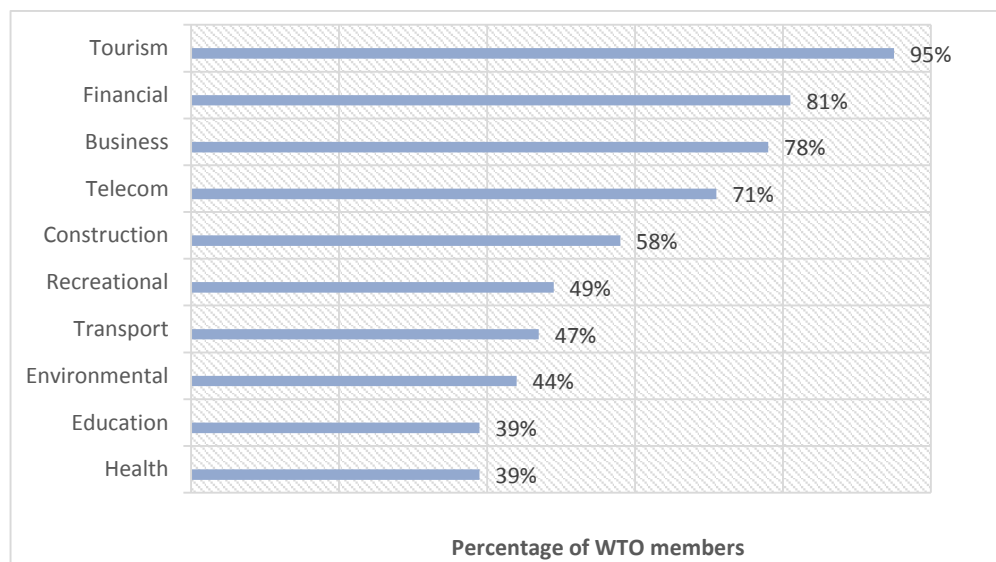
An exhaustive sector wise analysis of Mode 4 agreements is not warranted here as the matter has been analyzed in depth elsewhere. (See, for example, Adlung and Roy, 2005) There is broad consensus that around 80% of GATS Mode 4 agreements have been made for skilled workers (which includes doctors and nurses) or higher managerial and executive staff and only 20% for low skilled workers. (Chaudhuri, Mattoo and Self, 2004) A prominent agreement is that of the USA for taking in a minimum of 65,000 workers per year under its H1B visa program for skilled workers. On the whole, most Mode 4 agreements made by both developed and developing countries come with limitations or conditions attached.

Some of the conditions most frequently attached to the agreements are - use of labour market and economic needs tests⁴, - use of labour market and economic needs tests, compliance with domestic minimum wage legislation, bar on real estate purchase, requirements to train local staff, the right to suspend the agreement in the event of labour-management disputes and restrictions on changing employers during the stay abroad. Thus, a previous analysis done by the WTO secretariat concluded that “overall, the degree of Mode 4 access bound in current GATS schedules is rather shallow” (WTO, 2009) - which, in simpler terms, implies that most of the GATS Mode 4 agreements to allow entry of temporary migrants have too many preconditions and are limited to only certain (higher skilled) categories of workers.

The current state of Mode 4 negotiations

As mentioned previously, Mode 4 negotiations restarted in 2000 in compliance with a provision built into the GATS that required a work-program for progressive liberalization of trade in services. These negotiations were subsumed under the Doha Round when it began in 2001 and are still continuing⁵. A WTO trade ministers meeting held in 2005 in Hong Kong tried to give a fresh impetus to the negotiations by proposing a set of guidelines that included boosting commitments on additional categories of temporary migrants not linked to commercial presence, greater clarity and reduction of economic needs tests and greater periods of stay for the temporary migrants.


Figure 1 GATS Commitments by Service sectors



Source: Adlung and Roy (2005)

⁴ A labour market test would normally involve advertising the vacancy to see if local substitutes were available; an economic needs test would entail furnishing evidence of shortage of workers such as a rise in the wage rate.

⁵ WTO members undertake trade negotiations in 'Rounds'. The Doha Round is WTO's second round of negotiations after the Uruguay Round (1988-1994). Agreements are signed only after a round has successfully concluded. The Doha Round began in 2001 and has yet to be concluded.



As a consequence, around 30 countries came up with ‘revised and improved’ Mode 4 offers during the current Doha Round. The main “improvements” included more offers to admit self-employed service professionals and not just employees of international firms, reduction in the use of labour market and economic needs tests or removal of nationality requirements. However, WTO insiders contend that despite this, Mode 4 proposals for the majority of countries continue to be significantly restrictive and few and far between. In any case, the negotiations have yet to reach a final conclusion with the Doha Round itself getting bogged down on other issues such as agriculture.

The Size of Mode 4 and Leading Source and Destination Countries

Precise data on Mode 4 are not readily available. This is mainly because many countries do not keep records of persons going abroad for work. Work undertaken in the WTO and based on the UN Manual on Statistics of International Trade in Statistics is still conceptual and ongoing. One has therefore to depend upon approximations and indirect projections based on the database of countries with relatively high traditions of statistical record keeping.

According to the OECD there were 2 million temporary migrants who entered OECD countries in 2011, about three times the 750,000 people granted permanent work permits that year. (OECD, 2013) The World Bank has estimated that 40 % of migrants worldwide work in agriculture, 20% in manufacturing and another 40% in services. (World Bank, 2006a) In OECD countries, where the size of the agricultural sector is small, it has been estimated that around 50% of migrants work in the services sector. The number of Mode 4 migrants (i.e. temporary and working in the services sector) in OECD countries can roughly be estimated therefore, to be 1million, which is significantly greater than the number of people granted permanent work permits.

However, not all temporary migration in the services sector of foreign countries is Mode 4 migration in the strict sense i.e. covered by GATS Mode 4 agreements by the destination countries. A comparison of the actual international movements of temporary workers in important migration corridors and the Mode 4 agreements of the leading destination countries, reveals a mixed picture. For instance, the movement of Indian IT workers to the US is covered by the latter’s Mode 4 agreement to permit 65,000 skilled workers annually under the H1B visa program. However, the thousands of Filipino nurses and midwives who travel to the US, and are an important remittance source, are not covered by Mode 4 since the US has not signed any Mode 4 agreement for ‘services provided by midwives, nurses, etc.’ under the Health Related and Social Services sector.

Similarly, temporary Egyptian construction workers in Saudi Arabia can be categorized as Mode 4 migration since Saudi Arabia has signed a Mode 4 agreement for contract service suppliers in Construction Services; however, the large movement of Filipino and Indian nurses to that country is not strictly a Mode 4 movement, since Saudi Arabia has not made a Mode 4 agreement under “Services provided by midwives, nurses etc.”

What this implies is that our estimates of the size of Mode 4 need to be scaled down. On the whole, it would seem reasonable to conclude that the size of Mode 4 migration is a little smaller than or, at best, equal to the number of persons who are at present, being granted permanent

work permits annually in the world⁶.

What are the leading source and destination countries for Mode 4 migration? Because of the previously mentioned data limitations, some experts prefer to use workers' remittances figures as an indirect measure of Mode 4, given that temporary workers tend to remit a significant part of their earnings to their home countries relative to permanent migrants⁷. Measured in terms of the magnitude of remittances received in 2012, (see Annex Table 1) the top ten countries of origin of Mode 4 workers abroad are India, China, the Philippines, Mexico, France, Nigeria, Egypt, Germany, Bangladesh and Pakistan in that order.

A similar indirect measure can be used for estimating the leading destination countries for Mode 4 workers. This makes use of the data on wages and salaries earned by nonresident workers who have lived in the host country for less than a year. According to these data, (see Annex Table 2) in 2012 the United States was, by far, the leading destination country for Mode 4 workers, followed by the Russian Federation, Saudi Arabia, Switzerland, Kuwait, Germany, France, Qatar, Italy and the Netherlands in that order.


Mode 4 and Health Workers

Demographic change underpins the global demand for health care services on the one hand and the supply of health manpower on the other. Rapidly aging populations in many rich countries as well as the gradual declining availability of local health care personnel has generated a surge in the demand for overseas doctors, nurses and old age caregivers in the United States, Europe and the Middle East. There has been a concomitant exodus of health workers from many developing countries in response to this escalating demand. In the Asia-Pacific region, the Philippines and India have been the main countries of origin while a nascent health worker export sector has recently taken roots in Vietnam, Sri Lanka and Bangladesh too. Japan, Republic of Korea, Singapore, Malaysia and Taiwan with a relatively wealthy middle class population willing to spend a higher proportion of disposable incomes on health care have been important destination countries within the region, although globally, the Middle East countries have been the main destinations for temporary migrant health workers from Asia.

In the context of this paper, an important question to ask is what has been the role of GATS Mode 4 in the international migration of health workers? Figure 1 on page 6 above depicts the main sectors in which WTO member countries have signed GATS Mode 4 agreements. It shows that only a small proportion of the WTO membership (39%) have agreed to allow migrant health workers in contrast to 95% of countries allowing foreign workers in the tourism sector, 81% in the financial

⁶ Critics of the Mode 4 process, such as some major workers unions, point out that because of the narrow commitments made by countries so far, the size of Mode 4 migration is, at present, small. However, they feel that the number of Mode 4 migrants may quickly expand, especially if developing countries succeed in getting others to commit on low-skilled services.

⁷ A difficulty here is that remittance figures are not segregated according to whether they originate from migrants working in the services sector alone. The leading Mode 4 countries calculated in this manner are in fact the leading temporary migration countries.



sector and 78% in the business sector. One possible explanation for this is that national positions on services trade liberalization often depend on the relative political strength of the lobbying power of potential gainers and losers. In the case of Mode 4 in health services, doctors and nurses associations (the potential losers from competition with foreign health personnel) are usually better able to lobby for their own protection with the government as compared to health patients (the potential gainers from reduced health costs likely from an induction of foreign health workers) who are too numerous and dispersed to be able to unite for a cause (Adlung, 2010 and Bhatnagar and Manning, 2005).

A corollary to the above is to ask if GATS Mode 4 really matters in the international movement of migrant health workers. As mentioned above, the Middle East is the chief destination for the temporary migration of Filipino and Indian health workers. However, several countries of the Middle East like Iran, Iraq, Algeria and Libya are not WTO members. These are countries that employ large numbers of migrant workers, including health workers but have not signed any GATS Mode 4 agreements. Saudi Arabia is a member of the WTO, but has not made any formal commitments under “Services provided by midwives, nurses etc.” Still it has a huge number of foreign health workers, and is, in fact the top destination for Filipino nurses. By contrast, both the Philippines and India, the leading suppliers of temporary workers to the world have signed bilateral labor agreements (BLAs) with Saudi Arabia. This raises the question whether BLAs are the better instrument to adopt in the international migration process?


These are relevant questions that raise doubts on the role of GATS Mode 4 to act as a vehicle for the smooth flow of temporary migrant workers. However, as will be shown subsequently (see section “The regional versus multilateral question” below), because of greater legal certainty, easier administration and higher global welfare benefits, a multilateral agreement on Mode 4 remains an attractive option for countries to work towards.

Mode 4 and Workers’ Rights

The WTO is an organization that was set up for the liberalization of international trade in goods and services and all its agreements are aimed at achieving that goal through the progressive reduction of barriers to trade. The primary objective of the GATS is expansion in international trade in services through all four modes of supply, including Mode 4. Thus, if all barriers to the movement of natural persons were to be removed and the maximum number of temporary workers could move across borders to fill vacant jobs abroad, an important free trade objective of the WTO would have been achieved.

However, unlike goods trade, the goal of liberalizing trade in services cannot be measured in numbers alone, but requires a simultaneous application of regulation and social policy. This is especially true for Mode 4 as it is human resources and not just commodities that are being traded. A fundamental difference between the two was recognized internationally, decades ago.⁸ The

⁸ The concept that “labour is not a commodity” forms part of the ‘Philadelphia Declaration’ of 1945 signed at the conclusion of the twenty-second session of the ILO.



dangers of pursuing numbers without making adequate arrangements for protecting their basic rights is vividly illustrated in the multitude of incidents which have come to light about the ill treatment of temporary migrant workers in several destination countries. These incidents range from police harassment, exploitation by employers, social exclusion, physical abuse, discrimination vis-à-vis local workers and other prejudicial acts, both in the workplace and in the societal setting.⁹ Both high skill and low skill workers are subjected to such incidents, though, as Box 1 on page 17 indicates, the latter are clearly the more vulnerable group.

The growing number of such incidents provides enough reason for GATS negotiators to review the manner in which temporary movement of natural persons under Mode 4 is being managed. In particular, it underscores the need to include commitments for the protection of temporary foreign workers post-entry into another country. Protection of Mode 4 workers from violations of rights is not a requirement under the GATS. Thus, a WTO Member country cannot complain against another Member for not protecting the basic rights of its nationals working temporarily in the latter country. Observers have noted that this stands in stark contrast to the situation in international intellectual property rights protection, where WTO Members may complain against lax protection of intellectual property rights of their nationals (Broude, 2007).

A cursory look at the existing GATS Mode 4 agreements clearly shows that WTO members have only listed the preconditions for worker entry which the country of origin of migrant workers has to comply with. . No country's agreement clearly mentions the responsibilities it is willing to undertake for the protection of the rights of the migrant workers¹⁰.

In fact, a closer look at the main preconditions placed by countries on their Mode 4 agreements reveals that many of them go against basic rights of workers, as recognized in various international migrant worker instruments. As Table 1 below shows, the single most frequent precondition placed by countries is to keep Mode 4 migrants outside the ambit of government subsidy schemes. So, for example, if local workers were given health or housing subsidy as part of government policy, temporary migrants could be deprived of the same.

Several countries also reserved the right to suspend their Mode 4 agreement in the case of a labour-management dispute; this, along with the common practice of disallowing temporary migrant workers from participating in trade unions, could compound the sense of job-insecurity among the migrant workers.

Another precondition frequently found in the GATS Mode 4 agreements relates to restrictions with regard to geographical or sectoral mobility, a condition that bars a temporary migrant from changing jobs during the duration of stay. In many destination countries, restrictions on changing employers is reinforced by the practice by employers of confiscating the migrants passports upon arrival, leaving the latter vulnerable to exploitation in many forms, such as performing excessive hours of work or being subjected to deductions of expenses relating to housing, health care and

⁹ For recent accounts, see Human Rights Watch report titled, "From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand", February 2010 or Amnesty International's report titled, "Disposable Labour: Rights of Migrant Workers in South Korea", October 2009.

¹⁰ Thus, the column "Additional Commitments" in the GATS schedule where worker protection commitments could have been entered has invariably been left blank by WTO member countries.

social security from the salary.

Table 1 Preconditions in Mode 4 agreements

Entries by those 100 countries that originally signed Mode 4 agreements in the WTO


		Conditions that discriminate between local and migrant workers						Conditions that are Pro-migrant worker	
		Real Estate	Subsidy	Foreign Exchange	Taxation	Mobility restrictions	Withdrawal if disputes	Minimum wages	ENT
Intra company	Executives	7	22		1	2	4	15	2
	Managers	7	22		2	2	5	15	5
	Specialists	8	22		2	2	4	15	6
	Others								1
Executives		3	3	1	3				2
Managers		4	4	1	4		2		14
Specialists		2	4	1	5		2		17
Business/Visitors	Commercial Presence	3	17		1	2	2		1
	Sales negotiations	7	22		1	2	2		
Independent contract suppliers		1	1				1	1	
Other		1							
Not specified		3	1		1			1	6
Total		46	118	3	20	10	22	47	54

Source: Based on WTO, 'Presence of natural persons', Background Note, December 1998¹¹, Tables 11 and 12.

However, it would be unfair to say that the Mode 4 agreements of all WTO members focus entirely on one aspect of the migration process and totally ignore fair and equitable terms of employment. The Mode 4 agreements of a few countries do include a smattering of clauses that are pro worker in nature. Among them is the wage-parity or minimum wage requirement that has been included by several countries in their schedules and entails that the employer in the destination country is legally bound to pay a salary to the temporary migrant that is equal to that paid to a local worker or else, at least pay a salary equal to the local minimum wage. This is often coupled with similar clauses regarding conditions of work, working hours and social security. All these are in harmony with the workers' rights principles enshrined in many international labour conventions.

Another precondition commonly found in Mode 4 agreements may also, unwittingly, be pro-worker. This pertains to the right to use Economic Needs Tests (ENT) and/or Labour Market Tests before issuing work permits to temporary foreign workers. Aside from the fact that they give a fair opportunity to local workers, such tests may be in the long-term interest of the migrant workers, as they force employers to hire foreign workers only when there is a genuine shortage of local

¹¹ Table 1 and Table 3 (on page 16 below) are of 1998 vintage. The WTO secretariat confirmed that the bulk of the extant Mode 4 commitments were made before that year. Subsequent negotiations have led to "offers" on Mode 4, but these have yet to be converted into "commitments" as the Doha Round is yet to be concluded. Consequently, no comparable exercise has been done to update the information presented in the tables annexed to the 1998 Secretariat Note (but in relative terms the situation is unlikely to have changed significantly).



workers, thereby preventing them from rent-seeking by making local workers compete against foreign workers. The need to take into account labour market needs is a recognized need for the effective management of labour migration under Principle 5 of ILO's Multilateral Framework on Labour Migration adopted in 2005.

Unfortunately, however, these pro-worker rights clauses are regarded by many countries as trade obstacles and condemned as 'protectionist' measures within the WTO. It is argued that wage parity or the extension of other benefits given to locals to foreign workers increases the relative costs of hiring foreign workers. This, the argument runs, moderates the demand for them and reduces the number of temporary foreign workers globally. WTO delegates from several countries of origin of migrant workers have therefore been demanding the withdrawal of such clauses from GATS Mode 4 agreements. For example, a submission to the WTO's Council for Trade in Services by Argentina, Bolivia, Chile, China, Colombia, Dominican Republic, Egypt, Guatemala, India, Mexico, Pakistan, Peru, Philippines and Thailand stated that ENTs are artificial barriers preventing the free movement of labour¹². Similarly a Collective Request on Mode 4 during the ongoing Doha Round deliberations by Argentina, Brazil, Chile, China, Colombia, Dominican Republic, Egypt, Guatemala, India, Mexico, Morocco, Pakistan, Peru, Thailand, Uruguay requested that "wage parity ... not be (made) a specific condition for entry".


Some of these demands found expression in the Hong Kong Ministerial meeting of trade ministers held in 2005. The Hong Kong Ministerial Declaration, inter alia, calls for "the removal or substantial reduction of economic needs tests" for Mode 4. (WTO, 2005) Similarly, revised Mode 4 proposals submitted by countries during the ongoing Doha Round of negotiations are categorized as "improved offers", if countries have reduced or eliminated wage parity conditions.

Wage parity and the "Promotion versus Protection" debate

Over the years, a hypothesis that protecting the rights of migrant workers hinders the promotion of temporary overseas employment has influenced GATS Mode 4 discussions both among WTO delegates as well in academic writings on the subject. One line of argument focuses on the wage parity aspect of equal treatment of migrant and local workers and argues that this principle is inimical to the interests of countries of origin of temporary migrant workers, especially developing countries, as it erodes the "cost advantage of hiring foreign workers and works as a de facto quota." (Chaudhuri, et al, 2004) Proponents of this theory assert that wage parity "negates the very basis of cross-country labour flows, which stem from endowment-based cost differentials between countries." (Chanda, 2001)

This view of looking at pro-workers' rights clauses in Mode 4 commitments as an attempt by destination countries to protect their own workers from foreign competition has predisposed many countries to campaign for their elimination in the current ongoing GATS negotiations. For example, the revised request on Mode 4 presented by least developed countries in May 2006 calls, inter alia, for the exclusion of wage parity as a precondition to the entry of temporary foreign workers. A

¹² WTO official document TN/S/W/14 dated 3 July 2003



collective request made by 15 developing countries also includes a demand for introducing greater clarity and predictability on economic needs tests.

On the face of it, this is a compelling argument, based on the fundamental economics principle that an inverse relationship exists between price and demand, so that if governments of destination countries compel employers to pay migrant workers the market wage rate (or even the minimum wage) prevailing in the destination country and other benefits like health care, house subsidy and social security, it would raise costs and they would be reluctant to hire them. To date there is no empirical evidence in the literature to support that this is what actually happens.

In fact, a UNDP study that compared the number of migrants to an index of policy measures towards migrants that included anti-discriminatory measures in 61 countries concluded that there is no correlation between various measures of workers' rights and migrant numbers. (UNDP, 2009) The study found that countries like Canada, Australia and Singapore, which strictly enforce wage parity rules or rules that require payment of minimum wages, have a large migration intake. The study also found that countries like Spain that extended healthcare to irregular immigrants saw a rise in the share of immigrants to its population rise over time. The enforcement of rules for paying minimum wages to migrant workers does not seem to have affected the flow of Mexican workers to the USA or of Filipino housemaids to Hong Kong SAR.¹³

Opponents of wage parity tend to ignore the fact that very often wage parity does not undermine the competitiveness of Mode 4 workers, as the jobs they are hired for are jobs for which locals are not available, such as teachers or jobs that locals do not want to do, such as household help. Thus, observers of migration trends in Europe have noted that temporary immigrants complement rather than substitute local workers, and "tend to concentrate in sectors and regions characterized by labour shortages at both the high- and low-end of the skills spectrum, for instance in certain parts of the health, education, IT, catering and agricultural sectors." (Niessen, 2005)

The "promotion versus protection" argument also fails to explain why seven out of the world's top 10 countries of origin of temporary migrants have ratified at least one of the three major international migration conventions (the ILO Migration for Employment Convention (revised) of 1949 (no.97); the ILO Migrant Workers (Supplementary Provisions) Convention of 1975 (no.143) and the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990) that call for wage parity between migrant and local workers. The top 10 countries of origin include three developing countries, namely the Philippines, Bangladesh and Pakistan (See Annex Table 2) for whom remittances from temporary migrants are extremely important. In 2013, remittances (\$25 billion) exceeded total earnings from electronic goods exports of the Philippines (\$22 billion). They were \$11 billion for Bangladesh in 2009-10, nearly as large as the earnings from garment exports that year (\$13 billion). In Pakistan's case, remittances amounted to \$14 billion in 2012, nearly three times the revenues from cotton exports that year (\$5 billion). If the logic of "numbers" were correct, then it would have been prudent for the Philippines, Bangladesh and Pakistan to also refrain from ratifying any agreement that threatened to curtail the

¹³ Rules for foreign household help in Hong Kong are detailed and require "the employer will pay the Helper a salary that is no less than the minimum allowable wage as announced by the HKSAR Government." See [www.immd.gov.hk/ehtml/ID\(E\)989.htm](http://www.immd.gov.hk/ehtml/ID(E)989.htm) for complete set of conditions for hiring foreign household helpers.

outflow of temporary workers and reduced a critical source of revenue for the nation.

Table 2 Migrant worker conventions ratified by top countries of origin (as of September 2014)

	ILO Convention 97 of 1949	ILO Convention 143 of 1975	UN Convention of 1990
India			
China			
Philippines	X	X	X
Mexico			X
France	X		
Nigeria	X		X
Egypt			X
Germany	X		
Bangladesh			X
Pakistan			

Source: www.ilo.org; and <http://treaties.un.org>

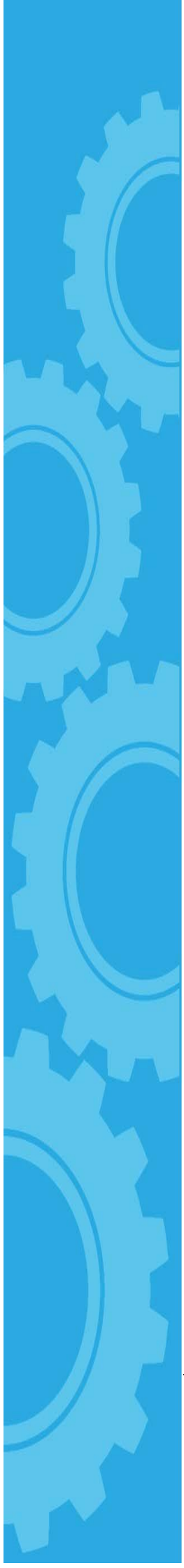
Clearly, the promotion versus protection debate has had a disproportionately large influence on Mode 4 agreements in the GATS and the time has come to recognize that the two are not mutually exclusive options for national migration policy.

The Equality principle in International Migrant Worker instruments versus the National Treatment principle of the WTO

Globalization has brought about a change in the migrant landscape that necessitates the adoption of greater measures for the protection of migrant workers. Apart from the increase in the proportion of temporary to permanent migrants, these changes also include a rise in the proportion of female migrants and the increasing importance of private agents and intermediaries in the migration process. Women migrants are particularly vulnerable to exploitation as they often take jobs in unregulated low-skilled sectors, such as domestic help, childcare, care for the elderly and sick and in the entertainment sector. Temporary migrant workers that are recruited by private intermediaries are also, increasingly, the subjects of abuse (Agunias, 2013). This takes the forms of charging exorbitant fees, deliberate misinformation about the nature of the job and working conditions, underpayment of wages and restrictions on freedom of movement. A 2013 report by Amnesty International has found a range of abuses against migrant construction workers in Qatar. These include non-payment of wages, harsh and dangerous working conditions, and poor standards of accommodation¹⁴. Qatar is an oil-rich state, and one of the top 10 destinations for temporary migrant workers (see Annex Table 2).

The main legally binding international standards for protecting migrant workers can be found

¹⁴ See “Qatar: The Dark Side of Migration – Spotlight on the Construction sector ahead of the World Cup” Report by Amnesty International, 2013.



in the two ILO conventions of 1949 and 1975 and the UN convention of 1990¹⁵. ILO Convention of 1949 (No. 97) requires countries to provide equal treatment to migrant workers, meaning that migrants should be treated akin to local workers. The Convention elaborates the various elements of equal treatment, including working conditions, trade union membership and collective bargaining, housing, social security, taxation and accessibility to legal recourse in case of grievances.


The principle of equality is also stressed in the UN Convention of 1990, titled “International Convention on the Protection of the Rights of All Migrant Workers and their Families”. Article 25 of this instrument states that “Migrant workers shall enjoy treatment not less favorable than that which applies to nationals of the State of employment in respect of remuneration and ... other conditions of work.” Part IV of the UN Convention lists the various parameters, including the freedom to form unions and equal access to public housing and education.

The ILO’s Multilateral Framework on Labour Migration adopted in 2005 is a non-binding, multilateral framework for a rights-based approach to labour migration. The Multilateral Framework synthesizes the main principles and guidelines in the treatment of foreign workers contained in the three international Conventions. The core of the multilateral framework is the chapter on the protection of migrant workers and article 9 (b) underscores the importance of labour standards, “particularly those concerning equality of treatment of nationals and migrant workers in a regular situation and minimum standards of protection for all migrant workers.” The Global Code of Practice for the International Recruitment of Health Workers which was adopted by WHO’s World Health Assembly in 2010 promotes the principle of equal treatment of migrant and domestic health personnel for recruitment, promotion, remuneration, enjoyment of legal rights and opportunities for career advancement and up gradation of skills. In sum, equality and non-discrimination are the bedrock principles of the various international migrant worker instruments.

Is there any equivalent clause in the GATS that provides for equal treatment of migrant workers and local workers? In fact, the WTO *does* have such a provision in the shape of the principle of “National Treatment”. Together with Most Favored Nation (MFN), National Treatment is one of the fundamental guiding principles of WTO rules and applies to all WTO agreements. It essentially means treating foreign investors, foreign goods/service suppliers or foreign workers at par with their local counterparts.

The broad aim of this WTO rule is to prevent internal subsidies and other concessions or facilities provided to local investors, producers or workers from being used as substitutes for trade barriers. A local manufacturer who receives a subsidy on raw material obtains an unfair trade advantage against a foreign producer who does not receive an equivalent subsidy. Similarly, a policy that permits a local worker to be hired fresh out of school obtains an unfair advantage against foreign applicants who are eligible for employment only if they possess previous work experience in their native country (the pre-employment limitation). The National Treatment principle is meant to thwart such discrimination.

¹⁵ It is worth pointing out that *all* ILO Conventions, including those related to freedom of association and other standards such as minimum wages, social protection standards etc. are, in principle, applicable to migrant workers.



All concerns relating to discriminatory treatment of Mode 4 workers could have been addressed if National Treatment under the GATS was made automatic and without exceptions. In fact the original proposal of the US and other countries like Australia and New Zealand during the Uruguay Round negotiations had been to make National Treatment a binding general obligation for all four modes of supply under the GATS. Had it been accepted, it would have ensured equality between migrant and local workers, enforced through the WTO's dispute settlement mechanism.

The US proposal fell through due to opposition from EU countries who argued in favour of a more flexible arrangement under which countries could choose the pace at which to open their services sectors to outside competition. (Capling, 2001) Eventually, countries were permitted the options of either completely abstaining from offering national treatment ("Unbound"), offering full national treatment ("None") or specifying limitations to equal treatment in their GATS schedules (partial national treatment).

As Table 3 on the Mode 4 commitments for professional services shows¹⁶, when the actual GATS agreements were submitted to the WTO, very few countries made a "None" entry under the national treatment part of their Mode 4 agreement, i.e. offered full equality to foreign workers. Similarly, very few countries made "unbound" entries for Mode 4 in the service sectors they were committing to opening up.

The vast majority of WTO members offered only partial equal treatment to foreign workers, predicating their Mode 4 agreements on a wide range of exceptions on national treatment. These included restrictions on purchase of real estate, pre-employment and residency requirements and making entry subject to the recognition of qualifications. Because of this, the effectiveness of the WTO's national treatment principle, a potentially powerful instrument for protecting the rights of temporary migrant workers, has been drastically reduced.

As the above table indicates, not a single WTO country has, in its GATS Mode 4 agreement, consented to guarantee full equal treatment to temporary migrant nurses, midwives and physiotherapists, a worker category of great interest to countries of origin like the Philippines, India and Vietnam. Similarly, just three out of the 100 WTO countries that signed Mode 4 agreements originally have offered full equality to temporary migrant doctors and dentists.

Problems of low-skilled migrants versus the Market Access principle of the WTO

The past decades have seen an increasing demand for low skilled foreign workers to perform jobs that locals are unwilling to take up because of the nature of the task that may be demeaning and dangerous, the poor pay that it entails and the availability of unemployment benefits in many countries of destination. There has also been a decline in the role of government recruitment agencies and a rise in private agents and intermediaries in both countries of origin and destination

¹⁶ Professional services cover 11 out of the 155 services for which Mode 4 commitments can be made in the WTO.

countries. Private recruitment agencies have also been proactive in the international recruitment of some categories of skilled workers like nurses and sea farers¹⁷. These developments have raised concerns about abuse and exploitation at different stages of the entire migrant process. Box 1 lists some of the abuses that low-skilled migrant workers may be subjected to by private agents, employers and host governments.

Table 3 Mode 4 National Treatment commitments for Professional Services (%)

	National Treatment		
	Full ("none")	Partial	No ("unbound")
Legal services	2	91	7
Accounting, auditing and bookkeeping services	4	80	16
Taxation services	12	71	18
Architectural services	8	80	12
Engineering services	9	79	12
Integrated engineering services	9	78	13
Urban planning & landscape architectural services	9	85	6
Medical and dental services	3	87	11
Veterinary Services	8	77	15
Services provided by midwives, nurses, physiotherapists	0	93	7
Other	17	67	17

Source: WTO Secretariat. 'Background Note on Accountancy Services', December 1998

The main international migrant worker instruments seek to protect workers at all stages of the migration process. ILO's Migration for Employment Convention (Revised), 1949 (No. 97) as well as the UN's International Convention on the Protection of the Rights of all Migrant Workers and their Families of 1990 apply to the whole migration process from recruitment to return. ILO's Private Employment Agencies Convention, 1997 (No. 181) relates to the regulation of private agents in the emigration process.

Chapter VII of ILO's Multilateral Framework on Labour Migration, 2005 which covers the migration process, summarizes the gist of the international conventions under its Principles 12 and 13. Principle 12 of the Multilateral Framework states "An orderly and equitable process of labour migration should be promoted in both origin and destination countries to guide men and women migrant workers through all stages of migration, in particular, planning and preparing for labour migration, transit, arrival and reception, return and reintegration." Principle 13 of the Multilateral Framework states "Governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No.181) and its

¹⁷ Indeed, except for countries like Vietnam where export of health workers has traditionally been government to government, most nursing staff is recruited for overseas assignments by private agencies.

Recommendation (No. 188).”

Box 1

Exploitation of migrant workers at different points on the Migration Line


- Recruitment: Recruiters may mislead workers about the type of job or how much it pays. They also may supply false documents.
- Pre-departure: Workers are kept in holding centers, sometimes for months, while their documents are processed. The longer the workers stay in the holding centers, the more indebted they become. The living conditions are poor, and women may be sexually harassed, assaulted, and even raped.
- Transit: Trucks, boats, and other transport are often unsafe and overcrowded. Migrant workers may change agents at the border, so that although an agent in the sending country may recruit a woman for domestic service, the agent in the receiving country traffics her into sex work or other forced labor.
- Destination: Host countries may use sponsorship systems in which workers are tied to a particular employer or a rotational system of expatriate labor to limit the duration of foreigners’ stay. There are limits on migrant workers’ ability to bring their families with them. Employers may deduct migrant workers’ debt from their pay and turn it over to the agent. With no formal record keeping, the worker has no way of knowing the extent of the debt or when it has been paid off. Migrant workers may be detained and imprisoned with no access to legal counsel or translation assistance, treated like criminals by law enforcement officials poorly trained to recognize and deal with trafficking victims.
- Return: Poor currency exchange rates, demands for illegal fees from private agents, and thugs who extort money and force them to use their transportation at inflated prices await returning migrants. Deported workers may not be allowed to recover unpaid wages or seek recourse for abuse.

Source: Website of The American Center for International Labour Solidarity, Washington D.C., USA, www.solidaritycenter.org

Are GATS Mode 4 arrangements equipped to deal with the challenges of the different stages of the migration process? No, because, at present, Mode 4 is largely focused on market access – the primary goal of all the agreements of the WTO. Once a country makes Mode 4 commitments in a particular occupation, its only obligation is to allow the entry of foreign workers under the preconditions it has laid down in its GATS schedule.

Technical experts on the subject acknowledge this gap in the structure of GATS and have stressed the need to incorporate non-trade concerns, including those that deal with pre-departure, during and post-arrival responsibilities, into GATS Mode 4 agreements¹⁸. Experts have, in this context, recommended using the general “horizontal” section of the GATS schedules to incorporate such non-trade concerns. Chanda, for example, is of the opinion that “it may be useful to explicitly

¹⁸ See, for example, the joint conference organized by the IOM, the World Bank and the WTO “Managing the movement of people: what can be learned for Mode 4 of the WTO General Agreement on Trade in Services (GATS),” 4-5 October 2004, Geneva http://www.iom.int/en/know/idm/tms_200410.shtml



state in the horizontal ... commitments on Mode 4, the kinds of actions that would warrant penalties and sanctions, including forced labour, misrepresentation of services, illegal subcontracting, discrimination on the basis of wages, gender or race, etc.” (Chanda, 2008). The “Additional commitments” column in the schedules is perhaps the appropriate place for making such entries.

The incorporation of worker rights principles of the international migrant worker instruments into Mode 4 is thus technically feasible within the existing GATS framework and, as will be shown in the concluding section, can be an important collaborative activity between the ILO and the WTO towards ensuring the protection of Mode 4 workers.

Workers’ Rights and Mode 4 -The views of other stakeholders

But what are the views of the other stakeholders of the migration phenomenon – the workers unions and employers associations? How about civil society and academics? Do other international organizations that deal with migration issues have a position on this issue? This section is devoted to an examination of the various viewpoints regarding the linking of labour standards to Mode 4 negotiations in the WTO. The broad assessment is that employers’ associations and academics are against such a link while civil society appears divided along developed country/developing country lines, with Non-Government Organizations (NGOs) from the developed world in favour and NGOs from developing countries generally opposing the linkage. Several workers unions have gone a step further by arguing that Mode 4 should be taken out from the purview of the WTO altogether. International organizations such as the World Bank, the OECD or the IOM appear to have focused largely on the economic aspects of temporary migration, without a serious consideration of the workers’ rights dimension.

Employers generally stand to benefit from overseas migrant labour as it helps to lighten “labour constraints” in the production process, enabling more capacity utilization and higher profits. In the US, for example, a leading voice for expanded Mode 4 commitments is that of the Coalition of Service Industries, which represents 47 corporations and business associations, primarily in the ICT and financial sectors. Its prominent member, Microsoft’s Bill Gates has been a staunch advocate for elimination of limits on H1B visas for skilled overseas workers entering the country. One would expect employers to oppose the linking of equality and other measures for the protection of migrant worker rights as it would enhance costs and reduce profitability. The International Organization of Employers (IOE) gives the following reasons for opposing a migration-worker rights link:

- Labour codes are already complicated and this complexity is a key reason for their lack of implementation. Adding labour standards to migrant workers will only add to the problem of implementation;
- Considerations like corporate social responsibility as well as the presence of NGOs are already forcing employers to take greater care of foreign workers. There is no need to make statutory rules in this regard;

- Imposing labour standards on employers can trigger off similar demands from other lobbying groups like environmentalists leading to a continuously rising cost burden for employers;
- On the whole, the IOE favours the ILO approach to the introduction of labour standards in the WTO. “The ILO’s strength is precisely its pragmatic reliance on principles of voluntary participation ... rather than on an inflexible and legalistic approach allowing little room for national specificities.” (International Organization of Employers, 2006)

Developing country NGOs have been opposed to trade-labour linkages from the very beginning of the debate. In a joint statement issued before the 1996 WTO Ministerial Conference held in Singapore, the Third World Network, a prominent NGO active in North-South economic and trade issues, stated that the WTO was not a mechanism of global governance, nor a tribunal to be able to judge trade union rights violations. The linking of trade and workers’ rights amounted to “a pretext or an excuse for Northern protectionism against Southern exports”.¹⁹

Civil society organizations from the developed world, on the other hand, tend to hold views opposite to this line of thought. For example, in a letter addressed to WTO Ambassadors in Geneva in 2005, more than 160 NGOs, including Green Peace International and Oxfam, expressed concern with the manner in which GATS negotiations under the Doha Round were proceeding. These negotiations “give reason for working people to be concerned about job losses, job insecurity, curtailment of workers’ rights, decline in real wages and increased demands in labour flexibility, since the protection of labour rights and promotion of core labour standards are increasingly being viewed as protectionist measures or barriers to free trade.” (South-North Development Monitor, 2005)

Academics mostly prefer to keep labour standards and workers’ rights issues outside the purview of the GATS and the WTO. The foremost exponent of this viewpoint is trade economist Jagdish Bhagwati of Columbia University. Bhagwati’s views are based on the ‘theory of distortions’ that suggests that any kind of economic distortion is best handled by tackling that sector of the economy where the distortion originates, rather than indirectly, through another sector of the economy. Thus, if labour standards are deficient in any country, the solution lies in acting directly to introduce policy instruments in the labour sector itself. Policy instruments that are applied further away from the source of the distortion are likely to be far less efficient. Thus, according to him, the use of trade sanctions to tackle violation of migrant worker rights are likely to have a) a less predictable response and (b) higher secondary costs (such as loss of trade benefits) both to the country using them as well as to the world at large. Instead of the WTO, Bhagwati argues in favour allowing the ILO to take care of labour standards issues in general and UNICEF to tackle child labour matters - not in a coercive manner, but by using the power of civil society and the media to expose countries guilty of violating migrant workers’ rights. (Bhagwati, 2004)

Other economists have echoed Bhagwati’s views. Maskus, a Professor at the University of Colorado and former World Bank staffer for instance, finds that that “trade restrictions are blunt, indirect instruments and may be counterproductive, harming the people they are designed to help and ineffective in achieving stated goals. Thus, including in WTO rules a social clause guaranteeing

¹⁹ Available at www.twinside.org.sg/title/issue

core labor standards would reduce global efficiency for a small gain”(Maskus, 1997)

The international trade union movement as a whole argues that the WTO, with its lack of concern for workers’ rights, is not the right body for conducting negotiations on migrant workers issues and hence favours taking Mode 4 out from its purview altogether. The International Trade Union Confederation (ITUC) for instance, believes that “the competencies and structure of the WTO do not enable it to regulate the cross-border movement of workers, as envisaged under the mode IV negotiations, in a manner that protects migrant workers’ rights and consequently the WTO should not be the place for decisions in this area.”²⁰ Public Services International, a federation of public sector workers in 140 countries, has a similar position with regard to Mode 4 and argues that the WTO “has no legitimacy and mandate at all to be dealing with labour migration...” and sees the use of the phrase Temporary Movement of Natural Persons instead of “migrant workers” as a stratagem to deny the rights automatically granted under ILO and UN Conventions to migrant workers.²¹

In sum, there is a whole range of views on the subject of whether or not Mode 4 migration should have a workers rights component. However, the preponderance of opinion seems to be to keep labour standard matters out of the WTO and allow them to be tackled by a specialized labour organization such as the ILO.

Some of the other international organizations that deal with migration issues have mostly either not addressed Mode 4 at all, or else have focused on the economic aspects of temporary migration, skirting the issue of workers’ rights. The World Bank’s involvement with temporary migration is mostly focused on remittances and their impact on economic development. While the aim of the IOM is to promote orderly and humane migration, and the organization assists countries through projects to protect human rights of all migrant workers, no work appears to have been undertaken by the organization as yet specifically on Mode 4 and migrant worker rights. Similarly, the OECD undertakes research and issues guidelines regarding immigration into its member countries and not much work on the subject of Mode 4 and worker rights appears to have been undertaken by the organization of late.²²


The debate within the WTO

The debate on trade and labour standards within the WTO began around the same time the organization was established in 1994 and reached its high point in the latter half of the 1990s. Both the US and the EU had been strongly in favour of incorporating labour standards into WTO rules even during the GATT, the precursor to the WTO. The issue was debated intensely during the 1st WTO Ministerial Conference that was held in Singapore in 1996. There, most developing countries

²⁰ Paragraph 23 of the Global Unions’ “Statement of Priorities” for the 7th WTO Ministerial Conference, Geneva, 30 November –2 December 2009.

²¹ Statement made on behalf of PSI at the WTO Symposium “Mode 4 and the GATS –Taking Stock and Moving Forward”, Geneva, 22-23 September 2008.

²² As the title of a 2003 OECD paper TD/TC/WP(2002)12/FINAL titled “Service Providers on the Move: The Economic Impact of Mode 4” indicates, the focus of the organization has been on the economic aspects of Mode 4 rather than migrant worker rights.



and a few developed countries saw labour standards as a guise for protectionism in rich country markets that undermined the competitive advantage of developing countries where workers were paid less than their counterparts in rich countries. Better working conditions and improved workers' rights are a consequence of economic growth, it was argued, and if core labour standards became enforceable under WTO rules, any trade sanctions imposed against countries with lower labour standards would merely perpetuate their poverty.

Following the debate, WTO trade ministers at Singapore signed a declaration, which, while acknowledging the importance of international labour standards, identified the ILO as the competent body to establish and monitor labour standards. The issue was proposed again at the Third WTO Ministerial conference held in Seattle in 1999 and at the Fourth Ministerial Meeting in Doha in 2001. However, the outcome of the deliberations was a reiteration of the 1996 Singapore Ministerial declaration. Since then, WTO trade ministers have pointed to the ILO as the forum for addressing this question.


However, it is not always understood that the 1990s debate in the WTO did not relate so much to the effects of imposing workers' rights on Mode 4 migrants in services. Rather, it revolved around the perceived impact of labour standards on trade in goods. The theoretical argument, in a nutshell, was that by lowering labour standards in their own industrial areas, countries would be able to produce goods that were cheaper than before and outdo competition from imports. This would lead to a fall in the international trade in merchandise goods. Hence, the need for labour standards in the WTO rules. Developing countries countered this by arguing that their historically lower labour standards would provide an easy excuse for rich countries to ban imports from the developing world and protect their own industries.

Arguments raged about how various articles of the GATT (the main WTO agreement relating to merchandise trade), especially Article XX could be used to prevent countries from misusing labour standards to get an unfair advantage in trade. This article, popularly called the General Exception clause, permits WTO member countries to refuse the import of goods produced using prison labour or affecting public morality. Some countries argued that the rule could be extended to cover a range of labour practices (beyond prison labour).

However, after the 1996 Ministerial Declaration, the debate came virtually to a halt within the WTO. Since then, attempts to bring up labour related issues in the WTO, including the issue of protection of migrant workers under Mode 4, have usually been deflected to the ILO by a reference to the Singapore Ministerial Declaration.

Can the WTO deliver on temporary migration?

The WTO marks 20 years of its existence next year. During this period much has changed globally: Competition between carriers and the arrival of low cost airlines has vastly lowered transportation costs of overseas travel; Technological innovations have enhanced electronic communication networks and have enabled the creation of global supply chains; and demographic changes have caused the work force to age in many countries. All this has led to a surge in the



cross-border movement of temporary workers. There are several reasons to believe that progress on Mode 4 within the WTO has been out of step with these developments and badly needs a helping hand.

We have already described how the agreements made to liberalize the temporary movement of natural persons after the initial round of Mode 4 negotiations were limited in scope and depth. Agreements were made chiefly to allow the entry of high-skilled workers and intra corporate transferees in a narrow number of service occupations, and entry was subjected to a large number of conditions, many of which were discriminatory towards the migrant workers.

Services negotiations under the GATS restarted in 2000. In 2001 they became part of the broader Doha Round of negotiations. These have been dominated (and bogged down) by negotiations on trade in agriculture, non-agricultural market access or NAMA and, more recently food security. Any serious negotiations on trade in services in the Doha Round are subject to a breakthrough in agriculture and NAMA negotiations. This has not been forthcoming even after 13 years of efforts.

Perceptive observers within and outside the WTO have little doubt that even if a breakthrough were to occur now, it would be futile to expect any major concessions on Mode 4, as the trade-offs²³ would already have been exhausted in the agriculture and NAMA areas. It would be even more futile to expect the Doha Round outcome on Mode 4 to come with any worker-friendly commitments, following the Singapore mandate of 1996 on trade and labour standards and the absence of any initiative in this regard by delegations in the WTO.


An important reason for the tardy progress in Mode 4 negotiations is that the WTO is a trade organization and that Mode 4 makes a relatively small contribution to the total value of world trade. WTO's statistics division estimates the breakdown of trade in services by different modes of supply as – Cross-Border Supply (Mode 1): 25-30%; Consumption Abroad (Mode 2): 10-15%; Commercial presence (Mode 3): 55-60% and Presence of Natural Persons (Mode 4): *less than 5 %*.²⁴ The size of Mode 4 looks even smaller when we consider the fact that in 2012, trade in services accounted for just 23% of total world trade. It should come as no surprise then, that Mode 4 occupies a relatively insignificant place in the scheme of things in the WTO and in the negotiation activities of its delegates.

A second reason is the legally binding nature of GATS Mode 4 agreements. Countries are hesitant to sign on to an agreement on a sensitive issue like foreign workers if they cannot refuse their entry in the future without facing trade sanctions or giving financial compensation.

It is for these reasons that much of the momentum for managing and promoting the international movement of temporary workers is shifting from the multilateral to the regional and bilateral arena. Interestingly, migrant worker protection provisions that are excluded from Mode 4

²³ This refers to the giving and taking of trade concessions, the normal outcome in trade negotiations.

²⁴ “Measuring GATS Mode 4 Trade flows in Services”, Presentation by the Economic Research and Statistics Division, WTO Secretariat in the Symposium on “Mode 4 of the GATS – Taking Stock and Moving Forward”, 22-23 September 2008, Geneva.



negotiations in the WTO are almost omnipresent in regional and bilateral preferential trading arrangements, reflecting the importance with which countries of the world regard the issue.

An example is the European Union, where successive expansions of membership have been followed by a surge in the cross-border movement of workers to some member countries²⁵. At the same time EU legislation requires minimum standards for occupational health and safety be implemented by all member countries. Another EU type economic union is the CER (closer economic relations) agreement between Australia and New Zealand that provides access to the labour markets without work permits as well as full national treatment for migrant workers from both countries.

The ASEAN Framework Agreement on Services (AFAS) is a regional agreement modeled on the lines of the GATS, under which the 10 ASEAN countries have been conducting Mode 4 negotiations since 1996. The protocol to implement the 5th package of AFAS commitments in 2007 coincided with member countries agreeing upon measures for the protection of migrant workers. These measures include, *inter alia*, an obligation to “promote fair and appropriate employment protection, payment of wages and adequate access to decent working and living conditions for migrant workers.”²⁶

Reference to the protection of migrant worker rights can be found in a variety of bilateral labour agreements for temporary overseas workers such as the Spain-Ecuador Agreement on Migratory Flows (2001), the Canadian Seasonal Agricultural Workers Programme (which began in the sixties) and the Republic of Korea’s Employment Permit Scheme (2003) for foreign industrial workers. All these agreements provide national treatment, or at least minimum protection, to foreign workers. The Spain-Ecuador agreement grants legal and social rights to the foreign workers and promises them advisory assistance if required. The Canadian agreement has clearly defined obligations for employers and penalizes them if any rules are infringed. Under the Korean EPS, full national treatment as per labour laws is offered to the temporary migrant.


Given the manner in which both developed and developing countries have reaffirmed their faith in worker protection in regional and bilateral fora, its absence in the multilateral framework of the GATS almost seems like an anomaly.

The regional versus multilateral question

After nearly a decade and a half of negotiations under the Doha Round there has been little or no progress on Mode 4. The obvious question is that, given the current impasse in the WTO, should the world be looking towards regional and bilateral arrangements for liberalizing temporary worker movements? There are several arguments that favour this approach.

²⁵ The 2004 enlargement, which added eight countries of Eastern Europe to the EU, is believed to have led to an increase in the flow of workers from countries like Poland to the U.K. and Ireland. A further expansion to include Bulgaria and Romania in the EU occurred in 2007 with similar effects.

²⁶ The ASEAN Declaration of the Protection and Promotion of the Rights of Migrant Workers, January 2007.



Firstly, it has been observed that the bulk of migration takes place between neighbors or within regions (Eastern Europe to Western Europe, South Asia to West Asia, Mexico & the Caribbean to the US and Canada etc.). It may be more efficient to conduct negotiations at the regional, sub-regional or bilateral levels among a small group of countries rather than at the multilateral level where agreement may be difficult to reach.

Secondly, each country is unique with respect to its labour endowment, demographic profile, unemployment level and development needs. Each could also have specific social, cultural or language interests and preferences. Unlike multilateral treaties, regional or bilateral agreements usually permit a large degree of flexibility that can accommodate the unique requirements of individual countries. They also allow them to adjust to changing labour demands - adding foreign workers when there are vacant jobs and disallowing entry when unemployment rises.

Thirdly, most regional/bilateral agreements are non-binding, so that a signatory can pull back on its commitments if the situation so warrants, without penalty. This is extremely difficult under the “single undertaking” principle of the WTO, without financially compensating other members of the WTO or withdrawing from the membership of the organization itself.

These are some of the reasons why some believe that bilateral and regional agreements “are easy and accessible options for states with limited time and energy to dedicate towards migration issues.” (South Centre, 2006)

However, there are compelling reasons to continue to work for an agreement on temporary migration at the multilateral level. Despite their advantages, regional and bilateral agreements between countries at different levels of progress can become badly skewed in favour of the stronger partner (s). The availability of a neutral dispute settlement mechanism in the WTO means that even a small, weaker country can hope to ensure that a country that fails to implement the terms of its GATS Mode 4 agreement does not obtain an unfair economic or trade advantage. In other words, there is greater legal certainty in a migration agreement of the WTO than in a regional or bilateral one.

Equally important is the fact that the greatest gains globally would accrue through liberalization of the movement of temporary workers at the multilateral level, rather than from the liberalization between small groups of countries. The economists Bob Hamilton and John Whalley, in an early study on the subject, calculated that if free movement of workers was allowed, world income could increase by 150% or more (Hamilton and Whalley, 1984). Dean Baker of the Center for Policy Research, Washington showed that by reducing barriers, on an MFN basis, for the entry of doctors, dentists, lawyers and accountants, could save US consumers \$160-270 billion per year (Baker, 2003). Winters, et al have used econometric modeling to estimate that a mere three percent increase in developed countries’ intake of temporary workers could increase world income by over \$150 billion per annum (Winters et al, 2003). Other empirical studies conducted by Rodrik (2002) and Jansen and Piermartini (2004) have arrived at similar conclusions.

A simulation study done by the World Bank likewise showed that if the stock of workers in high-income countries increases by 3% through migration from developing countries, global

incomes would increase by \$356 billion. (World Bank, 2006b)²⁷

Finally, a single agreement may be easier to administer than a multitude of bilateral or regional agreements. In view of the fact that international negotiations are usually time consuming, many of them taking several years to conclude, some lesser developed countries simply might not have the skills or resources to negotiate over such a long period of time.

It seems, then, that pursuing multilateral as well as regional initiatives on temporary migration simultaneously may be the best options to follow for the time being.

Conclusions and recommendations – How the ILO can help

The Singapore WTO Ministerial Declaration of 1996 reads “We renew our commitment to the observance of internationally recognized core labour standards. The ILO is the competent body to set and deal with the standards, and we affirm our support for its work in promoting them...In this regard, we note that the WTO and ILO secretariats will continue their existing collaboration.”

There are two intents in this Declaration. In the first, WTO trade ministers, by recognizing the ILO as the competent body to deal with labour standards, appear to wash their hands off labour issues. As already explained in previous sections, the debate on trade and labour standards that took place in the years leading up to the 1996 Declaration related mainly to the use of labour standards in international trade in goods. In essence, the emphasis and focus of the arguments advanced by both sides reflected the concerns of those times. Globalization, as we know it today – driven by the innovations of the digital and information age and marked by ever increasing demands for overseas workers – was still in its infancy at the time of the Singapore Declaration.

The world has witnessed spectacular changes since then, not least of which is the cross-border movement of skilled, semi-skilled and low-skilled workers on an unprecedented scale. As Table 4 below shows, while the volume of merchandise exports has roughly tripled between 1990 and 2013, global remittances rose eightfold from \$49 billion to \$409 billion during the same period. If remittances are a rough guide, we see that the temporary migration has grown at a much faster rate than international goods trade. The safety, security and rights of these migrants is clearly a much more important issue today than it was during the two decades ago. Once the Singapore declaration is understood in the context it was made, political consensus on a workers rights clause on Mode 4 may not be as elusive as it may prima facie appear to be, even though some political opposition can be expected here as well.

²⁷ Some of these studies, especially those based on CGE modeling, have been criticized on the grounds of unrealistic assumptions (like perfect competition) and the inability to factor in the negative effects of migration (such as a fall in wages). However, one does not need complicated econometric modeling to see that if workers move from countries with low productivity to those with higher productivity through the migration process, there will be global gains in efficiency.

Table 4 Growth of merchandise exports and remittances 1990-2013

	1990	2000	2010	2013
Volume of Exports Index: 2000=100	100	185	270	310
Inward remittance flows (US\$ billions)	49	102	321	404

Source: International Trade Statistics 2014, WTO; and Migration and remittances Fact Book 2013, World Bank.

RECOMMENDATION 1:

It may therefore be worthwhile for the ILO to resume efforts in persuading WTO trade ministers to consider a workers rights clause in the GATS negotiations. Unlike earlier attempts to introduce a “social clause” or “labour standards” that raised controversy as they were applicable to the entire gamut of trade in goods as well as services, the application of the workers’ rights clause could be confined specifically to Mode 4 in trade in services. As already mentioned, many countries of origin and destination countries of temporary workers have already agreed to such a reference in international migration conventions as well as in bilateral and regional agreements.

The modalities for the introduction of such a clause could be discussed in a meeting of labour and trade ministers, hosted by the ILO, once the present Doha Round has been concluded. Such a meeting could establish a Joint ILO/WTO mechanism to oversee the implementation of the workers’ rights clause in Mode 4. The precise contents of the clause would draw upon the principles of migrant workers’ rights laid down in various international migration instruments as applicable to temporary migrant workers. The ILO, with its competence and experience in establishing workers’ rights standards could supervise their application in Mode 4 through its “soft” approach.

The joint mechanism could be given the authority to carry out periodic country assessments of how temporary workers rights were being implemented. In case migrant worker rights were being upheld, no further action was needed. In case a country was found to be in breach of its obligations, the ILO would make recommendations and offer technical assistance to help countries rectify the situation. Country assessment reports could be included in the Trade Policy Review country reports that are currently published as part of WTO’s trade liberalization monitoring mechanism.

The Dispute Settlement Mechanism of the WTO would, as a last resort, ensure that countries that fail to ensure migrant worker rights do not obtain an unfair trade advantage²⁸.

²⁸ Some experts have suggested that workers’ rights for Mode 4 migrants could be upheld even without the insertion of a workers’ rights clause by using Article XXIII of GATS. This is the non-violation clause, which can be used to file a complaint against a country that introduces a practice, which, even though it is not against the rules, nevertheless thwarts the export of a service from other countries, which had earlier been agreed upon. An example of this would be if a country that has signed a Mode 4 agreement in the WTO decides to stop subsidizing health care for all workers and this lowered labour costs sufficiently for firms to find it more profitable to hire local workers

RECOMMENDATION 2:

The second intent in the Singapore declaration of 1996 is a clear mandate for the WTO and ILO secretariats to collaborate. A perfunctory look at the WTO web page under the heading “Collaboration between the ILO and WTO Secretariats” provides enough evidence that the working relationship between the two secretariats is inadequate, especially on migration matters.

Technical cooperation between the two bodies has taken place through the preparation of a joint study in 2007, the holding of a joint workshop in 2009 and publication of a jointly edited book titled *Making Globalization Socially Sustainable* in 2011. In all these instances, the focus has been on trade and employment issues (e.g. how trade affects inequality within countries, the impact of off shoring on unemployment etc.). Given the rising importance of temporary migration, it seems appropriate that the ILO should propose a joint study on a subject that deals with workers’ rights in Mode 4 as the next collaborative activity with the WTO.

An important area of technical collaboration between the two secretariats can be the preparation of a model GATS Mode 4 agreement that shows how to liberalize the temporary movement of workers while, at the same time, ensuring the protection of their basic rights. The ‘model’ schedules proposed in the past have generally been influenced by a concern for “numbers” and are in fact remarkable for suggesting the deletion of pro-worker clauses in Mode 4 agreements, such as wage parity or minimum wage clauses (See Mattoo and Carzaniga, (eds.), 2003, chapter 7).

A GATS Mode 4 model agreement prepared with the assistance of the ILO could make national treatment mandatory, to dissuade countries from discriminating between local workers and temporary foreign workers. The model agreement could draw on other principles recognized in the international migrant worker instruments and also draw on elements from successful bilateral and regional trade and labour agreements and other Best Practices listed in the ILO Multilateral Framework on Labour Migration. Trade unions could be involved in the drafting of such a model schedule, respecting the ILO tripartite charter.²⁹

Such a model agreement can prove useful not only to assist existing WTO member countries to come up with revised and improved Mode 4 offers in the present negotiations, but could be especially handy for countries negotiating their accession to WTO membership.

instead of migrant labour. An affected country could then file an Article XXIII complaint with the WTO’s DSM, and after due process, impose trade sanctions against the offending country. See Brown, Drusilla K. in *The Princeton Encyclopedia of the World Economy*, 2009, page 726 and Panizzon et al, 2006.

²⁹ A possible insertion in the model agreement could be the requirement to *train local staff* in developing countries. Some writers have called it the “single most important contribution Mode 4 can make to development cooperation.” (see Panizzon, 2010)



RECOMMENDATION 3:

Apart from the above, practical measures are needed for strengthening cooperation between the WTO and the ILO (and other agencies dealing with migration issues). For a start, the ILO could apply for and obtain observer status on the WTO's Council for Trade in Services. The ILO has not been granted general observer status in the WTO, "as some members fear that this would open the door for introducing core labour standards into the trade body." Mention has already been made of the fact that, the opposition to core labour standards in WTO trade negotiations had its origins with respect to the international trade in goods, as, when some developing countries feared that allegations of using child labour in carpet manufacturing would adversely affect carpets exports. There could be much less opposition from WTO members to the ILO participating in Mode 4 discussions alone.


The ILO, in turn, could campaign for making the WTO a member of bodies like the Global Migration Group (GMG), the inter-agency body that aims to coordinate and improve the international community's policy and operational response to the opportunities and challenges presented by international migration. It also has the important objective to "promote synergies and avoid duplication" in the area of international migration. The GMG presently has the FAO, ILO, IOM, OHCHR, several UN agencies, the World Bank and the WHO as members. The ILO, as present chair of the GMG, could welcome the WTO into this forum as an international organization that deals with an important category of temporary migration.

RECOMMENDATION 4:

In the event that the internal dynamics of the multilateral trading system thwarts close collaboration between the ILO and the WTO as suggested above, can there still be a role for the ILO to influence the debate on workers' rights in Mode 4 migration?

The literature on international trade policy is replete with references to how regional and bilateral agreements can be "stepping stones" or "building blocks" to a broader agreement at the multilateral level (Bhagwati, 1993). This is because the experience of negotiating agreements at the regional levels helps nations develop capacity to negotiate at the multilateral level. At the same time, the experience of implementing a policy at the regional and bilateral levels gives countries the confidence to implement it at the multilateral level. Thus, if an increasing number of bilateral and regional trade or labour agreements with worker rights provisions are implemented successfully, they would serve as building blocks for a multilateral agreement on temporary migration with such provisions.

The ILO already has an outstanding track record of influencing the inclusion of labour standards in regional and bilateral agreements. The four core labour standards that were identified in the 1998 ILO Declaration on Fundamental Rights and Principles at Work, viz., (1) freedom of association and the right to organize and bargain collectively; (2) freedom from forced labour; (3) the eventual abolition of child labour; and (4) non-discrimination in employment are enshrined in



the EU Charter of Fundamental Rights. This has been recognized by the Treaty of Lisbon, ratified by EU members which came into effect from 1 December 2009. This means that any member of the EU (except the UK, the Czech Republic and Poland who have taken an exception) that violates these workers rights is open to legal action as provided in the Charter.

Bilateral trade agreements that include commitments based on ILOs core labour standards include the EU-South Africa Free Trade Agreement (FTA) signed in 1999, the US-Jordan FTA (2000), the US-Morocco FTA (2004) and the Canada-Colombia FTA (2011).

Regional and bilateral trading agreements have proliferated during the past decade, with the number notified to the WTO rising from around 100 in 1994 to 585 by June 2014. Many more are currently being negotiated. Even countries like Japan, the Republic of Korea and Singapore, which had resisted from deviating from the multilateral path for a long time, have become members of several regional and bilateral arrangements (Wickramasekara, 2006). The ILO needs to take advantage of this and intensify its drive to include workers rights issues in these agreements through technical assistance and its other processes.

The tripartite structure of the ILO that includes three important stakeholders of the migration phenomenon - workers, employers and governments - and the network of ILO offices in different regions and key countries, mean that it is ideally placed to do so. The WTO by contrast, is disadvantaged in playing such a role, as it is purely an intergovernmental organization without any offices at the regional or national levels.

RECOMMENDATION 5:

A final recommendation is related to national policies towards permanent migration versus temporary migration. In the past, the relatively small number of temporary migrants meant that the focus of government policy was mainly permanent migration. In general, ministries and departments of labour adopted a defensive position towards permanent migrants in line with their primary mandate to protect local workers from foreign competition.

This cautious approach has continued when dealing with policy issues relating to temporary migrants, even though there are important differences between the two. For one, unlike permanent migrants, temporary foreign workers are less likely to put pressure on host-country public goods or infrastructure; they are also less likely to cause a permanent decline in wages of local workers on account of the transitory nature of stay³⁰.

There is therefore a general perception among those who have observed Mode 4 negotiations from their onset, that departments of labour in national governments have approached the subject of Mode 4 liberalization with excessive caution, in contrast to their counterparts in the trade and

³⁰ Research on Ireland has shown that prior to its accession to the EU in 1973, immigration was mostly permanent. As the labour market was flexible and non-unionized, this led to a decline in wage levels in sectors affected by migrant workers. Following accession and the consequent increase in temporary migrants, there has been an amelioration in the wage levels in those sectors of the Irish economy (Gurdgiev, 2007)

commerce departments. (on this see also Betts and Nicolaidis, 2009)

Regional studies have also found a similar kind of apathy in administrative matters such as the issue of work permits to temporary workers by labour departments. (Manning and Bhatnagar, 2004) The most rudimentary kind of Mode 4 travel occurs when businessmen, entrepreneurs, professionals, technicians or researchers travel abroad for implementing business contracts, conducting research or for technical purposes such as maintaining equipment or installing computer software or delivering a lecture. Such visits are typically of short duration, lasting a few weeks at the most and require the granting of a Business Visa by the host country.

A second type of Mode 4 movement of individual service providers takes the form of specialists, professionals, executives and managers, semi-skilled and unskilled workers travelling abroad on a contract to deliver a particular service. Often called 'expatriates' these workers typically stay abroad for a period of 2-3 years and require the granting of a Work Permit by the host country. The relative ease of obtaining a Business Visa or a Work Permit therefore has considerable bearing on the temporary movement of natural persons across nations.

The ILO, as the apex international body with direct representation on its governing structure from departments of labour of member countries, can, in consultation with the latter, initiate or expand technical assistance programmes to re-orient the general approach towards temporary migration, based on case studies and best practices drawn from different parts of the world.

Annex Table 1

Inward Remittances 2012 (Current US\$ millions)

	Country	Amount
1.	India	68820
2.	China	39221
3.	Philippines	24610
4.	Mexico	23366
5.	France	21676
6.	Nigeria	20633
7.	Egypt	19236
8.	Germany	15144
9.	Bangladesh	14120
10.	Pakistan	14006
11.	Belgium	10156
12.	Spain	9661
13.	Ukraine	8449
14.	Italy	7326
15.	Indonesia	7212

Source: World Development Indicators, 2014, World Bank

Annex Table 2

Remittances Paid 2012* (Current US\$ millions)

	Country	Amount
1.	USA	51093
2.	Russian Federation	31648
3.	Saudi Arabia	29493
4.	Switzerland	28598
5.	Kuwait	15935
6.	Germany	15392
7.	France	12404
8.	Qatar	10842
9.	Italy	10754
10.	Netherlands	10674
11.	Spain	10458
12.	Republic of Korea	10084
13.	Oman	8086
14.	Canada	5830
15.	Australia	5145

*Paid to foreign workers resident for less than 1 year

Source: World Development Indicators, 2014, World Bank

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