4

Labor Mobility and the WTO: Liberalizing Temporary Movement

Globalization is driving the movement of people across borders

With globalization—the dramatic expansion of cross-border trade and investment—has come an upsurge in international labor mobility. Falling costs of transportation and communication have reduced the distances between peoples, and the drive for better lives has motivated workers to move to areas where jobs are more plentiful and pay is better. Foreign-born persons now account for 10 percent of the total population in the United States, 5 percent in Europe, and 1 percent in Japan. In Canada and Australia, foreign-born persons represent 17 and 24 percent of the total population, respectively.[1]

Even so, today's movement of people is still well below levels experienced in the late nineteenth century, and migration rates, now hampered by restrictive policies, are well below cross-border flow of goods and investment. By 2000, according to the United Nations, 175 million persons were living outside their country of birth—about 3 percent of the world's population. By contrast, global exports of goods reached almost a third of GDP, and financial flows were well above 10 percent (OECD 2001c; World Bank 2003; United Nations 2000).

While long term and settlement migration are still predominant in most developed countries, migrant flows are now more diverse and complex, with migrants moving back and forth more readily and rapidly. Temporary movement, in particular by highly skilled workers, has seen the largest growth in the past decade.

Both rich and poor countries can benefit

Both developed and developing countries have much to gain from an increased flow of workers. Rich countries benefit because they gain workers whose skills are in short supply. Also, as demographics drive up the average age in rich countries, migration allows an influx of younger workers who contribute to pension systems that would otherwise be actuarially unviable. Poor countries gain from higher wages as well as from the remittances that accrue from migration. In 2001, worker remittances alone provided some $70 billion to developing countries, nearly 40 percent more than all development assistance and significantly more than net debt flows to developing countries. Returning workers also often bring new skills back to the sending country. To be sure, there are costs to both receiving and sending countries: labor markets and social services may be strained in the rich countries, and developing countries may lose skilled workers who have been educated with public resources. Nonetheless, if a temporary visa system were introduced in rich countries permitting movement of labor up to 3 percent of the total labor force, world incomes would rise by nearly $160 billion (Walmsley and Winters 2002).

The GATS could facilitate temporary movements

Temporary movement of certain types of workers—service suppliers—is included under the World Trade Organization (WTO) General Agreement on Trade in Services. This is designed to facilitate the movement of people in a way analogous to the movement of goods and capital. This type of temporary movement—called Mode 4 in the GATS—is treated as other services in the global negotiations. They allow countries to negotiate fixed limits accorded to all foreign workers on a most-favored-nation (MFN) basis. Some developing countries see temporary movement under GATS Mode 4 as their key interest in services trade and are expecting real progress in the context of the Doha Development Agenda negotiations.

However, progress has been minimal because of policy restrictions

To date, however, even judging by the relatively limited liberalization of trade in services during the Uruguay Round, little has been done to loosen conditions governing the temporary movement of natural persons supplying services (Mode 4). Mode 4 today accounts for less than 2 percent of the total value of services trade. Present commitments refer almost exclusively to higher level personnel. More than 40 percent of Mode 4 commitments are for intracorporate transferees whose mobility is intimately related to foreign direct investment; another 50 percent of commitments cover executives, managers and specialists, and business visitors. All this means that the Mode 4 liberalization achieved to date has been of limited significance for developing countries whose comparative advantage lies in the export of medium- and low-skilled, labor-intensive services.

Two fundamental tensions hamper progress on Mode 4 labor mobility. The first is that governments are reluctant to undertake permanent commitments when employment demand varies with cyclical conditions, and when several OECD countries are facing difficulties in integrating existing immigrant communities into their labor market and societies. Wanting to maintain immigration and labor market policy flexibility, countries have made GATS commitments far below the degree of TMNP access already afforded under domestic laws and regulations. An important corollary of this tension is that the extent of TMNP liberalization for some sectors and categories of workers where labor demand routinely exceeds supply (for example, in tourism, information technology, and medical-related services) may be significantly greater than in other categories of labor, particularly unskilled labor.

A second tension stems from the fact that the strong regional character of migration patterns creates domestic political support for programs that favor neighboring countries, while Mode 4 commitments necessarily are open to all countries on an MFN basis. Preferential migration schemes are commonly negotiated at the bilateral and regional levels, and MFN-based liberalization would undermine these. Because the many bilateral labor agreements are usually untied to trade policy or other agreements, they afford governments a greater degree of flexibility to adjust programs to evolving migration trends and labor-market needs.

While the potential gains from increasing temporary labor mobility, including for service suppliers under GATS Mode 4, could be sizeable, the analysis presented in this chapter cautions that expectations of far-reaching forward movement need to be tempered because of the political sensitivity of such trade in receiving countries. That sensitivity has become more pronounced in the context of decelerating worldwide economic growth and heightened security concerns.

Expanding Mode 4 requires changes to realize its modest potential

Tensions notwithstanding, present levels of Mode 4 access fall far short of even its relatively modest potential. One possible response is for developing countries to actively expand their requests and offers in the Doha Round. Also, WTO members could adopt rules that would provide greater clarity and predictability. And to help regularize entry and exit while ensuring improved security, countries could adopt a GATS visa system that would facilitate national visas for up to one year, subject to appropriate checks and strict rules of administration.

The bigger picture: Global migration and remittance trends

Although on an upward trend over the last two decades, migration is still far below its historic peak. The greatest migratory flows took place between the middle of the nineteenth century and the onset of World War I, when an estimated 10 percent of the world's labor force relocated permanently across borders (World Bank 2001). Mass migration was a major factor in equalizing incomes across countries throughout this period, by some estimates exerting a greater influence than either trade or capital movements (Lindert and Williamson 2001).

Since World War II, globalization has led to more unrestricted movement of both goods and capital, while international policies toward migration have become more restrictive. As a result, the overall scale of labor migration remains relatively smaller than that of capital or trade flows. Only 3 percent of the world's population—some 175 million people—live outside their country of citizenship, and the number of permanent legal immigrants to the United States is less today than it was in 1914, both in absolute terms—850,000 vs. 1.2 million—and as a percentage of the total population—0.35 percent vs. 1.5 percent. By contrast, global exports of goods represent almost one-third of world GDP (World Bank 2003; OECD 2001c).

While South-North migratory flows receive the most attention, much cross-border labor mobility—representing roughly half of the total number of migrants—takes place between developing countries. While poorly measured and less well understood than flows into the North, some patterns are evident: South Asians typically travel to the Middle East and East Asia, while South Africa, Nigeria, and Côte d'Ivoire together have accounted until recently for up to half of Africa's migratory flow. Almost everywhere, most migrants tend to stay within their regions, reflecting the importance of culture and language and the lower costs associated with geographical proximity.

Around the world, migration is on the rise

Five forces have governed world migration since the mid-nineteenth century:

- Wage and opportunity gaps between rich and poor countries
- Regional conflicts and political instability in developing countries
- The relative share of young adults in the populations of sending and receiving countries
- Numbers of migrant stock residing in receiving countries
- Reductions in the cost and inconvenience of travel.

These forces are still driving South-North, and South-South, migration. Successful development and poverty eradication in the developing world almost certainly will release part of the poverty constraint on potential emigrants while simultaneously reducing the motivation of many to move. In regions where development has been slower and poverty more obstinate, rising populations, dwindling opportunities, and lower travel costs will combine to impel emigration. The shrinking share of young adults in the developed countries, particularly in Japan and Western Europe, and the rising share of young people in South Asia, Africa, and other parts of the world are complementary drivers of labor movement. Growing numbers of young people in the developing world have acquired the education and training needed to assume skilled positions in developed economies. And as the numbers of the foreign-born grow in developed countries, their presence makes it easier and more attractive for newcomers to join them (Hutton and Williamson 2002).

Wage differentials remain high. The average hourly wage in manufacturing is about $30 in

Germany, while in some parts of China and India it is only 30 cents. Between the United States or France and newly emerging countries such as Thailand or Malaysia the gap is tenfold. Meanwhile, the supply of labor is swelling in developing countries—particularly in South Asia and Africa, where poverty is concentrated. Each year 83 million people are added to the world's population, 82 million of them in the developing world (World Bank 2001).

The continuing demographic transition in industrial countries adds to these pressures. As their populations age and average levels of training and education rise, developed countries face a declining ratio of workers to retirees and an increasing scarcity of lower-skilled labor (box 4.1). In some service occupations, particularly those most directly related to population aging (medical care and associated personal care services), where there is no substitute for human labor, the demand for—and benefits of—movement of lower-skilled labor are likely to continue to increase (Winters 2003).

The foreign and foreign-born make up a growing share of the population of most major industrial countries, rising over the last decade from 4.6 to 5.4 percent in the European Economic Area, and from 7.9 to 10.4 percent in the United States (table 4.1) Because the population of developing countries is about five times greater than that of devel-

Box 4.1 Population aging and migration

The combined demographic effects of the baby boom that marked the immediate post-war period, the fall in fertility rates that began in OECD countries in the late 1960s, and longer life expectancy have led to a striking acceleration in population aging in virtually all advanced industrial societies.

Population aging is much more marked in Europe and Japan than in North America, but all three regions will be affected. According to demographic projections by the United Nations, the populations of the European Union and Japan are expected to fall by 10 percent and 14 percent, respectively, between 2000 and 2050, representing a decline of some 55 million in all. In both Japan and the European Union, the dependency ratio (defined as the ratio of pensioners to workers) is expected to decline from five to one today to three to one in 2015. For the United States, projections still point to an increased total population over the same period, but the dependency ratio also rises.

Recent research has considered the economic and fiscal impact of these demographic trends in the OECD area (OECD 2000, 2001c, 2002; Visco 2000). Without offsetting measures, the growing dependency could place enormous strains on social security, Medicare, and pensions systems. Far-reaching decisions are required over the medium and long term to meet shifting labor demands and to safeguard balance and equity in the systems of social protection—decisions related to the length of working life, levels of contributions and benefits, and productivity advances.

One solution receiving increased consideration in several countries is to increase levels of permanent immigration to modify population structures and mitigate the social and economic costs of aging. Immigration has advantages. It can quickly increase the economically active population because new immigrants tend to be younger and more mobile. Also, fertility rates among immigrant women are often relatively high, which can help boost population growth. This has only a limited impact in the short run, however.

Immigration alone cannot provide the answer to population aging, as demonstrated by simulations produced by the United Nations (2000). The simulations show that maintaining steady dependency ratios until 2050 would require an enormous increase in migration flows—for the United States and the European Union, migration balances would have to be at least 10 times the annual averages of the 1990s. Such scenarios seem implausible by historical standards, and in light of the likely political reactions.

Source: OECD (2001f).

Table 4.1 Migration is rising in many OECD countries

Migration flows and stocks of foreign and foreign-born population in OECD countries, annual averages, 1990–2000 (thousands, except where otherwise noted)

	1990–94	1995–99	2000
Immigration			
Australia			
Permanent	99	87	92
Temporary	104	154	224
Canada			
Permanent	236	204	227
Temporary workers[a]	64	69	86
European economic area[b]	1,614	1,352	1,426
Japan	244	251	346
United States			
Permanent	1,209	747	850
Temporary[c]	1,357	1,893	2,741
Net migration per thousand inhabitants			
Australia	4.3	5.1	5.4
Canada[d]	..	5.4	5.1
European economic area[e]	3.1	1.7	2.5
Japan	–0.03	–0.04	0.3
United States	3.3	3.3	3.1
Asylum seekers			
Australia	9	9	12
Canada	30	26	36
Central and Eastern Europe	3	13	26
European economic area	516	326	427
United States	136	105	57
Acquisitions of nationality			
Australia	107	102	80
Canada	130	160	205
European economic area[f]	460	690	720
Japan	12	16	18
United States	315	680	900
	1990 (percent)	2000 (percent)	2000 (thousands)
Stock of foreign population			
European economic area[g]	4.6	5.4	20,381
Japan	0.9	1.3	1,686
Stock of foreign-born population			
Australia	22.8	23.6	4,517
Canada[h]	16.1	17.4	4,971
United States	7.9	10.4	28,400

.. negligible
a. Inflows of foreign workers entering Canada to work temporarily (excluding seasonal workers) provided by initial entry.
b. Includes Austria, Greece, Italy, and Spain. No 2000 data for Denmark available; 1999 data substituted.
c. Excluding visitors, transit migrants, foreign government officials, and students.
d. Fiscal years (July to June).
e. Data relate to 1999–2000 average instead of 2000.
f. Excluding Greece and Ireland.
g. Excluding Greece. No 2000 data available for France; 1999 data substituted.
h. Data are for 1991 instead of 1990 and for 1996 instead of 2000.
Source: OECD (2002f).

oped countries, migrants comprise a larger share of the total population in rich countries (6 percent) than in poor countries (1 percent).

The uneven composition of immigration flows reflects differing policy objectives and historical and institutional backgrounds in various countries. Some countries, such as Australia, Switzerland, and the United Kingdom, explicitly give priority to foreign workers, so that this group accounts for around half of all immigration. Other OECD countries, because they tend to restrict work-related migration, implicitly give priority to nonselective migration arising from family reunification (which accounts for approximately 80 percent of flows into the United States and France, for example) or requests for asylum (approximately half in the Nordic countries) (OECD 2002f).

Because legal immigration is restricted, illegal migration has risen noticeably in recent years, as have trafficking in human beings and expenditures to combat both phenomena. Illegal migration into the European Union soared tenfold in the 1990s, reaching half a million people annually by the end of the decade. In the United States, an estimated net inflow of 300,000 undocumented workers occurs each year, although this could well underestimate the actual scale of illegal migration.

Newer factors are compounding the more familiar drivers of migration. The developing world's rising share of educated workers—those who have completed secondary education—has jumped from one-third to nearly one-half over the past three decades. Increasingly, the growing pool of skilled developing-country labor is meeting industrial-country shortages, as the marketplace for skills widens to encompass the entire globe. Meanwhile, continued declines in transportation and communication costs and thus greater access to information on migration opportunities via global media, the Internet, and diaspora networks in receiving countries are breaking down barriers to migration (Nielson 2002).

Remittances by migrants are an important source of income for many developing countries

Remittances from foreign workers, both permanent and temporary, are the second-largest source of external funding for developing countries, after foreign direct investment (FDI). In 2001, workers' remittances to developing countries stood at $72.3 billion, considerably higher than total official development assistance and private non-FDI flows, and 42 percent of total FDI flows to developing countries that year (table 4.2). For most of the 1990s, remittance receipts exceeded official development assistance (World Bank 2003).

As with actual movements of people, the data on payments are susceptible to measurement problems—not all flows, even from legal migration, are captured in the balance of payments accounts, and in situations where substantial illegal migration occurs, the bulk of the international resource flows also may be missed. Such difficulties notwithstanding, initial estimates of these flows can be derived

Table 4.2 Workers' remittances are the second-largest source of external funding for developing countries

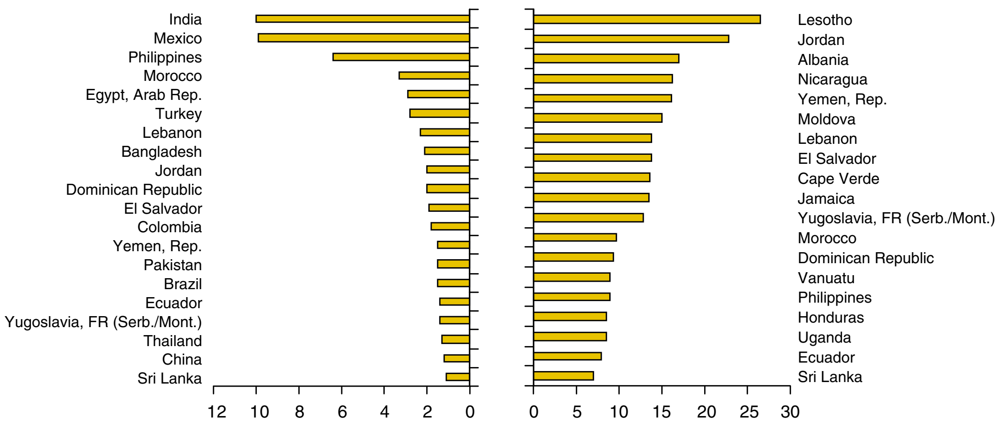
Remittance receipts and payments by developing countries in 2001 (billions of dollars)

	All developing	Low income	Lower middle income	Upper middle income
Total remittance receipts	72.3	19.2	35.9	17.3
As percentage of GDP	1.3	1.9	1.4	0.8
As percentage of imports	3.9	6.2	5.1	2.7
As percentage of domestic investment	5.7	9.6	5.0	4.9
As percentage of FDI inflows	42.4	213.5	43.7	21.7
As percentage of total private capital inflows	42.9	666.1	44.9	20.2
As percentage of official development assistance	260.1	120.6	361.7	867.9
Other current transfers[a]	27.2	6.1	14.0	7.1
Remittances and other current transfers	99.5	25.3	49.9	24.4
Total remittance payments	22.0	1.2	1.7	19.1
Excluding Saudi Arabia	6.9	1.2	1.7	4.0

a. Other current transfers include gifts, donations to charities, pensions received by currently retired expatriate workers, and so on. They also may include personal transfers by migrant workers to families back home.
Source: World Bank (2003).

Figure 4.1 Workers' remittances are an important source of income for many developing countries

Top developing-country recipients of workers' remittances, 2001 (billions of dollars and percent of GDP)



Source: World Bank (2003).

from balance of payments statistics by combining workers' *compensation* (transfers relating to work abroad of less than one year) and workers' *remittances* (transfers made by workers whose stay abroad exceeds one year) (World Bank 2003).

In nominal terms, the top recipients of remittances included several large developing economies—India, Mexico, and the Philippines—although as a share of GDP, remittances were larger in other low-income countries in 2001 (figure 4.1). Broken down along regional lines, countries in Latin America and the Caribbean were the largest recipient of remittances in nominal terms in 2001, but relative to the size of GDP, South Asia was the largest recipient, with remittances of nearly 2.5 percent of GDP. Remittance flows to countries in Sub-Saharan Africa also were significant, accounting for 1.3 percent of GDP (table 4.3).

Workers' remittances are spread more evenly among developing countries than are capital flows—the top 10 recipient countries in 2001 received 60 percent of total remittances to developing countries as compared with a top 10 share of 68 percent of GDP, 72 percent

Table 4.3 Remittances are a significant source of income in all regions of the developing world

Workers' remittances received by developing countries, by region, 1999–2002 (in billions of dollars and as percentage of GDP)

	1999		2000		2001		2002	
(billions of dollars)	$ billions	% GDP	$ billions	% GDP	$ billions	% GDP	$ billions	% GDP
Total	67	1.2	66	1.1	72	1.3	80	1.3
East Asia and Pacific	11	0.7	10	0.7	10	0.6	11	0.6
Europe and Central Asia	8	0.9	9	0.9	9	0.9	10	1.0
Latin America and Caribbean	17	1.0	19	1.0	23	1.2	25	1.5
Middle East and North Africa	12	2.2	11	1.9	14	2.3	14	2.2
South Asia	15	2.6	13	2.3	14	2.3	16	2.5
Sub-Saharan Africa	4	1.3	3	0.8	3	1.0	4	1.3

Sources: IMF, *Balance of Payments Yearbook;* World Bank, *World Development Indicators (2001).*

of exports, and 74 percent of FDI. Remittances also are more stable than private capital flows, which tend to move in a pro-cyclical manner.

Temporary movement of workers

Many people move only temporarily—students, tourists, business visitors exploring or conducting trade and investment activities, and people working abroad under a range of schemes. People working or conducting business are thus a subset of temporary movement, and GATS Mode 4, temporary movement of natural persons as service suppliers, is a further subset of this group.

Most of the developed economies experienced significant growth in certain types of temporary migration during the 1990s (table 4.4). In the United States, for example, the average number of temporary immigrants per year doubled between 1990–94 and 2000, at which point the total was more than three times larger than permanent immigrants (see table 4.1).

The absence of global figures on temporary foreign workers and the limitations of existing migration data[2] make analysis difficult and definitive conclusions impossible. However, according to the OECD (2001), some trends have begun to emerge.

Although available statistics are insufficient to identify conclusively the primary traders in temporary mobility, the picture is not a simple one. Developed countries are major exporters, as well as importers, of labor. Similarly, some developing countries are significant importers. By some value indicators—for example, compensation of employees—developed countries account for most of the flow in both directions. On the other hand, developing countries are the major receivers of remittances (see figure 4.1). Temporary movement is by no means unidirectional. Relative to the overall size of labor markets, the number of temporary foreign workers remains small for most countries, except for the Arab states of the Persian Gulf. The areas of highest growth are short-term movements (from three to six months) (OECD 2001b). Movements of both skilled and unskilled workers appear to be concentrated in the service sectors of major receiving countries, notably in construction, commerce, catering, education, health care, services to households, and other services. In developing countries, foreign workers tend to be concentrated in primary activities (agriculture, fishing, and mining) as well as in manufacturing, although the share in services (particularly tourism-related) is rising in several countries (UNCTAD 2001).

Although the volume of global trade represented by temporary foreign workers remains small compared to overall trade in goods and services, it is very important for some industries and for some countries. Indeed, exports

Table 4.4 Temporary movement is rising in rich countries

Entries of temporary foreign workers in selected OECD countries, 1992–2000 (thousands)

	1992	1993	1994	1995	1996	1997	1998	1999	2000
Australia	40.5	14.9	14.2	14.3	55.7	81.7	92.9	99.7	115.7
Canada	70.4	65.4	67.5	69.5	71.5	75.4	79.5	85.4	93.7
France	18.1	—	—	—	13.6	12.9	11.8	13.4	15.4
Germany	332.6	69.1	53.9	61.7	271.0	267.7	244.0	274.1	331.6
Italy	—	—	—	—	—	—	—	18.7	24.52
Japan	—	—	—	—	124.1	143.5	151.7	156.0	183.9
Korea, Rep. of	8.3	12.4	33.6	47.0	81.4	105.0	75.4	111.0	122.5
Sweden	—	—	—	—	—	—	—	15.0	19.4
Switzerland	127.8	—	—	—	63.4	47.4	40.3	46.1	50.3
United Kingdom	57.6	25.9	26.3	32.9	78.7	89.7	98.8	107.9	134.1
United States	143.0	112.5	130.7	147.5	191.2	—	342.7	422.5	505.1

— Not available.
Note: Definitions vary among countries and the figures are not strictly comparable.
Source: OECD (2002f).

Box 4.2 Temporary labor movement and the East Asian crisis of 1997–98

Increased labor migration, particularly the temporary movement of unskilled labor, was an important dimension of structural change and globalization within much of Northeast and Southeast Asia in the 1980s and 1990s. Conservative estimates suggest that the number of migrants doubled or even tripled in most net labor importing countries from the early 1980s to the onset of the financial crisis in 1997 (Athukorala and Manning 1999). By the onset of the crisis, some 2 million overseas migrant workers were employed in Northeast Asian economies outside China, and an even larger number—some 3 to 4 million—worked in Southeast Asia.

The Asian financial crisis changed the context within which those labor movements occurred, posing a major threat to economic growth. International capital flows reversed, many firms went bankrupt, and unemployment rates rose steeply in the crisis-affected countries (World Bank 2000). Demand for labor plummeted in the modern sectors of labor-receiving countries. Yet a recent examination of labor mobility patterns before and after the financial crisis suggests that the economic turmoil did not alter the fundamental conditions underpinning high levels of intraregional migration, especially of unskilled contract workers (Manning 2002)—a widening wage gap and imbalances between supply and demand for labor across East Asia.

Countries in the region—especially the net labor importers: Hong Kong (China), Malaysia, Republic of Korea, and Thailand—have continued to rely on inflows of migrant workers. Many such migrants are unskilled. Indeed, the willingness of migrant workers to undertake so-called 3-D jobs (difficult, dirty, and dangerous) shunned by nationals in export-oriented industries has helped economic recovery. The large real gains to workers who migrate to more developed countries were documented in a recent study: unskilled Indonesian workers can earn $2 or more per day in neighboring Malaysia compared to 28 cents per day at home (World Bank 2001).

The migration of skilled and professional workers also was an important part of the internationalization of East Asian labor markets during the 1990s. FDI and associated trade flows resulted in significant skilled migration from developed to developing countries—as well as considerable out-migration of skilled and professional migrants from countries in the region. Workers from the Philippines dominated the latter flows, reflecting both slower rates of FDI and economic growth domestically, and a modern sector incapable of absorbing enough graduates from the well-developed education sector.

Several countries have sought to develop a more coherent migration policy in light of the social effects of the cutback in labor demand and unemployment that accompanied the crisis. This may be good news for many migrant workers who need protection against exploitation. In-migration of unskilled overseas workers, meanwhile, can be expected to continue to support production in both tradable and nontradable industries in the more affluent East Asian economies.

Source: World Bank staff.

of labor services in many developing countries account for a substantial share of output and trade. In several developing countries (mainly lower income), such flows dwarf the value of total services exports (OECD 2001b). Moreover, migration flows are resilient—for example, they were much more stable than capital flows in the wake of the recent Asian financial crisis (box 4.2).

Burgeoning cross-border investment—horizontally through mergers or joint ventures and vertically through relocation or so-called greenfield investments—accounts for much new temporary movement, helped along by advances in transportation, communications, logistics, and organization that have altered all phases of the business process. Today's companies not only can but must respond quickly to emerging opportunities by forming specialized task teams, regardless of where the personnel are based. Business functions previously handled by expatriate staff, resident representa-

Table 4.5 Foreign-born workers meet skill shortages in rich countries

Percentage of foreign workers in selected sectors, 2001

	Education	Information technology	Health professions (except nurses)
Austria	3.0	28.3	6.3
Belgium	3.3	6.0	4.0
France	2.8	4.2	1.7
Germany	2.8	5.7	4.4
Italy	0.3	0.4	1.0
Netherlands	1.6	2.8	1.4
Norway	4.3	4.3	5.7
Switzerland	13.0	19.3	16.5
United Kingdom	5.9	6.4	7.8
United States (foreign-born)	8.3	18.3	13.2

Source: OECD (2002f).

tives, or correspondent firms now may be accomplished by expert personnel on temporary assignments. Shorter product lifecycles, higher customer expectations, and stiffer competition force companies to be ready to send expert personnel abroad on short notice—or to bring them to the firm's home country for specialized tasks in engineering, production, and marketing. Companies entering new markets often wish to bring experienced staff from other locations to assist with the establishment phase (OECD 2001b). Indeed, among those temporary foreign workers who would fall under GATS Mode 4, the mobility of intracompany transferees—key personnel involved in the establishment or operation of enterprises abroad—has shown the fastest growth.

Investment liberalization can also create a demand for exports of skilled labor from the host country. Foreign firms in India, for example, have become aware of the skills available in India and are now meeting demand for various services in their home countries with supply from India (OECD 2001b). The growing importance of South-South FDI is an important vector of more highly skilled temporary labor movement between developing countries (World Bank 2003).

Temporary labor is used to meet skills shortages in developed countries, particularly in information and communication technology, but also in education and health-related services, which cannot be met quickly enough by domestic training programs and institutions (OECD 2001b) (table 4.5). Recent growth in the movement of highly skilled workers has been supported by specific programs designed to address key national shortages (box 4.3).

Bilateral and regional approaches to labor mobility

Regional trade agreements, which include provisions on labor mobility, range from a few that provide no-cost movement of all types of workers and service providers—although with caveats that allow exclusions from certain public services and restrictions based on public health and safety—to others, the majority, that target only intracorporate transferees and business visitors.[3] Some—such as the EU, EEA, and CARICOM—allow a relatively high degree of freedom of movement with few special procedures. Others, notably the North American Free Trade Association (NAFTA), allow for some regulated mobility and involve relatively detailed special procedures implemented among a few parties. Still others (such as APEC) are aimed at facilitating existing mobility, adding some special procedures, but retaining maximum flexibility to continue existing national practices (OECD 2002b) (box 4.4).

The differing approaches to labor mobility in regional trade agreements reflect a range of factors, including the degree of geographical proximity of the parties and the extent of similarities in their levels of development, as well as other cultural and historical ties. Agreements among countries enjoying geographic proximity and similar levels of development generally adopt a more liberal approach to labor mobility (EU, EFTA, EEA, Trans-Tasman Travel Arrangement) as compared to agreements among geographically distant members of differing levels of development (APEC, U.S.-Jordan). But this is not always the case (MERCOSUR, SAARC) (OECD 2002b).

The range of special provisions found in various regional trade agreements, but not in the

Box 4.3 Recent initiatives to facilitate temporary movement of highly skilled workers

Australia has established a number of business-sponsored temporary entry programs, supported by business service centers for employers seeking skilled foreign workers. Canada initiated a pilot program related to software development workers under which Human Resources Development Canada pre-identified a general need within the labor market for such workers. This enabled suitably qualified applicants with a job offer from a Canadian employer and any necessary visa (depending upon country of origin) to be automatically validated (that is, not subjected to labor market needs tests). Under a pilot project, spouses of "highly skilled foreign workers" who are admitted to Canada for at least six months also are permitted employment authorizations without being subjected to labor market testing.

France published a decree in 1998 permitting companies to hire foreign workers skilled in computer science if the company can demonstrate its inability to fill the post with a local candidate. Germany offered 20,000 employment permits ("green cards") for up to five years to computer and information technology specialists recruited outside the European Union. By August 2000, 13,000 green cards had been issued.

Japan announced a plan in November 2000 to recruit 30,000 skilled IT engineers and researchers from overseas by 2005. In the United Kingdom high-volume nonimmigrant visa employers with a proven track record receive streamlined and fast-tracked visa approval. Simplified fast-track procedures are now applied for issuing work permits for certain occupations, and the list of occupations susceptible to labor shortages has been extended. The maximum length of a work permit also has been extended from four to five years. The United States raised the annual quota of H-1B visas for professional and skilled workers by nearly 70 percent in 2000, providing temporary admission for 195,000 people over the next three fiscal years. The 7 percent ceiling on the proportion of visas going to nationals of any given country also was dropped. Faced with adverse cyclical developments in its labor market, the United States recently set the annual quota of H-1B visas at 65,000, the level set prior to the dot com boom of the late 1990s.

Source: OECD (2001b, 2002f).

general GATS provisions related to the temporary movement of service suppliers, includes:

- Access to the labor market (EU, EFTA, EEA, Trans-Tasman Travel Arrangement)
- Full national treatment and market access for service suppliers (ANZCERTA)
- Commitments on visas (NAFTA; U.S.-Jordan, which extends the commitment beyond service providers)
- Special market access or facilitated access for service providers and others (APEC, Canada-Chile, CARICOM, Europe Agreements, NAFTA)
- Separate chapters dealing with all temporary movement, including movement related to investment (Japan-Singapore) or to trade in goods or investment (Group of Three)
- Specific reference to key personnel in relation to investment (EU-Mexico, FTAA)
- Extension of WTO treatment to non-WTO members (AFTA); and nondiscriminatory conditions for workers, extending beyond service suppliers (Euro-Med) (OECD 2002b).

To assess the degree of liberalization offered in a regional trade agreement, provisions related to labor mobility should be considered in conjunction with provisions in the same agreements related to supply of services. Generally, the right to labor mobility does not automatically entail the right to practice a certain pro-

Box 4.4 A trade facilitation approach to labor mobility: NAFTA and APEC

For professionals, "Trade NAFTA" (TN) visas are available to citizens of Canada or Mexico for entry into the United States, provided that the profession is on the NAFTA Chapter 16 list, the candidate meets the specific criteria for that profession (typically a university degree in a relevant field of study), the prospective position requires someone in that capacity, and the candidate is going to work for a United States employer.[4] TN status lasts for one year and is renewable. The requirements for entry to the United States differ, however, for Mexican and Canadian nationals. Canadians are not required to have a visa or prior approval, but can receive TN status at the port of entry. The candidate must have a letter from a U.S. employer offering a job, or requesting an intracompany transfer, with a job description. For Mexicans, the employer must file a labor condition application (I-29 Petition for Non-Immigrant Workers), and the candidate must apply for a visa at the U.S. Embassy in Mexico.

Anecdotal evidence suggests that industry experience with TN visas has been positive, with evidence of difficulties confined to some confusion among border officials as to how the TN operates and the need for a regularly updated NAFTA professions list.

The APEC Business Travel Card offers accredited business travelers visa-free travel and expedited airport processing for travelers visiting participating economies. After an initial pilot, the scheme was made permanent in March 1999. Current participants include Australia, Chile, China, Chinese Taipei, Hong Kong (China), Indonesia, Republic of Korea, Malaysia, New Zealand, and the Philippines. Brunei Darussalam, Peru, and Thailand have signed the Operating Framework but are yet to issue cards.

The scheme allows considerable flexibility for individual economies. Its Operating Framework is not binding, with members committed to implementing it on a best-effort basis. Each government pre-clears applicants (a process that can be customized by each country, such as requiring formal sponsorship by a business organization). Once home authorities have provided clearance, details of the candidate are sent to all participating economies, which must offer a response within two weeks. Economies can refuse clearance for an individual without providing reason, but this will only restrict travel to that particular economy rather than vetoing the entire application. Following responses from other economies, the card is issued by the home economy authorities (who also have the sole right to cancel the card). Fees can be charged for issuance of the card and can vary among participating economies.

The card is valid for three years from the date of issue and provides multiple short-term business entries, stays of two or three months on each arrival, and access to special immigration processing counters on arrival and departure. The cards are the size of a credit card, are manual or machine-readable, and must contain the signature and photograph of the cardholder as well as the list of countries for which entry has been approved. Cardholders are still required to present their passports. Separate applications for visas and work permits are not required. Additionally, all economies retain the right to refuse entry to cardholders at the border.

Some 3,400 cards had been issued by mid-2002, with initial assessments indicating that the scheme is working effectively, with strong support from the business community and only a small percentage of applicants refused. There is no limit on the number of cards that can be issued.

Source: OECD (2001b).

fession. National regulations regarding licensing and recognition of qualifications are still applied and candidates must meet all criteria and conditions (OECD 2002c).[5]

Few agreements provide immigration rights or supersede national immigration practices. In most agreements, the signatories retain broad discretion in matters of residency and visas. Some agreements specify that the agreement cannot be invoked to challenge national decisions to refuse entry (Euro-Med), or provide remedies only where a pattern of restrictive practice can be proved (Canada-Chile, NAFTA) (OECD 2002c).

Overall, progress in facilitating movement of less-skilled temporary foreign workers has not been extensive at the regional level. Indeed, regional trade agreements tend to replicate the two key biases found in GATS favoring highly skilled (mostly professional) workers and the close links between investment and the specialized skills such investments require.

Additionally, bilateral foreign worker programs, which have been designed to fill both skilled and unskilled labor shortages, have existed in a number of countries for some time. Such agreements often cover seasonal workers in agriculture and tourism; project workers in construction; and various other employment-specific workers.

Understanding the impact of temporary foreign workers

What are the determinants of migration?

Economic models of migration tend to focus on the economic incentives facing migrants. In the absence of legal restrictions on immigration, cross-border labor mobility is often assumed to depend on the size of the gap in labor and income that existed between industrialized and developing countries (wages, working conditions, social security arrangements), and on the extent of information on that gap available to potential migrants. Migration would increase when the gap widened or when more information on the gap became available. Accordingly, it is not rare to see migration described in terms of a pent-up flood: if the tap is opened a little bit, more immigrants will come in; if it is closed, fewer will come. Yet there are strong reasons, rooted in observed trends in international migration, to believe that such a characterization is not fully accurate.

Labor mobility tends to be more complex than either trade or capital mobility. Even very large differences in economic returns (measured by wages) are not sufficient to induce migration in most people. Demographic, educational, and labor market conditions in both the source and destination countries affect migration decisions, as well as laws and policies in both countries, information and information flows, chain migration effects (among family members or those from the same origin area), transport and transaction costs, capital constraints (which may influence potential migrants' ability or willingness to incur these costs), and "exogenous" factors such as civil unrest and climate. There may well be substantial "disutility" costs associated with relocation from one's social-cultural-linguistic context into an alien one. These costs can in fact be among the most important factors in cross-border migration. The fact that the world's poorest countries supply a very small share of internationally mobile workers lends credence to the oft-observed notion that binding poverty constrains out-migration.

Moreover, migration decisions often are depicted as essentially on-off and unidirectional in nature when in practice people migrate for a host of economic and non-economic reasons. They initially may intend to stay temporarily and then return or move on to a third country, or they may intend to settle. Globalization increases the number and complexity of these flows. For this reason, some analysts prefer to talk about migration and migrants rather than immigration and immigrants (Home Office 2001).

Economic analysis of the temporary movement of foreign workers straddles the two worlds of trade and migration. This is in light of significant differences in the nature and skill profile of worker categories concerned and by the sharply differing lengths of time such workers can spend in foreign labor markets. Thus a business visitor going abroad to assess future opportunities or to conclude contract negotiations may stay only a few days. Such a transaction is largely akin to cross-border trade in services (so-called Mode 1 trade under GATS) and differs little from goods trade to the extent that it does not involve lasting factor movement. Not so for revolving teams of contract-based workers in construction services or for intracompany transferees, who may be deployed abroad for several years (and yet may constitute a transaction for the purposes of the GATS). In the latter cases, such "trade" in services has more in common with the economics of migration, as migrating workers reduce the supply of labor in the sending country while adding to it in receiving countries. Furthermore, the temporary movement of labor is often tied to longer-term flows of capital (in the form of foreign direct investment).

The essence of international trade lies in securing the gains from cross-country differences in costs, prices, endowments, or tastes. The larger such differences, the greater the potential gains from removing obstacles to such trade. The disparity between the abundance of labor in developing countries and its scarcity in the developed world suggests that significant pro-development returns—potentially greater than those stemming from the full liberalization of trade in goods—could be had if medium- and less-skilled workers in developing countries were allowed to provide their services temporarily in developed countries.

What are the gains from temporary movement?

Although labor remains far less mobile than goods and capital, the increasing diversity of migrants' nationalities and the migration channels used, as well as the growing share of temporary and skilled workers in total migration flows, does indicate a growing prominence for migration in the broader context of economic globalization.[6] Links between labor mobility and the liberalization of trade and investment have gained in visibility, as modern trade agreements have proliferated and broadened at both the regional and multilateral levels. Such developments have sparked an interest within the research community in measuring the potential effects of liberalizing labor flows.

Several recent studies have drawn attention to the potential benefits arising from a progressive relaxation of barriers to labor mobility (table 4.6). Winters (2003a) suggested that if developed countries were to raise to 3 percent of their labor force their quotas on the inward movements of temporary workers from developing countries, they would realize an overall gain of $150 billion each year. His work concludes that the gains from such liberalization would be shared equally by developed and developing countries. Most important, from a development perspective, these findings suggest that the largest benefits (to both sending and receiving countries) would come from the movement of lower-skilled workers, as those workers are spread more evenly over the economy, benefiting more sectors, than highly skilled ones (OECD 2002a).

Winters and Walmsley (2002) recognize that adjusting wage levels in response to competition from low-skilled developing country workers could entail high social costs. Such findings underscore the long-term importance of enhancing the educational levels and human capital of lower-skilled individuals to ensure that fewer developed country nationals are competing directly with unskilled workers from poorer countries. To manage the complex political economy that TMNP liberalization could entail and to minimize adverse (or excessively concentrated) distributional effects for vulnerable workers in receiving countries, the authors suggest that the liberalization process should be incremental, with the most sensitive sectors exempted. Affected workers may be helped through adjustment schemes similar to the U.S. Trade Adjustment Assistance Act, the assistance provisions of NAFTA, Canada's General Adjustment Assistance Programme, and Australia's Special Adjustment Assistance (Borjas 2000; Borjas, Freeman, and Katz 1997; OECD 2002a).

Because liberalization of merchandise trade has reduced price differentials between developed and developing countries to a ratio of two to one—whereas service prices and wage differentials continue to differ by a factor of ten or more—the gains from liberalizing cross-

Table 4.6 The distribution of costs and benefits associated with Mode 4 trade

Sending countries		Receiving countries	
Benefits	**Costs**	**Benefits**	**Costs**
In a situation of saturated labor markets, departure of workers exerts a downward pressure on unemployment, and an upward pressure on (low) wages. Once abroad, workers proceed to income transfers (compensation of employees and remittances), which are a major source of capital inflows and investment for many developing countries. Upon return of the workers, global human capital of the country is increased.	In a situation of labor shortages, departure of workers exerts only an upward pressure on (high) wages. The effects of temporarily losing human capital and public investment (education and training expenses) depend on the scarcity of the workers' skills (see cost of removing a doctor v. a low-skilled worker). Replacement of scarce resources could generate high costs. In a situation of saturated labor markets, return of workers exerts an upward pressure on unemployment, and a downward pressure on wages.	Temporary admission of foreign workers is a response to labor needs (shortages in some sectors or geographic areas). Entry of foreign service providers results in increased competition (wider choice of better services at lower price) at lower cost (activity stays in the country). Temporary admission of workers is a partial substitute for permanent immigration (less sensitive and lesser use of public infrastructure and services).	Temporary admission of foreign workers could delay the structural adjustment of the economy. In a situation of saturated labor markets, arrival of workers exerts an upward pressure on unemployment and a downward pressure on wages. Departure of workers generates a replacement cost and a loss of human capital and investment (training).
Maximizing benefits		**Maximizing benefits**	
Provide adequate infrastructure and career opportunities to maximize the use of competence acquired abroad once the worker is back. Create incentives for return. Negotiate commitments from other members in sectors where the national labor market is saturated. Adopt structural adjustments in sectors of labor shortages to prevent outflows of workers.		Create a possibility for workers to change visa status (become permanent resident) to avoid departure of the most useful ones. Facilitate temporary admission of workers and create incentives to attract workers in specific sectors or geographic areas (where shortages exist). Adjust the national economy to new competitive conditions.	
Overall benefits			
For business: a source of increased flexibility, profitability, and competitiveness; an instrument for facilitating trade and penetrating new markets For individuals: acquisition of vocational skills and know-how, including the learning of a foreign language; improved quality of life while abroad (compensation for expatriation); increased employment opportunities upon return			

Source: OECD (2001, 2002a).

border labor movements and other trade in services could be much greater than from further liberalizing trade in goods. Rodrik (2002) proposes a scheme under which skilled and unskilled workers from developing countries could apply for temporary visas entitling them to work in developed countries for three to five years, after which they would return to their home countries. The author suggests that if admissions were capped at 3 percent of the developed countries' labor force, the scheme could generate direct income gains of as much as $200 billion annually. Returnees' investments and the transfer of their experience would produce further gains for sending countries (OECD 2002d).

The source of the gains identified in the studies discussed above is a narrowing of wage differentials between rich and poor countries—a politically sensitive subject. In the regulated labor markets of many WTO member countries, domestic legislation limits or opposes downward pressure on wages. Moreover, many recipient (developed) countries require equality of treatment for temporary workers (equal wages and social protection parity requirements) with nationals at comparable levels of skill and experience (OECD 2002d). For these and other reasons, most models assume no more than a halving of differentials. To the extent that national provisions sustain domestic wages, the overall gains of Mode 4 liberalization may be lower, but in such cases adjustment costs will be concomitantly lower as well.

Other factors that may affect the overall gains of greater mobility of temporary labor are the cost of creating or scaling up temporary visa schemes[7] and the possibility that temporary workers might join the ranks of the unemployed in the developed countries. Overshadowing such technical factors, however, are the doubts and fears arising from the recent rise in legal and illegal migration in the OECD area. The bursting of the dot-com bubble of the late 1990s and the security implications of the ongoing war against terrorism have compounded those fears, making significant liberalization of temporary movement less probable than was believed possible a few years ago.

And the costs?

Temporary movement may help address several concerns often associated with the political debate over more permanent migration in both developing and developed countries (see table 4.6). One such concern revolves around the possible impact on developing countries of a "brain drain," and its longer-term consequences for capital accumulation and growth in the developing world. Indeed, if the pattern of trade growth reduces the demand for skilled labor in skill-scarce developing countries while increasing the demand for skilled labor in skill-abundant developed countries, the result could be a widening of the gap in labor income of skilled workers between the North and the South while narrowing the gap in labor income of unskilled workers. Ghose (2002) concludes that "in a world without restrictions on labor mobility, increased trade worsens the brain drain from developing countries but has uncertain effects on overall migration. Trade and flows of skilled labor are complements while trade and flows of unskilled labor are substitutes." Under such circumstances, measures to increase the mobility of skilled workers can reinforce the initial comparative advantage of the trading countries, so that skill-abundant countries become ever more skill abundant, while labor-abundant countries become ever more (low-skill) labor abundant. Trade expansion combined with the unrestricted mobility of skilled workers could conceivably put the accumulation of human capital beyond the reach of many developing countries.[8]

Much of the existing literature on brain drain focuses on the short-term costs in sending countries. Indeed, such costs can be substantial—higher education is subsidized heavily in developing countries and skilled migrants carry away scarce human capital built through public investments. But some of the purported disadvantages associated with the migration of skilled workers from developing to developed countries can be partially mitigated if the movement is temporary. Temporary migrants may generate sizeable remittance flows which, along with the accumulation and subsequent repatriation of embodied knowledge and global experience when workers return, could substantially increase the benefits associated with greater temporary movement. Key to achieving this outcome are changes in the design of both trade and immigration policies in receiving countries and stepped-up efforts on the part of sending countries to increase *return migration* of skilled workers while pursuing enhanced temporary movement of lower-skilled workers in developed country markets. Doing so would help to ensure that the growth of trade does not exacerbate developing country skill shortages.

For sending countries, TMNP has risks and rewards[9]

The impact of the temporary movement of workers on the sending country can be considered at three levels. First, there are economic effects of removing the worker from the labor market (*departure*). Next, during the *stay abroad*, the worker will maintain contacts with the home country, remitting funds to family or making direct investments. Finally, there is the economic impact of the migrant's *return* to the home country. Each of these effects is considered in turn.

Departure: Temporary migration and domestic labor markets. A genuine risk associated with sending workers abroad is that scarce resources, such as human capital, will be lost—often at a substantial public cost in education and training investments.[10] Workers who go abroad are generally young, highly motivated, well educated, and not easy to replace, especially in developing countries, where wages are lower, career paths are limited, and working conditions less satisfactory than abroad (PSI/EI 1999, OECD 2002d). An important corollary of the "brain drain" is indeed the risk that developing countries will indirectly subsidize industrial country R&D by exporting the human capital embedded in locally trained workers. Indeed, the cost of providing university education to professionals who then move to wealthier countries for increased opportunities may represent a net resource loss for developing nations. Tax policy can be used to recover some of the loss—for example, by requiring students who choose to leave the country to repay their education expenses before departing.

Further, because highly skilled workers earn more, consume more, pay more taxes, and are more productive than the unskilled, their departure, even if temporary, can have a significant impact on a developing country's economy and impede its development (WTO 1998, Devan and Tewari 2001). Moreover, because skilled migrants are often from relatively affluent households that do not require regular income support, they may be less likely than unskilled migrants to send back remittances (Ghose 2002). As long as the movement of such workers remains temporary, however, it is certainly preferable to the more lasting brain drain caused by permanent emigration (WTO 1998, OECD 2002d).

Temporary movement of workers can help to ease the strain on domestic labor markets—work abroad can be an escape route from unemployment, and can reduce a country's overall unemployment rate (Werner 1996). This is most often the case for unskilled workers, although in some countries the number of people trained for certain occupations exceeds the absorptive capacity or needs of the local market—as is the case for Indian engineers, for example.[11] Whether out-migration sustains wages in the sending country (Ghosh 1998) or exacerbates an existing skills shortage (Werner 1996), its effect will be less if the migration is temporary than if it were permanent—thereby reducing not only the potential risk but also the potential reward of temporary mobility as a policy tool (OECD 2002d).

Receiving countries can play a part in preventing particularly harmful shortages of skilled personnel in developing countries. For example, the British government has published a code of conduct for trusts under the National Health Service (NHS) that prohibits the recruitment of nurses from countries where they are in short supply, such as in South Africa or the West Indies. The code is not legally binding (OECD 2002d).

Through appropriate policies and incentives, sending countries can encourage skilled migrants to return (box 4.5). To date, incentive policies have a mixed record, often failing to address the real reasons behind workers' decisions to settle abroad permanently—acculturation, better career opportunities, and access to and integration within personal and

Box 4.5 Initiatives to encourage return migration

Up to one-third of R&D professionals from the developing world reside in the OECD area. Foreign studies constitute a major channel for migration, especially in science and technology—79 percent of 1990–91 PhD graduates in science and technology from India and 88 percent of those from China were still working in the United States in 1995, compared to only 11 percent of Koreans and 15 percent of Japanese. The migration of skills can be slowed through the return of expatriates to their country of origin. Returnees contribute to economic development through their valuable management experience, entrepreneurial skills, and access to global networks. The Ministry of Science and Technology in China, for example, estimates that most of China's Internet-based ventures were started by returning overseas students.

Taiwan (China), the Republic of Korea, and Singapore have been successful in fostering return migration by opening up their economies and employing policies to foster domestic investments in innovation and R&D. Korea has focused on upgrading its research institutions, such as the Korea Institute for Science and Technology, as a way of attracting returnees (UNDP 2001). The government of Taiwan (China) likewise played an important role in drawing back American-trained scientists and engineers, who have subsequently helped to develop the country's information technology sector. A National Youth Commission has been established there as a clearinghouse for potential employers and returning scholars seeking employment, and an airfare subsidy is granted to the graduating student, spouse, and up to two children, if they decide to return to Taiwan (China). The Commission also has established channels of communication with overseas scholars to simplify recruitment when the need arises (Cultural Division of Taipei 1998).

Opportunities for research, innovation, and entrepreneurship at home are needed to stimulate returns of migrants and capital. Developing countries such as India, for example, have the capacity to invest in R&D and human infrastructure, and thus are more able to draw migrants back. China recently launched a project to develop 100 universities into world-class institutions that not only provide higher education, but also academic employment and research opportunities. An alternative for less-developed countries is to create a good communication network among expatriates by linking them to counterparts in their county of origin. Scientific diaspora and other expatriate knowledge networks can help sending countries reap benefits and know-how from emigrants overseas. Forty-one expatriate knowledge networks have been identified around the world. The FORS Foundation, for example, seeks to involve Romanian scientists in Romania and abroad in contributing to economic reform in Romania. Grassroots initiatives in South Africa and Latin America have been developed to connect researchers abroad to networks in their home countries.

The worldwide network of Indian professionals has been investing in skill development at home to raise endowments and bolster the finances of some of India's institutions of higher education. The Indian government also has contributed to the emergence of private networks among Indian professionals abroad through legislative and tax rules that encourage remittances and investment. The Return of Qualified African Nationals Program, conducted by the International Organization for Migration, has attempted to encourage the return of qualified nationals and helped them to reintegrate. Even Switzerland has promoted networking and contact among Swiss scientists in the United States through Swiss-List.com, an online network. France has a similar network.

Source: World Bank staff.

professional networks. Chinese Taipei addressed those reasons by investing heavily in research and education. More than half of the enterprises in Chinese Taipei's Hsinchu Science Park were created by engineers who had worked for a time in California's Silicon Valley. Today the park accounts for nearly 10 percent of Chinese Taipei's gross national product (Devan and Tewari 2001). The Hsinchu example illustrates the positive economic impact that workers can have upon their return from a temporary stay abroad (OECD 2002d).

Staying in touch: Temporary migration as a source of increased financial inflows. Because banning temporary movement by workers is neither feasible nor desirable, sending governments have an interest in optimizing the benefits of such movement, for example, by offering incentives for the repatriation of foreign earnings (OECD 2002d).

The economic impact of remittances and associated labor receipts depends significantly on the use to which the funds are put in the sending country. They may be consumed, invested, or saved. Moreover, if they are consumed, the impact will differ again depending on the nature (consumer or capital goods) and origin (local or imported) of the goods consumed (Werner 1996). An ILO study on Indonesia shows that income from temporary work abroad was applied by workers and their families to pay off debts, sustain consumption, raise savings, and finance investments, in that order (ILO 1996). In India, expatriate engineers working either permanently or temporarily in Silicon Valley have accounted for most of the investments made in the cities of Bangalore and Hyderabad, which have become new poles of growth for the country, establishing India as an export powerhouse in software design and IT-outsourcing industries (Devan and Tewari 2001, OECD 2002d). The current Mexican administration has reshaped the government's attitude toward migrants to the U.S., including greater advocacy on their behalf with the U.S. government. The Ecuadorian government has a program designed to increase the earnings of its citizens working abroad, whose remittances are the country's largest source of foreign exchange after petroleum.

An important feature of TMNP is the observed tendency for workers to retain closer links with their home country if the length of their stay abroad is relatively short and predetermined. Remittances seem to be greatest when a worker expects to return at a fixed date (Galor and Stark 1991). Temporary migration may thus do more to encourage remittances than permanent migration. Many visa regimes require proof of a fixed-term contract (pre-established and limited duration); it could be argued that this type of regulation may therefore have benefits for sending and receiving countries alike (OECD 2002d).

Returning: Returning migrants as a source of increased human capital. Where labor mobility is only temporary, the net benefits of departure may be partially offset by the effects on return. Yet the balance need not be zero, as the country's stock of human capital will have grown between the time of departure and the time of return (OECD 2002d).

The additional skills (languages, experience, know-how) acquired by temporary workers can be put to work upon their return, thereby contributing to economic growth and development. Indeed, as endogenous growth theories suggest, increases in human capital can yield significant positive externalities and durably affect the long-term growth prospects of developing countries. In particular, the accumulation of human capital can be instrumental in helping developing countries to move into more skill-intensive production. Yet just as with firms, taking advantage of such capital requires a suitable enabling environment. In particular, the home country must be able to provide the infrastructure and career opportunities necessary to meet the aspirations workers may have developed during their stay abroad (OECD 2002d).

Temporary movement may be an important vector for enhancing two-way trade and investment flows between sending and receiving countries. The Indian experience confirms such linkages, for while India may have exported a number of its skilled workers in recent years, the flow has not been one-way; the country saw its IT exports increase from $150 million in 1990 to $4 billion in 2000. The recent surge in FDI directed toward India's high-tech centers is similarly related to the presence abroad of a large group of scientists, engineers, and entrepreneurs (Nielson 2002).

For receiving countries, temporary movement is politically sensitive but usually beneficial

While the temporary movement of workers is not likely to unduly disrupt the sending country's labor market, the potential effects of such mobility on segments of the receiving country's labor market may at times be more significant. There, the concern arises that mobile foreign workers may be in direct competition with nationals of the host country working permanently in the same occupations. Even if the migrant's stay is temporary, the growing number of foreign workers and the continuous influx of workers over different time horizons under contract-based flows could increase competition in the labor market (OECD 2002d).

From this angle it is easy to see why immigration can be controversial in receiving countries. There is evidence that unskilled migration reduces the relative wages of unskilled workers in industrial countries (Borjas, Freeman, and Katz 1997). An inflow of unskilled workers from the South will benefit highly skilled workers in the North. Their jobs are not threatened by the latter, and the presence of immigrants will lower prices for many goods and services consumed by the skilled workers. But the same inflow will reduce real wages of unskilled northern workers (World Bank 2001), and over time contribute to a deterioration in income distribution. Against this latter trend, however, demographic and educational trends in affluent countries will combine in the coming decades to raise the relative wages of unskilled labor in the absence of migration (see box 4.1). As these demographic effects will likely be large, scope may therefore exist for increased flows of unskilled labor in an environment of relative wage stability.

Despite the acknowledged benefits of temporary migration, the norm in receiving countries is to continue to impede the movement of low-skilled or unskilled workers through various restrictions. Such restrictions can contribute to the recent sharp rise observed in undocumented low-skilled workers throughout the OECD area. The stricter border controls enacted to contain such flows may inhibit the ability of undocumented workers to maintain closer two-way links with sending countries (in part because of a reluctance to incur the high costs and attendant risk of illegal reentry) through formal temporary migration channels. As a result, undocumented workers become particularly vulnerable to various forms of work-related abuse and often become caught in a poverty trap (Papademetriou 2001).

Impact on the receiving country labor market. Migrants, especially workers involved in temporary movement, tend to concentrate in sectors and regions characterized by labor shortages at both the high and low end of the skills spectrum. It may thus be less likely for them to compete directly with native workers than is commonly assumed.[12] In the majority of receiving countries, temporary foreign workers are found mainly in the following five sectors: (a) health (especially doctors and nurses; doctors are more likely to practice in remote/rural areas); (b) education, particularly higher education (that is, academic and research staff); (c) information technology; (d) catering; and (e) agricultural labor.

It is important, however, to understand why migrants (including temporary migrants) are concentrated in these sectors. In health and education, wages in most countries are set by policy or collective bargaining, and relatively clear procedures for recognizing foreign credentials are in place. Migration in these sectors benefits the public sector—and hence the general public—as workers become taxpayers and consumers of public services. In IT and other private sector professions prone to labor shortages, wages are more likely market-determined. But supply is constrained by lags in training home-country specialists. In the absence of migration, firms would bid up wages and after a lag, supply would respond. But with flexible work permit systems, firms can import migrants, especially on temporary contracts. In low-paying sectors such as catering and domestic services, unskilled local workers are typically unwilling or unable to fill the available jobs. The effect of temporary foreign workers in these sectors again is to benefit firms, but it is not likely that workers in receiving countries will be significantly disadvantaged: if migrants do not fill these jobs, they simply tend to go unfilled or are not created in the first place (Home Office 2001).

In all three cases, the receiving country tends to benefit overall from filling labor market gaps through migration/temporary movement. The result of such mobility is likely to include reduced inflationary pressures and an increase in the overall efficiency of firms. Expansion of such temporary schemes has thus become a preferred means of responding to labor shortages in receiving countries, whether these are seasonal, cyclical, regional, sectoral, or skills-related (Werner 1996). From an economic viewpoint, the ability to bring in foreign labor is essential, since human capital limitations can depress investment and create significant income transfers to the most highly qualified workers at the expense of the rest of the workforce and of the country's consumers (Hodge 1999, OECD 2002d). However, the impact of temporary workers on the workforce in receiving countries is the subject of significant debate, in particular with regard to wages and working conditions (box 4.6).

Temporary foreign workers may also bring more direct benefits. Intracompany transferees consume the bulk of their income in the host country (housing, food, clothing) and make use of that country's services (banks, transportation, communications). Their income therefore generates wealth to the host country, which would not be the case if the services were provided remotely across borders (under online outsourcing, for example), or if consumers required such services abroad. The presence of the temporary foreign worker's employer in the host country is itself a source

Box 4.6 Wages and conditions

The basic question is whether temporary workers should receive the same wages and conditions as nationals employed in the same industry. In many countries (particularly OECD countries), this is a legal obligation—and 50 WTO members have included this stipulation in their Mode 4 commitments. But some developing-country advocates contend that such requirements undermine the comparative advantage upon which Mode 4 trade should be based—the relatively inexpensive labor of sending countries.

Such arguments are met with fierce resistance from unions in developed countries, which fear that cheaper temporary foreign workers could undermine the hard-won gains of workers in developed countries. To prevent foreign "strike breakers," 22 WTO members also have reserved the right to suspend Mode 4 commitments in the event of labor-management disputes. Even where foreign workers may not actually be paid less, their presence may act as an impediment to reform. For example, some claim that the temporary employment of foreign nurses has allowed governments to ignore the root causes of their nursing shortages—the need for better wages and working conditions (OECD 2002f).

Proponents of wage parity argue that because a temporary foreign worker in an OECD country faces living costs in that country, there is no justification for paying lower wages. Moreover, temporary foreign workers, particularly women in domestic services and other lower-skilled activities, can be highly vulnerable to exploitation if not fully subjected to local labor laws.

Equal treatment, however, does not always result in equitable outcomes. In many countries, temporary workers are required to contribute to social security programs in the receiving country from which they receive no, or minimal, benefits. One alternative in this regard could be for social security charges from temporary migrant workers to be paid into separate funds and reimbursed upon workers' return to their home country.

Source: Nielson (2002) and OECD (2001b).

Box 4.7 E-commerce and temporary movement

Some WTO members, in particular developing countries, have expressed concern that the growth of trade in services via information and communications technologies will become a substitute for trade via temporary movement of service suppliers (Mode 4). In some cases, services are now delivered over the Internet that previously required physical presence. This tends to be more common in knowledge-intensive fields of activity and can be attractive to companies wishing to pay developing-country wages rather than local (developed country) wages, as is generally required for workers temporarily relocated. Still, the Internet is not always a good substitute. Security and confidentiality requirements may limit its use, and in some countries the infrastructure is not yet capable of fulfilling contracts remotely.

Trade in services over the Internet can offer service suppliers from developing countries the opportunity to participate in global trade, notwithstanding their lack of commercial presence in foreign markets. While some of this trade may be in knowledge-intensive areas, primarily benefiting those developing countries with a large pool of skilled labor, a range of lower skilled "back-office" services are now traded over the Internet—among them basic data entry and customer call centers.

Technological developments may be changing the nature of temporary movement, rather than removing the need for it, with increasing numbers of employees managing their international responsibilities through a combination of regular communication link-ups and frequent, shorter business trips to the local operations, referred to as "virtual assignments." Replacing longer-term assignments with more frequent shorter ones, in addition to virtual working, helps companies manage the costs of international responsibilities. ICT also may play a role in encouraging employees to accept longer-term assignments by reducing the sense of isolation from friends, family, and cultural context.

Source: OECD (2001b).

of wealth (jobs preserved, intermediate consumption of goods and services, business taxes, and so on) (OECD 2002d).

In fact, by focusing on the physical mobility of temporary movement of foreign workers critics may miss a key point: A country cannot restrain international competition in hopes of preserving the market share of domestic producers simply by blocking the entry of temporary foreign workers. For example, India is widely recognized for expertise in computer services, thus explaining the heavy flow of Indian computer specialists to more advanced countries. It is likely that if those countries were to refuse temporary visas to these workers or introduce stricter limitations on their issuance, the work could still be outsourced to India over electronic networks via Modes 1 and 2 (Chadah 2000, OECD 2002d). Indeed, some developing countries point to outsourcing of work, including over the Internet, as an alternative to sending qualified personnel abroad (box 4.7).

Temporary movement as a first step toward permanent migration. Temporary movement can be a first step to permanent residence, either legally (by changing visa categories) or illegally (overstaying). Overstaying is a risk with all forms of temporary entry, including for tourists. Administered schemes for temporary movement arguably could help discourage employers from using undocumented workers by making available legal temporary foreign workers for seasonal activities. Where temporary workers are permitted to apply for permanent-resident status, their temporary stay may serve as a useful preselection of candidates for future migration (OECD 2002a, Nielson 2002).

Available data show little evidence of large-scale transfer of workers from temporary to

Box 4.8 Boosting intra-EU labor mobility

The Treaty of Rome recognizes the principle of free movement for nationals of EU countries wishing to reside or work within the area formed by the signatory states. More recently, measures have been taken to facilitate intra-European mobility. These include a directive on free movement of non-workers, students, and retired persons, and a series of directives on mutual recognition of skills and access to certain public service jobs previously reserved for nationals.

Nevertheless, intra-European mobility remains very low, involving less than 0.2 percent of the total population of the Union, a level seven times lower than movements among the nine major census areas in the United States. The low mobility within Europe is partly attributable to linguistic and cultural barriers, but it is also a result of structural rigidities in the labor markets of individual member states.

In 2002, the European Commission launched an action plan for mobility and skills with a view to facilitating geographic mobility in the period up to 2005 by removing remaining administrative and legal barriers, increasing the portability of supplementary pension rights of migrant workers, and improving existing regimes of skills recognition in the regulated professions.

Source: OECD (2002f).

permanent status. The U.K. work permit system allows employees to apply for permanent settlement after four years of continuous employment, but in practice, a relatively small proportion seem to settle permanently (in 1998, 3,160 work permit holders settled in the United Kingdom against approximately 70,000–80,000 work permits approved each year). Indeed, even where all, or most, barriers have been removed, floods of foreign workers generally have failed to materialize, as intra-EU labor flows show in the context of a single labor market (OECD 2001b) (box 4.8).

Security concerns. Any attempt to facilitate individual mobility must confront today's increased concerns about national security. While all countries ultimately share such concerns, they tend to pose a greater challenge for policy officials in major receiving countries. Brought into sharper focus since September 11, 2001, security considerations are changing the balance between the facilitation and enforcement aspects of immigration controls, with measures to facilitate the entry of foreign workers increasingly scrutinized to ensure they do not become conduits for entry by illegal or undesirable individuals. There can be little doubt that tightening immigration controls because of heightened concerns over national security is likely to have a chilling effect on TMNP liberalization. Meaningful expansion of temporary worker programs requires that security clearance be quick and reliable. The challenge politically is to separate the security arguments from labor market or service export considerations, and to strike an acceptable balance between economic efficiency and national security (Mattoo 2003).

It estimated that up to 250,000 information-technology professionals from India work in the United States, some on temporary visas and others on work permits. But with almost all visa applications taking longer to process, Indian technology companies are taking steps to adapt to the increasingly limiting conditions. For example, Infosys, a leading provider of software services, is ensuring that the bulk of its outsourcing activities are undertaken on site in India rather than in the United States or Europe. The spectacular recent growth of IT outsourcing in developing countries, while minimizing the need for labor movement, is nonetheless proving controversial, with fears of an exodus of white-collar jobs in service industries. A case in point is the recent set of legislative measures passed by the states of Connecticut, Maryland, New Jersey, and Washington, restricting outsourcing of state government services. Similar concerns, and calls for similar policy responses, have been voiced in Europe.

Besides restricting the movement of workers, delays in travel can harm the competitiveness of firms. There is evidence that the competitiveness of subsidiaries of U.S. companies established in China has been adversely affected as tightened security has hampered the ability of U.S. companies to obtain visas for Chinese nationals to conclude deals, undertake training, and even attend strategic seminars and meetings in the United States. Parent companies in the United States are complaining about lost contracts and the move of Chinese clients to European companies that can offer faster and more predictable issuance of visas.

While recognizing the importance of border security in an environment of heightened risk, care must be taken that the granting of visas and work permits does not become a disguised barrier to trade. India's minister for trade and commerce recently termed the denial of visas and restrictions on the movement of natural persons as an indirect method by developed nations of denying market access to developing nations. Care also must be taken to reconcile the need for increased security at entry points with that of allowing commerce to flow as freely as possible. This includes recourse to new technologies, notably biometrics, a system of fingerprint and retinal recognition, and more traditional methods such as permanent resident cards.

Mode 4 and the WTO

As noted above, some types of temporary foreign workers—service suppliers—are covered under the WTO General Agreement on Trade in Services (GATS). Greater freedom for the temporary movement of individual service suppliers is being negotiated under the GATS, as part of the multilateral negotiations set in process following the WTO meetings in Doha in November 2002.

These discussions go by the label of "Mode 4" negotiations, in reference to the classification of the modes of service delivery in the GATS agreement. Mode 1, or "cross-border supply," is analogous to trade in goods; Mode 2 is "consumption abroad" (for example, tourism or study abroad); Mode 3 is "commercial presence" (as in the supply of a service through a subsidiary or branch in another country); and Mode 4 is "temporary movement of individual service suppliers."[13] WTO members can elect to commit to providing market access and/or national treatment for each mode of supply for any number of around 160 possible services sectors and sub-sectors.

Mode 4 is defined as the supply of a service by a service supplier of one WTO member, through presence of natural persons of a member in the territory of another member on a temporary basis. While there is some debate about what exactly this means, Mode 4 service suppliers generally:

- Gain entry for a specific purpose (for example, to fulfill a service contract as self-employed or as an employee of a service supplier);
- Are confined to one sector (as opposed to workers who enter under general migration or asylum programs who can move among sectors);
- Are temporary (that is, they are neither migrating on a permanent basis nor seeking entry to the labor market). "Temporary" is not defined under the GATS, but permanent migration is explicitly excluded, and thus this issue is left to the discretion of each country. In practice, the time frames set out in WTO members' commitments on Mode 4 range from several weeks to up to three to five years, varying among countries, sectors, and professions. Thus, for example, Japan allows foreign business travelers to stay for a maximum of 90 days, but certain cate-

gories of intracorporate transferees can stay as long as five years.

- Are service suppliers. Being a services agreement, GATS Mode 4 only covers service suppliers—there are no parallel WTO rules covering movement of people related to agriculture or manufacturing.[14]
- Are service suppliers at all skill levels, although in practice WTO members' commitments are limited to the higher skilled (see below) (Nielson 2002).

Measurement of Mode 4 trade suffers from poor data, tepid commitments, and a range of barriers

There are two ways to measure Mode 4 trade: by value or by number of service suppliers (see box 4.9). Services trade statistics face a number of conceptual and practical problems and, despite progress, reliable figures are some way off. Nonetheless, available estimates—and they are very rough—suggest that, in terms of the monetary value of trade, Mode 4 is the

Box 4.9 Measuring Mode 4 is still imprecise

Value of trade: Balance-of-payments statistics

Balance-of-payments statistics capture some labor-related flows of relevance to the estimation of trade under Mode 4:

"Compensation of employees" (wages, salaries, and other compensation received by individuals working abroad for less than one year). This measures both overestimates (includes workers other than service providers) and underestimates (excludes business visitors and individuals staying more than a year abroad) trade under Mode 4.

"Workers' remittances" (transfers from workers who stay abroad for a year or longer). This measure overestimates (covers all expatriates, regardless of the sector in which they work) and underestimates (only a residual income after expenditure and savings in the host country, and many such remittances are not effected through official channels) trade under Mode 4.

Statistics on trade in services are available only for some services sectors and traditionally have not been broken down by modes. Figures for Mode 4 are likely to be significantly underestimated.

The number of people: Migration and labor statistics

Statistics on the number of people moving under Mode 4 are scarce and highly imprecise. Statistics are available for temporary foreign workers for several countries, but they are not an exact match to GATS Mode 4. Main problems include:

- Business visitors may be excluded or hidden under tourist visas (a significant part of Mode 4 trade).
- Migration statistics consider "temporary" to be 12 months or less; under the GATS it is undefined but in practice can be up to 6 years.
- Migration categories generally do not distinguish between service and non-service activities.
- It is not always possible to judge whether the activities covered by some visa categories are commercial and would qualify as the supply of a service under the GATS (for example, occupational trainees, professional exchange programs).
- Some visa categories include persons both consuming and supplying services (for example, exchange visitors encompass exchange students and visiting lecturers).

Neither of these sources—value of trade and numbers of people—capture the dynamic effects of Mode 4 and its essential role in facilitating trade under other modes (for example, Mode 3, commercial presence; Mode 1, cross-border supply).

Some national figures for entries under specific visa programs may closely correspond with Mode 4 (for example, temporary medical practitioner visas), but because of the above problems, no aggregate figures are available for all entrants falling under Mode 4 at the national level. Additionally, given the absence of detailed temporary entry visa regimes in many countries, aggregate global estimates of the number of people moving to supply services under Mode 4 are not possible.

Source: OECD (2001b) and Nielson and Cattaneo (2003).

Table 4.7 TMNP is the smallest of the four modes of international service supply

Service exports by mode of supply, 2001 (billions of dollars and percentage of total)

Mode of international service supply	1997 Value	1997 Percentage of total	2001 Estimate	2001 Percentage of total	Proxy
1 Cross-border supply	890	41.0	1,000	28.2	BOP: commercial services minus travel
2 Consumption abroad	430	19.8	500	14.1	BOP: travel exports
3 Commercial presence	820	37.8	2,000	56.3	FATS statistics turnover
4 Movement of natural persons	30	1.4	50	1.4	BOP: compensation of employees
Total	2,170	100.0	3,550	100.0	

BOP is balance of payments. FATS is Foreign Affiliate Trade in Services.
Source: IMF, *Balance of Payments Yearbook*.

smallest of the four modes of services supply (table 4.7).

Negotiations on Mode 4 first took place during the Uruguay Round of trade talks held from 1986 to 1993, but they were not particularly successful—in fact, they served primarily to facilitate exploratory business visits and the movement of high-level personnel within multinational corporations. While the Uruguay Round negotiations were formally concluded in December 1993, negotiations in several areas—basic telecommunications, financial services, maritime transport services, and the movement of natural persons—were extended beyond the end of the Round because of widespread dissatisfaction with the level of liberalization achieved in those areas. Further negotiations on Mode 4, concluded on June 30, 1995, produced no major breakthrough. Only Australia; Canada; the European Communities; and its member states, India, Norway, and Switzerland improved on the commitments they made in the Uruguay Round, and these improvements were annexed to the Third Protocol to the GATS. The improvements mainly concern access opportunities for additional categories of services suppliers, usually independent foreign professionals in a number of business sectors, or the extension of such professionals' permitted duration of stay.

A look at members' current GATS schedules shows that levels of commitments vary strongly across modes of supply. Within a given sector, trade conditions for Mode 4 tend to be significantly more restrictive than conditions for other modes. No developed country has scheduled a "none" entry (signifying unfettered access) for its Mode 4 commitments, and only 1 percent of market-access commitments undertaken by developing countries are fully liberal. This compares with one out of two entries for Mode 2 (consumption abroad) being full commitments.[15]

Many schedules have established links across modes of supply. Members' schedules are mostly biased in favor of intracorporate transferees, hence making the economic value of such commitments dependent on access conditions for Mode 3 (table 4.8). Such commitments are of limited interest to WTO members which, given their level of economic development, are not significant foreign investors. Schedules are also more open for highly skilled labor, where developing countries tend to be net importers, since their comparative advantage lies with relatively unskilled labor-intensive services.

As of April 2002, an overview of members' horizontal commitments shows that the majority of the entries scheduled—nearly 280 out of a total of 400—concern executives, man-

Table 4.8 Most Mode 4 commitments by WTO members are in management categories

Entries by WTO members that have made Mode 4 commitments in the horizontal section of their GATS schedules as of April 2002, by type of natural person

	Number of entries	Percentage of entries
Intracorporate transferees, of which	168	42
Executives	*56*	
Managers	*55*	
Specialists	*56*	
Others	*1*	
Executives	24	28
Managers	42	
Specialists	44	
Business visitors, of which	93	23
Commercial presence	*41*	
Sales negotiations	*52*	
Contract suppliers	12	3
Other	17	4
Total	400	100

Source: Mattoo and Carzaniga (2003).

agers, and specialists. Of these, some 170 entries explicitly relate to intracorporate transferees. Only 17 percent of all horizontal entries may cover low-skilled persons as well ("business sellers" and "other"). It is also revealing that few significant differences exist between the commitments scheduled by developed and developing countries. Both groups seem to have been equally hesitant in undertaking very liberal commitments for Mode 4 (box 4.10).[16]

The periods for which entry may be permitted have not always been indicated. This is surprising because it might be expected that, in the absence of a definition of "temporary" in the GATS, members would provide more precision in their schedules. Where time limits have been specified, the relevant periods are shorter for business visitors than for executives, managers, and specialists. The focus of existing commitments on employed persons is reflected also in members' frequent use of employment links as an entry criterion: "Pre-employment," usually of one year, is one of the most recurrent restrictions. Numerical quotas and economic needs tests rank next in terms of frequency of limitations. While most of the quotas relate to the total staff of a company, some members also have reserved the right to operate quotas based on parameters, such as senior staff or wages. Significant administrative discretion results from the frequent scheduling of economic needs tests without indication of the criteria on which they are operated; with such entries, the relevant government agency grants access to

Box 4.10 Key impediments to Mode 4 trade

Five policy impediments discourage Mode 4 trade.

- Quantitative restrictions on the movement of natural persons with a view to protecting local labor markets.
- Economic needs tests and labor certification requirements, whereby prospective employers must certify that no domestic workers were available prior to hiring a foreign worker. Particularly troublesome is the lack of transparency and the high degree of administrative discretion applied to such tests, which reduces the predictability of trading conditions. The administration of such tests also may cause significant delays in hiring procedures.
- Issuance and renewal of visas and work permits may be cumbersome, expensive, stringent, and lack transparency.
- Social security contributions (lack of tax credits in the home country), double taxation burdens placed on foreign workers, non-portability of pension and other social contributions.
- Lack of recognition of qualifications, educational degrees, training, and experience, especially in regulated professions.

Source: Mattoo (2003).

foreign natural persons provided that unspecified economic conditions are met.

What's on the table in the current negotiations?

Proposals related to Mode 4 in the current services negotiations by both developed and developing countries address many of the issues identified above.[17] Six proposals relate specifically to Mode 4; others raise Mode 4 in the context of sectoral proposals. Some propose ways to expand existing market access, either through the development of sectoral commitments or by expanding access available to one group (such as intracorporate transferees) or the categories of personnel that benefit from favorable Mode 4 access. Other proposals seek to improve the level of access by removing obstacles to existing commitments, such as lack of information or cumbersome and inappropriate administrative procedures. Some make links to the development of broader regulatory disciplines under GATS Article VI.4, or raise specific barriers such as economic needs tests or recognition of qualifications.

The negotiating proposals on Mode 4 tabled by WTO members pursue two core objectives. One class of proposals, favored by developing countries, focuses on widening market access. Another, preferred by developed countries, aims at increasing the effectiveness of existing market-access commitments (Nielson 2002). Together, such proposals provide a useful roadmap of what an improved and more equitable outcome on Mode 4 trade could comprise within the framework of the Doha Development Agenda. Key issues under discussion include:

Greater clarity and predictability in WTO members' commitments. Common definitions for main personnel categories are included in many WTO members' commitments. Many members refer to "executives, managers, specialists," but there is no common understanding of who is covered by these categories; use of a worker category nomenclature developed by the ILO could be useful in this regard.

Providing clearer information on economic needs tests (where entry of foreigners is subject to an assessment of needs in the domestic market), such as criteria used, responsible authorities, likely timeframe for determinations, and record of recent decisions (Nielson 2002).

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 website covering all WTO members, through 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 (Nielson 2002).

Adoption of a GATS visa. This would facilitate entry of Mode 4 workers, including avoidance of the detailed visa procedures currently required in many countries (often not separated from permanent migration). India has put forward the idea of a GATS visa, which would be issued rapidly, be time-limited, cover both independent service suppliers and intracorporate transferees, feature rights of appeal, and be backed up by a bond, with sanctions for abuse. The main idea behind the proposal is to distinguish between temporary and permanent flows of migrants in the administration of entry procedures.[18] The key elements of a GATS visa scheme are presented in box 4.11 (Nielson 2002).

Enhanced market access commitments. There are several additional areas where expanded market access for specific groups would substantially increase the scope for developing countries' Mode 4 entry:

- Commitments for particular service sectors in high demand (such as ICT, professional services) rather than the current blanket treatment for Mode 4 entry across all sectors;

Box 4.11 Elements of a possible GATS visa/permit regime

Coverage: Either all categories of service providers covered by sectoral and horizontal commitments under Modes 3 and 4 (visas), or only intracorporate transferees (including at trainee level) and key personnel providing services pursuant to a contract between two businesses (permits).

Duration of stay: Less than 12 months; no single visit to exceed 365 days; 3 years for intracorporate transferees. Stays of less than 3 months (but possibly multiple entries over the course of a year) would not require a visa.

Procedure: A separate body dealing with GATS visas as contact point within the overall immigration framework; a one-source availability of all relevant rules and regulations; information on the status of applications to be available upon request; authorities required to provide notification of delays; expedited security checks; consultation mechanism for any changes to the rules.

Time for issuance: 2 to 4 weeks from filing of application to issuance of visa, but with procedures for issuance in one day or at port of entry under special circumstances.

Conditions: For intracorporate transferees, proof of employment with current employer for a defined period (6 months) and performance bonds; demonstrated experience of performing services at senior level; proof of qualifications for some senior levels of personnel; contracts above a certain value not subject to economic needs tests.

Role of companies: A company-specific GATS visa for personnel working for well-known and reputable companies. Following certification by immigration authorities, companies could self-administer transfers.

Appeal rights: Appeal against rejection, with a decision within one month.

Renewal: Simple procedures with fees reflecting administrative costs.

Prevention of abuse: Declaration of intention not to establish a permanent residence; inability to change to another visa category during life of the GATS visa; payment of bonds by sponsoring company to local embassy or consulate; imposition of special safeguard of one year's duration against any WTO member whose companies have a pattern of visa abuse.

Sources: OECD (2001), drawing on Chanda (1999), Zutshi (2000), and European Services Forum (2001).

- Better access for some groups, in particular intracorporate transferees, via "blanket" applications by companies or by charging companies for streamlined processing (including via a GATS visa);
- More access for other types of skilled, but not necessarily highly skilled, personnel such as "technical support personnel," "nonprofessional essential personnel," and trainees (future executives) (Nielson 2002);
- Progressively reducing the range of admissible worker categories subject to labor market/economic needs tests, with no economic needs tests applied to intracompany transferees or to certain professional service providers working on a contract basis.

Of the six proposals tabled specifically on Mode 4 by WTO members to date, four are by developed countries—Canada, the European Union, Japan, and the United States—whereas only two are from developing countries—Colombia and India. The fact that so few developing country members of the WTO have articulated negotiating proposals in an area of obvious export interest is somewhat surprising. This lack of interest may connote a preference for the guaranteed access afforded to sending countries by bilateral guest worker programs (an outcome that appears to mirror the tendency for some developing countries to pursue preferential bilateral trade agreements rather than multilateral agreements). It also may reflect the difficulties many developing countries have faced in identifying their export interests in services trade, an area of high demand in trade-related capacity building. The dearth of negotiating proposals need not, however, imply that individual developing countries are not formulating specific requests for greater access for their workers to developed-country markets in the context of ongoing bilateral request-offer negotiations under the GATS.

Discovering mutual interests is essential not only for the success of Mode 4 negotiations but also for the GATS as a whole

The success of the GATS negotiations may depend on progress on Mode 4 trade. As Mattoo (2003) notes, liberalizing advances in the multilateral trading system have always derived from the reciprocal exchange of market-access concessions. It is important that developing countries understand the potential of, and press for, enhanced access in an area of natural comparative advantage. Such an understanding, if not opposed by the OECD countries, should enable developing countries to engage more effectively in the GATS negotiations.

Furthermore, there is reason to believe that reduced barriers to the temporary movement of service providers will produce substantial global benefits. Significant gains already are being realized, for example, in the software industry—some 60 percent of India's burgeoning exports are provided through the movement of software engineers to the site of the consumer. And with greater liberalization of barriers to the movement of people, many more developing countries could "export" at least the significant labor component of services such as construction, professional services, environmental services, and transport. A benefit of the temporary nature of such movement is the potential for both the host country and the home country to gain. For exporting countries the financial and knowledge benefits would be greatest if service suppliers return home after a certain period abroad, and for importing countries the temporary movement would create fewer domestic problems than immigration.

However, there are a number of significant issues and concerns to be addressed. Experience with bilateral or regional temporary worker schemes might highlight some of the practical means of tackling policy challenges and concerns associated with temporary movement—issues such as the operation of bonding requirements, avoidance of double taxation of temporary workers, repatriating social security and pension contributions to the sending country, ensuring that the temporary nature of entry not be abused, and on-site inspections of work sites employing TMNP workers.[19]

None of these issues are insurmountable—but they require a new level of policy dialogue and coordination among trade, labor, and migration authorities, both at the national and international level, to find workable solutions (Nielson 2002).

Notes

1. Two definitions of migrants are used: Europe and Japan usually refer to country of citizenship in defining "foreign," whereas in the United States, Australia, and Canada country of birth is the relevant definition.

2. Available statistics are incomplete and not readily comparable between countries. While most migration systems distinguish between temporary and foreign migration, the definition varies among countries. To a certain extent, statistics on highly skilled workers tend to be better, because data on such workers are collected in connection with their temporary visas. Work permits and visas are valuable sources of data (OECD 2001b). The situation is even more difficult for statistics on those temporary foreign workers falling under GATS Mode 4—for example, Mode 4 entrants usually cannot be separated from broader groups, and even when migration data provide occupations—such as "managers"—they are not disaggregated by sector. Further, many business visitors may enter under tourist visas and not appear in employment-related figures, particularly where no short-term business visitor visa exists. Industry surveys can be a useful, but limited, source of data for Mode 4 (Nielson and Cattaneo 2003).

3. This section draws heavily upon the chapter on labor mobility prepared by Julia Nielson of the OECD Secretariat in the study "Regional Trade Agreements and the Multilateral Trading System" prepared for the Trade Committee of the OECD (OECD 2002c).

4. H-1B visas are also available for professionals entering the United States. Some main differences between H-1B and TN visas include: H-1B visas include requirements to show that temporary hires will not adversely affect U.S. workers; TNs are granted for one year, but renewals are unlimited, whereas H-1B visas have a three-year duration with one renewal (up to six years). Similar conditions to TNs are applied to traders and investors and intracompany transferees under E1/E2 and L1 visas, respectively (OECD 2001b, citing Globerman 2000).

5. Provisions facilitating mutual recognition are included in some agreements (for example, EFTA), and others have complementary arrangements. For example, the ANZCERTA Services Protocol, the Trans-Tasman Travel Arrangement, and the Trans-Tasman Mutual Recognition Arrangement together provide that persons registered to practice an occupation in one country can practice an equivalent profession in another (OECD 2002e).

6. This section of the chapter relies heavily on "Service providers on the move: economic impact of Mode 4" prepared by Olivier Cattaneo and Julia Nielson of the OECD Secretariat for the Trade Committee of the OECD (OECD 2002d).

7. With the exception of the "settlement countries" (Australia, Canada, New Zealand, United States), or others with significant migration (Germany, United Kingdom), many WTO members do not currently have specialized regimes in place to deal with temporary entrants as service providers (OECD 2002d).

8. Not everyone agrees that permitting workers to move abroad temporarily, or indeed to emigrate permanently, reduces the sending country's welfare. Stark and Wang (2001) suggest that emigration can have the opposite effect—that is, improve the welfare of those left behind. They argue that migration opportunities create a strong incentive to acquire greater skills through education. Only a portion of graduates will emigrate, while many will remain behind, better educated than they would have been if immigration opportunities had not been provided (Winters 2003b). Such effects thus can generate spillover benefits in sending countries, effects that are likely to be felt intergenerationally (Commander, Kangasniemi, and Winters 2002).

9. This section of the chapter draws heavily on "Service providers on the move: economic impact of Mode 4" prepared by Olivier Cattaneo and Julia Nielson of the OECD Secretariat for the Trade Committee of the OECD (OECD 2002d).

10. In health services, the World Health Organization has suggested offsetting earnings generated by migrant service workers against (1) reduced domestic access to these services, (2) loss in the quality of services, and (3) loss of public investment (Scholtz 1999).

11. Circumstances may even induce a deliberate policy of encouraging migration as a way of combating unemployment (Abella and Abrerar-Mangahas 1997). The effectiveness of such a strategy may be limited by the reluctance of workers to accept a job abroad as a substitute for one at home (OECD 2002d).

12. Borjas (2000) suggests that immigration may contribute to improving domestic-factor use by compensating for the reluctance of native workers to move from areas of relative labor surplus to areas of shortage. Such findings hold especially in health-related professions, with obvious social benefits for populations in more geographically remote areas.

13. Mode 4 is defined in Article I:2(d) as entailing "the supply of a service . . . by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member." The Annex on Movement of Natural Persons Supplying Services under the Agreement (hereinafter the Annex) specifies that two categories of measures are covered: those affecting natural persons who are "service suppliers of a Member"; that is, self-employed suppliers who obtain their remuneration directly from customers; and those affecting natural persons of a Member who are "employed by a service supplier of a Member in respect of the supply of a service." These natural persons can be employed either in their home country and be present in the host market to supply a service, or employed by a service supplier in the host country.

The Annex clarifies that the GATS does not apply to measures affecting individuals seeking access to the employment market of a member, or to measures regarding citizenship, residence, or permanent employment. There is no specified timeframe in the GATS of what constitutes "temporary" movement; this is defined negatively, through the explicit exclusion of permanent presence. A cursory look at members' schedules shows that the maximum length of stay permitted under Mode 4 varies with the underlying purpose. Thus, while business visitors generally are allowed to stay up to 90 days, the presence of intracorporate transferees, another frequently scheduled category, tends to be limited to periods of between two and five years. The Annex does provide for the possibility that commitments, and therefore access conditions, may be scheduled by "categories of natural persons," thereby introducing an additional element of flexibility.

The Annex also clarifies that, regardless of their obligations under the Agreement, members are free to regulate the entry and stay of individuals in their territory, including through measures necessary to protect the integrity of their borders and to ensure the orderly movement of natural persons across those borders, 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 only for natural persons of certain members, but not for others, is not per se regarded as nullifying or impairing such benefits.

14. This is a strange distinction—are temporary foreign workers engaged in picking apples temporary agricultural workers or suppliers of fruit-picking services? Is an employee of General Electric's consumer credit arm engaged in service or manufacturing activities? (Nielson 2002)

15. Calculated on a sample of 37 sectors deemed representative for various services areas. (See document S/C/W/99, March 2, 1999). The shallow level of commitments for Mode 4 is to a certain extent also reflected in the pattern of horizontal limitations, which apply across all sectors: there are five times as many limitations scheduled for Mode 4 than for Mode 2. In turn, this reflects many members' basic method to scheduling Mode 4 entries. Contrasted with other modes, the "negative list" approach to scheduling limitations has been turned upside down: schedules start with a general "unbound" which is then qualified by liberalization commitments, mostly limited to specified types of persons (for example, managers), movements (intracorporate), and stays (up to four years).

Commitments are often exclusively governed by what is inscribed in the horizontal part of the schedule, so that identical access conditions apply to all scheduled sectors. Commitments usually are based on functional or hierarchical criteria, related either to the type of person involved (executive, manager, specialist) or to the purpose of their movement (for example, to establish business contacts, negotiate sales, set up a commercial presence). Besides, no generally agreed definitions or precise descriptions exist of the types of natural persons to which access is granted, which can detract from the predictability of entry conditions.

16. Access conditions scheduled by countries acceding to the WTO after 1995 also are substantially identical to the ones scheduled by Uruguay Round participants. This contrasts with the situation in the three other modes of supply, for which recently acceded members have generally undertaken deeper commitments. The only detectable difference with regard to Mode 4 is a relatively higher number of commitments scheduled by recent WTO members for "contract suppliers"—that is, employees of a foreign enterprise who have completed a contract to supply a service in a country but does not have a commercial presence in that market.

17. This section of the chapter relies heavily on Nielson (2002) and OECD (2001b).

18. Although the Indian proposal for the adoption of a GATS visa has helped to broaden the scope of Mode 4 discussions among trade and immigration officials, the odds of seeing such a scheme adopted in the DDA seem remote. Indeed, the sobering experience emerging from attempts to implement the APEC Business Travel Card, epitomized by the reluctance of three key APEC Members (Canada, Japan, and the United States) to implement the scheme, suggests a long road ahead in liberalizing TMNP at the multilateral level (OECD 2001b). It should be noted that from the point of view of migration authorities, TMNP represents a small proportion of those crossing borders every day. The additional resources required to create special treatment for such persons—which a GATS visa would entail—are hard to justify in the face of other priorities, notably in border security, arising for larger groups of migrants. Such resources also could be well beyond the administrative capacities of many developing country WTO members (Nielson 2002). See OECD (2001b) for more discussion of the potential impact of a GATS visa scheme.

19. Winters and others (2002, pp. 43–50) provide a useful summary of such programs and the means to enforce them in France, Germany, the United Kingdom, and the United States.

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