



Mode 4 of the GATS

- An Overview

Mode 4 - Article I definition



The supply of a service by:

**a service supplier of one Member,
through presence of natural persons of a
Member in the territory of any other
Member.**

What natural persons?



- Natural persons who are service suppliers of a Member
 - self-employed
- Natural persons of a Member who are employed by a service supplier of a Member
 - at home, and sent abroad to supply a service
 - in the host country

The Annex



- The GATS does **NOT** cover:
 - natural persons seeking access to the employment market
 - measures regarding citizenship, residence or employment on a permanent basis
- Governments are free to regulate entry and temporary stay, provided these measures do not nullify or impair the commitments

Movement of Natural Persons Coverage

- **Mode 4:** *“supply of a service by a service supplier of one Member, through presence of natural persons of a Member, in the territory of any other Member”*
 - independent foreign natural persons as service suppliers
 - foreign service suppliers through foreign natural persons
- **Annex on Movement on natural persons**
 - Exclusion of access to labour market, citizenship, employment on permanent basis
 - Mode 4 covers only **temporary** entry and stay in a Member’s territory to supply services
 - Does not interfere with government policies regarding entry and temporary stay of natural persons, flexibility in application of visa restrictions



Extended Negotiations

- A number of developing countries were dissatisfied with level of mode 4 commitments
- Negotiations were extended until June 1995
- But no major breakthrough - improvements by Australia, Canada, EC, India, Norway, Switzerland (Third Protocol)

Relative importance of mode 4

- Estimates:
 - Mode 1 - $> 25\%$
 - Mode 2 - $\sim 15\%$
 - Mode 3 - $< 60\%$
 - **Mode 4 - $\sim 1\%$**
- The situation may differ across sectors



Mode 4 trade flows

(BOP compensation of employees, million US\$, 1999)

Top exporters

1. France	8904
2. Philippines	6794
3. Belgium-Lux	3892
4. Germany	3749
5. United States	2208
6. Italy	1581
7. United Kingdom	1551
8. Thailand	1460
9. Switzerland	1058
10. Austria	1019

Top importers

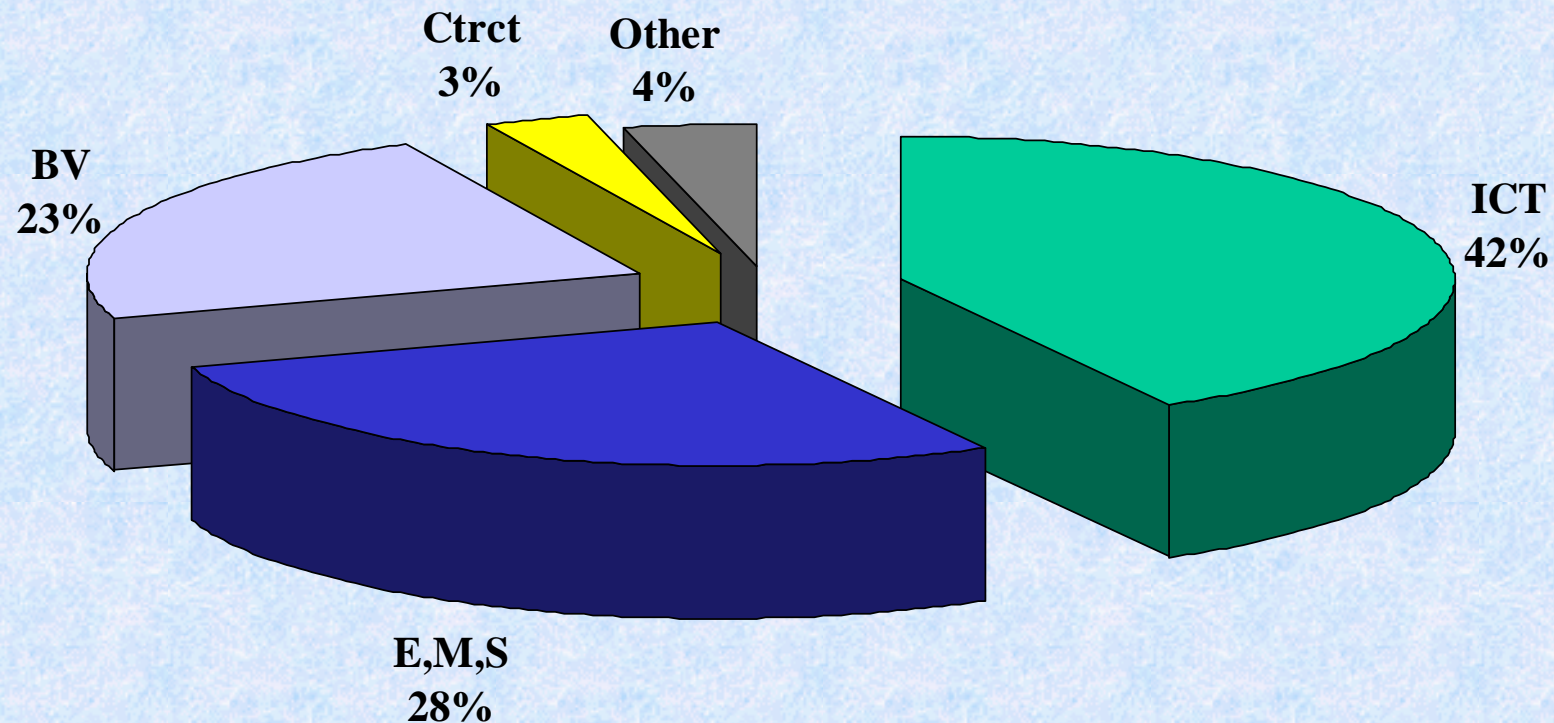
1. United States	7589
2. Switzerland	5389
3. Germany	4673
4. Belgium-Lux	2794
5. Israel	2407
6. Italy	1927
7. United Kingdom	1228
8. France	1093
9. Netherlands	969
10. Denmark	694

A snapshot of Mode 4 commitments



- Governed by horizontal commitments
- Positive listing of measures:
“Unbound except ...”
- Absence of full liberalization
- High-level of training and expertise,
often as intra-corporate transferees
- Specified duration of stay: 3 months to 5
years

Structure of Commitments (horizontal commitments, 2002)



Main limitations scheduled



- Categories
- Pre-employment
- ENTs
- Quotas
- Subsidies
- Residency
- Training
- Real estate

Possible reasons for the less liberal commitments in Mode 4

Political and Regulatory concerns profoundly affected levels of commitments under Mode Four in all countries

- ▶ Enforcement concerns and the problem of temporary entry leading to permanent entry
- ▶ Protection of labour markets associated with lower pay foreign services suppliers.

Negotiating Proposals



- 7 specific proposals
 - Developing countries- India, Colombia, Kenya
 - Developed countries - EC, US, Japan, Canada
- Many sector-specific proposals contain a reference to mode 4

Some of the barriers identified in the negotiating proposals

- Structure and coverage of existing commitments
- ENTs
- Definitional problems
- Administrative practices, access to information and transparency
- Recognition of qualifications

Some of the solutions proposed...



- More and better commitments
 - more categories, improved definitions, finer classification, “sector-specific” commitments
- Removal of barriers
 - multilateral criteria for ENTs
- Greater transparency and predictability
- “GATS visa”
- Strengthened disciplines on MRAs