

**MODE 4 RELATED ISSUES**

Communication from Pakistan

The following communication, dated 5 December 2005, from the delegation of Pakistan, is being circulated to the Members of the Council for Trade in Services.

1. One of the principal gains from the services negotiations in the current round for developing countries lies in Mode 4 liberalization. Our stakeholders have made it clear that they expect substantial commitments in Mode 4 and we have reflected this view in our requests to trading partners. Moreover, commercially meaningful commitments in Mode 4 are central to realizing the developmental benefits in the current round of services negotiations. The Doha Work Program, as well as the 2004 July Package, recognize the importance attached to this issue.

2. We reiterate that Mode 4 can be seen as a facilitative mechanism to match world labour demand with labour supply. For Mode 4 commitments to effectively allow developing countries to realize their export potential, free movement of temporary workers is required across the globe, rather than being confined to any particular geographical region. Mode 4 service- providers may move to host countries with ease for a short period of time and make an assured return to home countries.

3. Some Members, during bilaterals and in other fora, have referred to difficulties in making Mode 4 commitments. We feel that the concerns raised can be remedied. The following paragraphs list the issues raised by some Members and possible solutions that may address these concerns, in order to advance the discussions of liberalization under Mode 4. This paper is a continuation of earlier developing country papers<sup>1</sup> presented in this body and an attempt to address the concerns raised by Members vis-à-vis their reluctance in liberalizing in Mode 4, for further discussion.

(i) Non Trade / Security related concerns:

4. A few Members have voiced non-trade security-related concerns as a hindrance to making commitments in Mode 4. Nothing in the GATS prevents Members from protecting their essential security interests. A Member has the right to depart from GATS specific commitments and other obligations as security exceptions if there are valid concerns without going through the waiver or Article XXI procedures.

<sup>1</sup> TN/S/W/14, dated 3 July 2003 and TN/S/W/31, dated 18 February 2005.

(ii) Return home of temporary service-providers:

5. Another major concern is that such temporary workers, once in the host country, can stay on permanently. A possible solution is that such temporary Mode 4 workers move on the basis of GATS visa. Home countries can keep a data-base of all GATS visa workers who would report of their departure and arrival back home. Another measure could be that the visa holders may report to the home-country embassy in the host country on arrival and at regular intervals during their stay and on departure by phone or mail. Another less intrusive possibility could be that the employer of the worker in the host country report to the concerned authorities of the arrival and departure of the Mode 4 worker. If the home country does not have an embassy in the host country and if even more stringent assurance is required, the possibility of revalidation of the GATS visa at intervals during the period of stay may be debated. Any such measure will ensure that the temporary workers are monitored and definitely return home on expiry of their GATS visa. Such measures are in accordance with paragraph 4 of the Annex on Movement of Natural Persons Supplying Services under the GATS.

(iii) Definition of temporary:

6. Some Members are finding it difficult to distinguish 'Mode 4 temporary stay' from 'permanent migration', even though the GATS' Annex on Movement of Natural Persons states that it shall not apply to measures regarding citizenship, residence or employment on permanent basis. Consequently, the definition of 'temporary stay' is another contentious issue. Firstly, some Members have scheduled time periods for categories of Mode 4 workers in their respective schedules which makes Mode 4 movement distinct from permanent migration. Secondly, if the concept of the GATS visa (detailed in ii) is agreed upon in practice by Members, there will be no need to have a specific definition for 'temporary' as it will ensure that workers moving on the basis of such visas only enter temporarily anyway.

7. To conclude, we reiterate that Mode 4 movement does not mean migrating on a permanent basis or seeking permanent entry to the labour market of a host country. The GATS specifically excludes permanent migration as clearly stated in paragraph 2 of the Annex on Movement of Natural Persons Supplying Services under the GATS. A Paper<sup>2</sup> published by the Migration Policy Institute also indicates that effective use of Mode 4 has the capacity to control immigration. Members are therefore called upon to make meaningful commitments in Mode 4 in their horizontal schedules of commitments to provide transparency and predictability to Mode 4 service-providers and liberalization gains to developing countries.

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<sup>2</sup> Oonagh Sands, "Temporary Movement of Labor Fuels GATS Debate", Center for Strategic and International Studies Migration Policy Institute (MPI). Washington DC, 1 June 2004.