

Movement of Natural Persons and Free Trade Agreements: India's Prospects

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India is one of the leading nations that export labour services. India also receives the highest amount as remittances from abroad. India's remittances also have increased steadily over the years. Trade in services has got a lot of attention from economists since the introduction of GATS under WTO. Movement of natural persons under Mode 4 of GATS assumes lot of significance for many countries including India. Multilateral trade negotiations under WTO has proved to be time consuming and less successful. Negotiations under Mode 4 of GATS are the least successful ones and the number of commitments under Mode 4 are very few.

Many countries are turning their attention to Regional Free Trade Agreements (FTAs) as a means to liberalize trade in goods and services. India is not an exception to this. India too negotiated many RTAs and are at various stages of its implementation. In recent years India is paying special attention to movement of natural persons in all FTA negotiations. India-Singapore CECA and India-ASEAN FTA on services are examples for this. The study reveals that India has great prospects in promoting the movement of natural persons through FTAs. Major implication of the study, results in the findings that India should pay more attention to FTAs in getting maximum benefit from movement of natural persons rather than waiting for outcomes of multilateral negotiations.

Keywords: Free Trade Agreements, Trade in Service, Natural Persons, Mode 4, Migration.

1. Introduction

India is one of the top nations in the world in terms of emigration to other countries. India is a major exporter of labour services. India receives maximum amount, as compared to other nations, as remittances from abroad. India ranks top position as a labour source country for many countries in the world. Temporary labour migration is treated as one of the modes of labour supply under General Agreement on Trade in Services (GATS), i. e., Mode 4, the movement of natural persons. India has great potential to supply labour services under Mode 4. However, the multilateral negotiations under WTO in Mode 4 are not very effective so far. There exist so many impediments in the way of movement of natural persons. Perhaps the best option for India is to go for bilateral trade agreements or Free Trade Agreements involving Mode 4. India-Singapore comprehensive economic cooperation agreement is an example for that.

2. Export of Labour Services: India's Present Status

International migration of labour has played an important role in economic development of many countries in the world. It contributes to economic development of the host country by providing much needed supply of labour at relatively lower cost. It also contributes to the source country by bringing foreign exchange through remittances from abroad. Additionally it brings in technical knowhow and managerial expertise from host country to source country.

Labour migration has played a crucial role in India's economic development also. India is a major exporter of labour service. The remittances from the Indian Diaspora are on the increase year by year and India receives highest remittances as compared to other countries of the world. India occupies second highest position in the world by sending 11.4 million emigrants. Mexico is in the top position by sending 11.9 million emigrants, just a half million more than India. Russian federation is in the 3rd position (11.1 million) with only 3 lakhs people short of India. In the case of immigration India occupies 10th position with only 5.4 million people, the first position being of the US with 42.8 million people.

India occupies first position in terms of remittances with US\$ 55 billion, the second being China with US\$ 51 billion. Mexico, which was in the top with respect to number of emigrants is in 3rd position with just half of the total remittances that India received in 2010. This reveals perhaps the productivity and high earning capacity of Indian emigrants. However, China with only 8.3 million emigrants has received US\$ 51 billion, the per capita remittance being much higher than India. If we look at India's remittances over the years, it has been increasing steadily with US\$ 20,999 million in 2003 to US\$ 55,000 million in 2010. It is an increase of almost 200% over a period of seven years. The only exception is 2009 where it has slightly come down. This was mainly due to global recession.

Table 1: Top 10 Emigration / Immigration and Receipts / Sender Countries, 2010

Sl No	Top 10 Emigration / Immigration Countries, 2010				Top 10 Remittance Recipients / Senders, 2010 (US\$ Billions)			
	Countries	Emigrants (in Millions)	Countries	Immigrants (in Millions)	Countries	Remittance (Receiving)	Countries	Receipts (Sending)
1	Mexico	11.9	US	42.8	India	55	US	48.3
2	India	11.4	Russian Fed	12.3	China	51	Saudi Arabia	26
3	Russian Fed.	11.1	Germany	10.8	Mexico	22.6	Switzerland	19.6
4	China	8.3	Saudi Arabia	7.3	Philippines	21.3	Russian Fed.	18.6
5	Ukraine	6.6	Canada	7.2	France	15.9	Germany	15.9
6	Bangladesh	5.6	UK	7.0	Germany	11.6	Italy	13.0
7		4.7	Spain	6.9	Bangladesh	11.1	Spain	12.6
8	Philippines	4.3	France	6.7	Belgium	10.4	Luxembourg	10.6
9	Turkey	4.3	Australia	5.5	Spain	10.2	Kuwait	9.9
10	Egypt Arab Rep	3.7	India	5.4	Nigeria	10.0	Netherlands	8.1

Source: Migration and Remittances Fact Book, World Bank, 2011

Table 2: India's Remittances over the Years

Year	2003	2004	2005	2006	2007	2008	2009	2010
Remittance US\$ Millions	20,999	18,750	22125	28334	31217	49491	49256	55,000

Source: Migration and Remittances Fact Book, World Bank, 2011

India's major destination countries of labour migration are UAE, US and UK. India occupies an important position as source country in the case of many countries (Table 2). It can be seen that among the top ten destination countries for India, India occupies first position as source country in the case of eight countries. In the case of the US, India is in 4th position as source country, though the highest remittances come from US. In the case of Canada India occupies third position as source nation.

India is also a major source of labour supply for certain regions. Table 4 shows that India plays a significant role in labour migration to ASEAN nations. For six ASEAN nations, India comes in the list of top 10 source countries of labour migration. This assumes significance in the context that India has just concluded the free trade agreement on trade in goods with ASEAN nations and is in the process of finalizing the trade in services. India therefore, keeps a special eye on Mode 4 of trade in services, i. e, movement of natural persons with ASEAN.

Table 3: Emigration: India's Major Destinations and Their Relative Positions as Source Nation

Destination Country	Relative Position			
	1	2	3	4
UAE	First			
US				Fourth
UK	First			
Saudi Arabia	First			
Bangladesh	First			
Nepal	First			
Canada			Third	
Oman	First			
Kuwait	First			
Sri Lanka	First			

Source: Based on Migration and Remittances Fact Book, World Bank, 2011

Table 4: Emigration: India's Position in ASEAN as Source Country

Country	Relative Position									
	1	2	3	4	5	6	7	8	9	10
Thailand								*		
Indonesia										
Singapore			*							
Brunei						*				
Cambodia										
Vietnam										
Malaysia					*					
Laos										
Philippines								*		
Myanmar		*								

Source: Based on Migration and Remittances Fact Book, World Bank, 2011

India occupies second position with Myanmar as a source country and 3rd position with Singapore. Labour migration to Indonesia, Cambodia, Vietnam and Laos is not very substantial compared to other ASEAN nations.

Table 5: Emigration: India's Relative Position as Source Country (Other Countries)

Country	Relative Position as Source Country									
	1	2	3	4	5	6	7	8	9	10
Nepal	*									
Japan										*
Australia					*					
Fiji	*									
Mauritius		*								

Source: Based on Migration and Remittances Fact Book, World Bank, 2011

Besides the above countries, India is a major source nation of labour migration for Nepal, Japan, Australia, Mauritius and Fiji (Table 5).

3. Movement of Natural Persons

The trade in services has got lot of attention in recent years from the economists. This is because of the fact that the trade in services is increasing at a much faster rate than the trade in goods. The GATS agreement at the Uruguay round of WTO is recognition towards that. Technically GATS provides a comprehensive definition of trade in service in terms of four different modes of supply (Govt. of India, 2002):

- Cross-border supply
- Consumption abroad
- Commercial presence in the consuming country
- Temporary movement of natural persons

Under cross-border supply of services (Mode 1), services flow from the territory of one member country to the territory of another member country. This mode of service supply is similar to the cross-border movement of goods. The Mode 2, 'consumption abroad' refers to a situation where the consumer of a service moves into the territory of another member country to obtain the service. This will involve the consumer travelling to the supplying country. In the case of Mode 3, the service suppliers of a member country establish a commercial presence in another member country with a view to providing their services. Establishing branch offices or agencies to provide services such as banking, insurance, legal advice, etc, are examples of this mode of supply. The Mode 4, movement of natural persons covers situations in which a service is delivered through persons of a member country. GATS covers only temporary movement and not citizenship, residence or employment on a permanent basis in the foreign country. National government has the power to regulate this mode of service by granting or refusing visas to the prospective service providers.

GATS defines Mode 4 as 'the supply of service by a service supplier of one member through presence of natural persons of a member in the territory of another member'. The question

generally asked is why is there labour movements on trade agreements in services? The answer is that supply of many services requires physical proximity of suppliers and consumers. Inclusion of labour movements in trade agreements on services stems from the fact that the provision of many services requires physical proximity of suppliers and consumers (Fink and Molinuevo, 2008).

It is interesting to note that trade agreements do not consider all kinds of labour flows. It seeks to free only certain labour flows, i.e, those labour flows directly linked to the provision of services. It does not include the work other than service industries, such as mining, manufacturing or agriculture (Bhatnagar and Manning, 2011). It excludes from its purview the permanent migration. Since movement of natural persons has been linked mostly to intra-corporate transfers of highly skilled professionals of TNCs, it has been interpreted as extension of Mode 3 and mostly favourable to the interest of capital rich developed countries (Tullao and Cortez, 2006).

Movement of natural persons under Mode 4 of GATS is widely recognized today. Economists in general are unanimous as to the importance of movement of workers across the borders. They agree that the global welfare can be increased immensely if restrictions to the movement of workers are removed. The movement of natural persons across borders help nations to ensure fast growth without facing the shortage of key workers in the host country. It is also helpful to the source country by enhancing foreign exchange earnings and bring back to home country knowledge of new technology, managerial know how, global practices, etc.

Liberalization in Mode 4 is very important for developing countries like India with large number of skilled and semi skilled labourers. However, liberalization of trade in services through movement of natural persons remains one of the neglected issues of trade policy at the WTO negotiations. Both the developed and developing countries can be held responsible for this situation as both are conservative as regards permitting inflow of foreign workers.

The developed countries' commitments towards foreign workers also show that there is strong bias in favour of skilled workers. The limited commitments they have made under Mode 4 is exclusively to higher level personnel and mainly to intra corporate transfers. These kinds of commitments would not help developing countries much since their comparative advantage lies in medium and low skilled labour intensive services. Slow liberalization in the case of Mode 4 has limited the overall value of GATS for developing countries.

4. Impediments to Liberalizing Mode 4 under GATS

India has significant potential in the case of mode 4, i. e, the movement of natural persons. It is in this sector that the developed countries have not provided us with sufficient market. There are many regulations that stand in the way of obtaining market access in sectors in which India definitely has an advantage. The main restriction to the movement of natural persons originates in immigration and labour market policies of individual countries (Chanda, 1999).

The commitment under different modes of supply for trade in services has not been uniform. The developed countries' commitments under Mode 4 are minimum. The horizontal commitments under Mode 4 are subject to limitations in the case of many countries as opposed to only very few countries in Mode 2. The commitments under Mode 4 are mainly horizontal and horizontal commitments are subject to many kinds of limitations. Many countries in their scheduling exercise have excluded important sectors. Even when they scheduled such sectors, there exist only partial commitments with critical limitations.

International Migration is highly regulated and restricted irrespective of whether it is permanent migration or temporary migration. The regulations and restrictions take different forms. There are many issues relating to National Security and sovereignty. Governments impose too many restrictions on visa and work permits. For example, annual ceiling have been set by US law on number of H1 B and H2 B visas. Besides, approval from several government agencies is required in most nations for hiring foreign workers for employment.

There are economic reasons also. Entry criteria is sometimes very tight and are arbitrary due to concerns about the impact of migrants on domestic labour markets and wages; strict immigration regulation regarding entry and stay (employer must provide evidence to regulatory authority towards extensive search conducted for local person); difficulty in training him, etc. Sometimes qualifications, work experience and training may not get recognized by the host country and they may resort to differential treatment of domestic and foreign service personnel. Regulation on other modes of supply, particularly on commercial presence also adversely affects labour migration under Mode 4. The social security and taxes are not very much favourable for temporary migrants. In the case of temporary migration the workers will not enjoy the benefits of social security and taxes eventually. Savings are intended to benefit the workers when they retire. Temporary workers do not enjoy this.

India has been taking initiatives to bring down these restrictions abroad. Government of India has made a formal proposal to the WTO demanding the increase in the quota of H1 B visas. If we succeed in this, it will be a great boost for IT and other skilled professionals heading for the US. India has been requesting US to increase the quota of work permits. In WTO parlance the work permits are called movement of natural persons (Mode 4) and if US accedes to India's request to increase quota of work permits, it means a lot in liberalizing the service trade in this mode. Liberalization of visas is a key demand of India in current negotiations with US and EU and India emphasized on Mode-4 which relates liberalization of visas and Mode 1 which is important for outsourcing as it deals with cross-border supply of services. Apart from IT professionals, teachers, lawyers, and health professionals would be the other beneficiaries from the increase in work permits. Though the benefits from liberalizing trade in service is immense, due to the above impediments, multilateral negotiations on labour mobility such as Mode-4 in the GATS under WTO are difficult to succeed.

5. Free Trade Agreements (FTAs) and India's Prospects Mode 4

Bilateral and regional trade agreements are increasing at a rapid rate across the globe. The country is currently engaged in about 30 Free Trade Agreements (Sengupta, 2011). An important feature of recently concluded FTAs is that they are more comprehensive in nature in their coverage. They aim at not only to remove the barriers to trade in goods but also the liberalization of trade in services and investment.

It is a fact that multilateral liberalization is the best as compared to FTAs as it offers greater benefits. The multilateral liberalization opens the market of one country to the rest of the world and allows more competition resulting in more trade creation. However, multilateral trade negotiations are more complex, cumbersome and time consuming. It took more than 6 years for Uruguay round of trade negotiations to conclude successfully. Even after nine years of negotiation there has been no conclusion to the WTOs Doha Development Agenda. It appears it is difficult to have successful WTO rounds.

RTAs can contribute significantly to world welfare when they lead to lowering of barriers in sectors where relatively little headway has been made under multilateral trading system. One such sector is in the international supply of services through Mode 4 or the movement of natural persons (Bhatnagar and Manning, 2005). FTAs allow more effective bargaining and offer possibility of deeper cooperation. In FTAs trade negotiations take place within a small group and the negotiations can be more focussed and as per the requirements of the parties in the FTA. If it is bilateral agreement, negotiations are still more productive. Many economists are of the opinion that, therefore, the better option would be to look for FTAs in liberalizing the services in Mode 4.

India has taken initiative in this direction and has concluded quite a few FTAs and also in the process of concluding many FTAs. India-Singapore FTA is the most striking one as regards the movement of natural persons is concerned. Let us examine the working of this FTA.

India-Singapore CECA and Mode 4

India Singapore Comprehensive Economic Cooperation Agreement (CECA) is a landmark agreement as far as India's trade in services is concerned (Mathew and Venu, 2005). In this agreement, India and Singapore have agreed to reduce visa restrictions for professionals in many areas including IT, medical/nursing and pharmacists, engineering across all streams, metallurgists, surveyors, botanists, zoologists, university teachers, accountants, financial professionals and advertising executives. As many as 127 professional categories are included in the list for grant of easy visas. Both Singapore and India would recognize the degrees issued by specified universities and technical education boards of each other for the purpose of issuing multi entry /job or stay visas.

Under CECA, it is not necessary that professionals working on temporary visas in Singapore or India make mandatory contributions to the social security funds in the host country. Minimum salary requirement will no more prevent Indian professionals from obtaining visas to work in Singapore. CECA contains a provision in this regard. Singapore government policy was that professionals seeking visa should draw salaries equal to the prevailing pay packet in Singapore. A number of professionals were denied visas due to non-compliance with this policy. This exemption will be initially available to all 127 service categories. This development is significant for India since it implies liberalization of Mode 4 in delivery of services.

Service sector companies in India will get a boost on account of CECA especially in key areas like retail, health and education. The pact paves the way for Indian companies to gain market access in various areas including telephone answering services, business services which cover opinion polls and market research, legal services, alarm monitoring, unarmed guard services, facilities incidental to forestry and agriculture and services related to environment management. It is important to note that the market access is being granted by

Singapore without reciprocal offers from India. The market access in distribution services which include retail trade and franchising, assumes lot of significance for India.

India-ASEAN FTA and Mode 4

India and ASEAN are currently negotiating on trade in services and investment. The basis of service sector negotiations is the 'request offer basis'. In this request offer basis, each country make requests for liberalization of sectors/ areas of their interest and the offers are made by the receiving country based on the requests.

India has made requests in number of areas for opening up including teaching, nursing, architecture, chartered accountancy and medicine. India has got a large pool of English speaking professionals in these areas who can gain job opportunities in the ASEAN region. Services and investment could not be included in the FTA just concluded as the two sides failed to reconcile their differences in time and it was decided to have a separate pact on these sectors. Services deal under FTA between India and ASEAN are facing hurdles on the issue of movement of 'natural persons'.

Some countries like Indonesia and Philippines have raised serious concerns over India's demand for greater liberalization under Mode 4. India had been demanding greater opening in the Mode 4 category so that more Indian professionals can move to ASEAN nations in search of employment. However, it is expected that the Pact would be concluded with substantial liberalization in Mode 4.

India's FTAs and Prospects in Mode 4

India already has an FTA or is under negotiation with almost all countries where India is a major source nation for supply of labour services. The Table 6 shows relative position of India as source country for supply of labour and the status of FTAs with them.

Table 6: Major Destinations of India Labour Migration and Status of FTAs / RTAs

Major Destinations of India's Labour Migration	Relative Position as Source Nation	Nature of RTA / FTA
UAE	1	Part of India-GCC RTA
UK	1	India-EU RTA under negotiation. Expected to be finalized soon. Mode 4 of GATS most contentious issue.
Saudi Arabia	1	Part of India-GCC RTA
Bangladesh	1	Part of SAFTA, BIMSTEC, and there is a separate RTA
Nepal	1	Part of SAFTA
Oman	1	Part of India-GCC RTA
Kuwait	1	Part of India-GCC RTA
Srilanka	1	Part of SAFTA, BIMSTEC, and there is a separate RTA from Dec 2000. EPA under negotiation
Fiji	1	-----
Myanmar	2	part of ASEAN FTA
Mauritius	2	Negotiations for forming an FTA is in progress.
Canada	3	Launched a formal negotiation for CECA on 17 th Nov. 2010. Includes services, investment, and Mode IV
Singapore	3	CECA effective from 2005, part of ASEAN FTA

US	4	It is under consideration. Did not get much momentum due to the contentious issue of agriculture.
Malaysia	5	CECA exists, part of ASEAN FTA
Australia	5	Formal talk for CECA launched.
Brunei	6	part of ASEAN FTA
Thailand	8	PTA exists, FTA negotiation in full swing, part of ASEAN FTA, BIMSTEC
Philippines	8	Part of ASEAN FTA
Japan	10	Signed CECA. Includes services and movement of natural persons.

Source: Prepared by author based on various reports / websites

India has an FTA or in the process of concluding an FTA with almost 20 countries where India is a major source nation of labour supply, i.e, occupying a position among first 10 source nations. India has Comprehensive Economic Cooperation Agreement (CECA) with Singapore, Japan, Malaysia and negotiations are on to sign CECA with Australia, Canada, etc. CECA gives ample scope for movement of natural persons under Mode 4 as CECA involves not only trade in goods but trade in services also. All other FTAs are also going to be CECA in future paving way for higher liberalization in movement of natural persons. Prospects for India to improve trade in this mode are very high provided India takes initiative in bilateral / regional trade negotiations.

6. Conclusion

Liberalization of Mode 4, i.e, movement of natural persons through GATS is considered as the best option as it provides benefits to large number of countries. But GATS is unlikely to succeed with respect to Mode 4 given the nature of impediments that exists as on today. It may be difficult to combine negotiations on access to a country's labour market with trade negotiations, given the complexity of issues and difficulty in assessing potential trade off. Progress of linking trade and migration agreements therefore seems likely to remain slow (Poot and Strutt, 2010).

In this context, the regional and bilateral agreements are more likely to succeed as these agreements are more selective as compared to multilateral agreements. It would be ideal for India to pursue more on RTAs / FTAs to liberalize trade in Mode 4. India-Singapore CECA is an example in the direction of bilateral agreements for liberalization in Mode 4. Similar arrangements with other countries would work well for India. India has already concluded few FTAs and is in the process of negotiating for new FTAs.

India should give more priority to Mode 4 in all bilateral negotiations as India's comparative advantage lies more in that. India has great prospect for liberalizing the movement of natural persons as India already has FTAs with countries where we export most of our labour services. The need of the hour is to convert these FTAs into comprehensive economic cooperation agreements with focus on service trade in general and the movement of natural persons (Mode-4) in particular.

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