

Movement of service suppliers: trade agreements and human development

(Chapter for Report on Trade and Human Development in Asia)

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I. Introduction

This chapter is concerned with the temporary movement of people for work, as a form of trade in services. Such short-term movement of people has become especially significant in Asia, where it is leading to enormous changes in economies and societies across the region. Asia has become one of the most significant and “globalised” regions in the world not only in terms of the cross-border movement of capital and goods, but also in terms of the movement of people. Asian migration is not a new phenomenon historically, but in the last two decades, there have been changes in its extent and form: thus, more women have moved than ever before. Within the Asian region, there is a complex and changing mix of countries of origin, destination and those that are both, and in all of them the effects of economic migration have been complex and wide-ranging.

Obviously, short-term economic migration is a multidimensional phenomenon, which can have many positive effects because it expands the opportunities for productive work and leads to a wider perspective on many social issues, among migrants and among the population of host countries. But it also has negative aspects, dominantly in the nature of work and work conditions and possibilities for abuse of migrant workers by employers and others. In general it should be noted that such migration currently plays an important role in many developing countries, not only through the direct income and other effects on sending households, but also for both home and host economies. Short-term economic migration has a complex and multi-layered relationship with human development: while conditions of human development in the home country determine both the need for and the nature of economic migration, the process itself generates many and often differing human development effects upon the home country and the host country.

In terms of exploring the linkages between migration and human development, it may be useful to consider four key components sustainability, equity, empowerment and productivity. Sustainability refers to whether the process is such that it can be sustained over time, and does not generate patterns and responses that mitigate the positive effects of that lead to backlash and/or reduction of the migration flows and associated beneficial effects. Equity includes engendering the development paradigm across the board, in terms of such variables as: the access to and control over incomes and assets for women and men; the access to an enabling environment to exercise choices outside the home, including the provision of support services; the access to health and nutrition as enabling factors and also ends in themselves; the access to education, technology, skills, etc.; and finally, the access to participation, power and decision making.

Clearly, migration can have many positive human development consequences, such as direct benefits to the unemployed and underemployed persons who get access to sources of livelihood and increased incomes; wider opportunities and increased exposure for migrants; and improved access to technology and skill development. In addition to these direct effects upon migrants, migration also confers benefits upon the sending country, in balance of payments terms through the effects of inward remittances and in general through the use of such remittances to finance small businesses and other investment. The diversification of sources of foreign exchange incomes leads to a reduction in the vulnerability of economies. In several countries, migrants' incomes have been found to act as buffers in times of sudden shock or calamity and consumption stabilisers over economic cycles. The role played by migration in enhancing the employment opportunities for women should not be underestimated. In addition, there are positive political, social and cultural effects of the intermingling brought about by migration.

There are, of course, some negative aspects as well, which can affect sustainability, equity, empowerment and productivity. Clearly, not all sections of populations have equal access to migration, and therefore this could, depending upon the pattern, reinforce existing inequalities since the access of different groups differs. There are issues relating to the terms and conditions of migrants' work, and possible exploitation of relatively powerless migrants, which are considered in more detail below. There may be problems arising from the dispersion and displacement of families, as well as resettlement problems of returning workers and their reintegration with local society and their families. Migration for work in what are relatively low-end economic activities is particularly susceptible to such problems.

There are several ways in which the levels of human development affect patterns of migration. The most obvious is that the inadequacy of productive income opportunities for the available labour force gives rise to pressures for migration in search of work. So existing patterns of employment in the home country or region, both in terms of quantity and quality, are crucial. Higher wages and/or secure jobs at home quite clearly provide migrants with much greater bargaining power in destination countries. Wage differentials have traditionally provided the basis for the mainstream economic theories of labour migration, but other factors such as the quality of work and the extent of work security can also be significant among the economic causes. In addition, the level of the education and skills of the labour force determines the character of the economic migration.

The dominantly labour surplus economies of Asia tend to have an abundance of less skilled workers, but patterns of education vary substantially across the region, and where there is a sufficiently large pool of educated workers, there are also similar migration trajectories. One example is that of India, migrants from which country can be classified into unskilled, semi-skilled and knowledge-based professional workers. General social and cultural conditions often play a definitive role even in "economic" migration: social exclusion and lack of empowerment of particular groups can lead to pressures or incentives for the movement of labour. For women migrants, the nature of

movement and the nature of the work in the destination country can often reflect the extent of patriarchy or gender discrimination in the home country; conversely, more equality at home in terms of access to education and opportunities can help in making women migrants get better benefits. However, the very process of migration itself can generate positive pressures for change: for example, the fact that Sri Lankan women dominantly go to work in the Arab or Gulf countries as maids may reflect patterns of poverty and social situation at home; however, the income and experience gained from such activities may enable them to change these very patterns on their return and contribute to a wider empowerment of other women in their area as well.

This last example indicates that the process of migration has varied effects on human development on both home and host countries. In the home country, the most direct benefit comes from remittances and savings brought home by return migrants. Often, these remittances represent an important source of diversification of sources of foreign exchange in economies which have been traditionally dependent upon exports of a few primary commodities. Obviously as with all sources of foreign exchange, overdependence on such inflows alone can be problematic. This is especially the case when migration and remittances are affected by business cycle, political and other phenomena in the host countries which can cause sharp changes in both the number of workers and the amount of remittances they are able to send home. This is why it is important for host country governments to evolve systematic policies that would allow for the most productive use of the remittance incomes. In some smaller economies, remittance incomes have been crucial in smoothing consumption not only over the domestic business cycle, but also in response to unexpected shocks such as natural disasters. Temporary migration not only implies the diversification of income sources for poor households; it also has wider effects of reducing the vulnerability of poor communities in general from the impact of domestic economic crises.

While migration of skilled labour typically implies some losses to the home country in the form of brain drain, loss of skills and rising costs of such labour, return migrants may come with valuable experience, different skills and useful networks that can promote activity, innovation and entrepreneurship in the home country. Also, the dangers of brain drain are typically much less for temporary migration, which can conversely imply a possible “brain gain” for sending countries when the temporary migrants return with additional skills and broader networks. These advantages also depend upon the recognition of the qualifications and experience of migrants by both host and home countries, which is why this aspect needs to be incorporated into official policies. Quite often, accumulated savings that are used for new investments by return migrants in the home country become more effective because they are combined with other features such as acquired skills or new information and networks. The broader perspective and networks provided by return or existing migrants, or even just the sheer example they set, can pave the way for further migration. This is evident from the geographic patterns of migration, with concentrations of migrants from certain countries (and often particular ethnic groups) in particular destination localities.

In addition to the economic and social advantages of migration for host countries, there are social costs, which are often borne more directly by families or specific home bases of migrants. The absence of the migrant may have important negative effects upon the family, the separation and disruption of relationships and possible adverse effects on the education and socialisation of children. This may be especially true when women migrants have to leave young children behind. Conversely, remittance incomes provide crucial benefits, and typically enable families back home to lead better material lives than would otherwise have been possible, and may even contribute to expenses towards children's education, better health care for the sick and elderly in the household, and so on. Migration can also be associated with increasing inequalities in the home country.

Depending upon the nature of the migration, and the type of work that is found, migration may be a source of empowerment for the migrant personally, or it may involve greater potential for exploitation in various ways, which obviously have completely different human development implications. Migrants are naturally more vulnerable than locally resident populations in the destination countries, and temporary migrants are often the most vulnerable, so that they can be subject to various forms of exploitation by employers and others. There is also the possibility of discrimination in host countries against migrant populations in various ways, which may operate to reduce the quality of life of migrants, independent of the income earned.

However, there is no question that the experience of travel and migration leads to certain kinds of exposure and therefore empowerment, even if the conditions of migration are less than ideal. There are clear positive effects of the spread of new ideas and knowledge of different places, customs and systems of organisation, of the independence and sense of control that result, especially on women migrants and men who were otherwise less empowered and more excluded in their home situations. Of course, such positive effects result dominantly from the voluntary movement of people in search of better lives.

In the host countries also, there are usually widely differing effects upon economy and society. Quite evidently, host countries gain from the presence of the additional labour force, which either provides more skilled work, or fill in for jobs which the local population is not willing or able to perform. In many parts of the world with some amount of labour shortage, unskilled migrant workers are used in relatively low-skilled and low paid economic activities which still remain crucial for the functioning of the economy. It is possible in some cases that migrant workers can displace local workers, and if this is sufficiently pronounced, it can have some social/political fallout. This is already evident in the reaction to workers of high or medium skill from abroad who are seen as displacing local workers, especially in the North. There are also social and cultural issues relating to integration in society, acceptance by the host population and possibilities of social tension., which should not be overlooked.

This discussion should make it apparent that the relationship of short-term migration with strategies to meet the Millennium Development Goals, can be complex. The MDGs consist of the following 8 goals:

- Eradicate extreme poverty and hunger
- Achieve universal primary education
- Promote gender equality and empowering women
- Reduce child mortality
- Improve maternal health
- Combat HIV/AIDS, malaria and other diseases
- Ensure environment sustainability
- Develop a global partnership for development

In each of these, short-term economic migration can play different and often conflicting roles, and it is necessary for policy interventions to recognise these differing possibilities. Government strategies should be directed towards emphasising and expanding the positive outcomes and minimising the possibility of negative outcomes in each of these cases. While the income gains from such migration (both micro and macro) may contribute to the reduction of poverty and hunger, migration may accentuate existing inequalities and perpetuate poverty among particularly unskilled and powerless migrants. Remittance inflows may assist in financing education of the young in migrants' families, but the splitting up of families (and especially migration by mothers) may have the effect of reducing continuous schooling. Access to work and incomes for migrant women may empower women, but certain types of migration (close to trafficking) may be based upon the exploitation of women's more vulnerable conditions and lead to more oppressive conditions. The increased incomes and improved knowledge about health conditions that migration typically brings may help in reducing child mortality, but conversely when infants and small children are also forced to migrate to less healthy environments, the opposite may occur. Similarly, certain infectious diseases may be better controlled with the increase in remittance incomes, but at the same time, the spread of HIV-AIDS has been positively linked to migration. While migration may ease the pressure on the exploitation of local resources and thereby provide more environmental sustainability, overcrowding of poor migrant workers in unsanitary conditions has been associated with worsening environment in the host countries in some cases. Finally, migration may certainly lead to greater understanding between people of different cultures and societies, leading to greater possibilities of creating a global partnership for development. But unregulated migration has also been known to result in backlash among local populations, with undesirable effects upon social harmony and international understanding and co-operation.

In this chapter, the process of economic migration is considered in terms of the interrelationship with human development in the Asian region, especially in the context of the GATS Mode 4 provisions with respect to the Movement of Natural Persons. In the second section, the recent experience of economic migration in Asia is briefly discussed, both within the region and from the region to other parts of the world. In the third section, the specific issues emerging from the different modes outlined in the GATS and the ongoing negotiations at the WTO are considered, from the perspective of how these have aided or constrained the human development benefits of migration. While the Mode 4 issues are considered in some detail, inter-modal linkages, especially with Modes 1 and 3,

are also discussed. The fourth section highlights some gender issues in migration which are especially important in the Asian context. The final section develops the analysis of the relationship of economic migration with human development, and develops some policy implications at national, regional and global multilateral levels.

II. The recent experience of economic migration in Asia

there has only been only a small change in the share of intra-regional trade and investment flows over two decades. Both trade and foreign investment links continued to be focussed on North East Asia, North America and Europe during the 1990s and into the 21st century. Nevertheless, these relatively constant shares should be viewed against a backdrop of rapid growth in the total values of both investment and trade in the region, leading to a substantial increase in both intra-regional trade and investment in **absolute terms**.

there has emerged a significant gap in living standards and wages between countries in the region from around the 1980s and increasingly into the 1990s.

Asia contains a vibrant and changing mix of countries of destination, countries that send and receive workers, and countries of origin. Of course migration within and from the region as a whole is not new – the 19th century was marked by great waves of migration of indentured labour especially from South Asia and parts of China to the west, while the current population mix of large parts of Southeast Asia is the result of at least a century of migration patterns, largely from within Asia. However, recent migration has been rather different in terms of its nature and its duration. The movement of more educated and skilled professional workers has been dominantly to developed countries, either to the United States, or western Europe or even to Australia and New Zealand. By contrast, the movement of unskilled or relatively less skilled workers has displayed a much more diverse pattern, with a large and growing extent of intra-Asian region migration.

This reflects the basic features of economic migration patterns from and within Asia: that they are structural and demand-driven, rather than determined by the supply conditions of labour. While almost all the countries of developing Asia have some amount of labour surplus and therefore are in a position to export workers, the ability of these countries to send workers elsewhere has depended essentially upon the willingness of other countries to receive them. This in turn has dictated the pattern whereby the richer countries which are preferred destinations have increasingly chosen to accept only those workers who fill existing gaps in their own labour markets or add to the pool of highly educated workforce in general.

Table 1 describes the current migration status of Asian countries. It should be noted that at one level *all* of these countries send labour (of the highly skilled professional variety) to developed countries. But these are often relatively few in number, although they have been growing in significance in recent years. The table refers largely to the much larger flows of less skilled workers who constitute the bulk of the economic migrant population. It also does not include the cross-border shifts of neighbouring populations as part of seasonal movements, which are an old feature of Asian economies.

Table 1: Migration Status of Asian Countries

Labour Sending	Bangladesh, Cambodia, China, Indonesia, Lao PDR, Myanmar, Nepal, Philippines, Sri Lanka, Vietnam
Labour Sending and Receiving	India, Malaysia, Pakistan, Thailand
Labour Receiving	Brunei Darussalam, Hong Kong SAR, Japan, Middle East, Republic of Korea, Singapore, Taiwan China

Source: Wickramasekara 2002 (with additions)

From the standpoint of international TLM, three prominent features of Southeast Asia bear mention: marked intra-regional differences in per capita income and economic structure, uneven size and geographical spread (ranging from quite concentrated to highly dispersed national populations), and a clearly defined regional political and economic organization, the latter evolving to its present structure during the 1990s.

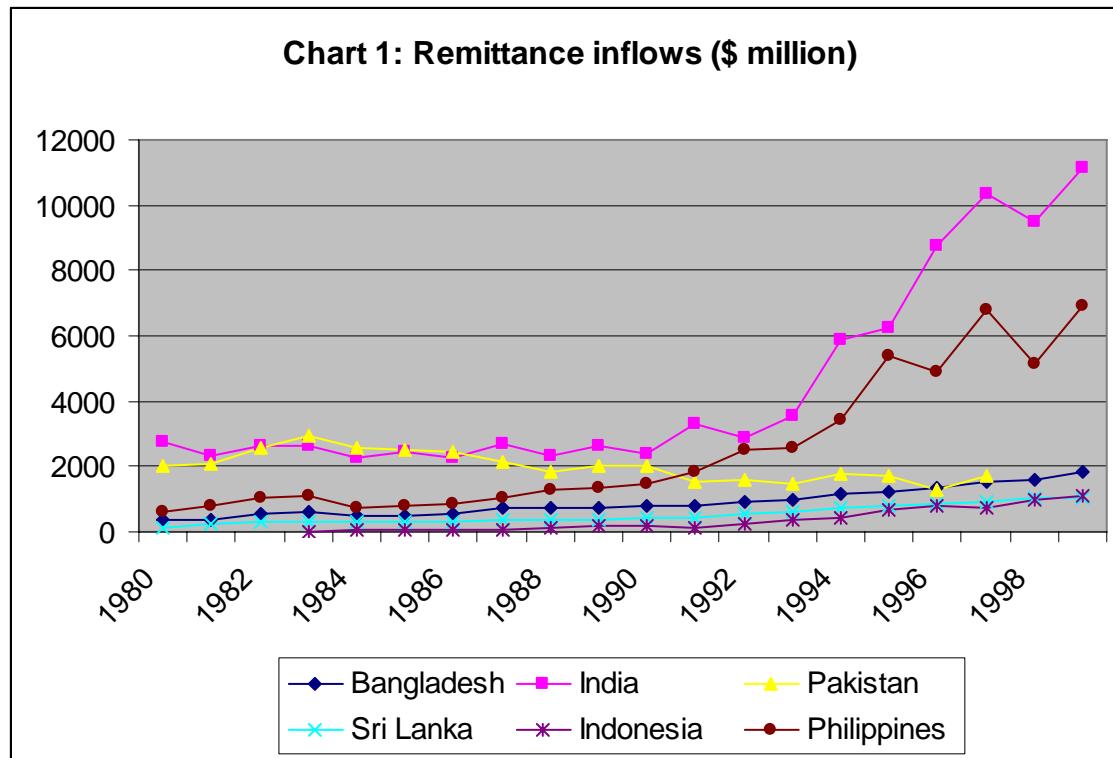
Over the past two decades, it is useful to distinguish between three kinds of TLM of relevance to economic development in the region:

- flows of unskilled workers associated with wage differentials between home and host countries
- flows of skilled workers related to both skill shortages/surpluses and wage differentials
- flows of business and associated professional and skilled manpower associated with FDI, inter-company transfers in TNCs and related capital flows.

Much of the migration within the Asian region has been relatively short-term and focused on filling particular labour shortages. This is a feature of much recent economic migration – that it has necessarily been short term in nature. The economic advantages of such short-term migration for the sending country are significant. Short-term migrants are far more likely to send regular remittances back home, and when they return, they typically bring with them not only their accumulated savings but also additional skills and work experience which can be usefully deployed in the country of origin. By contrast, long-term migrants, especially those professional workers who migrate to developed countries, are far less likely to send money home, and even when they do, it is typically in the form of far more expensive and debt-creating capital flows such as non-resident financial investment, which in turn involve some sort of current outflows from the economy in the form of interest payment or profit remittances. These long-term migrants are also usually associated with a net brain drain and the loss of resources that the home countries have expended on their education and skill formation.

Therefore, the recent moves in the international economy, towards much greater emphasis on short-term migration, may have some positive effects on the economies of sending countries. It also increases the relevance of GATS Mode 4, which focuses largely on the procedures and constraints facing short-term movement of economic migrants.

Invisible incomes have grown in significance in the balance of payments of many Asian countries, as short-term migration of less skilled workers has been associated with higher levels of remittance inflows. As Chart 1 indicates, remittance inflows have grown explosively in India and the Philippines in the 1990s, and have increased at a respectable rate in most of the other countries described here, other than Pakistan. What is especially worth noting is that remittance incomes have been relatively stable, and certainly independent of domestic business cycles, which has imparted some stability to the recipient economies. This is especially true of countries with a large proportion of female migrants, such as the Philippines, since women workers tend to be concentrated in service sector activities, such as domestic work and care-giving, which are relatively independent of the business cycle even in host economies. Of course there are other economic benefits from migration for the sending countries, but the positive impact upon the balance of payments must count as one of the more significant macroeconomic benefits. Indeed, in countries such as India (and also the Philippines) remittance inflows have amounted to more than all forms of capital inflow over the 1990s.



Cross-border migration in Asia is highly gendered, with women migrants largely found in the service sector, an issue which is discussed in more detail in Section IV. The major recipient countries in the Asian region are of course the oil-exporting countries of West Asia and the Persian Gulf. The bulk of the foreign workforce in these countries is deployed in relatively unskilled and semi-skilled occupations such as in construction and other services, but there are also a fair number of professional workers, especially in engineering, accountancy and health sectors. Japan is another important recipient country, which has had very regulated inflows of migrant labour for several decades. Singapore's economic development strategy has been based on the use of migrant labour (largely less skilled) through a system of quotas and levies. Recently South Korea also emerged as a destination in the region, since the rapid economic growth within the country had led to labour shortages especially in less skilled activities and low-paid services.

The period of economic boom in Malaysia and Thailand from the early 1980s to the mid-1990s led to labour shortages in these countries, which then opened up to immigration from neighbouring countries. Migrant workers were used in agriculture, in construction and in the service sectors. However, the unauthorised influx of irregular migrant workers from the poorer neighbouring countries of Indonesia and Philippines (for Malaysia) and Myanmar and Vietnam (for Thailand) has been viewed as a major problem, especially after the Asian financial crisis of 1997-98. Regular migration is being encouraged on the other hand. ASEAN countries are working specifically for a common market with free movement of people. Thailand, Philippines, Singapore and

Malaysia have removed visa requirements for Vietnam, for example. There has been much work on recognition of qualifications, etc. – indeed, the ASEAN experience in this regard may provide an example for the future of wider multilateral negotiations.

Among the countries of origin, the Philippines sends the largest number of workers abroad, workers of varying skill levels, and to more destinations the world over. Filipino skills and professions are spread around the world but certain skills cluster in specific countries of destination. For example, domestic helpers tend to be concentrated in Hong Kong and Saudi Arabia; Filipino entertainers in Japan and other Southeast Asian countries; IT professionals and nurses in the US and the UK.

Other countries in the Southeast Asian region have been long-standing countries of origin, such as Vietnam and Cambodia. But it is only recently that governments in these countries have attempted either to regulate or to promote the export of labour as an economic strategy. Meanwhile, in South Asia, certain countries such as Nepal and Bangladesh have also been labour exporters for many decades, and remain very much in that mould. Both of these countries, whose balance of payments and domestic macro-economic processes are driven by the combination of aid-dependence and the standard features of a remittance economy, provide experiences that suggest that the export of labour is not sufficient to ensure better growth or human development conditions in the country of origin.

India's recent experience with labour migration and remittance incomes provides both a more complex picture and a fascinating scenario of relatively rapid change. As Chart 1 indicated, labour remittances into India have grown very rapidly in the recent past, and the nature of the labour export has also undergone significant changes. To some extent these are mirrored in the Philippines, and some other more dynamic Asian countries of origin. Some of these case studies are examined in more detail here to provide a better picture of the shifting patterns of labour migration in Asia.

The very recent period has seen an increase in relatively more skilled temporary migration from Asia to other parts of the world, especially North America, Europe and Australasia. There have also been increases in outsourcing of a range of activities (broadly classified under Business Process Outsourcing and IT-enabled services) which have implied much greater expansion of services trade without necessarily involving the movement of people. Both of these processes – those involving migration and those involving the cross-border exchange of services – have increased protectionist pressures in the developed world, with attendant implications for the sustainability of these tendencies. This makes the GATS agreement especially significant, although thus far it has had a very limited role in reducing protectionism by developed countries in these areas.

Obviously, patterns of temporary migration vary quite dramatically between countries, although there are some broad patterns which have been noted. The recent experience of four important sending countries in Asia is considered here, to give some idea of the specificities.

Vietnam

The process of TOE in Viet Nam can be divided into two periods, with the turning point in 1990, when the country embarked on a comprehensive reform process and there were significant changes in relationships between Viet Nam and the rest of the world. In the 1980s, all temporary migration occurred within a labour cooperation framework agreed between the Vietnamese Government and host-country's governments and institutionalized by inter-ministerial agreements. The Government organised and managed this activity on a centralised basis. Workers were recruited by quotas as stated in the inter-ministerial agreements and according to strict criteria set by related ministries in charge. A total number of around 300,000 workers and high-skilled experts were sent abroad during this period. More than 80 per cent went to four former socialist countries: the former Soviet Union, East Germany, Czechoslovakia and Bulgaria, working in a wide range of activities such as textiles and garments, machinery and equipment, construction. Some high-skilled experts (doctors, university professors and agronomists) were sent to work in African countries such as Libya, Algeria, Angola, Mozambique, and Democratic Republic of Congo. Construction workers also worked in the Middle East, notably in Iraq under a special agreement between the two countries. This labour export was well organised and managed through a good coordination mechanism, and it had visible positive effects on the social, economic and cultural life of temporary workers.

The late 1980s and the early 1990 witnessed dramatic changes in social, political and economic life in most countries, in which Vietnamese temporary workers were working. Serious crises in the former Soviet Union, Eastern Europe as well as in many African and Middle East countries prompted massive cancellation of labour contracts signed between governments in previous years. There was a serious collapse in temporary employment flows. At the same time, Viet Nam was experiencing important policy changes, moving gradually from central planning towards a state-regulated market economy. In these circumstances, the organisation and regulation of temporary migration for work also changed, as the Government's management and regulatory functions were gradually separated from commercial functions, which were given to recruitment agencies. These recruitment agencies were given more autonomy in exploring new markets for TOE, making contact with foreign partners and sign direct labour contracts with migrated workers subject to regulations set up by the Government. The Government has encouraged these recruitment agencies to diversify their cooperation contracts with foreign partners. New forms of cooperation such as sub-contracting, turn-key contracts in case of construction projects and joint ventures with foreign partners have been developed in some cases and greatly encouraged.

Temporary workers have also been given more choice in using their incomes. Their rights and benefits have been protected and expanded. Before 1990, strict regulations were imposed on migrant workers' remittances, which were controlled by the Government and could only be used under special conditions. Salaries and remuneration given to high skilled experts working in Africa, for example, were effectively very low because of specific income taxes. Most of these strict regulations were gradually

abolished in the 1990s, providing greater incentives to both workers and enterprises working in this area. With respect to the recruitment of workers, establishing contact and signing contracts with foreign partners, the Government has granted licenses to 152 organisations, most of which are state-owned. Only 3 private companies have been given a license to work on this area on a pilot basis and their activity has so far been quite modest. This reflects the need to maintain a balance between necessary regulation to prevent abuse and fraud of workers, and encouraging more dynamic private activity in this area.

Labour export has seen a steady growth in the last decade. According to estimates by DAFEL (2003), around 40,000 workers have been sent abroad annually. A total of 350,000 Vietnamese workers of different professions and background are now working in more than 40 countries around the world. Remittances from overseas workers increased from \$ 1 billion in 1999 to \$ 1.45 in 2002. This amounts to as much as the ODA or FDI disbursements each year and accounts for approximately 10 per cent of export revenues.

The majority of temporary migrants from Vietnam are semi-skilled or unskilled workers. Highly professional and technical workers account for only a small fraction of the total, possibly because of the inadequate language and professional qualifications held by Vietnamese professionals. Asia has always been the major destination for Vietnamese migrants, and Japan, Republic of Korea and Taiwan have been the largest markets for years. Malaysia has become a leading destination in recent times and is currently the fastest-growing destination. African and Middle East countries are also important recipient countries for Vietnamese workers and could become even more important in the years to come.

Box: Making temporary migration easier in Vietnam

Preferential loans encouraged almost 700 people in Dong Thap Province of Vietnam to pursue jobs in foreign countries in 2002, tripling the number of overseas workers departing in one year. Interest in the overseas job market surged after television and radio reports about the life of 200 local workers in Malaysia, since people in Dong Thap could see with their own eyes what was happening to their children in foreign countries.

The Centre for Job Services in Dong Thap sent 687 people to work abroad. Another 550 people joined vocational training and language classes to pursue work in Malaysia, Taiwan and Japan. The workers could apply for passports at home with the help of local officials rather than go to Ho Chi Minh City.

The workers receive loans to pursue the travel and subsequent work. The State provides 80 per cent of the money, while the province arranges the remaining 20 per cent with the Bank for Agriculture and Rural Development and the Bank for Social Policies.

One worker can receive a loan up to VND4 million. Workers also receive VND400,000 as a gift.

Dong Thap province plans to send 20,500 workers overseas by 2010, in order to create jobs for most of local labour force.

A survey conducted in the Thai My commune of Cu Chi, a rural district in Ho Chi Minh City, in May 2003, revealed that labour migration is considered as an important response to the increasing popular pressure for better employment and improved living standards. The survey data show that most households involved in labour export are those with medium living standards or above, while poor and low-income households seemed to have limited access to opportunities for migration. Low-income households accounted for only 6 per cent of total migrant workers, while those with middle-income level were as much as 79 per cent. This suggests that labour migration is still relatively costly for households of potential migrants. Among the constraints upon participation in labour export, financial difficulty was listed as the most serious, followed by educational attainment requirements and health conditions. Borrowing from relatives was the most frequent mode of financing such migration, with more than two-thirds of surveyed migrants using this means, while borrowing from banks was used by less than one-third. Among middle-income families, selling food, foodstuffs and family assets was the preferred option of financing.

Labour migration from Vietnam tends to be focused around low skilled or semi-skilled activities. This may explain why the survey showed that professional requirements were not the binding constraint for most respondents. Nevertheless, education is an important condition enabling greater participation in temporary migration, as the category of those who had completed secondary education had a higher ratio of labour export participation. Unsurprisingly, income generation was the most important motive for such migration. But the survey further showed that this high and relatively stable source of income has become an important source for eliminating hunger and reducing poverty in the commune.

It appears that the positive impact of labour export on people's incomes and living standards in Vietnam is clear. However, taking advantage of return from labour export to increase income as well as to create employment after return, still remain big questions. Going by the survey data, the issues of employment for return migrants, and of taking advantage of their skills as well as creating employment by using their accumulated income in Thai My, are still unexplored. Almost all remittance income is used for building houses and purchasing fixed assets and land. The ratio of return migrants or household members of migrants investing in business, and the share of this investment in their total income, remain very small. Further, for return migrants, employment remains a serious concern. The issue of reintegration may require a more comprehensive approach at the national level, to ensure job creation and opportunities for productive income

generation. In other words, the basic employment problem is not solved by temporary migration.

The Philippines

Overseas employment has been a major source of employment generation and a stabilizing factor in the Philippine economy. The annual outflow of temporary migrants for work practically equals the number of annual entrants into the labour force of the Philippines, roughly 800,000 (now reaching almost a million). The Philippine overseas employment program began in the mid-70s as a response to the growing labor surplus and the increasing unemployment in the country. Approximately 2,700 Filipino workers leave the country every day. Roughly 10 per cent of the country's total population is abroad; of some 7 million Filipinos abroad, 5 million are workers and 2 million are immigrants. Contract workers make up 40 per cent of the total number of migrants, while 35 per cent are permanent residents of the countries in which they work and 25 per cent are undocumented migrants. The number of temporary migrants has increased drastically since 1995, and Filipino nationals have now found their way into at least 192 countries.

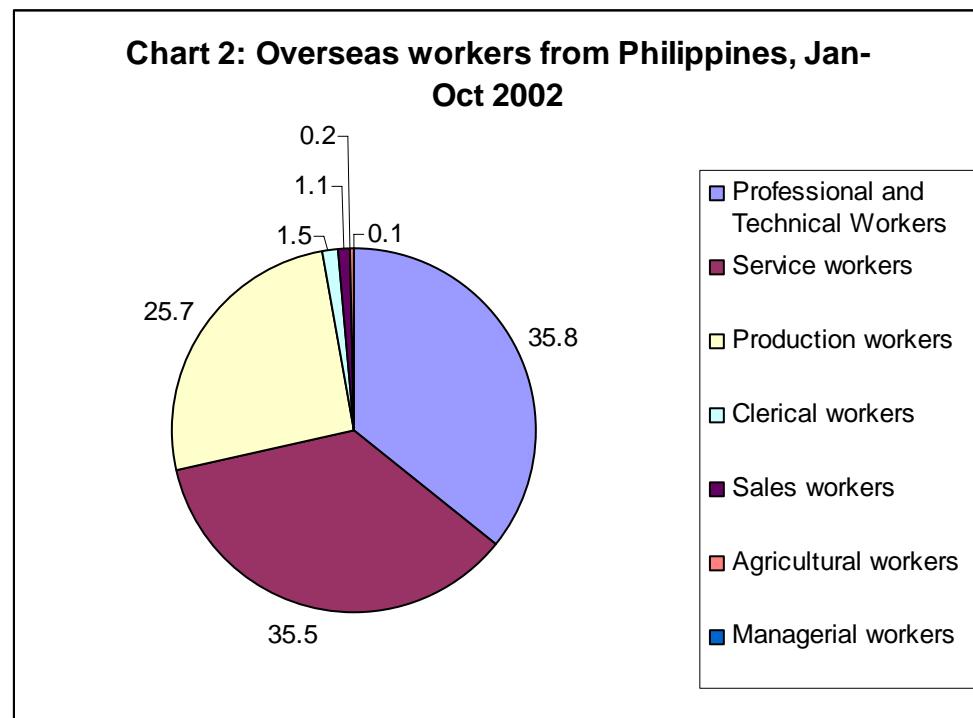
The major destinations for Filipino migrants (in order of importance) are the Kingdom of Saudi Arabia, Hong Kong SAR, Taiwan, Japan, United Arab Emirates, Singapore, Italy, Kuwait, Brunei and Qatar. It is evident that the Middle East and other Asian countries dominate in Filipino migration.

Such large numbers have been associated with relatively large remittance inflows as well, as was evident from Chart 1. These are currently in excess of \$7 billion per year, and have amounted to more than one-fifth of the country's total foreign exchange earnings over 1995-2000. The inflow of remittances has helped to keep the national economy and Filipino households afloat even in the worst of times, including the 1997 Asian financial crisis. It has helped the resolve the country's balance of payment crisis of the 1980s and has facilitated and even financed more trade. It could even be argued that these remittances have helped to finance the country's debt service payment, which average \$5 billion annually. Surveys have found that the pattern of remittance inflows has been such as to increase local income inequalities, with urban families in the richer regions of the country reporting higher share of remittance income in total income. (Manalansan 2002).

Male migrant workers' incomes and remittances tend to be higher than those of their female counterparts. The average cash remittance of a male migrant was 1.66 times that of the average remittance sent by a female migrant, reflecting the different and gendered nature of occupations and salaries in the destination countries. Female workers vastly outnumber male migrants in professional, technical and service activities by factors of around 8:1, and are also double the number of male clerical workers abroad. So there is a clear gender differentiation of Filipino overseas of Filipino overseas workers in terms of destination, occupation and pay. Male migrants dominate in production, agricultural and managerial activities.

This structure has created wage and employment patterns that are destination specific. Thus, “Singapore and Hong Kong hire mainly female domestic workers, Taiwan, selected manufacturing skills, Europe nurses, and Indonesia, finance managers. The Middle East has employed domestic workers and highly skilled blue-collar workers. North America hires nurses in large numbers and workers with special skills. Among the most fortunate are regular migrants to the US and Canada who receive the same wage as the natives. Seafarers have standard wage rate for entering crewmen to senior officers.” (2002 PHDR)

A significant proportion of temporary migrants out of the Philippines are skilled workers of varying degrees of skill. As Chart 2 shows, professional and technical workers make up nearly 36 per cent of Filipino overseas workers. This has made the phenomenon of brain drain a serious problem for some activities in particular. There is increasing apprehension that the Philippines is actually losing skills and talents due to the exodus of skills to other countries. Thus, the number of registered nurses in the country fell from 27,272 in 1995 to only 5,874 in 2000, despite the number of nursing graduates dipping only by a little more than 10 percent. There has also been an exodus of doctors into countries like the US and Canada. While the health sector in the Philippines has been especially hit by such migration and loss of skills, leading to higher wages and serious shortages of skilled personnel in the domestic economy, the wage differentials between the Philippines and developed countries remain immense.



A common form of restriction to the mobility of Filipinos is the licensing and qualification requirements posed by host countries. Entry into the country is dependent on the demonstration of a person's skill by having the requisite education, experience and training. It is an open question, however, whether easing such restrictions and

standardising qualification and certification processes would ultimately be to the advantage of the Philippines economy in the context of such a brain drain. In the absence of a mutual recognition system, Filipino professionals and skilled manpower, if admitted at all in the host country, are given lower wages, salaries and benefits. Thus, Filipino architects are used as draughtsmen, engineers are used as technical staff, nurses as nursing aides, dentists as dental assistants - until such time as they clear the relevant qualifying exams in the host country. There are also various administrative and procedural blocks facing Filipino migrant workers, such as the proposed levy on the earnings of domestic helpers in Hong Kong, or the nationalization policy in Saudi Arabia. There is also the issue of possible undercutting in the less skilled categories, by even cheaper workers from elsewhere in Asia. Some years back, Filipinos were considered cheap in West Asia and Arab countries, but other nationals such as those of Bangladesh, Vietnam, and China have been willing to accept lower wages. The domestic helpers market is one such example where nationals of Sri Lanka and Bangladesh, Pakistan have taken on the same jobs for lower wage rates.

Sri Lanka

Sri Lanka is often been held up as a model for other developing countries, for its remarkable human development record given its relatively low per capita income. Nevertheless, the recent history of political strife and violent tensions on the island, and the relatively high open unemployment rates (around 9 per cent for men and more than 11 per cent for women) have combined to create pressures for labour migration out of Sri Lanka. Such migration has both permanent and temporary dimensions. The unemployment rate is positively correlated with the level of education, which has also affected the pattern of migration.

In the recent past, labour export has assumed very significant proportions in Sri Lanka. The number of persons migrating for employment abroad in each year has been higher than the annual additions to the labour force. Employment abroad has been around 15 per cent of the total number of those employed.

.Sri Lanka was one of the first countries in Asia to export female labour and the only country to export women and domestic workers with no restrictions. Until 1987, the majority of Sri Lankan migrants were males with a 2:1 ratio favouring the males. The gender ratio between male and female migrant workers in the last few years has been 1:2 in favour of females. Women workers have amounted to between 64 and 75 per cent of total migrant workers from Sri Lanka. Most women migrants come from the poorer sections of society, are in the reproductive age group (between 25 and 39 years old) are married and have one or more children. This implies that labour export from Sri Lanka is typically associated with the break up of families and that there could be concerns regarding the care and upbringing of children.

The Sri Lankan government requires would-be migrants to register with the Sri Lanka Bureau of Foreign Employment. Some charges are levied for services which include pre-emigration loans, insurance cover, some medical facilities and scholarships

for school-going children. The main destinations are Saudi Arabia, Kuwait and United Arab Emirates, while outside the Arab countries, Italy, Singapore, South Korea and Hong Kong had the largest number of Sri Lankan migrant workers.

Migrant remittance inflows amounted to US\$ 1,155 in 2001, over 62 per cent of which were from the Middle East. While these inflows are large relative to the Sri Lankan balance of payments (making labour export the single largest foreign exchange earner in the country) they are still relatively low in per capita terms. This reflects the composition of activities of migrant workers, most of whom tend to be less skilled and relatively low paid in the host countries. In 2001, the domestic house maid sector accounted for almost 56 per cent of total departures for foreign employment followed by skilled and unskilled at 20 and 18 per cent, respectively. Male workers tend to be mostly construction workers, drivers and mechanics. Typically, migrant workers from Sri Lanka are over-educated for the jobs that they perform in the host countries.

Given the nature of the work, Sri Lankan migrants are particularly vulnerable to exploitation in the destination countries. This is especially the case when the host countries have differential visas according to categories of labour. In some Middle Eastern countries, there are two types of visa granted to temporary migrant workers. A Type A visa permits the employer to confiscate the passport of the migrant worker, confine her/him to the house and dictate work conditions and hours as s/he pleases. In terms of responsibilities, the regulations only stipulate the fee the employer must pay – the equivalent of US\$ 500 to the recruiting agent of which a part is paid to the sub-agent in Sri Lanka who supplies the worker. A Type B visa is for migrant workers who are hired by companies in the formal sector of the economy. These workers are protected by the labour laws, enjoy greater rights and are permitted to live outside the work premises. Most housemaids and other such workers qualify only for Type A visas, which renders them dependent upon the employers for their minimum rights. One study has identified the common complaints of excessively long workdays, loneliness and ill health; difficulties in remitting to and communicating with their family; and sexual harassment.

For most migrants, especially the women workers, migration was the only available option to lift their families out of poverty. However, the very recent expansion of female employment in the garments industry has reduced the pressure to a limited extent. Studies have found that the earnings of the migrant workers are used mostly for consumption by the family back home, while a minority also invests in housing and other consumer durables.

India

India has traditionally been a large source country for skilled and unskilled migration. It is estimated that there are more than 20 million Indians living abroad, many of whom are permanent migrants. Remittance inflows into India have amounted to an average of \$8 billion over the 1990s (between 1.5 and 2 per cent of GDP, and more than all forms of capital inflow taken together), and now stand at more than \$12 billion

annually. Every year more than 4 million migrants are estimated to leave the country in search of work, around 80 per cent of whom are less skilled or unskilled.

The main destinations for these migrants are the Gulf and Middle Eastern countries, followed by the developed countries, and increasingly Southeast Asia. The Gulf countries became an attractive destination for Indian migrant workers after the oil price hikes of the 1970s, given their demand for large numbers of unskilled workers for infrastructure projects and for menial work. Indian workers constitute the largest group of migrants in the Gulf. Most are from low income families, and come from certain states, such as Kerala. Indian workers who migrate to the East Asian countries are also mostly on temporary contractual arrangements in unskilled and semi-skilled occupations. However, most Indian migrants to developed countries such as the US, UK, Australia, and New Zealand, are skilled and educated knowledge workers in professions as varied as health, engineering, information technology, and accountancy.

Many of the migrants to the developed countries settle down permanently in their host markets and acquire permanent residence status and foreign citizenship. By contrast, migrants going to the Gulf and South East Asia, usually return to India following the expiry of their contracts. Thus, permanent migration from India tends to be concentrated among skilled workers emigrating to the developed countries. Permanent skilled migration has been significant in the engineering and medical professions, reinforcing the demand-driven nature of such migration given the structural differences in salaries across countries. However, in the recent past, short-term skilled migration from India to developed countries has become increasingly important. This is evident from rising share of Indian workers in H-1B visas, which are designated for skilled workers in the US.

The most important benefit of temporary migration to the Indian economy has obviously been through remittances. These transfers have been a major source of support for the Indian balance of payments, as already mentioned. However, there are some important non-financial (and sometimes even non-tangible) benefits from such migration, as elaborated in the Box.

Box:

Non-financial contributions of migrants to the Indian economy

Indian temporary migrants in the Middle East have made significant contributions to their home states and communities by channeling remittances towards the building of schools, buildings, roads, and other local infrastructure and by helping to improve living standards and employment opportunities in their home towns and communities.

The state of Kerala has a large number of migrants, including, nurses, paramedics, doctors, construction workers, and repairmen who work in the Middle East and send back remittances to their home state. The construction of the international airport in Cochin, Kerala was in large part financed by workers from Kerala in the Gulf countries and was motivated by the need to facilitate travel by these workers to their home state. Similarly,

Gujarati shopkeepers, hotel owners, and businessmen working in the UK and East Africa have played an important role in infrastructure development and contributions towards health and education systems in their home state of Gujarat.

Indian overseas migrants have also contributed through investment, transfer of skills and technology, and through networking. For instance, returnee Indian doctors from the UK and US along with Indian diaspora associations in the medical profession have helped in setting up world class corporate hospitals and superspeciality health care establishments in India. They have also helped in procuring latest equipment and technology, and in providing specialized skills and expertise gathered overseas. Professionals in other areas such as software and engineering services have helped in providing venture capital for start-up companies in India. They have also helped in the development of their sectors by bringing in projects, facilitating the outsourcing of services to Indian companies, providing contacts to overseas clients, and facilitating further both inward and outward movement of service providers.

There has been some regulation of migration flows by the Indian government. For example, the government started the Overseas Manpower Corporation in the state of Kerala in 1978, and similar agencies were founded in Delhi and Madras to send qualified and skilled workers based on requests and requirements of foreign employers. The government has also initiated contractual arrangements with countries in the Middle East, Africa, and South Asia, in sectors such as health, education, and technical services, for exporting manpower. The Emigration Act of 1983 was meant to facilitate the emigration of Indian workers for overseas employment on a contractual basis as well as to safeguard their interests and welfare.

However, for the most part, short-term migration from India has been unregulated, driven by decisions at the individual or company levels and handled by private recruiting agents. There has not been any coherent policy to either regulate such outflows or to benefit in any directed manner from such labour flows, or any concerted effort to induce return migration in India. Nor has there been any major effort to retain skilled workers in the country, except for some policies to delay emigration or to recover government resources spent on training and education, although proposals have been mooted for retaining professionals in the health and engineering fields. Remittances by overseas Indian service providers have also not been regulated by the government and channelled towards specific developmental purposes such as the building of local infrastructure or for investments in health and education.

One important new area, which is likely to become increasingly significant in terms of short-term labour migration, relates to the cross-border movement of IT workers. Temporary movement of service suppliers is critical for the Indian IT industry since the bulk of India's software services exports is derived from on-site services such as custom application, software development, and maintenance work. Such services are rendered in overseas markets by Indian IT professionals, across a wide range of sectors, in particular, banking, finance, and insurance. It is estimated that out of a supply of 132,986 new IT

professionals in the year 2001-02, about 64,350 left India to provide on-site services in that year. Migration for on-site work accounted for 15 percent of the total stock of 428,636 IT professionals in 2001-02. Although these professionals are deputed abroad on time-bound contracts and have duration limits on their visas, many ultimately remain overseas and enter the permanent labour market, especially in the US.

The main constraint on the movement of such professionals comes from labour market and immigration policies in the developed countries, which affects the ability of Indian IT professionals to deliver on-site services in other markets. These take the form of quantitative restrictions on entry, administrative and procedural delays in processing of visa applications and work permits, biases against entry of middle and lower level service providers, restrictive conditions on wages, nature of work, duration of stay, and high cost of renewals and extensions. These protectionist measures have been increasing recently. There are also barriers that arise due to discretionary recognition of qualifications and work experience of Indian IT professionals, given that there are no formal accreditation procedures in this sector.

Apart from IT and engineering, the medical profession has been the other main sector that has contributed to emigration, temporary and permanent, from the country. As of 1992, there were 33 bilateral agreements between India and six countries in the Middle East for providing doctors on short-term assignments. This number is likely to be an underestimate as it only captures the assignments by government doctors who need to clear a formal process before they can leave the country. Private short term contractual arrangements between doctors and these countries are also present. There has been considerable outflow of Indian doctors and other health personnel to developed countries. There are an estimated 60,000 doctors and 35,000 doctors of Indian origin in the UK and US, respectively, constituting permanent migration from the country,

In addition, there is also short-term movement of Indian doctors from reputed institutions to developed countries, mostly under bilateral agreements. The main developed country markets are the US, UK, Germany, Australia, New Zealand, and Canada. There has been a steady stream of nurses to the Middle East and the Gulf countries on short-term assignments or on a longer term basis. If one combines the statistics for doctors migrating on short or long term assignments, for nurses, technicians, and medical graduates, the extent of movement of service suppliers in India's health sector is huge. It is therefore not surprising that a 1979 WHO study found India to be the world's largest donor of medical workers.

There are both external and domestic factors, which constrain movement of Indian health care providers to other markets. The single most important external constraint is that qualification of Indian doctors, nurses and technicians are not recognized in many countries, including the US and the UK which are among the main destination markets. Domestic constraints pertain mainly to domestic standards and quality of training and medical education in India.

III. GATS and temporary migration in Asia

The General Agreement on Trade in Services (GATS) was part of the Uruguay Round of agreements signed in 1994. The GATS covers a range of services (excluding government and air transport) which were excluded from the main GATT agreement. While there was initially reluctance to include cross-border labour migration among the services that would be covered, the inclusion of “Mode 4” was designed to make the agreement more acceptable to developing countries.

GATS recognised the following kinds of service provision:

- Mode 1: Cross border supply (some examples include telecom, courier, IT-enabled services)¹
- Mode 2: Consumption abroad (which can include tourism, health, education)
- Mode 3: Foreign commercial presence (some examples are bank branches, insurance)
- Mode 4: Movement of natural persons (overseas workers in temporary migration to provide a service).

GATS is so structured that in each sector and mode of supply, countries can also include horizontal commitments, which apply to all the sectors included in the schedule. There can be significant linkages across the different modes (such as commercial presence requiring some movement of persons), and also possibilities of substitution across modes (such as substituting cross-border supply for labour migration), which GATS did not explicitly consider. However, recent changes in technology and business organisation have facilitated both greater linkages and more substitution, which will be considered below.

Mode-4 as defined under GATS has a precise and narrow connotation. It relates to the temporary travel for a limited period by workers to perform a specific service abroad in connection with other foreign funded or traded activities in services. In particular:

- The GATS specifically disallows such workers from seeking permanent jobs in the labour market of the foreign country.
- It does not cover work outside the service industries, for example in mining, manufacturing and agriculture or even, seemingly, construction.
- Finally, in practice, it tends not to cover foreign workers engaged in wage employment in domestic service activities, although this issue is still a matter of controversy.

The GATS framework has one other distinguishing feature which is important for an area as complex as international migration. It follows a ‘**positive-list approach**’ with respect to commitments. This means that countries can pick and choose the services

¹ The examples provided here are not the only possible forms, nor are they necessarily representative - they are provided only for illustration.

where they wish to make commitments to liberalize international trade¹². Similarly, they are only obliged to choose those the occupations that are regarded as suitable for migrant workers, rather than specify exceptions to a liberalised regime of labour migration.

Mode 4 refers to “natural persons”, who are defined as either (a) foreign natural persons who are employed at home and sent abroad to supply a service for a company as an intra-corporate transferee or due to a contract made between home and host companies; or (b) independent contractual suppliers and foreign employees of a host country company; or (c) business visitors. GATS does not cover people who are seeking access to the employment market in the host country, or measures regarding citizenship, residence or employment on a permanent basis. In addition, governments are free to regulate entry and temporary stay, provided these measures do not nullify or impair the commitments they have made under Mode 4. This refers therefore only to a very specific type of labour migration, and does not cover the wide range of labour migration possibilities than can be observed. While GATS should enable Asian developing countries to obtain more liberal access for temporary migrants, and make such migration more secure and sustainable, in practice it has not yet had much relevance for the actual migration patterns in Asia, since it is a trade agreement rather than a migration agreement. The existing GATS commitments, to the extent that they favour MNP by relatively higher income and highly skilled persons could even be seen to exacerbate inequalities both among and within countries. Also GATS is silent on the treatment of persons working abroad, and on issues such as forced migration or trafficking, again because it is only a trade agreement, and such issues really need to be dealt with within the framework of a migration agreement.

During the Uruguay Round negotiations, a number of developing countries were dissatisfied with level of mode 4 commitments, so negotiations in this area were extended until June 1995. Despite this, there was no major breakthrough, although there were some further commitments made by a few countries like Australia, Canada, EU, Norway, Switzerland, and even India, mainly in terms of increasing and widening the categories of natural persons to be given access.

The early commitments made under Mode 4 were mostly horizontal. It was argued (for example by the European Commission) that the sectoral approach could impede the readability of GATS, and therefore recommended harmonising the existing horizontal commitments. An agreement on concepts is a must, even agreed by developing countries, if there are to be meaningful results under Mode 4, before proceeding to the sectoral issues. However, developing countries were largely disappointed with the horizontal commitments because they mainly pertained primarily to intra-corporate transferees at senior levels, business visitors and highly skilled professionals and specialists. These commitments were strongly linked to Mode 3 or commercial presence. Simply put, developed countries have been negotiating the movement of natural persons so as to facilitate the transfer of skilled workers affiliated with foreign direct investment, in order to enhance their commercial presence in overseas markets. By contrast, the comparative advantage of developing countries is based on their abundant labour supply

of mostly unskilled workers who seek temporary employment abroad. The major contribution of GATS for them would be to put a cap on the extent of protection in many activities of potential migrants in host countries. The Uruguay Round did not achieve much in terms of services liberalisation in any sector. Countries commitments do not reflect the current regulation, which is much more permissive to Mode 4 trade, although not to the desired extent.

It was seen in the preceding discussion, that despite the large and growing incidence of labour migration in Asia, there are various constraints upon it, which inhibit the full exploitation of temporary migration to improve economic growth and human development in the sending countries. Some of the major constraints can be briefly summarised as follows:

1. Residency and nationality requirements. Governments may prohibit foreign workers from entering markets that are reserved for domestic workers. Many countries also require that activities such as legal, insurance, educational, surveying or investment advisory services be provided by residents or citizens of the country concerned. The underlying principles are usually described as consumer protection and other public policy concerns.

2. Technical standards, licensing and mutual recognition agreements. In certain professional business services, licensing and standard setting have been used to restrict entry into the industry, especially in professions such as legal, accountancy and medical services. In many instances, regulation has been used to severely restrict entry by foreigners, or to apply more stringent or more costly conditions upon foreign suppliers of services. This is why mutual recognition agreements may be useful or even necessary. Indeed, this is an extremely important issue, since recognition has an important impact on the activities that mode 4 suppliers can perform and, therefore, in their protection, status in the receiving countries, level of remittances, skill upgradation, etc.

3. Limitations in horizontal commitments. Horizontal commitments follow the national laws and regulations, which generally classify temporary entry procedures around job skills rather than specific services sectors themselves. These regulations usually stipulate limitations that apply to all of the sectors included in the schedule and often refer to a particular mode of supply, notably commercial presence and the presence of natural persons. This can actually limit entry of migrants into labour-intensive sectors of the host countries.

4. De-linking of Mode 4 from Mode 3. Developed countries committed to Mode 4 mainly in order to facilitate their intra-corporate transferees at senior levels and high skill professionals and specialists, which is clearly linked to commercial presence or Mode 3. In this light, since movement of capital is a major interest for developed countries, these countries are the ones that will benefit from the current implementation of Mode 4. Developing countries, on the other hand, have surplus labour and are the major suppliers of overseas workers globally. Mode 4 will only be meaningful for developing countries if it is de-linked from Mode 3. Notwithstanding immigration policies and regulations of labour receiving countries, Mode 4 should allow the movement of individual professionals and service providers independent of corporate presence.

5. Limited category of workers. The classification of professionals and workers has been subject to different country interpretations. Categories of service providers per WTO classification should be broken down further to clearly identify workers. (One way is through the adoption of the International Standards Classification of Occupations.) Because developing countries are abundant in human resources, the differentiation of professionals and sectoral workers will be relevant to them and has the potential of expanding trade in services. In particular, the list of individual professions, which is independent from professional firms or sectors, is more meaningful to developing countries. A more disaggregated classification of workers and sectors would provide more flexibility for countries to commit.

6. Government measures and current policies. Developed countries are reluctant on making more binding commitments on Mode 4 because it may undermine their flexibility in regulating immigration legislation and procedures. However, in the movement of natural persons, the distinction between restriction of trade and domestic regulation becomes ambiguous. There should be a mechanism that would delineate a legitimate immigration policy from a restriction on the movement of natural persons for temporary employment. Such delineation could also address the problem of irregular (illegal or unauthorised) migration and in defining temporary migration. In addition, there are various market access barriers to Mode 4 movement put up by national governments, such as quotas and Quantitative Restrictions, wage conditions, administrative procedures.

7. Discriminatory access to information channels, administrative and procedural blocks. The absence of administrative procedural transparency, and vagueness in terminologies and definitions used in the schedules of commitments can become real blocks in temporary migration. Discrimination against foreigners may also take the form of barring access to information channels and distribution networks critical to the delivery of the foreign provider's service.

8. Economic needs tests/labour market tests. Economic needs tests (especially where criteria are not clearly specified) represent a major barrier to trade in services, particularly with respect to Mode 4 due to their discretionary nature. Reducing the scope of these tests, scheduling specific criteria for their application, and their eventual removal, particularly with respect to clearly identifiable categories of professions, would be central to future efforts to liberalise trade in services and to increase participation of developing countries.

Mode 4 intital offers, commitments and proposals by some important WTO member countries

Destination countries

United States

The US proposes additional regulatory disciplines to ensure full implementation of existing potential new market access commitments under Mode 4. This involves access to information and procedural transparency. Also, regulatory 'hurdles' should be removed to increase access for temporary entry and stay of their highly skilled workers, managers, and professionals. The US seeks an expedition on the processing of the labour market test

and economic needs test for US natural persons to be admitted under the categories and make multiple entries for the person's duration of stay.

European Commission

The European Union calls for expanding market access commitments beyond current levels, seeks greater access to information and published criteria for economic needs tests and proposes the harmonization of definitions of Mode 4 categories including common terms for intra-corporate transferees. Together with Japan, the EC is more focused on the thrust to reduce limitations on intra-corporate transferees, through a similar horizontal approach. In addition to procedural transparency, the EC proposes the establishment of rights and obligations, basic objective, verifiable criteria and clear and simple application procedures. The EC's advocacy of clarified and harmonised definitions of terms such as personnel, however, discloses a clear bent towards addressing Mode 3 related movement of natural persons. In reaction to the demand for de-linking Mode 4 from commercial presence, the EC deems that creating a category 'individual professionals' is not the only way of delinking. The issue may also be addressed by the category 'contractual service providers' and it relates to all professions and not just professionals. The EC, and to a certain extent, Japan likewise share the view that the elaboration of a common code of practice for Economic Needs Tests with the objective to render them more specific, transparent and non-discriminatory could have significant value-added. One way forward could be to accelerate the on-going work carried out in the transparency working party to see how the future principles and disciplines could be applied to Mode 4 and whether there is a need to go beyond the general framework for Mode 4.

Canada

The Canadian proposal is the only one from a developed country, which addresses the needs of developing countries for the de-linking of Mode 4 from commercial presence. Specifically, the Canadian proposal highlights general business visitors, professionals, including those entering on a contractual basis and not linked to commercial presence. In addition to issues on improving transparency and predictability as addressed by the US and EC, the Canadian proposal includes immigration laws and regulations, procedural information, available foreign workers program, entry criteria, applicable conditions for economic needs tests, maximum length of stay, field instructions or operational guidelines for immigration officers.

Japan

Japan made commitments for intra-corporate transferees and temporary visitors as stipulated in its Immigration Control and Refugee Recognition Act. Additionally, Japan now offers to take commitments on the residency status of accounting, engineering, legal services, and specialists in humanities and international services. Beyond horizontal commitments, Japan is offering to commit legal and taxation services sector in addition to the supply of services by natural persons. Regarding placement and supply services of personnel, Japan is offering to remove the limitation on the number of licenses conferred to service suppliers, as well as to expand the scope of occupations for which these services may be supplied. Japan offers to take new commitments subject to qualifications in some of the other business services which it has not committed namely: investigation

services, telephone answering services, mailing list compilation and mailing services, courier services, telecommunications services, distribution services, educational services, environmental services, financial services, tourism and travel related services, and maritime transport services.

New Zealand

The New Zealand initial offer on Mode 4 focussed on its horizontal commitments on the narrowing of the labour market test for specialists, intra-corporate transferees, extension of periods of stay, and clarification of commitments on business visitors. Amendments to commitments included the reflection of specialists as intra-corporate transferees and not to be included in respect to occupations on the Occupational Shortages List. The offer also provided an extension of length of stay of executives, managers, and specialists from an initial three years to an additional three years provided there is a need for the worker. Business visitors were also clarified as for the purpose of establishing commercial presence.

United Arab Emirates

The United Arab Emirates (UAE) has an unbound status for horizontal commitments on Mode 4 except for measures concerning the entry and temporary stay of natural persons who are business visitors, intra-corporate transferees and higher management levels. Entry for business visitors is restricted for only 90 days. Subject to UAE labour and immigration laws, intra-corporate transferees (managers, executives and specialists) are limited to 50 per cent of the total number of managers, executives and specialists with an initial employment period of one year and renewable for an additional two years (maximum stay of three years).

Kuwait

Kuwait has the same unbound status for horizontal commitments on Mode 4 for managers, specialists and skilled technicians but with limitations on certain industries reserved for domestic service providers (housing, health care and social programs). Presence of foreign natural persons as self-employed workers is also not allowed, therefore requiring commercial presence.

Sending country

Philippines

The Philippines has an inherent limitation (labour law provision for labour market test) when it comes to Mode 4. Non-resident aliens may be admitted to the Philippines for the supply of a service after a determination of the non at the time of application, to perform the services for which the alien is desired. Hence, the EC is requesting to disapply this requirement in relation to intra-corporate transferees.

Sri Lanka

Sri Lanka has made no specific horizontal commitments on Mode 4, but refers to its domestic regulation legislation and work permit requirements and ‘other relevant laws and regulations’. Countries are requesting not to apply Sri Lanka’s economic needs test to

intra-corporate transferees or business visitors and to clarify whether any economic needs tests apply to contractual service providers.

India

As part of India's thrust in expanding the export potentials of skilled professionals where it has a comparative advantage, the country is seeking the expansion of the application of Mode 4 of the GATS to facilitate the international movement of its individual professionals, technicians and "assistant professionals" (to include health workers and information technology professionals) both on a horizontal and sector specific basis. It calls for the disaggregation of categories for scheduling commitments and suggests the use of the ISCO-88. Likewise, India seeks improved administrative procedures related to obtaining visas and work permits and published criteria for economic needs tests. India also proposes the exemption of temporary migrant workers from payment of social security contributions. For mutual recognition agreements, India seeks to establish a basis for the recognition of education and qualifications of professionals. On the other hand, the European Commission (EC) is requesting the extension of India's commitments for intra-corporate transferees to cover all affiliated companies and offices and the dis-application of the economic needs test for intra-corporate transferees.

Current state of negotiations

It is evident that the extent and degree of commitments made under Mode 4 are still quite inadequate from the point of view of labour sending Asian countries. The flexible commitment structure of GATS allows this rather limited progress in liberalisation in areas of interest to developing countries. While services trade was originally supposed to be a major item of negotiation at the failed WTO Ministerial Meeting at Cancun, even before negotiations commenced, it became evident that any discussions on services would be negligible or sidelined and that priority would be attached to issues such as the Singapore Issues and agriculture. Proposals by members such as Venezuela to include services negotiations under the Miscellaneous Group were rejected, and were suggested to be discussed bilaterally. Negotiations therefore (if there were any) occurred on a more informal basis. As a result, no clear roadmap exists and the end-result for services negotiations in a multilateral context currently depends on prior consensus being reached on agriculture and the Singapore Issues.

Thus far, in the GATS negotiations, asymmetric distribution of commitments across modes has been one of major problems. Commitments, especially but not exclusively by developed countries, have been more limited in modes where there are domestic political and economic sensitivities, such as in Mode 4. In fact, the structure of commitments has generally been biased towards modes which less restricted and less contentious, with 50 per cent full commitments in Mode 2, 30 per cent full commitments in Mode 1, 20 per cent full commitments in Mode 3 and practically zero full commitments in Mode 4. In fact, Mode 4 commitments have been mostly horizontal and typically subject to numerous limitations at both horizontal and sectoral levels.

Intermodal linkages

Services are both amorphous and intangible activities, and also not easily amenable to complete categorisation. There are also have strong linkages across different

forms of service provision, which makes the GATS characterisation of modes sometimes problematic, since the inter-relationship can be complex and mutually reinforcing or substituting. That is why mode-wise assessment of the GATS commitments does not capture the full extent of protection or liberalisation, or the cross modal impact of existing limitations. Similarly, mode-wise assessment does not enable the formulation of a comprehensive and integrated negotiating strategy for improving effective market access across modes. Because of the way in which most services are traded today, especially the more dynamic services, barriers to one mode of service supply can translate into effective barriers to other modes as well. Therefore, it is important to consider inter-modal linkages and how these can affect negotiations under GATS.

It is evident from the previous discussion, that the main forms of inter-modal linkages that have been made so far in the GATS commitments, have been between Mode 3 (commercial presence) and Mode 4. However, this is essentially in the interests of developed countries who would be the main beneficiaries of liberalisation under Mode 3, and would like to link any concessions in Mode 4 to greater market access under Mode 3. Developing countries have very different requirements, and would like to see much greater commitments in Mode 4, separate and delinked from Mode 3.

The inter-modal linkages made in GATS thus far include the following: market access under mode 4 is made conditional on commercial presence in the host country; limitations on mode 3 (such as local staffing restrictions) become barriers to mode 4; market access under mode 1 is made conditional on commercial presence in host country.

Thus far, the linkage between Modes 1 and 4 has linkage received relatively little attention, but it is nevertheless important to explore. This is especially the case because Mode 1 is rapidly emerging as the most dynamic form of service export of many developing countries. Cross border exports of services from developing countries grown rapidly in recent years with rise in outsourcing, back office, offshore activities to low cost centres. This has been driven by advances in information and communication technologies, pressures to reduce costs, as well as demographic factors such as the aging population structure of developed countries compared to the much younger population in Asia. Cross border exports have been growing in labour-intensive but skilled services (such as software, consulting, design, accountancy, editing and publishing) where Mode 4, or temporary/permanent labour migration, has also been important. The questions that arise in this context include the following: Are Modes 1 and 4 substitutes or complements? Do they facilitate one another, and if so, how? How does each affect the pattern of trade via the other mode?

There is huge potential for growth in cross border supply of services, especially in activities such as Business Process Outsourcing, or back office work. A large number of developing and transition economies are currently engaged in cross border exports of

services, across many sectors. Locations such as Manila, Budapest, Bangalore, Delhi, San Jose Costa Rica, Shanghai have emerged as centres providing back office support for corporations and even governments in the US, Europe, Japan and South Korea. The activities include product development, financial analysis, equity research, transcription, call centres, billing, processing, data mining, software solutions development, coding, architectural blueprints, data and image conversion, engineering design, etc.

These are vast and growing areas of economic activity: global spending on IT enabled services and BPO was estimated at \$712 billion in 2001, employing over 500,000 persons worldwide. Demographic estimates project shortages of at least 10 million workers in US by 2010, a large part of which is expected to be met by outsourcing to developing countries. In consequence, the projected outsourcing by US companies alone to lower cost countries, is estimated to account for 3.3 million white collar jobs worth \$136 billion in wages and 470,000 jobs just in the IT sector. Over the next two years, half of the US economy's top 1,000 companies are expected to outsource and manage business processes via offshore vendors. The global market for BPO is projected to grow to \$165 billion for sales, \$163 billion for legal, \$123 billion for engineering and R&D services by 2006.

There are clear benefits to home and host countries from such cross border supply of services. From the point of view of the host countries, there are the obvious gains of employment generation and trade facilitation in services and in other sectors. There is also likely to be increased investment in the host country as a result. Since the income and employment gains are retained within the country, the potential for positive multiplier and other linkage effects is also great. However, in order to take advantage of this potential, the host countries must ensure well developed telecommunications infrastructure, connectivity and satellite links. In addition, of course, they must meet the necessary condition in terms of the availability of low cost trained workforce to perform these activities.

The outsourcing economies and companies gain in terms of cost reduction and productivity gains, leveraging of strengths across locations, more efficient product cycle management and meeting shortages of manpower and skills. In addition, a 24 hour work cycle is made possible, which is a major advantage for financial markets and many other service activities.

Balanced against this there are costs, the most significant of which is the labour displacement and job loss in developed countries. Indeed, this particular feature has already led to a protectionist backlash in some developed countries, with union pressure and labour opposition to the export of such jobs. There have been recent attempts to legislate protectionist measures in some states of the US, which would prevent or restrict such outsourcing. Thus far, commitments under Mode 1 have been extremely limited, but this is clearly a major area in which developing countries would wish to see much greater liberalisation.

Box: India as a home for outsourcing service activities
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India has emerged as one of the most important cross border exporters of services. It is host to outsourced IT services, chip design, call centres, business back office work spread across country in the major metropoles and even in some smaller cities and towns. Half of world's largest 500 companies and many government agencies contract out IT and business process work to India. The leading Indian software companies (Tata, Infosys, Wipro) are already global leaders in Mode 1 exports. Cross border exports of BPO and IT enabled services from India were estimated at \$10 billion in 2002, and are projected to rise to \$57 billion by 2008. Indeed, this is the fastest growth segment in the Indian IT sector as a whole, which reflects the huge cost advantage, because of much cheaper educated professionals, such that such activities can be performed at around one-fifth of the cost for comparable work in the US, for example.

Mode 1 exports by India range from the lowest to the highest end of value chain, though they tend to be concentrated at the lower end. Some of the activities include:

- data entry and conversion type services (medical and legal transcriptions, scanning, drawing, digital conversion);
- simple voice based customer relations support services based on rules set by client (processing, billing, payment, reservations)
- problem solving and decision making services (developing solutions for improving processes or streamlining systems, scripting software to facilitate processes)
- direct interaction with customers and elaborate transactions with client involving mixed media (management of networks, technical help desks, web support)
- research, and engineering, product development services, 3D modelling, technical specifications, equity research.

The current evidence, as well as common perception, suggests that the two modes 1 and 4 are substitutes - but the relationship is complex. The nature of the linkage varies with the type of service rendered, the nature of the contract and the level of the service provider. This means that these two modes can be both substitutes and complements depending upon the context and the nature of the specific service involved. At lowest end of value chain modes 1 and 4 are mostly substitutes. Thus, outsourcing substitutes for local jobs or mode 4 based employment for call centres, billing, data entry and conversion type services. But there may still be some role for labour migration in initiating the process of expansion of cross border supply of services. Thus, most companies send over a team at managerial and technical level to familiarize themselves with client procedures and work processes, then undertake local training to meet client needs. So at the lowest end, mode 1 requires limited mode 4, mainly in managerial capacity.

There is a more complex relationship between the two modes as the service activities move up the value chain in outsourced activities. Consider the case of a developing country software firm providing application maintenance services to client financial sector company in a developed country, say the US. Typically, the outsourced work is

delivered in three phases. In Phase 1 (Planning), the specifications of the contract are worked out, technical requirements are assessed, and the entire process copied from client to firm. This requires the movement of higher level persons (ICTs and technical specialists) to the client site, and usually requires L-1 and business visitor visas with less stringent conditions on wages and prior employment. This phase typically lasts around one month. In Phase 2 (Migration) there is knowledge sharing between the client company and the executing firm. In this phase, it is necessary to understand the profile of client and skill set required, study the culture of the client company, and train employees back home at the executing firm. This requires parallel work in both locations, which lasts four to five months. In this phase, Mode 4 movement is required at the middle level, for programmers, analysts, coders, on H-1B type visas. In Phase 3 (Steady state), the entire process is transferred to the executing firm and the work is done offshore. This may involve some Mode 1 movement at executive and managerial levels, with L-1 type visas.

This example shows that outsourcing can be accompanied by mode 4 at all stages for higher-end service activities. Changes in the frequency, duration and level of mode 4 movement are all required, compared to the case of simple on-site provision of services. This reduces the need for middle level service providers, and shifts mode 4 towards higher level and specialised/technical personnel. IT industry experts suggest that outsourcing has led to a reduction in the share of travel costs to total revenues from projects and amount of time spent overseas by employees. Similarly, visa requirements could change in future with reduced duration of stay and increased demand for L-1 type applications relative to H-1B type applications.

Clearly, as this example shows, Mode 4 facilitates Mode 1, through the following mechanisms. Successful on-site provision of services and established reputation helps in securing offshore contracts, as shown by the case of Indian companies like Infosys and Wipro with proven records in providing high quality, low cost on-site services. Also, the networks established through mode 4 help in obtaining mode 1 contracts. However, Mode 1 activities do not necessarily have the same effects in terms of facilitating Mode 4 movement, although there could be some related activity.

This in turn dictates the need for cross cutting market access limitations and policy interventions which are sensitive to these linkages. Limitations on modes 1 and 4 tend to have cross-modal implications. Thus, market access barriers to mode 4 (such as quotas and Quantitative Restrictions, wage conditions, administrative procedures) affect the scope for expansion of mode 1 activities. Mode 4 limitations affect the execution of outsourcing contracts where the movement of natural persons is important for understanding client requirements and transferring processes. Recent efforts at curbing movement of ICTs (such as caps on L-1, more strict conditions) are likely to affect the execution of higher end mode 1 contracts. Also, recent efforts to prevent outsourcing to low cost countries could affect associated mode 4 movement, but this may have a limited impact as it is largely related only to government outsourcing.

There are some cross cutting limitations across modes 1 and 4, such as recognition requirements (e.g. in the health sector); residence and nationality requirements (e.g. in the legal sector); commercial presence requirements; and security issues (such as data protection, liability, privacy of information).

This suggests the need for a complementary approach by developing country governments, to facilitate the expansion of both mode 1 and mode 4 activities. Developing countries should seek unrestricted mode 1 commitments and prevent efforts to ban outsourcing through government and industry level discussions. There is need to clarify categories and requirements for different visas (esp. L-1 versus H-1B) and to de-link both modes from commercial presence requirements. Developing countries should also ask for greater transparency in recognition and facilitation of Mutual Recognition Agreements, and support export strategy in modes 1 and 4 with commitments in related areas and modes (telecom, insurance, mode 3).

IV. Gender issues in Asian labour migration

Historically, women in Asia did not migrate for work. If they did move, it was usually as part of families which were economic migrants together, accompanying the male head of household. But the past two decades have seen an explosion in female migration for work, both within and across borders, and this is having profound effects on the economies and societies across the region.

Asian migration is not a new phenomenon historically, but in the last two decades, more women have moved than ever before. The pattern of migration is highly gendered in terms of both the destination countries and the activities pursued by men and women migrants, although this is changing a little at the margin for the more skilled professions in the recent past. As noted earlier, cross-border migration in and from Asia is highly gendered, with women migrants dominating especially in the domestic and care sectors, as well as in entertainment work. (Malapit, 2001; Meng, 1998; Rayanakorn, 2002) Male migration by contrast tends to be more in response to the requirements of industrialisation, in construction and manufacturing, as well as in semi-skilled services. Since this type of work tends to be less affected by business cycle fluctuations in demand, both female migration and remittances from such migration have in general been more stable than the male versions in the recent period.

However, despite the growing significance of female migration in the region, there is little recognition by officialdom in the relevant Asian governments of this process, in terms of ensuring decent working conditions and remuneration for migrants.

Over the past decades, women migrants have come dominantly from three countries in Asia: the Philippines, Indonesia and Sri Lanka. In the Philippines, women migrants have outnumbered their male counterparts since 1992, and in all these countries women are between 60 to 80 per cent of all legal migrants for work. The majority are in services (typically low paid domestic service, as caregivers or housemaids) or in entertainment work. While Filipino women tend to travel all over the world, women from

the other two countries go dominantly to the Middle East and Gulf countries in search of employment. Around 56 per cent of the migrant workers from Sri Lanka are women employed as housemaids, who go to work dominantly in Saudi Arabia, Kuwait and the United Arab Emirates.

Across the Asian region there is need for more pro-active policies regarding short-term economic migration. It is unfortunate that most government policies with respect to migration are designed with the male breadwinner model in mind, because this effectively excludes women migrants for work from the purview of regulation and protection by law. There is relatively little in the form of host country legislation specifically designed to protect migrant workers, and little official recognition of the problems faced by women migrants in particular.

Recently there is also a trend for increased migration by more educated women workers, in the software and IT-enabled service sectors. While such female migration is still a very small part of the total, it is pointing to a different tendency with different implications both for work patterns and for gender relations in both sending and receiving countries.

The picture of women's migration in Asia today is complex, reflecting the clear advantages to women of higher incomes and recognition of work, as well as the dangers and difficulties associated with migrating to new and unknown situations. While short-term economic migration by women may be driven by adverse material conditions at home, it can have positive enabling effects, because the sheer knowledge of conditions and possibilities elsewhere can have an important liberating effect upon women, which creates a momentum for positive social change and gender empowerment over time.

V. Pointers for policy

The discussion in this chapter has highlighted several issues that have direct policy relevance at national, regional and global levels. Clearly, in most of labour-surplus developing Asia, labour migration – especially temporary migration for work – can have very positive effects on the economy of the sending country, on the balance of payments, and also upon the lives and income opportunities of migrants. There are positive human development implications as well, emanating partly from the material improvements consequent upon remittance incomes which can raise families out of poverty and enable more expenditure on health care and education of the young in the household, and partly from the greater awareness and cultural exposure associated with the very process of migration. Such migration can also be beneficial to host economies in terms of reducing cyclical or structural labour shortages, avoiding bottlenecks due to specific labour shortages, and so on. At the same time, there are also costs and dangers involved to sending countries, to migrants and even to host countries. There can be shortages, especially of skilled and professional workers, which create "brain drain" problems in sending countries. Migrants, especially those who are less skilled, less educated and migrating as part of a survival strategy of sending households, may be subject to varying degrees and forms of exploitation and discrimination in host countries. These problems

include sexual harassment, long working hours, violation of workers' rights, confiscation of travel documents, non-fulfillment of work contracts, inadequate working conditions, and many others. In host countries, there can be problems of labour displacement of local workers, with consequent adverse reactions, and problems of social integration and disharmony with large concentrations of foreign workers.

In this context, official policy has to draw a fine balance between increasing opportunities for migrant workers, protecting and regulating the conditions of migrant workers, and ensuring social harmony in the host countries. There are therefore several levels of intervention that are required. At the national level, it is necessary to undertake measures to promote better quality of labour resources and to improve their international competitiveness, as well as to ensure safe and minimally decent conditions for migrant workers from that country in their destination locations. Governments should also try to increase the opportunities for migration of the poor, to reduce the income-inequalising effects that some form of labour migration can have. It has been noted that the bulk of labour migration is within the Asian continent, and so there is scope for regional interventions which operate to provide greater freedom of mobility of labour as well as co-ordinate the measure to protect migrant workers across Asia. Internationally, and especially at the multilateral level, there is scope for using the GATS negotiations to press for enhanced commitments, especially from developed countries, to enable greater use of labour mobility as a means of economic expansion and improvement of human development conditions.

National level measures

1. Set up a national policy on overseas employment. This would take account of existing opportunities in the region and the rest of the world, and formulate a strategic plan to encourage desirable forms of labour migration. This in effect makes overseas employment part of the development strategy, and involves plans which review the human resources potentials of the country, identify the skills of the labour force and the country's niche in the international labor market, target potential markets, and work towards the goals through the formulation of feasible and specific programs, and implementation of the strategic plan.

2. Provide information to potential migrants. Providing pertinent information to all potential migrants is important, especially since such information about markets and opportunities is typically not evenly distributed across regions of a country, or different income categories and types of workers.

3. Provide skills training and resources for investment in education. Through training and education, workers can increase their stock of capital; improve their skills and know-how. These educational programs can also introduce students and potential migrants to foreign culture making them adaptable to working in foreign environments. Knowledge of the language of the receiving countries as well as the exposure to cultural nuances can also add to the competitiveness of the workers. Investment in pre-migration seminars can

instruct them on their rights and obligations that can contribute in minimising the problem of irregular migration, discrimination and abuses in the work place.

4. Enhance the mechanisms for the certification of skills and professions. The provision or improvement of certification of skills and professions as a means of quality assurance is increasingly important for skilled and semi-skilled migrant workers. Aside from government agencies, the quality of information disclosure of a worker can be enhanced by the quality of his educational qualifications. Therefore, there is a need to encourage higher educational institutions to seek national, regional and international accreditation.

5. Push for workers' protection abroad. Governments of sending countries can work bilaterally or multilaterally with receiving countries of temporary workers on the protection of workers. In addition, training programs on workers' rights and responsibilities can minimise some of these problems.

6. Provide avenues to enhance the access of semi-skilled workers to overseas employment. Since the cost of training of semi-skilled workers is lower than the social costs of training skilled workers and professionals, a strategy of sending workers for overseas employment from the pool of unskilled and rural workers may improve income distribution. Lack of information and the cost of migration are some of the key factors preventing the disadvantaged members of society to seek overseas employment. A policy option that can be pursued is to provide information and loan assistance to these workers that can substantially reduce the cost of migration. This strategy has to be combined with policies to ensure greater protection to such migrants since they are the ones who are prone to discrimination and abuses.

7. Tax the brain drain and the migration of professionals. This would compensate the sending country for the reduction in the number of competent domestic professionals and the cost of public education. The revenues collected can be used to further the improvement of health services and basic education.

8. Institute programs for the re-integration of returning workers. The liberalisation programs in the movement of natural persons can be consistent with the human development objective of sustainability if there are provisions for re-integration of returning workers to the sending country. While this may not be much of an issue for skilled workers, for semi-skilled workers, the problem of re-integration may be a real one. If they were not able to save enough funds and acquire useful skills overseas, their return may exacerbate the problem of domestic unemployment. For those with financial resources, the government can provide seminars on entrepreneurship and other self-employment opportunities. For those with limited resources, the government can provide soft loans and skills training program for the establishment of small-scale business enterprises. In addition the government should encourage workers to save part of their remittances for re-integration projects in the future.

9. Provide avenues for transfer of technology. To facilitate brain gain and the transfer of technology, governments should provide the right environment for return migration, which can contribute in enhancing the human resource development of a country as well as in investment and greater opportunities for economic activity because of larger networks, etc.

10. Channelise remittances from external migration. Although overseas workers do not spend a large portion of their income, this unspent income cannot be considered as savings because they send this amount to their families, which in turn use it for consumption in their home country. Re-channeling remittance income should be encouraged to make the benefits from movement of natural persons sustainable in the long run. This is only possible if the financial sector can offer attractive financial instruments and products to overseas workers. Part of the remittance income can be invested in government securities, equities in the stock market and other financial assets.

Regional and international level measures

1. Establish bilateral or regional Mutual Recognition Agreements (MRAs). Since the practice of professions has domestic regulatory implications, there is a need to evaluate the capability of the service provider to render the service in order to safeguard public interest and the welfare of the consumers. If a certification process is done for domestic service providers, it should also be done for foreign-service providers as part of the regulatory function of governments. Once an MRA agreement is established it will be easier for professionals to move within the coverage of the MRA. Initially, it can start with less contentious items with significant common grounds like the accreditation of higher educational institutions. Then it can proceed with the process of establishing equivalence of education levels, degrees, and quality of graduates. The final process is the recognition of licenses and professional certifications and experience. Although domestic regulation is an inherent component of state responsibility, the private sector can have a significant role in the formation of MRAs. The establishment of an MRA can be initiated by various professional associations and other concerned organisations in the private sector as a way of assisting the government in domestic regulation under a freer movement of natural persons. At the regional level, improvements in market access on the movement of natural persons can proceed through the establishment of MRAs on specific professions and occupations. Since MRAs are very difficult, lengthy and tedious to undertake at the multilateral level, a bilateral or regional MRA may be more practicable and feasible that can contribute positively to the liberalisation of the movement of natural persons at least at the regional level.

2. Review the immigration policies in the region, including bilateral and regional agreements. The ASEAN has lifted the visa requirement for its citizens for easy movement across the region. Such practices should be extended across the region as far as possible. What can facilitate further the movement of natural persons is the de-linking of labour migration under Mode 4 of GATS from the mode of commercial presence. Bilateral agreements tend to include lower skill categories. There is a history of such

agreements in countries like Malaysia, which even included an MFN exemption in its schedule.

3. Adopt the GATS-visa. The GATS-visa has been proposed not only to facilitate the trade in services particularly the movement of natural persons but also to delineate domestic immigration policies from GATS commitments of liberalizing trade in services. To be acceptable it should recognize the legitimate basis for domestic immigration policies. The GATS-visa will only be given to individuals or professionals who have been invited or recruited to perform temporary services in another country. As such, should be time-bound, employment specific, temporary in nature, and cannot converted into other visas. Since this type of visa is not meant to seek permanent employment or permanent residence in a host country but to facilitate the entry of individuals for rendering temporary employment to individuals, it will help in clarifying the meaning of temporary migration.

4. Clearly define the meaning of temporary employment. One of the factors that impede further commitments from major receiving countries is the obscure meaning of temporary employment. Further, the exploitation of a number of people rendering work under trainee visas and au pair visas can be reduced once the concept of temporary employment is clearly defined under GATS. In this context, the introduction of trainees in the EU initial offer may be a significant breakthrough. Overstaying by temporary migrants is typically related to the lack of incentives for returning, mainly uncertainty of the possibility to return to the recipient country.

5. Strengthen the emergency and safeguard clauses under the GATS. One of the major constraints facing countries in making commitments under the supply mode of natural persons is the unpredictability of the conditions shaping the domestic labour market. A commitment under GATS is a permanent obligation with legal and trade sanctions if violated. Since the type, volume and frequency of flows in the movement of natural persons will be subject to market fluctuations, host countries may seek a deferment of the commitment under the movement of natural persons in case the market does not warrant the employment of foreign workers. Making commitments under this mode of supply is viewed with apprehension given the difficulties in disengagement. However, such postponement and disengagement will only be feasible if emergency and safeguarding measures are clearly specified and easy to invoke under GATS rules. Some view the introduction of safeguard measures as potentially negative for the interest of developing countries, which is why other solutions, like time bound commitments, are under study. Economic Needs Tests could still be in place so as to satisfy country concerns, but without the arbitrary manner in which they are applied.

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Several studies (Winters 2003; IOM 2003; Munz, R and H. Fassman 2002) show that demographic momentum of OECD countries and countries like Bangladesh many create a perfect demand-supply equilibrium in the medium to long term for services through TMNP. In the longer term (upto 2050), without mass immigration, nearly all European countries will experience a decline of between 10 and 50 per cent in their active populations aged 15 to 65.

The above analysis shows that the potential crisis in workforce must inevitably lead to the systematic recruitment of both skilled and semi skilled or unqualified foreign labour on a larger scale than at present.

Alan Winters et al:

The very heart of international trade, be it in goods or in factors, lies in exploiting differences. The larger the differences, the larger the potential gains from opening up international trade. In the case of the temporary movement of natural persons under the GATS, potentially large returns would be feasible if medium and

less skilled workers, who are relatively abundant in developing countries, were allowed to move and provide their services in developed countries. Empirical studies of factor mobility show large potential economic gains from increased labour mobility, and the new estimates conducted in this paper reinforce that conclusion. We suggest gains of over \$150 billion per year from increased mobility into developed countries equivalent to just 3% of the their current labour forces.

To balance the large economic gain from liberalising temporary movement of natural persons with the various concerns of the developed countries, and recognising the political sensitivity of the issue, we propose that the current Mode 4 negotiations under the GATS should give immediate consideration to the following actions by developed countries:

- ❑ negotiating new sub-contracting schemes to include the movement of lower skilled service providers under Mode 4,
- ❑ separating temporary movements of people from permanent ones, and, once national security clearance has been achieved, granting multi-entry GATS visas to temporary workers to provide their services,
- ❑ uniform definitions and coverage of service personnel categories and expanding the coverage to include middle and lower skilled workers and professionals,
- ❑ accelerating the mutual recognition of qualifications,
- ❑ codifying of economic needs, and
- ❑ separating out social security contributions into short-run (work-related accident and health) and long-term (pension) social protection.

Developing countries could usefully make "concessions" in these areas as well, but in addition they should:

- ❑ further liberalise access for intra-corporate transferees and business visitors, and
- ❑ rationalise, and where appropriate, liberalise the treatment of 'trading rights', which appear to be of the same nature as Mode 4 even if formally treated under the GATT.

In the longer run, the further liberalization of Mode 4 should aim at:

- ❑ confirming that the GATS does cover employed-based service providers and liberalising these schemes as well,
- ❑ setting up auctions for any remaining numerical quotas,
- ❑ abolishing economic needs tests, and
- ❑ addressing the wage-parity issue in a way that recognises the comparative advantage of developing countries.