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A NEEDLE IN A HAYSTACK: MIGRATION STATISTICS AND GATS MODE 4

Submitted by OECD¹

I. INTRODUCTION

1. This paper aims to explore some of the issues arising when using migration data to measure the temporary movement of natural persons as service suppliers under mode 4 of the World Trade Organisation (WTO) General Agreement on Trade in Services (GATS). The paper has five parts. Part I discusses the definition of mode 4. Part II provides some of the economic and negotiating context for mode 4 and outlines some of the reasons why trade negotiators and policy-makers are interested in better measurement of mode 4. Part III explores some of the conceptual issues which arise in using migration statistics for mode 4, including definitions of key concepts such as "temporary". Part IV looks some of the sources of data on the numbers of temporary workers and how these relate to mode 4. Part V concludes.

2. This paper represents the attempt of a trade negotiator to come to terms with migration concepts and statistics. It is offered to contribute to building better dialogue and understanding between two policy communities. Corrections, additions and clarifications to the many errors and misunderstandings of migration concepts in this paper are most welcome.

II. WHAT IS MODE 4?

3. For the purposes of making market-opening commitments, the GATS sets out 4 possible modes, or ways, in which services can be traded between WTO Members. Mode 1 (cross-border supply) is where the service crosses the border (e.g., a Mexican architect faxes a plan to a client in Japan). Mode 2 (consumption abroad) is where the consumer moves to the territory of another WTO Member to consume the service (e.g., a Mexican tourist goes to Japan for a holiday). Mode 3 (commercial presence) is where the service supplier establishes a presence in another WTO Member to provide the service (e.g., a Mexican architecture firm opens a branch in Japan). Mode 4 is where an individual service supplier moves temporarily to another WTO Member for the purposes of supplying a service (e.g., a Mexican architect visits Japan for 6 months to supervise construction of the building she designed).

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II.1 Who is included in mode 4?

4. Technically, mode 4 is defined in Article I.2(d) of GATS as being "the supply of a service... by a service supplier of one Member, through presence of natural persons of a Member in the territory of an other Member". Article XXVIII(k) specifies that this definition applies to nationals as well as, in certain circumstances, permanent residents, of WTO Members seeking to supply services abroad (permanent residents are covered where the Member does not have nationals or accords substantially the same treatment to permanent residents and nationals).

5. Further elaboration is provided in the GATS Annex on Movement of Natural Person Supplying Services under the Agreement. The Annex applies to "measures affecting natural persons who are service suppliers of a Member, and natural persons of a Member who are employed by a service supplier of a Member, in respect of the supply of a service". The first category is clear - "natural persons who are service suppliers of a Member" covers self-employed or independent service suppliers who obtain their remuneration directly from customers. However, there is some confusion about what is covered by the second category ("natural persons of a Member who are employed by a service supplier of a Member").

6. The WTO Secretariat background note on mode 4 [1998] has noted that this wording could be read to suggest that foreigners employed by host country companies are also included under mode 4. However, as Article I.2(d) seems to cover only foreign employees of foreign firms established in another Member, the Secretariat background note concludes that foreigners working for host country companies would fall under GATS mode 4 if they worked on a contractual basis as independent suppliers for a locally-owned firm, but would not seem to be covered if they were employees of that firm. Nonetheless, another member of the WTO Secretariat has observed that some GATS specific commitments (i.e., the market opening commitments made by WTO Members) actually refer to short-term employment. As specific commitments also form part of the GATS, there is thus a certain degree of legal uncertainty with regard to coverage [Karsenty, 2000]. Indeed, the situation is further complicated by the fact that some WTO Members deem all types of foreign temporary workers to be employees for the purposes of bringing them under domestic labour law (with implications for their wages, conditions and social protection).

7. Generally, however, GATS mode 4 is seen as covering:

- persons providing services where a foreign service supplier obtains a contract to supply services to the host country company and sends its employees to provide the services;
- independent service providers abroad: an individual selling services to a host country company or to an individual;
- persons employed abroad by foreign companies established in the host country (but excluding nationals of the host country).

II.2 What is temporary?

8. Mode 4 encompasses natural persons providing services in any of the services sectors on a "temporary" or non-permanent basis. However, further clarification may also be required on the issue of "temporary". There is no standard definition of temporary in the GATS and, for the purposes of specific commitments, WTO Members are free to interpret the term as they wish, and to set varying definitions for different categories of service providers. In practice, most WTO Members' specific commitments distinguish between:

- "business visitors" - i.e., short-term stays of a few months (often limited to 3 months), with no remuneration received in the host country;
- temporary movements of between a few months to a few years, including:
 - existing employees transferred within the same foreign controlled company (intra-corporate transferees, generally limited to 2-5 years);

- service suppliers on specific term contracts with foreign or nationally owned firms;
- self-employed service providers whose remuneration is wholly or only partly received in the host country [Arkell, 1998].

9. While "temporary" may not be defined positively in the GATS, it is defined negatively i.e., permanent migration is explicitly excluded. The Annex of Movement of Natural Persons Supplying Services under the Agreement states that GATS does not apply to measures affecting individuals seeking access to the employment markets of a Member nor to measures regarding citizenship, residence or employment on a permanent basis. The Annex also states that, regardless of their obligations under the Agreement, Members are free to regulate the entry and stay of individuals in their territory provided that the measures concerned "are not applied in such a manner as to nullify or impair the benefits accruing to any Member under the terms of a specific commitment". The operation of visa requirements for natural persons from some Members but not others is not per se regarded as nullifying or impairing such benefits.

10. However, some commentators have queried the GATS' distinction between service providers and persons entering the labour market in a country. They argue that, given that temporary entry under GATS commitments can last for up to 3 years (or in some cases longer), the service provider has in effect entered the local labour market, even though they are not applying for citizenship, as they are providing a service which a local person could probably do [Young, 2000].

II.3 What is a service supplier?

11. The GATS only covers services and service suppliers, but it may not always be easy to know what constitutes the supply of a service. For example, should fruit-pickers be viewed as temporary agricultural labourers (outside the scope of mode 4) or as suppliers of fruit-picking services? The answer may in part depend upon how broadly WTO Members interpret the scope of the category "services incidental to agriculture" in the Services Sectoral Classification List (W/120).

12. Equally, tasks performed on a fee or contract basis, without ownership of the inputs or outputs, are sometimes deemed to be services, even when they would appear to be technically manufacturing in nature. For example, a factory which receives a ream of fabric and a contract to sew 300 shirts is a supplier of tailoring services, whereas a factory which owns the cloth and produces 300 shirts which it then sells under its own mark is a textile manufacturer. In the world of increased out-sourcing of activities along the production chain, there is some debate over to the extent to which activities previously classified as manufacturing can now be broken down into, and classified as, services. There is thus some scope for differing interpretations on what constitutes a service.

13. Further, while technically, mode 4 includes service suppliers at all skill levels, in practice WTO Members' commitments have been generally limited to the higher skilled - managers, executives, specialists - although these terms are generally not further defined.

II.4 Summary

14. While there is no single, clear definition of mode 4, a useful approach might be to consider both duration and purpose of stay. That is, mode 4 service suppliers gain entry for a specific purpose (to fulfil a service contract as self-employed or an employee of a foreign service supplier); are normally confined to one sector (as opposed to workers who enter under general migration or asylum programs who can move between sectors); and are temporary (i.e., they are neither migrating on a permanent basis nor seeking entry to the labour market). These elements could help to distinguish mode 4 temporary service suppliers from wider groups of temporary workers. Such distinctions, however imperfect or ambiguous, are important in terms of attempts to gain some sense of the size of mode 4 trade.

III. WHAT ARE THE DRIVERS FOR BETTER STATISTICS ON MODE 4?

15. Mode 4 is emerging as a key issue in the Doha Development Agenda (DDA) negotiations. There are several main "push" factors behind this: the active - and growing - business constituency for temporary movement of service suppliers; the increasingly global market for skilled personnel; and the need for the current round of multilateral trade negotiations to address developing country interests.

III.1 The economic context

16. In a world of increasingly global business networks and shortening product cycles, companies are moving key personnel around the world at short notice for short periods to support the production, marketing, sale or after-sale servicing of goods and services. More companies - including smaller companies - are participating in international trade and the scope and scale of traded services has grown significantly. The speed of change and dynamism of markets has resulted in shorter turn-around time on projects and need for expert personnel to be available at short notice to develop rapid solutions to problems.

17. At the same time, advances in technology and significant decreases in transport and communication costs are changing work patterns, with international teams being pulled together to work on specific short-term projects where this was previously impractical. More frequent, shorter trips are also substituting for longer-term postings in the context of the growing number of dual career couples, especially in highly skilled professions.

18. Significant growth in cross-border investment is also driving the movement of people. Companies establishing in new markets want to be able to take key personnel with them to set up new ventures and international experience is increasingly seen as important in career development. Investment liberalisation can also create a demand for exports of skilled labour from the host country - e.g., foreign firms in India have linked the demand for various services in their home countries with the supply from India.

19. Technological change is also creating an ever-increasing demand for skilled labour. Developed countries face skills shortages, particularly in the information and communication technology (ICT) sector, which cannot be met in real time by domestic training programs. Meanwhile, developing countries' share of the world's skilled work force (i.e., workers with at least secondary education) has jumped from a third to nearly a half. More and more, the growing pool of skilled developing country labour is meeting developed country shortages as the marketplace for skills goes global. New patterns of mobility are also emerging, with some developed countries now major senders of personnel abroad (e.g., up to 1 million Australians are currently working overseas) and some developing countries (e.g., South Africa, Malaysia) major receivers.

20. While some developing countries fear brain drain in the new global market for skilled people, others see export of skilled labour as a key trade interest. For India, mode 4 exports can both relieve labour market pressure (e.g., India graduates 115 000 engineers per year, not all of which can be absorbed by the local labour market) and provide an important source of revenue (remittances in 1996 in India totalled \$US7.6 billion, almost three times as high as net direct investment flows and almost as high as the contribution of the textile and clothing industry). Like other sending countries, India has also benefited from workers returning with upgraded skills, international links and experience - Indian returnees from Silicon Valley have been a major force behind the growth of the Indian software industry.

21. Against this background, mobility of people - and managing all the economic, social, cultural and political aspects of this mobility - is an issue set to grow in importance in international policy-making. The events of September 11 have added a further dimension to the complexities of these issues.

III.2 The negotiating context

22. Even by the modest standards of services liberalisation in the Uruguay Round, little was done on liberalising the temporary movement of service suppliers. Most countries made only limited commitments on mode 4. While mode 4 technically covers all skill levels, commitments are generally limited to the higher skilled (managers, executives, specialists). Commitments are also generally not broken down by sector - that is, the same requirements are applied to all service sectors, special conditions are not applied in sectors of particular relevance to mode 4 (e.g., professional services). GATS commitments are also guaranteed minimum treatment, so countries tended to be conservative, with most committing to a more restrictive regime than they were - or are - actually employing. Indeed, many countries actual temporary entry regimes are considerably more liberal than their GATS commitments would suggest.

23. Expectations are running high amongst some countries for progress on mode 4 in the current GATS negotiations. More generally, progress on mode 4 has become, at least for trade in services, one of the tests of whether the Doha Development Agenda (DDA) lives up to its promise to deliver on issues of interest to developing countries.

24. To date, a number of proposals on mode 4 have been made in the DDA negotiations. Most ideas either seek to increase market access (mostly developing country proposals) or to increase the effectiveness of existing market access (supported by most major developed countries). They include:

- Greater clarity and predictability in WTO Members' commitments: e.g., by (i) agreeing common definitions for the main categories of personnel included in many WTO Members' commitments, including by reference to the International Standard Classification of Occupations (ISCO-88); many Members refer to "executives, managers, specialists", but there is no common understanding of who is covered by these categories; (ii) providing information on economic needs tests (i.e., where entry of foreigners is subject to an assessment of needs in the domestic market), such the criteria used, the responsible authorities, likely time frame for determinations and record of recent decisions;
- Greater transparency: existing access is not always used because service suppliers lack information on the necessary requirements and procedures. WTO Members could provide one-stop information on all relevant procedures and requirements via a dedicated web-site covering all WTO Members; via notifications to the WTO, or by creating a one-stop contact point at the national level. Other suggestions include prior consultation on regulatory changes, timely responses to applications and the right of appeal;
- GATS visa: to facilitate entry of mode 4 service suppliers, including by avoiding the detailed visa procedures currently required in many countries (often not separated from permanent migration). The visa would be issued rapidly, time-limited, cover both independent service suppliers and intra-corporate transferees, include appeal rights and be backed up by a bond, with sanctions for abuse;
- More market access: (i) Commitments for particular service sectors of high demand (e.g., ICT, professional services) rather than the current standard treatment for mode 4 entry across all sectors. (ii) Better access for some groups, in particular intra-corporate transferees, via "blanket" applications by companies or by charging companies for streamlined processing (including via a GATS visa). (iii) More access for other types of skilled, but not necessarily highly skilled, personnel such as "technical support personnel" or "non-professional essential personnel" or for trainees (future executives).

III.3 The importance of statistics for mode 4

25. Against the background of these economic developments, and the pressure of GATS negotiations, government policy-makers in both sending and receiving countries want better information on the dimensions of mode 4 trade. At present, the lack of accurate figures on the number of individuals moving under mode 4 hinder policy development and dialogue.

26. At the national level, countries need a sense of the shape of mode 4 trade to be able to devise appropriate public policy responses. For labour sending countries, information on how many of their nationals are moving, and in what sectors, can help to identify areas at risk of brain drain, or areas of export potential, as well as the extent to which nationals are returning (i.e., that brain circulation, and not brain drain, is occurring). For receiving countries, information on how many people are arriving, for how long (including whether they subsequently apply for permanent migration where this is possible) and for what purpose, is essential not only to manage the inflow of foreigners, but also to provide information on areas of skill shortage in the economy, the extent to which these can be met by temporary foreign suppliers and/or whether more basic reform to national training and education policies is required. Data may be particularly important for those services which the government plays a major role in providing and/or funding, and where temporary foreign workers are increasingly part of the picture (e.g., health services).

27. At present, the lack of data also limits the choice of policy instruments governments may use to manage mode 4 entry. For example, governments wishing to limit entry by a numerical quotas, or to extend preferential treatment to some countries (either under regional trade agreements or to a certain group of countries - such as least developed countries - as a whole) are hamstrung by the lack of data which can accurately state how many persons are entering as mode 4 suppliers and their countries of origin. Further, for migration authorities in particular, assessment of whether changes are needed to address the issue of temporary workers - or what types of measures would be most appropriate (e.g., the feasibility of a GATS visa) - in the context of limited resources, would be greatly assisted by more reliable data on the size of the problem and the numbers of people who might be affected by any new schemes.

28. The GATS negotiations have also created an enhanced need for better statistics on mode 4. The negotiations are now at a stage where countries making requests of each other for greater market openness and responding with offers to open their own markets. In terms of making requests for market access, it would assist governments to know how many people are currently supplying services abroad, what services they are supplying and to which markets. Similarly, offers should be informed by the current number and type of entrants and assessments of areas of demand. Additionally, Article XIX of the GATS, which mandates the negotiations on services, also states that Members must "carry out an assessment of trade in services in overall terms and on a sectoral basis". Lack of statistics on mode 4 renders assessment of its current dimensions and the possible impact of liberalisation difficult.

IV. CONCEPTUAL ISSUES WITH MIGRATION STATISTICS AND MODE 4

29. Against the backdrop of this need, this section explores what information we ideally want for mode 4 and what we actually have.

30. Measuring GATS mode 4 requires the identification of workers who are temporarily in the host country - but only those who are not seeking entry to the labour market. Useful information for GATS purposes includes: sector and occupation (including skill level); country of origin; and duration of stay. Depending on the definition of mode 4 used, information about the type of work contract may also be relevant (e.g., if mode 4 is understood to include only those foreigners providing services on a contract basis, and not foreign employees of local companies). The difficulties in defining these areas for mode 4 are described below.

IV.1 Identifying "foreign"

31. Migration statistics are not always comparable between countries depending upon the definition of "foreign" used. Some OECD countries (e.g., European countries, Japan, Korea) refer to nationality, as citizenship laws have created a large number of people born in the country but with foreign citizenship (these people are not relevant for statistics on GATS mode 4). Countries of settlement, such as Australia, Canada and the United States, tend to use country of birth when producing statistics on foreign workers. The results can mislead: it was recently reported that Australia depended upon foreign labour for a full 25% of its workforce, but this figure is based on the definition of migrant as foreign born, and reflects Australia's status as a major country of settlement.

32. In some countries, numbers for foreign temporary entrants may also include family members. From a trade point of view, this can distort the picture of how many mode 4 suppliers are actually present. The situation also varies between countries.

33. Information on country of origin is also generally collected and does not seem to raise problems of interpretation.

IV.2 Identifying "temporary"

34. While migration statistics, as well as on economic statistics (e.g., balance of payments and national accounts), consider 1 year to be the borderline between temporary and permanent movement, there is no common understanding in GATS of the meaning of "temporary". Countries' commitments under GATS mode 4 can last for more than the 12 months limit which defines "temporary" for migration statistics, and, in the case of intra-corporate transferees, can be for periods up to 5 years. Thus numbers of temporary entrants do not necessarily correspond to mode 4 trade, even leaving aside the question of purpose of stay. Further, for migration purposes, "temporary" workers may enter local labour markets, but such workers are excluded from GATS mode 4.

IV.3 Identifying occupation, skill level and sector

35. Information on occupation may not be collected, and when it is, the classifications used tend to vary between countries, again making international comparisons difficult. A number of countries have linked their classifications of occupation to ISCO-88; however, even where national statistics use classifications that correspond to ISCO-88, the classification schemes used by immigration authorities may differ from those used by statisticians.

36. In the context of the current GATS negotiations, some countries have suggested that it would be useful, both to add clarity to existing commitments and to help with data collection on mode 4, for countries to use ISCO-88 in making their commitments to allow entry by service suppliers under mode 4. ISCO-88 offers some real benefits, by facilitating linkages between statistical collection and GATS negotiation, enabling over time, the provision of better quality, more comparable data. However, systems devised for statistical purposes may not be immediately transferable to trade policy purposes. Some issues to consider on the possible use of ISCO-88 in a GATS context include:

- Classification by occupation can become outdated, especially as job tasks are changing very fast in the ICT and consulting industries (what would a "systems architect" have meant 5 years ago?). Indeed, a number of industry groups have pointed to the need for faster procedures for updating the professionals list in the NAFTA context;
- ISCO-88 might not provide definitions for all the categories countries currently use in making their GATS commitments, especially those based on other criteria than type of

work to be performed (such as "business visitor" or "intra-corporate transferee"). WTO Members would also need to agree to definitions for these categories;

- The level of aggregation required for statistics may differ from that required for marketing opening commitments in trade agreements. For example, ISCO-88 groups together one occupational group "3472 - radio, television and other announcers (news announcer, radio announcer, television announcer, compere, disc jockey, media interviewer, newscaster)"; however, GATS commitments may wish to distinguish between these professions. WTO Members could, however, still use the category in combination with an "except for...", or relevant sub-categories could be defined and given separate codes;
- Adapting the ISCO categories to existing, as opposed to new commitments, may raise issues about what WTO Members intended as the scope of a given commitment. Further work would need to be undertaken to map correspondences between W/120 and the UN Central Product Classification (CPC) and ISCO-88;
- ISCO-88 may not always be an easy fit with national or regional systems. Qualifications required to undertake certain work may vary between countries, thus certification requirements may have to be defined and agreed upon. Also, categorisation may vary depending on the level of economic and technological development within a country (e.g., a garbage collector may be a semi-skilled machine operator in some countries, but an unskilled manual labourer in others) - although this may be less likely for higher skilled professions which are the majority of mode 4;
- Not all countries currently use ISCO-88 as the basis of their national occupation statistics (some countries do not have a system for collecting such data). Use of ISCO-88 as a reference tool may require some capacity-building at the national level, for labour authorities and statisticians, as well as trade policy-makers.

37. Further guidance on skill level might be given by information on education or qualifications of entrants. While information on educational attainment/formal qualification is frequently collected by migration authorities to determine whether a potential migrant worker satisfies the criteria for different types of visas/work permits, the classification systems used vary. Only a few countries have national classifications of education based directly on the International Standard Classification of Education (ISCED). International comparisons are therefore complicated.

38. Information on economic sector in which the entrant will be working may not be collected or may be based on very broad categories (e.g., mining and oil, transport and communications, professional services, miscellaneous services). These categories do not necessarily correspond to the "GATS Services Sectoral Classification List ("W/120"), making attribution for GATS purposes difficult.

IV.4 Identifying the type of contract

39. Information on the type of contract may only be necessary if foreign employees of - as opposed to those working on contract for - domestic companies are considered to fall outside of the scope of mode 4. While information on the type of contract may be collected as part of some visa or work permit schemes (where it is relevant to the criteria for a given category), this is unlikely to generally be the case. In general, such information is likely to be difficult to both obtain and interpret. It is also unclear that it is useful in practice to differentiate between the two types of employees, especially where a contract worker might be required by law to be treated as an employee for employment law purposes. For these reasons, in this author's view, foreign employees of domestic companies should be included in mode 4.

Examples of studies on labour migration and their relevance to mode 4

OECD work has explored the feasibility of providing statistics on labour migration, specifically on the international mobility of the highly skilled for OECD European countries [OECD, 2002]. This work refers to the standard United Nations (UN) definitions for categories of persons crossing borders, which uses the criterion "duration of stay" to distinguish between migrant and non-migrants (e.g., tourists, short-term business travellers, frontier workers etc). The term migrant is itself further sub-divided into long-term migrants (a person who moves to another country for a period of at least 12 months) and short-term migrants (a person who moves to another country for a period of at least 3 months, but less than 12 months, except in cases where the movement to that country is for reasons of recreation, business, medical treatment or religious pilgrimage). It is clear that much of mode 4 trade would fall under the non-migrant or short-term migrant categories. However, intra-corporate transferees moving abroad for more than 12 months could fall under long-term migrants as data is often provided on the basis of permits issued as migrants arrive. Where a person plans to stay for more than 12 months, they are often automatically counted on arrival as a long-term migrant (whether or not they actually end up staying for longer than 12 months).

The International Labour Organisation (ILO) [Hoffmann and Lawrence, 1996] has also undertaken a comprehensive review of statistics on labour migration, covering: inflows of foreign workers; outflows of migrant workers; return flows of migrant workers; stocks of foreign workers in the country; and stocks of migrant workers abroad (nationals working abroad). This review defines foreign workers on the basis of citizenship and focuses on those who are "taking up employment" within another country. It does not use "duration of stay" as a criterion, in an effort to pick up mobile workers often excluded under this criterion, such as seasonal workers or persons commuting across international borders on a daily, weekly or monthly basis. However, the focus on persons "taking up employment" excludes "persons who are visiting (or have visited) the country for a short period, whether for work, i.e., as an extension of employment in the country of origin, for example as a sales representative, or during a period of temporary absence from work, e.g., on vacation". This definition excludes many persons who are currently the focus of mode 4, such as most types of business visitors (e.g., an employee assessing a potential new investment in the host country or visiting for short periods to supervise a project). Independent service suppliers providing services on a contract basis are included, however.

V. SOURCES: WHAT INFORMATION IS AVAILABLE?

40. There are a number of possible sources of data on foreign labour flows, including: visa applications; work permit schemes; labour force surveys; population registers; social security registrations; and company or recruitment agency data. The most comprehensive statistics are available on the inflow of foreign workers, with few governments devoting scarce resources to mapping corresponding outflows.

41. Many of these sources have limited relevance for statistics on temporary workers - population registers are operated by relatively few countries, tend to focus on permanent migrants and seldom contain relevant information on employment. Social security data is also not relevant for many temporary workers and the usefulness of data also depends on the degree to which foreigners are identified separately. Surveys of graduates may include foreign-born students (the US conducts a relatively in-depth science and engineering graduate survey which breaks down all variables into US and non-US born/citizens) but again do not target GATS mode 4 workers.

42. This section considers some of the sources of data on temporary workers and how useful they might be in terms of trying to find greater information on mode 4.

V.1 Labour force surveys

43. In principle it should also be possible to use labour force surveys as a source of statistics for GATS mode 4, as they include variables such as the sectors, occupation and education levels of persons employed, generally in a form which allows for classification according to standard international definitions. It should be possible to collect information on the duration and purpose of any movements abroad during a particular reference period (e.g., the previous year), thereby providing some information on exports (movements by residents) under mode 4. However, such surveys provide little, if any, information on foreigners in the country undertaking the survey (i.e., mode 4 imports). Additionally, such surveys are based on a sample of the population and therefore do not provide the types of precise statistics useful for describing trade in services through mode 4. Depending on the size of the sample (within the European Union this ranges from 5% of the labour force in smaller countries to 0.5% in the larger ones), small figures may be statistically unreliable.

44. Additionally, national labour market statistics include in their concept of temporary workers (where these are identified separately) all those who are employed by domestic companies. Even leaving aside the issue of whether foreign employees of domestic companies are seen to fall under GATS mode 4, this group may still include workers falling outside mode 4 in the sense that they may have a broader authorisation not just to work for one employer, but to enter the labour market. What these workers may be similar to those under GATS mode 4 in terms of duration of stay, the purpose of their movement (whether they are entering the labour market) sets them apart.

V.2 Visa and work permit systems

45. Many of the statistics on the inflow of foreign workers comes from visa systems. However, their usefulness depends upon the scope of visa regulations (i.e., for whom visas are required), as well as the extent to which visa systems distinguish between: visits for business or pleasure, visits of different duration; and visits to work for a local employer and visits to the local representative of the home country employer.

46. Equally, work permits can provide a range of useful statistics for GATS purposes, depending upon the extent to which mode 4 type workers can be identified separately from workers seeking to enter the labour market (making this distinction may require the combined use of visa and work permit information). Work permits and visas indicate the country of origin of the worker and may indicate the economic sector, but information on occupation or educational level tends to be less frequent. However, where work permit systems are geared towards identifying higher skilled persons, information on occupation and education may be more readily available (indeed, about 80% of the UK work permits go to managerial or professional categories) [OECD, 2002].

47. However, even with countries with which collect quality data on entrants under a number of different visa categories, problems arise in trying to identify those visa categories of most relevance to mode 4. The OECD Trade Directorate undertook such an exercise for the United States and Australia, two countries which operate highly sophisticated entry regimes, differentiating between a wide range of entrants [OECD 2002b, 2002c].

48. The U.S. and Australian migration systems both provide transparent and comprehensive data on the number and type of entries, as well as on the terms and conditions for such entry. Both separate temporary from permanent entry, and within temporary, distinguish between short-term visits (often 3 months or less) and longer-term (but still temporary) presence (e.g., up to 5 years). Both systems also distinguish between business visitors and tourists, and provide information on country of origin of the entrant and the type of occupation (either in terms of skill level, sector or specific profession) in which they are involved. Yet even within these "state of the art" systems, a number of difficulties arise:

- First, migration categories do not generally distinguish between service and non-service activities. Categories such as "business visitors" generally do not include information on the sector in which the entrant is working and could involve both service and non-service (agriculture, manufacturing) activities. While some visa categories cover specific sectors (e.g., medical practitioners), others refer to general skills without specifying the sector (e.g., company secretary, human resource manager, finance manager). Further, as noted above, it is not always clear what should constitute a service (are fruit-pickers agricultural workers or service suppliers?);
- Second, it is not always possible to judge whether the activities covered by some visa categories are truly commercial in a sense that would constitute trade for GATS purposes. In some cases the extent to which the activity is commercial is unclear (e.g., sports visas can include both amateurs and professionals); in others it is hard to judge whether the work would qualify as the supply of a service under the GATS (e.g., occupational trainees, professional exchange programs);
- Third, some visa categories include persons both consuming and supplying services. For example, trainees may engage in some on-the-job activities, but may also fall under GATS mode 2 (consumption abroad of training services); and exchange visitors could encompass both those consuming services (students participating in a given program) and providing services (e.g., visiting lecturers). Such "mixed mode" categories can also occur when those entering to consume a service are granted limited working rights. For example, overseas students in Australia are allowed to work up to 20 hours/week during term and for unlimited hours during term breaks (potentially mode 4), yet their primary reason for movement is consumption of education services (mode 2). Similarly, the primary purpose of movement of Australian Working Holiday Makers (WHM) is mode 2 consumption of tourism services, however, they enjoy working rights which might fall under mode 4 (full-, part-time or casual work of up to 3 months with any single employer).

49. Additional problems can also arise. Some migratory movements are not recorded by visa and work permit registrations - e.g., for those nationalities which benefit from regional or bilateral agreements (e.g., within the EU or between the Nordic countries or Australia and New Zealand). Paradoxically, this means that the more liberal the regime for labour mobility, the lower the likelihood of getting reasonably accurate statistics reflecting the extent of labour mobility.

50. Even where visas and work permits are required, to gain a really accurate picture of the extent of actual mode 4 trade, countries would need to provide information not just on the types of visa issued, but on the number of actual arrivals for those visa categories. While some countries currently collect this data, others do not; even where data is collected, for some groups it may be based on sampling which may pose problems in quantifying with any accuracy smaller sub-groups of entrants which might fall under mode 4.

51. Further, countries have very different visa categories, and, even where similar categories exist, they may be defined very differently. For example, many countries have a category for "business visitors" but the definition of who falls under this heading and the conditions for entry vary greatly. This means that statistics on mode 4 entrants derived from these sources would not be internationally comparable.

52. Finally, a real limitation to the use of visa and work permit data to track the shape of mode 4 trade is the absence, in a number of countries, of special visa categories for short-term business visitors and similar categories of particular interest to mode 4. In some countries, the choice can be between tourist and permanent migration visas - service providers working on "fly-in/fly-out" projects in such countries often enter as tourists. Even where detailed business and tourist visa categories exist, differences in prices, conditions and time frame for attribution of visas can create incentives for businesspersons to declare themselves as tourists. For example, in Russia, tourist visas can be granted within one day, while business visas are granted within three days or three

weeks (depending on the price paid); an HIV test is also required for multiple-entry business visas; and the cost of obtaining a business visa is double than for tourist visas. By contrast, in the United States, the B1 (visitor for business) and B2 (visitor for pleasure) visitor visas are granted on a comparable basis, lessening the incentive to make a false declaration at the border [OECD 2003].

V.3 Industry surveys

53. Valuable information on mode 4 trade can sometimes be found at the industry level. The quality of data will depend upon the degree to which the profession or sector is internationalised, as well as the extent to which it is organised - and this varies between countries. However, some professions - such as accountancy, architecture, consultancy, engineering, law and nursing - have become increasingly good sources - at least in some countries - of data on mode 4 trade. Companies in these sectors are increasingly trying to move people around the world for short periods and at short notice and have been active in lobbying governments to facilitate that movement, including by improvement to migration processes (e.g., visa processing time, fees, streamlined application procedures). In order to lobby for these changes, such companies have often collected extensive data on the number of people moving in the sector, to which countries, for what purpose and for how long.

54. For example, a study undertaken on legal services in the UK by International Financial Services London [2003] provide relatively detailed information on the number of foreign lawyers working in the UK. PricewaterhouseCoopers has also undertaken a survey of how 271 companies from 24 countries organise their international assignments. The survey covered a range of types of assignments, ranging from short-term business trips to temporary or long-term assignments of between 6 months to 3 years. The survey broke down international assignments by geographical distribution, purpose (e.g., management or career development); and type or length of assignment (e.g., short- or long-term). The survey also noted whether the figures collected represent an increase or decrease over the previous two years, and includes predictions for the next two years.

55. Another useful source of information, especially at the sector-specific level, could be recruitment firms. In some sectors such firms are already being closely monitored in terms of recruitment of temporary workers. For example, agreements reached between the UK Government and the Governments of certain developing countries that the UK would not recruit healthcare workers from countries facing severe shortages of health care personnel (e.g., South Africa) has led to the closer monitoring of recruiting agencies, and the provision by those agencies of more detailed information on the type of workers being recruited and their countries of origin.

56. While results from specialised industry surveys can be very helpful, they also have some limitations. While more closely targeted at GATS mode 4 workers, such surveys may only cover intra-corporate transferees, excluding other GATS mode 4 workers such as independent service suppliers. Additionally, definitions of temporary movement vary between companies, sectors and countries. Industry sectors can also be defined broadly and not in a manner directly comparable with GATS W/120. There is also no distinction between service suppliers and those who might be deemed to be working in the manufacturing or other industries. Finally, such surveys are only available for certain highly internationalised industries and are at present often largely undertaken by developed, rather than developing, countries.

What we know at present

Bearing in mind all aforementioned caveats, some initial observations can be made about mode 4 trade.

The trade represented by mode 4 service suppliers remains small compared to overall trade in goods and services, and to other modes of trade in services. But notwithstanding its small scale in total, temporary movement is very important for some industries and for some countries.

Labour mobility for skilled workers is also increasing and seems to be concentrated in the services sectors. Additionally, movement of highly skilled workers is generally facilitated by special programs. It is difficult to draw any conclusions about the share of highly skilled versus lower skilled service suppliers in terms of mode 4 in overall temporary movement as available data also includes workers who have entered the labour market.

Both developed and developing countries are importers as well as exporters of temporary workers. Developed countries seem to account for the majority of both exporters and importers by some value indicators (e.g., compensation of employees) but not others (the major receivers of remittances are mostly developing countries). However, this may not be the case in terms of the number of workers (statistics are not sufficient to judge). Additionally, labour exports are very significant compared to other forms of trade for some developing countries.

While available statistics are not sufficient to draw conclusions about who the primary mode 4 traders are, the figures do suggest that no easy developed versus developing country picture can be drawn. Developed countries are also major exporters of labour, and some developing countries are significant importers.

VI. CONCLUSION

57. Data collection systems for the movement of natural persons across borders cannot at present provide separate statistics which exactly capture mode 4 activities. This is not surprising: the system for migration statistics was designed with other purposes in mind, with its own conceptual framework. GATS mode 4 also covers a relatively narrow range of workers for whom nonetheless quite detailed information is required. Most sources of statistics tend to have a wider focus, collecting information on a much broader set of workers and activities, thus hiding information relevant for GATS mode 4 within larger aggregates. Statistics may also not be comparable internationally, due to the lack of standard terms and definitions. While some developed countries have sound statistical collection on the stock and inflow of foreign workers, this is by no means the norm for all, and even less so for many developing countries. Few countries have comprehensive statistics and many developing countries struggle to provide even the most basic statistics on migration and presence of foreign workers [Hoffmann and Lawrence, 1996].

58. It is clear that much more work is required on mode 4 trade statistics: at the moment, observations must be drawn from a general picture derived from a combination of several sources, themselves consisting of indicators of varying degrees of accuracy. However, providing more complete and detailed statistics is a serious challenge; the difficulty in isolating information on one particular group (e.g., temporary foreign workers) increases with the relative size of the group of non-relevant persons (e.g., tourists) to the size of the target group. Further, GATS mode 4 service suppliers represent a small sub-set of a larger migratory trend and the resource implications of collecting the more precise information required for GATS mode 4 may not be justified for the purposes of being able to identify a relatively small group of people.

59. A key question is therefore how to balance the need for better data on mode 4 with the other priorities and limited resources of migration authorities, especially in developing countries? A process of dialogue and mutual education will be essential. Trade negotiators need to have a concrete sense of the parameters of migration policies and data collection in order to focus on ways of making progress on mode 4 which are actually feasible for the majority of countries. In turn, trade policy-makers can also help to highlight new trends which might warrant the attention of migration authorities; industry will also have an important role to play as a source of information and data not presently captured by other methods. The current trade negotiations might also serve as useful lever to generate greater political interest in, and better resources for, data collection for certain types of migration flows.

60. Dialogue will be essential and progress is likely to be slow. One area where progress could have benefits for both migration statistics and for trade negotiators would be in working towards common definitions of key categories of mobile service supplier, including by encouraging greater use of ISCO-88. This exercise could perhaps begin by focusing on areas of priority to mode 4 or where there is already some common ground to explore (e.g., intra-corporate transferees, managers, executives, specialists). Experience under regional trade agreements might provide some useful insights. However, while progress on common terminology and definitions would be very useful, it is likely to be a longer term aim. Nonetheless, it may provide a useful topic to generate more intensive dialogue between the trade policy and migration statistics policy communities.

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