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International Cooperation on Trade and Labor Issues

Abstract

The relationship between the labor market and international trade is a broad and complex subject that has been the focus of significant attention in recent years. Discussion and analysis in this area has covered a number of discrete issues, including the effect of shifting trade patterns on employment levels and earnings in domestic markets, the impact of wage levels and labor legislation on the location of production facilities, and the positive and negative aspects of the cross-border movement of workers, among others. The continuing importance of labor issues within the larger trade debate is highlighted by the inclusion of measures relating to labor standards and/or the cross-border movement of workers in recent bilateral and multilateral trade agreements such as the North American Free Trade Agreement (NAFTA), the General Agreement on Trade in Services (GATS), and the U.S.–Oman Free Trade Agreement. This paper aims to provide background for future work on trade-related labor issues by describing how labor issues such as internationally recognized labor standards and the cross-border movement of workers have been addressed by international organizations, as well as in U.S. trade legislation and recent trade agreements.

Keywords

trade, cooperation, labor, labor market, employment, wages, globalization, trade agreements

Comments

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OFFICE OF INDUSTRIES WORKING PAPER
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International Cooperation on Trade and Labor Issues

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ABSTRACT: The relationship between the labor market and international trade is a broad and complex subject that has been the focus of significant attention in recent years. Discussion and analysis in this area has covered a number of discrete issues, including the effect of shifting trade patterns on employment levels and earnings in domestic markets, the impact of wage levels and labor legislation on the location of production facilities, and the positive and negative aspects of the cross-border movement of workers, among others. The continuing importance of labor issues within the larger trade debate is highlighted by the inclusion of measures relating to labor standards and/or the cross-border movement of workers in recent bilateral and multilateral trade agreements such as the North American Free Trade Agreement (NAFTA), the General Agreement on Trade in Services (GATS), and the U.S.–Oman Free Trade Agreement. This paper aims to provide background for future work on trade-related labor issues by describing how labor issues such as internationally recognized labor standards and the cross-border movement of workers have been addressed by international organizations, as well as in U.S. trade legislation and recent trade agreements.

International Cooperation on Trade and Labor Issues

The nature and evolution of the labor-related provisions contained in recent trade agreements, including the WTO agreements and bilateral FTAs, provides evidence of the importance of the relationship between trade and labor issues. This paper provides a general overview of internationally recognized labor rights and discusses the ways in which labor-related issues—including workers' rights and the transboundary movement of workers—have been addressed by the International Labour Organization (ILO), the World Trade Organization (WTO) agreements, and bilateral trade fora. A brief overview of the literature regarding trade-related labor issues is provided in an appendix to this paper.

Introduction

The relationship between the labor market and international trade is a broad and complex subject that has been the focus of significant attention in recent years. Discussion and analysis in this area has occurred in both political and academic circles at the local, national, and international levels, and has covered a number of discrete issues. Such issues include the effect of shifting trade patterns on employment levels and earnings in domestic markets, the impact of wage levels and labor legislation on the location of production facilities, and the positive and negative aspects of the cross-border movement of workers, among others (appendix A).

Although the ILO continues to be the primary international body promoting labor rights, measures relating to labor standards and/or the cross-border movement of workers have been incorporated into recent bilateral and multilateral trade agreements such as the North American Free Trade Agreement (NAFTA), the General Agreement on Trade in Services (GATS), and the U.S.–Oman Free Trade Agreement.

This paper aims to provide background for future work on trade-related labor issues by describing how labor issues such as internationally recognized labor standards and the cross-border movement of workers have been addressed by international organizations, as well as in U.S. trade legislation and recent trade agreements. More specifically, this overview focuses on the evolution of workers rights provisions in trade agreements, and demonstrates the increasing profile of such provisions in U.S. trade agreements. The paper begins by discussing the ILO's role in promoting labor standards, and provides information regarding the context and ratification of key ILO conventions, some of which have served as the basis for the labor standards identified in U.S. legislation and trade agreements. This is followed by a description of the limited extent to which the WTO has addressed labor issues and incorporated labor-related provision in its agreements. The paper continues with a discussion that illustrates the evolving role of workers rights and other labor-related provisions in U.S.-trade legislation and free trade agreements over the past three decades, and briefly describes the treatment of labor issues in trade programs to which the United States is not a party. The paper concludes by relating recent developments that highlight the ongoing and increasing attention that labor issues receive in trade fora.

The International Labor Organization

International cooperation on labor issues has a long history, spanning more than 100 years. Such cooperation was first promoted in the 19th century by industrialists such as Robert Owen and David Legrand, and took institutional form with the founding of the International Association for Labor Legislation in 1901 and its successor, the ILO, in 1919.¹ The ILO is currently the world's foremost multilateral labor organization and has been since its inception as part of the League of Nations in 1919. The ILO is now a 180-member specialized agency of the United Nations that formulates international labor standards and sets minimum standards for basic labor rights across a variety of work-related issues.² The ILO also provides technical assistance in a number of areas including vocational training,

¹ International Labor Organization (ILO). "ILO History;" and ILO, Bureau for Workers' Activities (ACTRAV), "International Labor Law."

² ILO. "About the ILO."

employment policy, labor administration, labor law and industrial relations, working conditions, the development of management expertise, cooperatives, social security, labor statistics, and occupational health; promotes the establishment of independent workers' and employers' organizations; and makes recommendations and facilitates the development of conventions and recommendations.³ A member's ratification of a convention⁴ implies the member's willingness to accept the convention without reservations,⁵ apply the convention in practice, and adhere to ILO monitoring of the implementation of that convention.⁶

The ILO has a tripartite structure in which member governments, workers, and employers participate on an equal level.⁷ The ILO is composed of three main bodies: the International Labor Conference, an annual conference of member states at which international labor standards are established and adopted; the Governing Body, which serves as the executive council of the ILO and is composed of 28 member states, 14 worker organizations, and 14 employer organizations; and the International Labor Office, which implements technical assistance programs and publishes a variety of research, reference, and policy-related reports.⁸

In 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work, which stands as a principal and widely cited point of reference on labor rights⁹ and serves as the basis for certain provisions in recent U.S. free trade agreements (FTAs).¹⁰ The declaration addresses four subjects: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the abolition of child labor; and the elimination of

³ Ibid.

⁴ Members who have ratified a convention have the opportunity to denounce their ratification from time to time, generally once every five or ten years, and the ILO Governing Body may suggest possible revisions to a convention during the annual ILO conference of member states.

⁵ This highlights a key difference between ratification of an ILO labor convention versus a UN convention and may explain some of the difference between the higher ratification rates of UN human rights conventions, as member states may ratify UN conventions with reservations, but countries that ratify an ILO convention must agree with its provisions in full.

⁶ ILO. "Conventions and Recommendations."

⁷ ILO. "About the ILO."

⁸ ILO. "Structure of ILO."

⁹ ILO. "About the Declaration,"

¹⁰ More information on the provisions included in recent U.S. free trade agreements (FTAs) is included in the section of this chapter entitled "U.S. Trade Legislation and Free Trade Agreements."

discrimination in regard to employment and occupation. Eight core labor conventions, commonly referred to as the “fundamental human rights conventions,”¹¹ provide the framework for the Declaration. These include conventions on forced labor (convention number 29), freedom of association and protection of the right to organize (convention number 87), the right to organize and bargain collectively (convention number 98), the right to equal remuneration (convention number 100), abolition of forced labor (convention number 105), discrimination (employment and occupation) (convention number 111), minimum age (convention number 138), and the worst forms of child labor (convention number 182) (table 1). The ILO promotes global compliance with the Declaration’s four principles through the publication of comprehensive global analyses of core labor standards¹² and annual reports¹³ reviewing member countries’ adherence to these standards, and through the provision of in-country technical assistance and training.¹⁴

There is not necessarily a direct correlation between a country’s ratification of ILO conventions and its labor standards in practice, and there are a number of reasons that a particular country may choose to ratify, or not ratify, a certain convention. However, the ratification of ILO conventions is one of many indicators that may provide some indication of a country’s commitment to protect workers’ rights. The global ratification rate for the ILO’s eight core labor conventions is high, with each of these conventions having been ratified by at least 80 percent of ILO member countries (see table 1). The convention on

¹¹ ILO. “Ratification of Fundamental Human Rights Conventions.”

¹² For example, the ILO published a report on the status of child labor in 2006, a report on the status of forced labor in 2005, a report on the status of freedom of association and collective bargaining in 2004, and a report on the status of workplace discrimination in 2003. Links to these reports can be found on the ILO internet site, <http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE>.

¹³ The first annual reports were completed in 2000.

¹⁴ ILO. “About the Declaration.”

TABLE 1 ILO core labor conventions: Major provisions and member country ratifications as of January 29, 2007

| Convention | Major Provisions | Total ratifications | Ratification rate Percent | U.S. ratification |
|--|---|---------------------|------------------------------|-------------------|
| Forced Labor Convention (29) | <ul style="list-style-type: none"> • suppress the use of forced labor^a as soon as possible • exceptions- work on behalf of the public during an emergency, where severe labor shortages exist.^b • establishes several criteria for work conditions where forced labor as a tax exists | 170 | 94 | No |
| Freedom of Association and Protection of the Right to Organize Convention (87) | <ul style="list-style-type: none"> • guarantees workers and employers the, "right to establish and...join organisations of their own choosing"^c • workers' and employers' organizations shall have the right to affiliate with relevant international organizations • the law shall not impair the right to form associations or organize^d | 147 | 82 | No |
| Right to Organize and Collective Bargaining Convention (98) | <ul style="list-style-type: none"> • workers' and employers' organizations should be afforded government protection against anti-union discrimination • promote negotiation between employers or employers' organizations and workers' organizations to regulate collective agreements • specific protections against discrimination such as prohibition of union membership and dismissal from work | 156 | 87 | No |
| Equal Remuneration Convention (100) | <ul style="list-style-type: none"> • men and women workers receive equal remuneration for work of equal value • signatories may ensure equal remuneration by means of: national laws or regulations; legally established mechanisms for determining wages; and collective agreements between employers and workers | 163 | 91 | No |
| Abolition of Forced Labor Convention (105) | <ul style="list-style-type: none"> • signatories must, "suppress and not make use of any form of forced or compulsory labor" for holding or expressing political views; as a means of labor discipline; as a punishment for having participated in strikes; or as a means of racial, social, national, or religious discrimination^e | 166 | 92 | Yes |
| Discrimination (Employment and Occupation) Convention (111) | <ul style="list-style-type: none"> • promote equal opportunity and treatment in respect of employment and occupation • seek cooperation of employers' and workers' organizations; enact legislation and educational programs to secure acceptance and observance of the policy | 165 | 92 | No |
| Convention Concerning the Worst Forms of Child Labor (182) | <ul style="list-style-type: none"> • signatories, "shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor"^g • design and implement programs to eliminate the worst forms of child labor and implement enforcement | 163 | 91 | Yes |

See footnotes at end of table.

TABLE 1 ILO core labor conventions: Major provisions and member country ratifications as of January 29, 2007—Continued

| Convention | Major Provisions | Total ratifications | Ratification rate | U.S. ratification |
|---|---|---------------------|-------------------|-------------------|
| Convention on Minimum Age for Admission to Employment (138) | <ul style="list-style-type: none"> • ensure the effective abolition of child labor and raise the minimum age for admission to employment • each Member shall determine the minimum age for employment^h • minimum age may not be below 15 years of ageⁱ | 147 | 82 | No |

Source: USITC calculations, based on ILO, “Ratifications of the fundamental human rights conventions by country,” Jan. 29, 2007, found at <http://www.ilo.org/ilolex/english/docs/declworld.htm>, retrieved Jan. 30, 2007. Information regarding the major provisions of the ILO core labor conventions was also obtained from the ILO’s ILOEX database, found at <http://www.ilo.org/iloex/english/index.htm>.

^aConvention 29 defines forced or compulsory labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” For the purposes of this convention, forced labor does **not** include: compulsory military service; work which serves as part of normal civic obligations; work extracted as a consequence of a conviction in a court of law, provided that the work be carried out under the control of a public authority; work extracted in cases of emergency; or minor communal services. ILO convention 29, Article 2.

^bILO Convention 29. The Convention further states that, with the exception of forced labor carried out under the auspices of article 10, which addresses forced labor used in public works projects and as a means of taxation, individuals forced to engage in forced or compulsory labor shall receive a cash remuneration at prevailing rates. ILO Convention 29, Article 14.

^cILO Convention 87, Article 2.

^dILO Convention 87, Article 8.

^eILO Convention 105, Article 1.

^fThe term child applies to all persons under the age of 18.

^gThe worst forms of child labor include: all forms of slavery or practices similar to slavery, such as forced or compulsory labor, including use of children in armed conflict; the use or procuring of a child for prostitution or pornography; the use or procuring of a child for illicit activities; the use of a child for work that is likely to harm the health, safety or morals of children. Article 3.

^hILO Convention 138, Article 2.

ⁱThis Convention does not apply for certain educational work (Article 6). National laws may permit certain light work to be carried out by persons aged 13-15 (Article 7.1), or, in cases where Members are permitted and have elected to initially determine the minimum age to be 14, may permit said certain light work to be carried out by persons aged 12-14 (Article 7.4).

forced labor has the highest ratification rate, with ratifications by 94 percent of ILO member countries, followed by the convention on the abolition of forced labor and the convention on discrimination, both with 92-percent ratification rates.¹⁵ The freedom of association and minimum age conventions have been ratified by the fewest member countries, with 82-percent ratification rates.¹⁶

¹⁵ ILO. “Ratification of Fundamental Human Rights Conventions by Country.”

¹⁶ Golub. “International Labor Standards: Are They an Appropriate Response to Global Competitiveness?”

The United States has ratified two of the eight core conventions: the abolition of forced labor convention and the worst forms of child labor convention. The President's Committee on the ILO¹⁷ has established stringent guidelines for U.S. ratification of ILO conventions. These rules preclude the ratification of conventions to which the letter and application of U.S. federal and state law¹⁸ do not fully conform, and as such, U.S. ratification of ILO conventions necessarily involves a long and complicated legal review process.¹⁹ These guidelines, combined with the frequent use of European labor legislation as a template for ILO conventions may further explain the United States' low number of ratifications.²⁰ However, despite a low ratification rate, U.S. labor law reportedly meets ILO standards and is effectively enforced.²¹ Moreover, the U.S. Department of Labor (DOL) International Labor Affairs Bureau (ILAB) had demonstrated its support of ILO standards by, inter alia, actively promoting the ILO's Declaration on Fundamental Principles and Rights at Work and aiding other member countries' efforts to implement the ILO's core labor standards.²²

On a regional basis, Europe²³ has ratified the highest number of the eight core conventions per country, with an average ratification rate of 98.3 percent (figure 1). Each member of the EU-27²⁴ has ratified all eight of the core conventions.²⁵ Africa has the second-highest regional ratification rate, at 95 percent. The countries of the Western Hemisphere have also ratified a substantial share of ILO core conventions, with an average ratification rate of 92 percent. Within the Western Hemisphere, South

¹⁷ Executive Order 12216 (issued in 1980) established this committee, and Executive Order 12610 (issued in 1987) continued the Committee until 1989. President, "Executive Order 12216".

¹⁸ For example, the Congressional Research Service indicates that U.S. ratification of certain core conventions—such as those which apply to minimum employment age, discrimination, and forced labor—would require the revision of U.S. labor legislation. Bolle. "Trade Promotion Authority (TPA) Renewal," CRS-6.

¹⁹ DOL. "International Labor Organization (ILO)." See also Linsenmayer. "U.S. Ends ILO Moratorium by Ratifying Two Conventions." 52.

²⁰ Golub. "International Labor Standards: Are They an Appropriate Response to Global Competitiveness?"

²¹ DOL. "International Labor Organization."

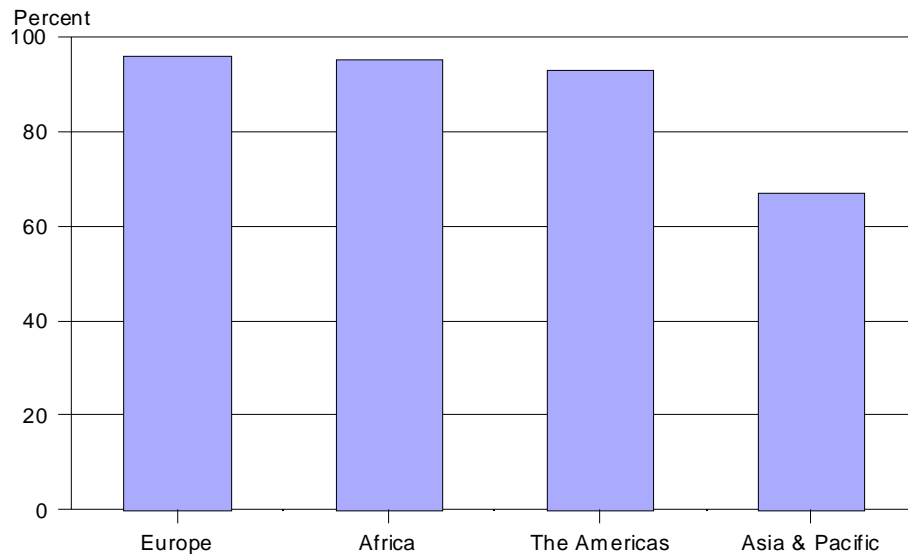
²² USTR. "Statement of Robert B. Zoellick U.S. Trade Representative before the Committee on Finance of the United States Senate."

²³ The ILO's regional comparison of ratifications considers 50 countries in the European region.

²⁴ The EU-27 includes: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom.

²⁵ The latest of these ratifications occurred in March and April of 2007, when Estonia and the Czech Republic ratified the convention concerning minimum age. ILO. ILOLEX Database.

Figure 1 Ratification rates for ILO core labor conventions, by region, as of January, 29, 2007



USITC calculations, based on ILO, "Ratifications of the fundamental human rights conventions by country," Jan. 29, 2007, found at <http://www.ilo.org/ilolex/english/docs/declworld.htm>, retrieved Feb. 12, 2007.

American countries have ratified all core conventions, with the exception of Brazil's abstention from the freedom of association and collective bargaining convention. Central American countries also have relatively high ratification rates as compared with their North American neighbors, as Costa Rica, Guatemala, Honduras, Nicaragua, and Panama have each ratified all of the ILO core conventions.

Asian countries have the lowest regional ratification rate, at 66 percent. Korea, with which the United States has recently concluded an FTA, has ratified four of the eight ILO core conventions. Korea ratified the equal remuneration convention, in 1997, followed by ratifications of the discrimination convention, the minimum age convention, and the worst forms of child labor convention in 1998, 1999, and 2001, respectively.²⁶ India and China also have ratified half of the eight core conventions. China has ratified the same four conventions as Korea, while India has ratified the conventions on forced labor, equal remuneration, abolition of forced labor, and discrimination.²⁷

²⁶ Ibid.

²⁷ Ibid.

Each of the United States' FTA partners²⁸ have ratified at least four of the eight core conventions. More specifically, ten of the twenty countries with which the United States has signed an FTA have 100-percent ratification rates, including Israel, Chile, Honduras, Nicaragua, Guatemala, Costa Rica, Dominican Republic, Peru, Colombia, and Panama. Morocco and Jordan have ratified all of the core conventions except those pertaining to freedom of association and the right to organize. Mexico has ratified six of the eight conventions, having abstained from those conventions on the right to organize and bargain collectively and minimum age, while Canada has ratified five of the conventions, having abstained from the conventions on forced labor, the right to organize, and minimum age. Australia and Singapore have ratified six of the eight conventions; Australia abstained from the conventions concerning minimum age and the worst forms of child labor, and Singapore abstained from those conventions on the freedom of association and right to organize and discrimination. However, Singapore denounced ratification of the abolition of forced labor convention in 1979 and is presently a party to five core conventions.²⁹ Bahrain, Oman, and Korea have the lowest ratification rates among U.S. FTA partners, having ratified half of the core conventions.

Among those countries with which the United States is in the process of negotiating a free trade agreement,³⁰ Botswana, Lesotho, South Africa, and Swaziland have 100-percent ratification rates. By comparison, Namibia, the United Arab Emirates, and Thailand have each ratified at least five of the core conventions, with ratification rates of 88 percent, 75 percent, and 62 percent, respectively. Malaysia is currently a party to five of the core conventions, having denounced its ratification of the convention on the abolition of forced labor in 1990.

²⁸ For the purposes of this study, an FTA partner is a country that has implemented an FTA agreement with the United States or has concluded FTA negotiations with the United States. U.S. FTA partners include: Israel, Canada, Mexico, Jordan, Chile, Singapore, Australia, Morocco, El Salvador, Honduras, Nicaragua, Guatemala, Bahrain, Costa Rica, Dominican Republic, Oman, Peru, Columbia, Panama, and Korea.

²⁹ ILO. ILOLEX Database.

³⁰ This includes Botswana, Lesotho, Malaysia, Namibia, South Africa, Swaziland, Thailand, and United Arab Emirates.

Labor Issues and the World Trade Organization

The WTO's overall approach to labor standards is articulated in the 1996 Singapore Ministerial Declaration,³¹ which recognizes a link between trade and labor issues, but indicates that WTO members recognize the ILO as the competent international authority with regard to labor. In the 1996 declaration, the WTO ministers reaffirmed their commitment to recognized core labor standards and acknowledged that those standards should not be applied as a method of disguised trade protection or as a means to hinder the comparative advantage of low-wage countries. The declaration acknowledged that economic growth and development, which is enhanced by trade liberalization, contributes to the promotion of labor standards. The declaration also indicates that the WTO and ILO secretariats will continue to collaborate on labor issues, though the ILO will maintain primary responsibility for such issues. This collaboration includes WTO participation at ILO meetings and the free exchange of information.³²

In keeping with the WTO's recognition of ILO authority on labor issues, WTO agreements do not include provisions that specifically relate to the enforcement of labor standards. It has been suggested that certain general exception clauses—specifically Article XIV(a) and (b) of the GATS and Article XX(b) of the General Agreement on Tariffs and Trade (GATT)—may apply to human rights issues, such as workers' rights.³³ Article XIV(a) of the GATS specifies exemptions for measures that are deemed necessary to protect public morals or to maintain public order, and both Article XIV(b) of the GATS and Article XX(b) of the GATT allow WTO members to maintain GATS- or GATT-inconsistent policies if these measures are considered “necessary” to protect human, animal, or plant life or health. These articles direct that such policies should not result in arbitrary discrimination or a disguised restriction on international trade. In addition, it has been suggested that GATT Article XXIII—which addresses dumping—might be used to address workers' right issues, as failing to protect labor rights could be

³¹ WTO. “Singapore Ministerial Declaration.”

³² WTO. “Trade and Labour Standards,” 1.

³³ United Nations High Commissioner for Human Rights. *Human Rights and World Trade Agreements*, 4; Grace. “WTO Trade & Labor Standards;” and Mansoor. “The WTO Versus the ILO and the Case of Child Labor.”

considered “social dumping.”³⁴ However, the WTO mentions only one instance in which a labor issue was indirectly raised within the context of a trade dispute.³⁵

Although specific provisions on labor standards and workers’ rights are largely absent from WTO agreements, many member countries have undertaken binding commitments regarding the cross-border movement of services workers. Under the GATS, many member countries have scheduled commitments on the provision of services through the temporary entry of natural persons, or Mode 4. Services are said to be provided through Mode 4 when an individual, functioning alone or in the employ of a service provider, temporarily travels abroad to deliver a service. While there is no standard definition of “temporary,” the agreement explicitly excludes measures regarding citizenship, residence, and employment on a permanent basis.³⁶

The vast majority of Mode 4 commitments have been scheduled as “horizontal” or “cross-industry” commitments, which apply to all service activities for which a member has scheduled specific commitments. Among the WTO’s 151 member countries, 121 countries³⁷ have scheduled horizontal commitments on the provision of services through Mode 4. Measures included in horizontal Mode 4 commitments are generally of three types: measures governing the entry of specific types of workers; labor market regulations governing the issuance of work permits; and regulations regarding foreigners’ qualifications and certification to work in certain professions or fields.³⁸ The following discussion summarizes country-specific horizontal commitments on the provision of services through Mode 4. Detailed descriptions of these commitments can be found in appendix B of this report.

³⁴ Grace. “WTO Trade & Labor Standards;” and Mansoor. “The WTO Versus the ILO and the Case of Child Labor.”

³⁵ The WTO reports that labor standards were raised indirectly within an Appellate Body Report on an EC-India dispute regarding the conditions under which developing countries receive tariff preferences. WTO. “Labor Standards: Consensus, Coherence and Controversy.”

³⁶ WTO. “Annex on Movement of Natural Persons.”

³⁷ Overall, a total of 111 GATS schedules contain horizontal Mode 4 commitments, including 110 member country schedules as well as that schedule submitted for the territory of Netherlands Antilles. For the purposes of this discussion, the EU schedule, which was submitted for the “European Communities and their Member States,” is counted as a single member representing 12 separate countries.

³⁸ WTO. Council for Trade in Services (CTS), “Presence of Natural Persons (Mode 4).” 11.

Most member countries have established provisions regarding the entry and temporary stay of specifically defined categories of workers. The United States' schedule of commitments, for example, defines four primary categories of workers: service salespersons or business visitors; intra-corporate transferees, including managers, executives, and specialists; persons engaged in the establishment of a commercial presence; and fashion models and employees in specialty occupations. Many of the United States' major trading partners, such as the EU,³⁹ include provisions for similar categories of workers in their Mode 4 commitments, although provisions regarding fashion models and individuals in specialty occupations are unique to the U.S. schedule of commitments.

Most horizontal Mode 4 commitments specify maximum lengths of stay and requirements regarding length of prior employment for certain categories of workers. Where a length-of-stay restriction is specified, the stay is often limited to 90 days for business visitors and service salespersons, persons establishing a commercial presence, and those who have established a service contract with an entity in the host nation. Intra-corporate transferees are generally limited to a 2- or 3-year initial stay that often can be extended to a maximum stay of 5 years. For example, the United States limits service salespersons to 90 days and intra-corporate transferees to 5 years, including an initial 3-year stay and extensions totaling no more than 2 years. The United States limits fashion models and employees in specialty occupations to a maximum stay of 3 years. The EU does not specify length-of-stay limitations except for service providers under an established contract, who are permitted to stay for 3 months in any 12-month period or for the duration of the contract, whichever is less. Most nations, including the United States, also require intra-corporate transferees and employees that are seeking entry for the purpose of establishing a commercial presence to have been employed with their firm for at least one year prior to the date of application for entry.

³⁹ The EU's 1994 schedule of commitments, which was submitted for the "European Communities and their Member States," applies to the 12 countries that were members of the EU prior to 1995, namely Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, and the United Kingdom. This schedule includes, *inter alia*, horizontal Mode 4 commitments that remain in force for all 12 of these countries. The horizontal Mode 4 commitments that apply to Austria, Finland, and Sweden, as well as the 10 countries that became EU members in 2004, are contained in the separate schedules of commitments that were independently submitted by each of these countries.

Several WTO member countries have included labor market regulations in their horizontal Mode 4 commitments. For example, some member countries indicate that they maintain economic needs tests or similar provisions requiring a company to justify the need for a foreign employee based on the unavailability of qualified professionals in the domestic market. Brazil specifies such a provision with respect to specialized technicians and highly qualified professionals. Other countries, such as Jordan, specify that work permits for all categories of workers are granted on the basis of an economic needs test. By contrast, certain Mode 4 commitments—such as those maintained by South Africa, Austria, and the EU—specifically indicate that an economic needs test is not required for certain positions. The U.S. schedule of commitments includes no reference to economic needs tests or similar provisions.

Many horizontal Mode 4 commitments include quotas or limitations on the number of foreign workers permitted to enter a country, or on the number of foreigners permitted to provide services in a particular country or firm. For example, the United States indicates that no more than 65,000 persons per year are permitted entry as either fashion models or employees in specialty occupations. Panama's schedule of commitments states that 90 percent of an employer's ordinary workforce must comprise Panamanian nationals, foreigners with a Panamanian spouse, or foreigners that have resided in the country for at least 10 years. Panama's schedule also states that foreign personnel with specialized or technical skills may not exceed 15 percent of the total workforce. Similarly, Colombia specifies that if there are more than 10 employees in a firm, at least 90 percent of that firm's ordinary employees and no less than 80 percent of its skilled employees or specialists, administrative staff, or persons in posts of responsibility must be Colombians. Many of the United States' major trading partners, however, do not specify provisions restricting the number of foreign workers.⁴⁰

⁴⁰ For example, Canada, China, the EU, Japan, and Mexico do not have provisions within their horizontal Mode 4 commitments restricting the number of foreign employees permitted entry.

Several countries maintain Mode 4 provisions that restrict certain categories of foreign employees from receiving remuneration from a source within the host country. Business persons seeking entry to a foreign country are frequently not permitted to sell a service directly to the general public or to perform the service itself. The United States and many of its major trading partners—such as Canada, China, Japan, and Sweden—also maintain similar provisions for business visitors or service salespersons. Some schedules, such as those submitted by Mexico and the EU, do not specify restrictions on remuneration but do indicate that service salespersons may not sell services directly to the general public.

Most horizontal Mode 4 commitments include measures requiring foreign specialists and professionals to possess certain academic or professional qualifications. In the public's interest, governments generally seek to ensure that suppliers have undergone a certain amount of education and training through publicly regulated or industry-regulated systems.⁴¹ U.S. commitments indicate that persons seeking entry for the purpose of engaging in a specialty occupation must possess highly specialized knowledge with both theoretical and practical applications. Such specialists must possess a bachelor's degree or higher in their specialty field, and expertise in the specialty acquired through experience in progressively responsible positions. Such persons must also hold the appropriate licenses to practice, as mandated by certain U.S. states. Many of the United States' major trading partners maintain similar requirements. India, for example, requires professionals to possess certain academic and professional qualifications, which include three years of experience in physical sciences, engineering, or natural sciences.

The Doha Round negotiations, which resumed in February 2007, have among their objectives the liberalization of services provisions, including measures affecting the supply of services through Mode 4.⁴² In keeping with the measures currently specified in member countries' schedules, negotiations on Mode 4 are focussed on the liberalization of quantitative restrictions, provisions regarding length of stay, conditions regarding length of employment in a particular firm, labor market conditions, economic needs

⁴¹ WTO. CTS. "Presence of Natural Persons (Mode 4)." 12.

⁴² For more information on the current round of WTO services negotiations, see http://www.wto.org/english/tratop_e/ser_e/s_negs_e.htm.

tests, and other barriers to entry. Since November 2000, negotiating proposals, initial offers, and revised offers had been submitted by a substantial number of WTO members (box 1). It is unclear what effect a successful conclusion to these negotiations ultimately would have on members' Mode 4 commitments and, thus, on the cross-border provision of services through Mode 4.

Measures relating to the temporary entry of workers were also included in U.S. trade agreements with Chile and Singapore. These are discussed in the section titled, "Free Trade Agreements Negotiated under the Trade Act of 2002," below.

U.S. Trade Legislation and Free Trade Agreements

In contrast to the WTO approach, provisions intended to ensure workers' rights have been an integral component of U.S. trade legislation and negotiated FTAs since the mid-1980s. Since the U.S. Congress amended the provisions of the Generalized System of Preferences in 1984,⁴³ provisions that, for example, require or urge the United States and its free trade partners to enforce or maintain worker protections, or to engage in capacity-building and cooperative efforts related to labor rights, have been included in most U.S. preferential trade programs, in the labor side-agreement of the NAFTA, and in the labor chapters of most recently negotiated U.S. FTAs. Labor standards were among the negotiating objectives included in the legislation⁴⁴ that granted trade promotion to the President in 1974⁴⁵ and 1988.⁴⁶ These objectives, as they appeared in this 1974 and 1988 legislation, were directed primarily towards negotiations on the General Agreement on Tariffs and Trade (GATT).⁴⁷ In the Trade Act of 2002,⁴⁸

⁴³ Generalized System of Preferences Renewal Act of 1984, 19 U.S.C. § 2901 note.

⁴⁴ Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2901 note.

⁴⁵ Trade Act of 1974, 19 U.S.C. §§ 2101-2102.

⁴⁶ Omnibus Trade and Competitiveness Act of 1988, 20, 19 U.S.C. § 2901 note.

⁴⁷ For further discussion see, for example, Horbeck and Cooper. "Trade Promotion Authority (TPA): Issues, Options, and Prospects for Renewal," CRS-17; and Peir. "Workers Rights Provisions in Fast Trade Authority."

⁴⁸ Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813. This act was signed into law on August 9, 2002 and expired on July 1, 2007.

Box 1 Recent WTO negotiations on the Movement of Natural Persons (Mode 4)

In keeping with Article XIX of the GATS,^a a new round of service negotiations, including negotiations on the provision of services through the Movement of Natural Persons (Mode 4), began in January of 2000.^b WTO member economies submitted over 100 initial negotiating proposals to the GATS Council for Trade in Services in preparation for these negotiations. These proposals outline member countries' positions regarding both sector-specific and cross-sectoral issues. The negotiations themselves are being conducted through a request-offer approach, under which member countries submitted initial requests asking other members to make specific changes to their schedule of commitments. Following these requests, WTO members submitted initial offers. These non-binding offers are presented in a redline-strikeout format, illustrating those changes a member might be willing to make to their schedules in response to other members' requests.

The provision of services through movement of natural persons, or Mode 4, was the subject of six initial proposals, each of which primarily addressed the need to improve procedural and administrative efficacy with regard to the cross-border movement of natural persons.^c According to the WTO, sixty-nine WTO member countries submitted initial offers beginning in March 2003, and thirty countries submitted revised offers based on further negotiations. Among the fifteen entities that have submitted publically available offers, twelve entities have proposed changes to their horizontal Mode 4 commitments.^e Many of these offers simply attempt to clarify and further standardize the definitions that apply to categories of workers covered by Mode 4 commitments.^f Some offers propose additional worker categories in an attempt to clarify which commitments and restrictions apply to various types of workers. For example, Japan's revised offer adds two categories of workers: contractual service suppliers and independent professionals. The offer enhances the transparency of Japan's Mode 4 commitments by specifically defining those activities that distinguish these two categories of workers. Other offers extended the permissible length of stay for certain categories of workers. Norway's offer extended the maximum length of stay for intra-corporate transferees from two years to four, while Japan's offer would allow business visitors to receive an extension, enabling them to stay longer than the previously scheduled ninety-day term.

On July 24, 2006, the current round of WTO negotiations was suspended by WTO Director-General Pascal Lamy and the Trade Negotiations Committee. The suspension applied to all negotiating groups, including those addressing Mode 4 commitments, and was attributed to an inability to achieve progress on a "triangle" of issues: reductions in domestic farm support and subsidies; increased agricultural market access; and reductions in industrial tariffs.^g At a meeting of the WTO General Council on February 7, 2007, Director-General Lamy announced that increasing political commitment among WTO member countries had enabled the resumption of Doha Round negotiations. The Director-General noted a general desire to conclude these negotiations quickly, and stressed the importance of achieving substantial results. However, as of that date, no negotiating deadlines had been established.^h On July 27, 2007, Director-General Lamy indicated that further progress had been achieved in the negotiations, and he urged delegations to prepare for intensive negotiations beginning on September 3, 2007.ⁱ

^aArticle XIX of the GATS requires WTO members to initiate a new round of services negotiations no later than five years after the entry into force of the WTO agreement.

^bFor more information on the current round of WTO services negotiations, see http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm.

^cProposals were submitted by Colombia, Japan, the European Communities and its Member States (EC), Canada, the United States, and India.

^dWTO. "The New Negotiations."

^eAccording to the WTO website, Australia, Canada, Chile, Colombia, the EC, Iceland, Japan, Korea, Liechtenstein, New Zealand, Norway, Pakistan, Slovenia, Turkey, and the United States each submitted an initial offer and/or a revised offer that has been made available to the public. With the exception of Colombia, Liechtenstein, and the United States, each of these entities has proposed changes to its horizontal Mode 4 commitments in at least one of its publically available offers.

^fAs WTO member countries have not developed harmonized definitions of worker categories, the definitions included in these offers are, in some cases, still open to interpretation.

^gFor more information, see WTO. "Talks Suspended, 'Today There Are Only Losers.'"

^hWTO. "Lamy: 'We Have Resumed Negotiations Fully Across the Board.'"

ⁱWTO. "Lamy Sees High Level of Commitment to Conclude the Round."

Congress mandated the inclusion of workers' rights provisions in U.S. FTAs and established labor-related reporting requirements under the legislation that restored Presidential trade promotion authority. In May 2007, the status of workers' rights provisions in U.S. FTAs was reaffirmed when the USTR and members of Congress concluded an agreement to, *inter alia*, strengthen the labor provisions contained in FTAs that had been negotiated with Peru, Colombia, Panama, and Korea. However, politicians and academics continue to debate the positive and negative aspects of including labor issues in trade legislation and negotiated FTAs.⁴⁹

Preferential Trade Programs

As stated above, workers' rights provisions and labor-related reporting requirements are included in most U.S. preferential trade programs. In 1984, Congress amended the GSP provisions in the Trade Act of 1974 to include the affording of internationally recognized workers rights as one of the purposes of the program and to set out, in a new Section 502(a)(4) of the Trade Act of 1974, a list of internationally recognized workers rights.⁵⁰ The 1983 Caribbean Basin Economic Recovery Act (CBERA),⁵¹ and the subsequent 1990 Caribbean Basin Economic Recovery Expansion Act (CBERA),⁵² as well as the 1991 Andean Trade Preference Act (ATPA),⁵³ also include similar conditions and on beneficiary countries. Generally, as defined, the labor provisions of these legislative measures cover the following internationally recognized worker rights: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children and a prohibition on the worst forms of child labor; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

⁴⁹ See, for example, Center for International Development at Harvard University. "Labor Summary;" Brown, Dearnorff, and Stern. "Pros and Cons of Linking Trade and Labor Standards;" Elliott. "Labor Standards and the FTAA;" CRS. "NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate;" and CRS. "Trade Agreements: A Pro/Con Analysis of Including Core Labor Standards."

⁵⁰ Secs. 501, 503 of the Omnibus Trade and Tariff Act of 1984. 98 Stat. 3018 et seq.

⁵¹ Caribbean Basin Economic Recovery Act, 19 U.S.C. §§ 2701-2707. See, for example, U.S.C. § 2702(b)(7) referencing definitions in Trade Act of 1974, 19 U.S.C. § 2467(4). Amendments in 1990 (Pub. L. 101-382, Sec. 213(5)) expanded the list of worker rights beyond "the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively."

⁵² Caribbean Basin Economic Recovery Expansion Act of 1990, U.S.C. §§ 2701-2707.

⁵³ Andean Trade Preference Act, 19 U.S.C. §§ 3201-3206. See, for example, § 3202(c)(7) referencing definitions in Trade Act of 1974, 19 U.S.C. § 2467(4).

A country's failure to secure these labor rights can result in the loss of preferences accorded to some or all of its exports to the United States.⁵⁴ It has been argued that the labor provisions under GSP may provide a greater guarantee that a partner country's laws will be consistent with internationally recognized workers' rights than the labor measures included in those recent U.S. FTAs⁵⁵ which require only that the parties enforce their own domestic laws.

Labor-related reporting requirements under most U.S. preferential trade programs include status reports on labor standards in the partner country and/or assessment of potential employment impacts in the United States. For example, the GSP Renewal Act requires the President to submit an annual report to Congress on "the status of internationally recognized worker rights within each beneficiary developing country, including . . . implementation of its international commitments to eliminate the worst forms of child labor."⁵⁶ Reporting requirements under CBERA and ATPA require analysis of the impact of these trade programs on the U.S. labor market and employment.⁵⁷

Free Trade Agreements Implemented Prior to 2002

The NAFTA's side agreement on labor, known as the North American Agreement on Labor Cooperation (NAALC),⁵⁸ was the first instance in which workers' rights provisions were connected in a significant manner to a U.S. international trade agreement.⁵⁹ This side agreement—together with a side agreement on environmental issues—was advocated by the Clinton administration and likely contributed

⁵⁴ For a general discussion on instances in which petitions have been filed for violations of the labor-related provisions of these programs, see, for example, Polaski. "Central America and the U.S. Face Challenge," 2.

⁵⁵ International Labor Rights Fund. "Labor Provisions in U.S.-Chile Free Trade Agreement;" and Polaski. "Central America and the U.S. Face Challenge." 2.

⁵⁶ *Generalized System of Preferences Renewal Act of 1984*, 19 U.S.C. § 2464. Such reports are available at <http://www.dol.gov/ilab/media/reports/iclp/main.htm>.

⁵⁷ Caribbean Basin Economic Recovery Act, 19 U.S.C. § 2705 and Andean Trade Preference Act, 19 U.S.C. § 3205, respectively. For example, a list of those reports prepared under the ATPA can be found at <http://www.dol.gov/ilab/programs/otla/fercontx.htm>.

⁵⁸ North American Free Trade Agreement (NAFTA) 19 U.S.C. § 3301 et seq. and the North American Agreement on Labor Cooperation (NAALC). 19 U.S.C. § 3471 (NAALC). NAALC is one of two side agreements to the NAFTA (the other is the North American Agreement on Environmental Cooperation). The North American Commission for Labor Cooperation (NACLK), established as part of the agreement, oversees the implementation of the agreement and monitors the abilities of the Parties to meet the obligations. NAFTA became effective January 1, 1994.

⁵⁹ The Commission for Labor Cooperation, "The North American Agreement on Labor Cooperation;" and Bolle. "NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Trade Debate," CRS-1.

to the U.S. Congress' approval of the overall agreement.⁶⁰ The NAFTA side agreement on labor requires each party to maintain high labor standards and to aspire to improve workers' rights standards in connection with productive and high quality workplaces.⁶¹ The NAALC sets out objectives, obligations, and principles for the parties under the agreement. The list of stated objectives of the side agreement includes the improvement of working conditions and standards and the encouragement of an exchange of information related to labor laws and institutions. The list of member countries' obligations under the NAALC includes the obligation to maintain "high labor standards;"⁶² to include access to "administrative, quasi-judicial, judicial or labor tribunals for the enforcement of [its domestic] labor law;"⁶³ and to ensure that such tribunals are "fair, equitable and transparent."⁶⁴ The parties are obligated to ensure that decisions by such tribunals are in writing, public, and based on evidence and information submitted by parties to the proceedings.⁶⁵

The NAALC's stated principles include eleven labor rights norms: (1) the freedom of association and protection of the right to organize; (2) the right to bargain collectively; (3) the right to strike; (4) the prohibition of forced labor; (5) labor protections for children and young persons; (6) minimum employment standards, including a minimum wage; (7) the elimination of employment discrimination; (8) equal pay for women and men; (9) the prevention of occupational injuries and illnesses; (10) compensation in cases of occupational injuries and illnesses; and (11) protection of migrant workers.⁶⁶ NAFTA partners agreed to promote all eleven principles and to enforce their own labor laws and standards that relate to these principles. Where enforcement of the relevant rights is in question, the agreement establishes a process under which the parties may engage in government-to-government discussions. However, only three of these principles are enforceable by sanctions if a country does not enforce its related laws: labor protections for children; minimum employment standards; and the

⁶⁰ Stern. "Labor Standards and Trade Agreements." 15.

⁶¹ NAALC. Article 2.

⁶² NAALC. Article 2.

⁶³ NAALC. Article 4(1).

⁶⁴ NAALC. Article 5(1).

⁶⁵ NAALC. Article 5 (2).

⁶⁶ NAALC. Annex 1.

prevention of occupational injuries and illnesses.⁶⁷ The NAALC further outlines procedures for consultation, the resolution of disputes, and penalties for violation of the agreement, including monetary penalties.⁶⁸

NAFTA was negotiated and adopted under fast-track authority in the Omnibus Trade and Competitiveness Act of 1988,⁶⁹ which expired in 1994. Section 1101(b)(14) of the 1988 Act listed among its principal labor objectives the following: to promote respect for workers' rights; to ensure that the benefits of the trading system are available to all workers; and to ensure that the denial of workers' rights would not be a means for a country or industry to gain a competitive advantage.⁷⁰ These objectives were also incorporated into U.S. implementing legislation for the Uruguay Round trade agreements,⁷¹ which were negotiated and adopted under this fast-track authority.⁷²

The United States subsequently negotiated and implemented⁷³ the U.S.-Jordan FTA, which included labor provisions within the body of the agreement. The agreement's labor section (Article 6)⁷⁴ states that each party shall "strive to ensure" that its labor principles are protected by domestic law (Article 6.1), are not weakened to encourage trade (Article 6.2), and are consistent with internationally recognized labor rights (Article 6.3). Each party also "shall not fail to effectively enforce its labor laws" (Article 6.4). The agreement defines "labor laws" as statutes or regulations directly related to: (1) the right

⁶⁷ The agreement requires each party to "promote compliance and effectively enforce its labor law through appropriate government action" NAFTA. Part II, Article 3. For further discussion, see Bolle, "NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate."

⁶⁸ Annex 39 ("Monetary Enforcement Assessments") requires that a remedy for violations under the labor side agreement will be no greater than \$20 million in year 1 and, after that, no greater than 0.007 percent of the total trade in goods for the most recent year of available data.

⁶⁹ Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2901 note.

⁷⁰ For further information on this topic, see Bolle. "Trade Promotion (Fast-Track) Authority: Summary and Analysis of Selected Major Provisions;" and Bolle. "Trade Promotion Authority (Fast-Track): Labor Issues (Including H.R. 3005 and H.R. 3019)."

⁷¹ Uruguay Round Agreements Act, 19 U.S.C. § 3501 et seq.

⁷² Some literature on the General Agreement on Tariffs and Trade (GATT) identify certain general provisions and sections of the agreement as establishing a link between core labor standards and trade disciplines in the WTO. Those include provisions such as GATT Article IV (Anti-Dumping and Countervailing Duties), Article XX (General Exceptions), Article XXIII (Nullification or Impairment), and Article XXXV ("Opt-out provisions"). See, for example, Brown. "International Labor Standards in the World Trade Organization."

⁷³ United States-Jordan Free Trade Area Implementation Act, 19 U.S.C. § 2112 note. The U.S.-Jordan FTA was signed on October 24, 2000 and entered into force on December 17, 2001.

⁷⁴ The texts of U.S. bilateral free trade agreements can be found at http://www.ustr.gov/Trade_Agreements/Bilateral.Section_Index.html. For further discussion of this issue, see, for example, Bolle. "U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues."

of association; (2) the right to organize and bargain collectively; (3) the prohibition of the use of any form of forced or compulsory labor; (4) minimum employment age; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health (Article 6.6). These worker protections are subject to the agreement’s dispute settlement process and monetary penalties for violations of the agreement’s labor measures are not capped, as they are under most FTAs to which the United States is party.⁷⁵ Much of the language in the U.S.-Jordan FTA regarding the protection of workers’ rights has been incorporated into subsequent U.S. FTAs, and similar language is also found in the legislation that renewed trade promotion authority (fast-track) in 2002.

Free Trade Agreements Negotiated under the Trade Act of 2002

In 2002, the U.S. Congress formally established a framework for U.S. trade negotiations as part of the Bipartisan Trade Promotion Authority Act of 2002 (TPA)—or the renewal of fast-track authority—included in the Trade Act of 2002.⁷⁶ The TPA includes labor provisions among its “overall” and “principal” negotiating objectives for future FTAs (table 2). Core labor standards, as defined by the TPA, are identical to those identified in the U.S.-Jordan FTA and certain U.S. preferential trade programs.⁷⁷

Since the enactment of TPA, the United States has concluded and/or signed FTAs containing workers’ rights provisions with the following countries: Singapore (Chapter 17); Chile (Chapter 18); Australia (Chapter 18); Morocco (Chapter 16); Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (CAFTA-DR, Chapter 16); Bahrain (Chapter 15); Oman (Chapter 16); Peru (Chapter 17); Colombia (Chapter 17); Panama (Chapter 17); and Korea (Chapter 19).⁷⁸

⁷⁵ U.S.-Jordan FTA. The text of this agreement can be found at http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Jordan/asset-upload-file250-5112.pdf.

⁷⁶ Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813. This act was signed into law on August 9, 2002 and expired on July 1, 2007.

⁷⁷ These standards include: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health (Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813, P.L. 107-210, Sec. 2113(6)).

⁷⁸ Complete texts of each of these agreements can be found at http://www.ustr.gov/Trade_Agreements/Bilateral/Section_Index.html.

Labor issues are also a component of ongoing U.S. FTA negotiations with the UAE; Thailand; and Botswana, Lesotho, Namibia, South Africa, and (Swaziland South African Customs Union, or SACU).

Under the provisions of the TPA, the U.S. Department of Labor is required to submit three labor-related reports to the U.S. Congress for each new FTA. These include: (1) a report assessing the potential impact of the FTA on U.S. employment; (2) a report on labor conditions in the partner country/countries; and (3) a report on the partner country's/countries' laws governing exploitative child labor and compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.⁷⁹ These reports are public and are posted on the U.S. Department of Labor's website.

Certain labor provisions in U.S. FTAs are subject to dispute resolution and, thus, are regarded as enforceable commitments. Commitments subject to dispute resolution may be enforceable through trade sanctions or other monetary penalties. In many of the recent FTAs that secured Congressional approval prior to May 2007, fines that can be assessed to remedy violations are capped at \$15 million annually, adjusted for inflation as specified by the agreement. Generally, the only labor commitment included in these FTAs that is subject to dispute settlement is a provision stating that each party agrees to enforce its own labor laws. U.S. FTAs with, *inter alia*, Singapore, Chile, Australia, Bahrain, and Oman include this provision.⁸⁰ Labor provisions in U.S. FTAs with Jordan, Morocco, and CAFTA-DR are worded as objectives or aspirations that each party provide for labor standards that are consistent with

⁷⁹ Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813, P.L. 107-210 Sec. 2102(c)(5), Sec. 2102(c)(8), and Sec. 2102(c)(2), respectively). Department of Labor reports for each FTA since enactment of TPA are available at <http://www.dol.gov/ilab/media/reports/usfta/main.htm>.

⁸⁰ The article in these FTAs is usually worded as "not fail to effectively enforce its labor laws," allowing the partner country to retain the right to exercise normal enforcement discretion and set their own labor standards. In the case of the NAFTA, the article is worded as "effectively enforce its labor law." The U.S.-Oman FTA states, "Neither Party shall fail to effectively enforce its labor laws."

TABLE 2 Overall and Principal Trade Negotiating Objectives Related to Labor as Established under the Bipartisan Trade Promotion Authority Act of 2002

Overall Trade Negotiating Objectives

- To promote respect for worker rights and the rights of children consistent with core labor standards of the ILO, as defined in Sec. 2113(6), and an understanding of the relationship between trade and worker rights (Sec. 2102(a)(6))
- To seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic labor laws as an encouragement for trade (Sec. 2102(a)(7))
- To promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Sec. 2102(a)(9))

Principal Trade Negotiating Objectives

- To ensure that each party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the U.S. and that party after entry into force of a trade agreement between those countries (Sec. 2102(b)(11)(A))
- To recognize that parties retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise or such discretion, or results from a bona fide decision regarding the allocation of resources, and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection (Sec. 2102(b)(11)(B))
- To strengthen the capacity of U.S. trading partners to promote respect for core labor standards defined in section 2113(6)^a (Sec. 2102(a)(11)(C))
- To ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade (Sec. 2102(a)(11)(G))
- To seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor (Sec. 2102(a)(17))

Source: Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813 (P.L. 107-210, Sec. 2102(a) and Sec. 2102(b)). Excludes "priorities" specified in Sec. 2102(c).

^aSec. 2113(6) defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health (Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3812. P.L. 107-210, Sec. 2113(6)).

internationally recognized labor rights.⁸¹ Among the labor-related measures that are not subject to dispute settlement under these FTAs are provisions to promote respect for core labor standards through the establishment of cooperative programs and capacity building, to establish other institutional arrangements

⁸¹ USTR. "CAFTA Facts." In these FTAs, the article is usually worded to read that each country will "strive to ensure" that its laws provide for labor standards consistent with internationally recognized labor rights. However, the consistency of U.S. labor laws with internationally recognized labor standards is not subject to dispute settlement procedures under any U.S. FTAs that received Congressional approval prior to May 2007.

and consultative mechanisms among countries, and to enhance procedural guarantees and public awareness related to labor issues.⁸² Under the provisions of these FTAs, parties also reaffirm their obligations as ILO members, including their commitments to promote respect for core labor standards and internationally recognized workers' rights under the ILO Declaration on Fundamental Principles and Rights at Work. Under those FTAs that were negotiated under the Bipartisan Trade Promotion Authority Act of 2002 and had received Congressional approval prior to May 2007, these provisions and obligations are not subject to dispute resolution.⁸³

In May 2007, the USTR and certain members of Congress established a bipartisan agreement on trade policy in order to facilitate efforts to re-establish Trade Promotion Authority and Congressional approval of recently concluded FTAs with Peru, Colombia, Panama, and Korea.⁸⁴ Under this agreement, the labor provisions contained in these four FTAs—among other FTA provisions—were revised. Specifically, in addition to the commitment obligating parties to enforce their own labor laws, these obligations also include an enforceable obligation to observe internationally recognized labor standards, as defined by the ILO's Declaration of Fundamental Principles and Rights at work. Unlike the labor provisions in other recent FTAs, both of these enforceable obligations are subject to those dispute settlement provisions that apply to the FTA's commercial obligations, under which remedies can be assessed according to the value of a trade injury.

Those labor provisions in recent FTAs that are subject to dispute settlement procedures are consistent with the objectives specified in the Bipartisan Trade Promotion Authority Act of 2002.⁸⁵ The legislation requires, among its principal negotiating objectives, that each partner country “ensure that each party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after

⁸² USTR. “Statement of the U.S. Trade Representative;” USTR. “CAFTA Facts.”

⁸³ Article 16.6.5 of the U.S.-Oman FTA, for example, states that “Neither party may have recourse to dispute settlement under this Agreement for any matter arising under and provision of this Chapter other than Article 16.2.1(a).” Article 16.2.1(a) obligates the parties to enforce their own labor laws.

⁸⁴ For more information on the bipartisan trade agreement, see USTR. “Bipartisan Trade Deal.”

⁸⁵ Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. §§ 3801-3813, P.L. 107-210.

entry into force of a trade agreement between those countries (Sec. 2102(b)(11)(A)). At the same time, the legislation recognizes that each partner country should “retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and. . . allocation of resources.” (Sec. 2102(b)(11)(B)).

The U.S.-Chile and U.S.-Singapore FTAs also include provisions relating to the temporary entry of workers. Specifically, these provisions allow the temporary entry of a certain number of foreign professionals from these countries each year.⁸⁶ However, the inclusion of immigration-related provisions in trade agreements was not favorably viewed by certain members of the U.S. Congress.⁸⁷ In response, the U.S. Senate passed Resolution 211 stating: “(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and (2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.”⁸⁸ As a result, similar provisions have not been part of subsequent FTAs negotiated by the United States.

There is a diversity of opinion regarding the practical impact of FTA labor provisions on workers rights in partner countries. USTR characterizes these provision as strong worker protections that guarantee employers' and workers' access to courts and labor tribunals.⁸⁹ However, certain sources report that some of the United States' FTA partner countries continue to have weak labor laws, ineffective judicial systems, and inadequate enforcement of such laws.⁹⁰ More information regarding the possible

⁸⁶ Under the obligation contained in these agreements, the United States reserved a certain number of H-1B visas for professionals from Chile (1,400 visas) and Singapore (5,400 visas).

⁸⁷ See, for example, U.S. Senate Committee on the Judiciary. Statement of Senator Jeff Session on the Immigration Provisions in the Chile and Singapore Free Trade Agreements; and U.S. Senate. Senator Diane Feinstein. "Talking Points on the Free Trade Agreements with Chile and Singapore."

⁸⁸ S.Res. 211 (108th Congress, 1st Sess.). Since a sense of the Senate is non-binding, Senator Feinstein later introduced an amendment to an appropriations bill that prohibits expenditure of funds on negotiations involving any immigration provisions by USTR. See, for example, Federation for American Immigration Reform. "Immigration and Trade Agreements."

⁸⁹ See, for example, USTR. "Free Trade with Colombia."

⁹⁰ Polaski. Testimony Before the Senate Committee on Finance, June 17, 2003; Polaski. "Central America and the U.S. Face Challenge;" AFL-CIO. *The Real Record on Workers' Rights in Central America*; Hogan. "DR-CAFTA Prescribes a Poison Pill." 511; and Brown, Deardorff, and Stern. "Pros and Cons of Linking Trade and Labor Standards."

impact of the labor provisions contained in recent U.S. FTAs are contained in recent USITC investigations on the potential effect of U.S. free trade agreements.⁹¹

Labor Provisions in the Trade Programs of Other Countries

Few countries other than the United States include labor provisions in their trade agreements.⁹² Canada has included labor provisions in some of its negotiated free trade agreements. For example, Canada's FTAs with both Chile and Costa Rica contain workers' rights provisions that parallel those in the NAFTA.⁹³ Recent FTAs negotiated by the European Union (EU) generally do not include labor standards. However, the EU's "Social Protocol and Agreement"—a component of the 1992 Maastricht Treaty on European Union—established conditions for the adoption of binding, Europe-wide legislation on labor rights, including most internationally recognized workers' rights.⁹⁴ EU countries also include measures on workers' rights as part of the GSP and other preferential trade programs, whereby failure to secure certain labor protections can render a beneficiary country ineligible for preferential treatment.⁹⁵

Outlook

Recent developments indicate ongoing awareness of the nexus between trade and labor issues, and suggest that worker rights and the labor market impacts of trade agreements will be the subject of increasing attention in the near future, particularly as tariff and nontariff barriers to trade continue to be removed. The ILO remains the foremost international body with regard to labor issues, and the WTO has limited its role primarily to collaborative efforts on trade-related labor issues. In February 2007, the WTO and ILO jointly issued a study entitled *Trade and Employment: Challenges for Policy Research*,⁹⁶

⁹¹ For example, U.S. International Trade Commission (USITC). *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*. 6-20; USITC. *U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*. 6-18; USITC. *U.S.-Panama Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*. 5-22; and USITC. *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*. 6-30.

⁹² USTR. "Statement of the U.S. Trade Representative." April 28, 2004.

⁹³ Elliott. "Finding our Way on Trade and Labor Standards?;" and Elliott. "Labor Standards and the FTAA."

⁹⁴ The Maastricht social protocol was preceded by the "Community Charter of Basic Social Rights for Workers," adopted in 1989, which required its member countries to conform their laws to a European standard. The Charter set conditions for adopting binding, Europe-wide legislation on labor rights and is a "side agreement," not an integral part of the Treaty of European Union.

⁹⁵ See, for example, Rettman. "Belarus Likely to Join Burma as EU Trade Pariah."

⁹⁶ For more information, including a link to the report, see WTO. "ILO and WTO Secretariat Issue Joint Study."

and WTO negotiations on the provision of services through the movement of natural persons (Mode 4) are ongoing as part of the recently resumed Doha Round (see box 1). Further, the relationship between trade and labor remains a high-profile issue within the U.S. Congress and, thus, an increasingly important consideration in U.S. bilateral trade negotiations. The recent bipartisan agreement on trade policy between the Bush administration and members of Congress—which proposed the inclusion of stronger labor provisions in the U.S. agreements with Peru, Colombia, Panama, and Korea as a means of facilitating Congressional approval of these FTAs—highlights the continuing importance of labor issues within the larger trade debate.

Bibliography

Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (U.S.-Jordan Free Trade Agreement).
http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Jordan/asset_upload_file250_5112.pdf.

American Federation of Labor-Congress of Industrial Unions (AFL-CIO). *The Real Record on Workers' Rights in Central America*. April 2005.

Autor, David, Lawrence F. Katz, and Melissa S. Kearney. "Measuring and Interpreting Trends in Economic Inequality." *American Economic Review Papers and Proceedings* 96, no. 2 (January 2006): 189-94.

Berman, Eli, John Bound, and Zvi Griliches. "Changes in the Demand for Skilled Labor within U.S. Manufacturing Industries: Evidence from the Annual Survey of Manufacturing." *Quarterly Journal of Economics* 109, no.2 (1994): 367-98.

Bolle, Mary Jane. Congressional Research Service (CRS), Foreign Affairs, Defense, and Trade Division. "The U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues." *CRS Report for Congress* RS21560, September 12, 2003. http://opencrs.cdt.org/rpts/RS21560_20030912.pdf. (accessed August 24, 2007).

Bolle, Mary Jane. CRS, Foreign Affairs, Defense, and Trade Division. "NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate." *CRS Report for Congress* 97-861E, October 9, 2001. <http://fpc.state.gov/documents/organization/6211.pdf>. (accessed August 24, 2007).

Bolle, Mary Jane. CRS, Foreign Affairs, Defense, and Trade Division. "Trade Promotion Authority (Fast-Track): Labor Issues (Including H.R. 3005 and H.R. 3019)," *CRS Report for Congress* RL31178. December 7, 2001. <http://fpc.state.gov/documents/organization/7953.pdf>. (accessed August 16, 2007).

Bolle, Mary Jane. CRS, Foreign Affairs, Defense, and Trade Division. "Trade Promotion Authority (TPA) Renewal: Core Labor Standards Issues: A Brief Overview." *CRS Report for Congress* RS22608, February 21, 2007. <http://www.nationalaglawcenter.org/assets/crs/RS22608.pdf>. (accessed August 24, 2007).

Borjas, George. "The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market." NBER Working Paper 9755, June 2003.

Brown, Drusilla K. "International Labor Standards in the World Trade Organization and the International Labor Organization." Working paper prepared for *Multilateral Trade Negotiations: Issues for the Millennium Round, Twenty-Fourth Annual Economic Policy Conference*, Federal Reserve Bank of St. Louis, October 21, 22, 1999. <http://ase.tufts.edu/econ/papers/200003.pdf>.

Brown, Drusilla K., Alan V. Deardorff, and Robert M. Stern. "Pros and Cons of Linking Trade and Labor Standards." *The Political Economy of Policy Reform: Essays in Honor of J. Michael Finger*. Contributions to Economic Analysis 270: 25-42. San Diego and Oxford: Elsevier, 2004.

Center for International Development at Harvard University. "Labor Summary." April 2004. <http://www.cid.harvard.edu/cidtrade/issues/labor.html>. (accessed June 27, 2006).

The Commission for Labor Cooperation. "The North American Agreement on Labor Cooperation." <http://www.naalc.org/index.cfm?page=147>. (accessed October 9, 2007).

Davis, Don and David E. Weinstein. "An Account of Global Factor Trade." *The American Economic Review* 91, no. 5 (December 2001): 1423-53.

Elliott, Kimberly Ann. "Finding our Way on Trade and Labor Standards?" Institute for International Economics Policy Brief 01-5. April 2001.

Elliott, Kimberly Ann. "Labor Standards and the FTAA." In *Integrating the Americas: FTAA and Beyond*, 641-72. Cambridge: Harvard University Press, 2004.

Federation for American Immigration Reform. "Immigration and Trade Agreements." http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecenters2c4b. November 2003.

Feenstra, Robert C. and Gordon H. Hanson. "Global Production Sharing and Rising Inequality: A Survey of Trade and Wages." University of California and National Bureau of Economic Research. Revised June 2001.

Golub, Stephen. "International Labor Standards: Are They an Appropriate Response to Global Competitiveness?" *Economic Perspectives*. USIA Electronic Journal, Vol. 3. No. 1. February 1998. <http://usinfo.state.gov/journals/ites/0298.ijee.ejgolub.htm>.

Goodman, Peter S. "GOP May Have to Swallow Tough Labor Terms for Trade Deals." *Washington Post*. Online version, March 27, 2007. <http://www.washingtonpost.com/wp-dyn/content/article/2007/03/26/AR2007032601646.html> (accessed March 27, 2007).

Grace, Brewster. "WTO Trade & Labor Standards." Foreign Policy in Focus brief. vol. 5. No. 15. April 2000. http://www.fpif.org/briefs/vol5/v5n15wtolabor_body.htm. (accessed August 14, 2007).

Heller, H. Robert. *International Trade: Theory and Empirical Evidence* Englewood Cliffs, NJ: Prentice-Hall, 1968).

Hogan, Marianne. "DR-CAFTA Prescribes a Poison Pill: Remedying the Inadequacies of Dominican Republic-Central American Free Trade Agreement Labor Provision." *Suffolk University Law Review* XXXIX (2006): 511.

Hornbeck, J.F. and William H. Cooper. CRS, Foreign Affairs, Defense, and Trade Division. "Trade Promotion Authority (TPA): Issues, Options, and Prospects for Renewal," *CRS Report for Congress* RL33743, July 12, 2007. <http://www.nationalaglawcenter.org/assests.crs/RL337743.pdf>. (accessed October 5, 2007).

Ingram, Beth F. and George R. Neuman, "The Returns to Skill," *Labor Economics* 13, no. 1. (February 2006): 35-59.

International Labor Organization (ILO). "About the Declaration." http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DECLARATIONHISTORY?var_language=EN. (accessed August 13, 2007).

ILO. "About the ILO." <http://www.ilo.org/public/english/about/index.htm> (accessed August 15, 2006).

ILO. "Conventions and Recommendations." <http://www.ilo.org/public/english/standards/norm/introduction/what.htm> (accessed August 20, 2007).

ILO. ILOLEX, Database on International Labor Standards. <http://www.ilo.org/ilolex/english/index.htm>.

ILO. "ILO History." Last updated October 26, 2000. <http://www.ilo.org/public/english/about/history.htm> (accessed November 29, 2006).

ILO. Bureau for Workers' Activities (ACTRAV). "International Labor Law." <http://www.itcilo.it/english/actrav/telearn/global/ilo/law/lablaw.htm> (accessed November 29, 2006).

ILO. "Ratification of Fundamental Human Rights Conventions By Country." From ILOLEX Database on International Labor Standards. <http://www.ilo.org/ilolex/english/docs/declprint.htm> (accessed January 20, 2007).

ILO. "Structure of the ILO." <http://www.ilo.org/public/english/depts/fact.htm> (accessed August 15, 2006).

International Labor Rights Fund. "Labor Provisions in U.S.-Chile Free Trade Agreement: A Great Leap Backwards." April 15, 2003. <http://www.laborrights.org/>. (accessed June 27, 2006).

Karesh, Lewis. "U.S. Free Trade Agreements and Labor Rights." Presentation of the Assistant U.S. Trade Representative for Labor, Office of the United States Trade Representative. February 2006. <http://www.crn.org/>. (accessed August 15, 2006).

Katz, Lawrence F. and David Autor. "Changes in the Wage Structure and Earnings Inequality." *Handbook of Labor Economics*, vol. 3A, edited by Orley Ashenfelter and David Card. New York: North-Holland, 1999.

Linsenmayer, Todd. "U.S. Ends ILO Moratorium by Ratifying Two Conventions." *Monthly Labor Review Online*. Vol. 111. No. 6. June 1998. <http://www.bls.gov/opub/mlr/1998/06/rpt1full.pdf>.

Mansoor, Farkhanda. "The WTO Versus the ILO and the Case of Child Labor." 2004, <http://webjeli.ncl.ac.uk/2004.issue2/mansoor2.html>, (accessed August 14, 2007).

Markusen, James, James Melvin, William H. Kaempfer, and Keith E. Maskus. *International Trade: Theory and Evidence*. Boston: McGraw-Hill, 1995.

North American Agreement on Labor Cooperation Between the Government of the United States of America, the Government of Canada, and the Government of the United States of Mexico (NAALC). September 13, 1993.

Office of the United Nations High Commissioner for Human Rights. *Human Rights and World Trade Agreements: Using General Exception Clauses to Protect Human Rights*. Special issue paper, HR/PUB/05/5. New York and Geneva: United Nations, 2005.

Organization for Economic Cooperation and Development. *International Trade and Core Labour Standards*. Paris: OECD Publishing, 2000.

Palmer, Doug. "Lawmaker Sees Possible Deal on Trade Pacts." *Washington Post*. Online version, March 13, 2007. <http://www.washingtonpost.com/wp-dyn/content/article/2007/03/13/AR2007031300807.html> (accessed March 23, 2007).

Pier, Carol J. "Workers' Rights Provisions in Fast Track Authority, 1974-2007: An Historical Perspective and Current Analysis," *Indiana Journal of Global Legal Studies*, Vol. 13, Iss. 1. Winter 2006. 77-103.

Piketty, Thomas and Emmanuel Saez. "The Evolution of Top Incomes: A Historical and International Perspective." National Bureau of Economic Research (NBER) Working Paper 11955, January 2006.

Piketty, Thomas and Emmanuel Saez. "Income Inequality in the United States, 1913-1998." NBER Working Paper 8467, September 2001. Updated data to 2004 available at <http://elsa.berkeley.edu/~saez/TabFig2004prel.xls>.

Polaski, Sandra. "Central America and the U.S. Face Challenge—and Chance for Historic Breakthrough—on Workers' Rights." Carnegie Endowment for International Peace Issue Brief, Trade, Equity and Development Project. February 2003. <http://www.carnegieendowment.org/pdf/files/TED-CAFTA-and-labor.pdf> (accessed June 27, 2006).

Polaski, Sandra. Testimony Before the Senate Committee on Finance on the Implementation of the U.S. Bilateral Free Trade Agreements With Singapore and Chile, June 17, 2003. <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=1294&prog=zgp&proj=zted> (accessed September 13, 2006).

President, Executive Order, "Executive Order 12216 – President's Committee on the International Labor Organization." <http://www.archives.gov/federal-register/codification/executive-order/12216.html> (accessed November 27, 2007).

Rettman, Andrew. "Belarus Likely to Join Burma as EU Trade Pariah." *EU Observer*. Online version. June 14, 2006. <http://www.euobserver.com/>. (accessed June 27, 2006).

Richter, Susan, J. Edward Taylor, and Antonio Yunez-Naude. "Impact of Policy Reforms on Labor Migration From Rural Mexico to the United States." NBER Working Paper 11428, June 2005. <http://www.nber.org/books/mexico/richter-et-al5-9-06.pdf>. (accessed September 11, 2006).

Riggs, T. Lynn and Grigoris Zarotiadis. "Soft and Hard Within- and Between-Industry Changes of U.S. Skill Intensity: Shedding Light on Workers' Inequality." Center for Economic Studies Working Paper CES 06-01. Washington, DC: Bureau of the Census, January 2006.

Rogowsky, Robert A., Linda A. Linkins, and Karl S. Tsuji. *Trade Liberalization: Fears and Facts*. Westport, CT: CSIS and Praeger Publishers, 2001.

Samuelson, Paul A. "Where Ricardo and Mill Rebut and Confirm Arguments of Mainstream Economists Supporting Globalization." *Journal of Economic Perspectives* 18, no. 3 (Summer 2004): 135-146.

Sek, Lenore, et al. Congressional Research Service (CRS). "Trade Promotion (Fast-Track) Authority: Summary and Analysis of Selected Major Provisions of HR 3005 and Title XXI of HR 3009." *CRS Report for Congress* RL31376, June 14, 2002.

Stern, Robert M. "Labor Standards and Trade Agreements." Research Seminar in International Economics, Gerald R. Ford School of Public Policy, The University of Michigan, Discussion Paper No. 496. August 18, 2003. <http://www.spp.umich.edu/rsie/workingpapers/wp.html>.

United States. *Andean Trade Preference Act*. 19 U.S.C. §§ 3201-3206. December 4, 1991. P.L. 102-182. 102nd Congress, H.R. 1724.

United States. *Bipartisan Trade Promotion Authority Act of 2002*. 19 U.S.C. §§ 3801-3813. August 6, 2002. P.L. 107-210, 107th Congress, H.R. 3009.

United States. *Caribbean Basin Economic Recovery Act*. 19 U.S.C. §§ 2701-2707. August 5, 1983. P.L. 98-67, 98th Congress, H.R. 2973.

United States. *Caribbean Basin Economic Recovery Expansion Act of 1990*. 19 U.S.C. §§ 2701-2707. August 20, 1990. P.L. 101-382, 101st Congress, H.R. 1594.

United States. *Generalized System of Preferences Renewal Act of 1984*. 19 U.S.C. §§ 2464-2465. October 30, 1984. P.L. 98-573, 98th Congress, H.R. 3398.

United States. *North American Free Trade Agreement Implementation Act*, 19 U.S.C. § 3301 et seq. December 8, 1993. P.L. 103-182, 103rd Congress, H.R. 3450.

United States. *Omnibus Trade and Competitiveness Act of 1988*. 19 U.S.C. § 2901 note. August 23, 1988. P.L. 100-418, 100th Congress, H.R. 4848.

United States. *Omnibus Trade and Tariff Act of 1984*. 98 Stat. 3401 et seq. October 30, 1984. P.L. 98-573. 98th Congress, H.R. 3398.

United States. *Trade Act of 1974*. 19 U.S.C. § 2901 et seq. January 3, 1975. P.L. 93-618. 93rd Congress, H.R. 10710.

United States. *United States-Jordan Free Trade Area Implementation Act*. 19 U.S.C. § 2112 note. September 28, 2001. P.S. 107-43. 107th Congress, H.R. 2603.

United States. *Uruguay Round Agreement Act*, 19 U.S.C. § 3501 et seq. December 8, 1994, P.L. 103-465, 103rd Congress, H.R. 5110.

U.S. Congress. House. *Omnibus Trade and Competitiveness Act of 1988*, HR3, 100th Cong., 2nd Sess. 1988, Report 100-576.

U.S. Congress. Senate. *Temporary Entry Provisions in the Singapore and Chile Free Trade Agreements*. S Res. 211. 108th Cong., 1st Session. *Congressional Record* July 31, 2003: S10589.

United States Department of Labor (DOL), Bureau of International Labor Affairs (ILAB). “International Labor Organization (ILO).” <https://www.youth2work.gov/ilab/programs/oir/ILO.htm> (accessed October 4, 2007).

U.S. International Trade Commission (USITC). *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*. USITC Publication 3896. Washington, DC: USITC, December 2006.

USITC. *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*. USITC Publication 3949. Washington, DC: USITC, September 2007.

USITC. *U.S.-Panama Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*. USITC Publication 3948. Washington, DC: USITC, September 2007.

USITC. *U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*. USITC Publication 3855. Washington, DC: USITC, June 2006.

United States Trade Representative (USTR). *2007 Trade Policy Agenda and 2006 Annual Report of the President of the United States on the Trade Agreements Program*. Washington, DC: USTR, March 2007. http://www.ustr.gov/assets/Document_Library/Reports_Publications/2007/2007_Trade_Policy_Agenda/asset_upload_file278_10622.pdf.

USTR. “Bipartisan Trade Deal.” Fact Sheet. May 2007. http://www.ustr.gov/assets/December_Library/fact_sheets/2007/asset_upload_file127_11319.pdf.

USTR. “CAFTA Facts: Comparison of the Labor Provisions in the U.S.-Jordan, CAFTA-DR, and Morocco FTAs.” From *CAFTA Online Briefing Book*. February 2005. http://www.ustr.gov/assets/Trade_Agreements/Bilateral/CAFTA/Briefing_Book/asset_upload_file290_7192.pdf (accessed July 27, 2006).

USTR. “Free Trade with Colombia: Brief Summary of the Agreement.” CTPA Fact sheet, February 27, 2006. http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2006/asset_upload_file908_9024.pdf.

USTR. “Statement of the U.S. Trade Representative Robert B. Zoellick on U.S.-China Trade Relations.” Press release, April 28, 2004. http://www.ustr.gov/Document_Library/Press_Releases/2004/April/Statement_of_US_Trade_Representative_Robert_B_Zoellick_on_US-China_Trade_Relations.html (accessed June 27, 2006).

USTR. “Statement of Robert B. Zoellick U.S. Trade Representative before the Committee on Finance of the United States Senate.” Testimony, March 5, 2003. http://www.ustr.gov/assets/December_Library/USTR_Testimony/2003/asset_upload_file96_4330.pdf (accessed October 4, 2007)

USTR. “United States and Korea Conclude Historic Trade Agreement.” Press release, April 2, 2007. http://www.ustr.gov/Document_Library/Press_Releases/2007/April/United_States_Korea_Conclude_Historic_Trade_Agreement.html.

Wells, Gary J. Congressional Research Service (CRS), Foreign Affairs, Defense and Trade Division. “Trade Agreements: A Pro/Con Analysis of Including Core Labor Standards.” *CRS Report For Congress* RS20909, May 11, 2001.

World Trade Organization (WTO). *General Agreement on Trade in Services (GATS)*. “Annex on Movement of Natural Persons Supplying Services Under the Agreement.” Agreement Establishing the World Trade Organization, Article XXIX Annex 1B. Geneva: April 2004.

WTO. “ILO and WTO Secretariat Issue Joint Study on Trade and Employment.” 2007 News Item, February 19, 2007. http://www.wto.org/english/news_e/news07_e/ilo_feb07_e.htm.

WTO. “Labor Standards: Consensus, Coherence and Controversy.” http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey5_e.htm. (accessed August 14, 2007).

WTO. “Lamy Sees High Level of Commitment to Conclude the Round.” WTO 2007 News Item, July 27, 2007. http://www.wto.org/english/news_e/news07_e/tnc_chair_report_jluy07_e.htm.

WTO. “Lamy: ‘We Have Resumed Negotiations Fully Across the Board.’” WTO 2007 News Item, Report by the Chairman of the Trade Negotiations Committee, February 7, 2007. http://www.wto.org/english/news_e/news07_e/gc_dg_stat_7feb07_e.htm.

WTO. “Singapore Ministerial Declaration.” December 13, 1996. http://www.wto.org/english/thewto_e/minist_e/min96_e/wtodec_e.htm. (accessed August 13, 2007).

WTO, Council for Trade in Services (CTS). “Presence of Natural Persons (Mode 4): Background Note by the Secretariat.” S/C/W/75, December 8, 1998.

WTO. “Talks Suspended. ‘Today There Are Only Losers.’” WTO News - Briefing Note - DDA June/July 2006 Modalities Summary, July 24, 2006. http://www.wto.org/english/news_e/news06_e/mod06_summary_24july_e.htm.

WTO. “The New Negotiations.” http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm. (accessed March 29, 2007).

World Trade Organization (WTO). “Trade and Labour Standards: A Difficult Issue for Many WTO Member Governments.” Doha WTO Ministerial 2001: Briefing Notes. http://www.wto.org/english/thewto_e/minist_e/min01_e/brief_e/brief16_e.htm (accessed June 21, 2006).

Appendix A

Literature Review

Introduction

The relationship between shifting international trade patterns and global and domestic labor market trends has received significant attention in recent years. As bilateral and multilateral trade arrangements expand in terms of scope and depth, and as decreasing administrative and technical barriers lead to growing globalization, questions have arisen in both academic and political fora regarding the impact of such trends on U.S. and foreign employment levels, wage rates, and labor standards. The cross-border movement of workers also has become an increasingly high-profile issue in a number of developed countries, including the United States, where it has been the subject of recent legislative efforts. The following discussion provides a brief overview of literature pertaining to the connection between trade and labor markets.

Trade and Labor Markets

Since the development of the NAFTA, U.S. trade agreements have concerned themselves not only with reducing barriers to trade among the signatory partners, but also with a variety of other structural liberalizations that are intended to promote harmonious trade relations. Among these are provisions recognizing the importance of labor markets and fair labor market practices. These provisions have arisen, in part, from the need to address the concerns of important segments of the population and the policy community, and to ensure that free trade is not achieved at the expense of major segments of the labor force.

There are multiple linkages between trade and labor, and multiple theories concerning these linkages, but the strength of each linkage and the implications for labor remain in dispute in the economics literature. The earliest and most basic international trade theories predicted that trade would

equalize wages across countries.⁹⁷ However, these theories assumed that all countries have identical technologies, that all countries produce all goods, and that capital and labor are fully employed and free to move from one sector to another within a country. More recent theories, which have allowed both international technology and consumption differences and the presence of some goods that are not traded, have accorded well with empirical evidence.⁹⁸ These more recent theories imply that wages would not be equalized across countries while these technology differences persist, although some convergence might occur.

All of these connections are essentially bi-directional; differences in wage levels or productivity, for example, may affect decisions about where to locate production and distribution facilities, while the location of such facilities may affect wage and productivity levels in a particular area. Trade policy debate tends to regard trade as affecting labor markets rather than vice versa; changes in trade provisions lead to changes in the magnitude and direction of trade, which in turn leads to changes in labor markets. As such, the following discussion will focus on the effects of trade on labor markets, rather than on the ways in which labor market characteristics influence trade.

Trade may be thought to influence labor markets in a number of ways. It has been argued that import competition may lead to wage disparity. There is general evidence of a growing wage gap in the United States. Recent data compiled by Thomas Piketty and Emmanuel Saez⁹⁹ show that income among the wealthiest individuals in the United States (the highest one percent in terms of income level) has grown faster than income among the population at large. However, it is difficult to determine the impact of international trade on this inequality, as a variety of factors have affected the U.S. wage distribution in

⁹⁷ Davis and Mishra summarize reasons why this early theory may not be valid. Don Davis and Prachi Mishra, "Stolper-Samuelson is Dead and Other Crimes of Both Theory and Data," in *Globalization and Poverty*, edited by Ann Harrison. Chicago: University of Chicago Press, 2006.

⁹⁸ Don Davis and David E. Weinstein, "An Account of Global Factor Trade," *The American Economic Review* 91, no. 5 (December 2001): 1423-53.

⁹⁹ Described in Thomas Piketty and Emmanuel Saez, *Income Inequality in the United States, 1913-1998*, NBER Working Paper 8467, September 2001.

recent years. These factors include changes in technology, productivity, labor force participation, and immigration, among others.¹⁰⁰

Since the early to mid-1970s, college-educated workers in the United States have earned increasingly more than those without a college education, and an increasing proportion of the workforce has attended and completed college.¹⁰¹ For example, between 1970 and 1995, real wages of those with at least 16 years of education rose by 3.4 percent, while the real wages of full-time U.S. workers with 12 years of education fell by 13.4 percent, and the real wages of those with less than 12 years of education fell by 20.2 percent.¹⁰² These trends have continued. Males with a high school diploma earned 33 percent more than those without a high school diploma, and those with a bachelor's degree earned 104 percent more than those without a diploma in 1995; the same ratios rose, respectively, to 36 percent and 118 percent in 2004.¹⁰³

These facts suggest that the demand for skilled labor may have increased relative to the demand for less-skilled labor in the United States. The literature reports that technical change, such as the increased use of computers, can increase the demand for skilled labor, and automation may reduce the demand for less-skilled labor. Increased trade may allow an economy with abundant skilled labor to specialize in goods produced with skilled labor while importing more goods produced with less-skilled labor. This would increase the demand for skilled labor relative to less-skilled labor.¹⁰⁴ The literature

¹⁰⁰ Over the long run, the high end of the income distribution has become increasingly dominated by high salaries rather than high portfolio earnings. Thomas Piketty and Emmanuel Saez, *The Evolution of Top Incomes: A Historical and International Perspective*, NBER Working Paper 11955, January 2006.

¹⁰¹ Beth F. Ingram and George R. Neuman, "The Returns to Skill," *Labor Economics* 13, no. 1 (February 2006): 35-59. These authors argue that education alone is not a good indicator of skill and find that a model that includes observable measures of skill in addition to education performs well.

¹⁰² Robert C. Feenstra and Gordon Hanson, "Global Production Sharing and Rising Inequality: A Survey of Trade and Wages," NBER Working Paper 8372, July 2001. Real wages are wages that have been adjusted to account for inflation.

¹⁰³ These figures are based on the median annual income of full-time workers who are at least 25 years old (USDOC, Bureau of the Census, "Current Population Reports: Consumer Income Reports 1946-2005")

¹⁰⁴ USITC, *The Impact of Trade Agreements*, 114-25, summarized a large amount of literature related to labor and trade. That literature suggests that trade policy changes generally have no measurable effect on the U.S. labor market but that overall changes in the level and composition of U.S. trade may have contributed to wage inequality.

has not reached a clear consensus on whether technical change or increased trade is primarily responsible for the increase in wage inequality.

Katz and Autor review a number of articles and conclude that technical change appears to explain the relative demand shifts favoring skilled workers better than international trade.¹⁰⁵ An argument in favor of the technical change explanation is that the magnitude of trade flows, especially from low-wage developing countries, is too small to account for the observed wage changes. Another argument is that the prices of low-skill-intensive goods, such as apparel, have either fallen only slightly or have been relatively stable, whereas larger price movements would be expected to account for the movement in wages.

Feenstra and Hanson review the literature on trade and wage inequality and conclude that the data have often been misinterpreted because trade in intermediate inputs is ignored.¹⁰⁶ Many firms break up the production process and transfer less-skilled jobs to low-wage countries and high-skilled activities to high-wage countries. This fragmentation of the production process, or “outsourcing,” can have a similar effect on labor demand as technical change favoring skilled workers; both shift demand away from less-skilled jobs and raise the demand for higher-skilled jobs. Samuelson¹⁰⁷ argues that under realistic assumptions, such outsourcing may not only increase wage inequality, but may adversely affect welfare of highly skilled workers in the home country. Trade in intermediate inputs can account for high prices of skill-intensive goods and employment shifts within industries toward skilled workers that some researchers have attributed to technical change.

¹⁰⁵ Lawrence F. Katz and David Autor, “Changes in the Wage Structure and Earnings Inequality,” *Handbook of Labor Economics*, vol. 3A, edited by Orley Ashenfelter and David Card, 1463-1555. New York: North-Holland, 1999.

¹⁰⁶ Feenstra and Hanson, in the paper cited above, provide a survey of various studies analyzing international production sharing and its effect on wages. Although the argument for analyzing intermediate inputs remains important, the fact that import's share of total intermediate inputs for the United States increased from 4.1 percent to 8.2 percent between 1974 and 1993 suggests that this effect may not be very large.

¹⁰⁷ Paul A. Samuelson (2004), “Where Ricardo and Mill Rebut and Confirm Arguments of Mainstream Economists Supporting Globalization”, *Journal of Economic Perspectives* Volume 18, No. 3 (Summer 2004), pp. 135-46.

Several empirical studies have separated or decomposed the employment changes of relatively less-skilled workers into within-industry and between-industry categories. The argument is that international trade will cause industries to expand or contract, which will result in workers changing industries. New technology, on the other hand, would increase the ratio of more-skilled to less-skilled workers employed within each sector. Although this reasoning may generally be correct, it is plausible that an industry may respond to import competition by upgrading its technology, which could result in a greater proportion of skilled workers, or that workers may be motivated to upgrade their own skills to qualify for higher-paying jobs in other industries. Early studies of this type found that within-industry changes dominated between-industry changes and concluded that trade was not the main reason for the wage and employment movements.¹⁰⁸ Riggs and Zarotiadis carried out the latest of these types of studies and used more detailed plant-level data than the previous studies.¹⁰⁹ Their key findings are that the data show increasing specialization and skill intensity in all sectors and that the entry and exit of plants indicate that job turnover was greater than the earlier studies reported. Although the between-industry shifts remain larger than the within-industry shifts, the difference is small. In contrast to the early studies, the Riggs and Zarotiadis study does not clearly favor the trade or the technical change explanation for wage divergence.

Autor, Katz, and Kearney compute wage differentials that show that since 1988 the wage gap between the median and highest-paid workers has increased much more than the gap between the median and the lowest-paid workers.¹¹⁰ They interpret these changes as resulting from the increasing use of the computer, which complements high-skilled workers involved in abstract reasoning and problem solving,

¹⁰⁸ Eli Berman, John Bound, and Zvi Griliches, "Changes in the Demand for Skilled Labor within U.S. Manufacturing Industries: Evidence from the Annual Survey of Manufacturing," *Quarterly Journal of Economics* 109, no.2 (1994): 367-98.

¹⁰⁹ T. Lynn Riggs and Grigoris Zarotiadis, "Soft and Hard Within- and Between-Industry Changes of U.S. Skill Intensity: Shedding Light on Workers' Inequality," Center for Economic Studies Working Paper CES 06-01. Washington, DC: Bureau of the Census, January 2006. This decomposition methodology was first reported in Berman, Bound, and Griliches, "Changes in the Demand for Skilled Labor within U.S. Manufacturing," cited immediately above.

¹¹⁰ David Autor, Lawrence F. Katz, and Melissa S. Kearney, "Measuring and Interpreting Trends in Economic Inequality," *American Economic Review Papers and Proceedings* 96, no. 2 (January 2006): 189-94.

but which substitutes for middle-skilled workers who perform routine repetitive tasks. There is a low-skilled manual labor category that is not directly affected by computerization. These authors show that the wage gap has more subtleties than previously acknowledged, but they only consider the technical change interpretation. Interpretations involving international trade are also plausible. For example, increased imports produced with less-skilled labor could contribute to the wage gap between skilled and less-skilled labor. But there could be a type of less-skilled labor that works in sectors whose output is not traded, and imports do not affect these workers.

Cross-Border Movement of Workers

International exchange can take place not only by trade in end-use goods and services, but by the movement of the factors (capital and labor) used to produce such goods and services. In the United States, recent policy debate on the cross-border movement of labor principally concerns immigration from Mexico. One line of investigation looks at the effects of immigration on wages. Although many studies have found little or no effect, Borjas¹¹¹ finds that an increase in the supply of immigrant workers reduces wages. His model looks at supply shifts in different education-experience combinations. Because immigrants tended to have low education levels during the 1980s and 1990s, this is another possible explanation of the growing wage disparity between different skill levels. Some recent literature focuses on the migration of Mexican workers to the United States, investigating, *inter alia*, whether liberalized trade between the United States and Mexico has diminished migration by creating new job opportunities in Mexico, or increased migration by strengthening economic linkages between the two countries. A recent empirical study by Richter, Taylor, and Yunez-Naude¹¹² based on Mexican survey data found that trade liberalization has led to a slight decrease in the overall share of the rural Mexican population that migrates to the United States, but that heightened border enforcement has led to an increase in the share of that population which lives and works in the United States on a long-term basis. More specifically,

¹¹¹ George Borjas, "The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market," NBER Working Paper 9755, June 2003.

¹¹² Susan Richter, J. Edward Taylor, and Antonio Yunez-Naude, "Impact of Policy Reforms on Labor Migration From Rural Mexico to the United States," National Bureau of Economic Research.

increased border enforcement tends to lengthen the stay of Mexican workers in the United States and increases their attachment to the U.S. labor force by making it more difficult for these workers to re-enter the United States after returning to Mexico. However, the effects of trade on migration patterns are small relative to the effects of overall macroeconomic conditions. Further, traditional migration patterns continue to dominate trends in the cross-border movement of workers regardless of changes in economic policy or conditions.

Appendix B
GATS commitments on the
movement of natural persons

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|--|--|
| Albania | | |
| Intra-corporate transferees | 5 years | None specified |
| Service seller | 6 months in any 12 month period, renewable | None specified |
| Persons responsible for setting up a commercial presence | 3 months, renewable | None specified |
| Antigua and Barbuda | | |
| None specified | None specified | Every person who is not a national of Antigua/Barbuda must have a valid work permit before taking up employment in the country. Normally, a work permit will be issued for a specific period to a non-national to fill a particular post and only when qualified nationals are unavailable. A prospective employer is required to submit the application for a work permit to the Minister of Labour for approval. |
| Argentina | | |
| Senior personnel | None specified | None specified |
| Armenia | | |
| Intra-corporate transferees | 3 years, renewable for successive periods | These enterprises must be prepared upon request to certify the qualifications of their transferees seeking entry. (Only legal entities constituted under Armenian legislation are eligible for subsidization, irrespective of their capital ownership.) |
| Temporary individual service suppliers | Same as above | Service suppliers must be in the business service sectors inscribed in the schedule and entrance is subject to the possession of the necessary professional qualifications, which are established by the relevant authorities or professional bodies. |
| Persons responsible for setting up of a commercial presence. | 3 months | Entry is subject to availability of an invitation from Armenian natural or juridical persons. The concerned employee must not engage in supplying services on a commercial basis or making direct sales to the general public within the territory of Armenia. The enterprise must not have a commercial presence in Armenia. |
| Persons entering under a service contract | 3 months, renewable for successive periods | Entrance is subject to possession of the necessary professional qualifications that are established by the relevant authorities or professional bodies and to the availability of an invitation from an enterprise engaged in substantive business in Armenia. The concerned person must also not engage in supplying services or making direct sales to the general public within the territory of Armenia outside the scope of the initial service contract. |
| Service seller | 3 months | Entrance is subject to the availability of an invitation from an enterprise engaged in business in Armenia. The persons concerned must not engage in supplying services or making direct sales to the general public within the territory of Armenia |
| Aruba | | |
| None specified | None specified | Non-Arubans, when Arubans are defined as those persons of Dutch nationality born in Aruba and older than 21 years, need special permission to become a director of a company. |
| Australia | | |
| Intra-corporate transferees | 4 years | None specified |
| Independent executives | 2 years | Does not require compliance with labor market tests. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|---|
| Australia—Continued | | |
| Business visitors/service sellers | 6 months | Business visitors/service sellers are not required to comply with labour market tests. The service seller may not sell the service directly to the public, or supply the service themselves, and the seller's financial support must originate from sources outside of Australia. |
| Specialists | 4 years | Labor market test required. Not required for natural persons or if the position is within a labor agreement. |
| Austria | | |
| Intra-corporate transferees | None specified | Entry does not require compliance with an economic needs test and all other requirements of Austria's laws and regulations regarding entry, stay and work shall continue to apply. Persons concerned must have been employed by the respective firm for at least one year. Specialist--In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession. (Commitments regarding movement of personnel do not apply in cases where the intent is to interfere with or affect the outcome of any labor/management dispute or negotiation.) |
| Service Salesperson | None specified | Persons must not be engaged in selling directly to the public or supplying services themselves. |
| Senior positions responsible for the establishment of a commercial presence | None specified | Persons must not be engaged in selling or supplying services directly to the general public. The service provider's principal place of business must be outside of Austria and has no other representative office, branch, or subsidiary in Austria. |
| Barbados | | |
| None specified | None specified | The Immigration Act and regulations control the entry and residence of all foreign natural persons working in Barbados. Prior to a natural person working in Barbados a work permit must be obtained. Labor market tests are conducted. |
| Belize | | |
| Senior managerial personnel and technical experts not available in the local labor market | None specified | None specified |
| Bolivia | | |
| Managers, executives, and specialists | 1 or 2 year residence permits granted, subject to the requirement of an employment contract, associated with commercial presence | The number of foreign employees of an enterprise may not exceed 15 per cent of the total and that percentage is to consist of managers, executives, and specialists. |
| Botswana | | |
| Managers, executives, specialized technicians and highly qualified professionals | None specified | For a foreign natural person to work in Botswana a residence and work permit is required. Persons must be employed by companies that provide services only as managers, executives, special technicians and highly qualified professionals. Investors are required to conform to the requirements of the localization policy. Investors are required to train citizens in order to enable them to assume senior management positions over time. Professionals are required to register with the appropriate professional body. (Professional foreign natural persons should be recognized as such and they should have rights to practice in their countries of origin. Professional natural persons should be recognized and be registered by the appropriate committee or council.) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|---|---|
| Brazil | | |
| Foreign specialized technicians and highly qualified professionals | None specified | May work under temporary contract with entity, whether of national or foreign capital, established in Brazil. The contract must be approved by the Ministry of Labor, which takes into account the qualifications' compatibility with the business the company will be performing. The company must also justify the need for the employee based on the availability of similar Brazilian professionals. |
| Juridical persons engaged in the following activities: Communications; land transportation; commercial stores in general; commercial offices; insurance; advertising; and hotels and restaurants. | None specified | Must obey proportionality of at least 2 Brazilians for 3 employees |
| Managers and Directors | None specified | Access granted under the following conditions: Must be designated to a position of full decision-making authority; position vacancy; existence of a link between the service provider in Brazil and its headquarters; proof that the Manager or Director is performing his duties after receiving the visa. Appointment to the position must be related to the provision of new technology, increased productivity, or the company must have invested at least 200,000 US\$ in the Brazil--that amount may be adjusted in the future to corresponding US\$ exchange rate. (All other laws and regulations regarding entry, stay, and work shall continue to apply.) |
| Brunei Darussalam | | |
| Intra-corporate transferees | 3 years may be extended 2 years (max. 5 yrs.) | Those employees must have been employed by their firms outside Brunei Darussalam for a period of at least one year immediately preceding the date of their application for admission. |
| Bulgaria | | |
| Intra-corporate transferees | 1 year, may be extended 1 year (max. 3 yrs.) | The number of such transferees is not to exceed 10 per cent of the average annual number of the Bulgarian citizens employed by the respective Bulgarian juridical person (where less than 100 persons are employed, the number of intracorporate transferees may, subject to authorization, exceed 10 per cent): employed by it outside the Republic of Bulgaria for at least the year immediately preceding such movement |
| Specialists | 1 year, may be extended 1 year (max. 3 yrs.) | In assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also of whether the person has a high level of qualification referring the trade requiring specific technical knowledge, including membership of an accredited profession. |
| Service Representatives | 3 months within a 1 year period | Those representatives must not be engaged in making direct sales to the general public or in supplying services themselves. |
| Employees in a senior position responsible for establishing a commercial presence | 3 months within a 1 year period | Representatives must not engage in making direct sales or supplying services. The service provider must have no other office, branch or subsidiary in Bulgaria. |
| Burundi | | |
| Medical specialists, managers or specialized senior management | None specified | None specified |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|--|
| Cambodia | | |
| Business visitors | 90 days. Initial stay of 30 days may be extended. | Person may not receive income from within Cambodian sources and may not engage in making direct sales to the general public or supplying services. |
| Persons in an executive or managerial position responsible for setting up a commercial establishment | Not subject to a maximum length of stay | |
| Intra-corporate transferees | 2 years may extended 3 years (max. 5 yrs.) | Does not require labor market tests. Temporary residency and work permit is required. |
| Cameroon | | |
| Intra-corporate transferees | None specified | None specified |
| Canada | | |
| Business visitors | 90 days | The person may not receive remuneration from within Canada and may not directly sell or supply services to the general public. (Services generally required to be offered to the public may result in differential treatment in terms of: benefits, such as income security or insurance; social security or insurance; social welfare; and prices in regard to public education, training, health, and child care.) |
| Intra-corporate transferees | 3 years | Persons must have been employed by a foreign juridical person for no less than one year. |
| Professionals | 90 days or the time necessary to complete the services contract, whichever is less | Persons entering other than for agencies engaged in Placement and Personnel Supply Services (CPC 872) and to engage in the activity in certain professions as long as the person possesses the required academic credentials and professional qualifications which have been recognized by the appropriate professional association in Canada. These professions include: engineers, who need a Baccalaureate degree and Provincial license; agrologists, who need a Baccalaureate in agriculture plus four years of related experience and licensing is required New Brunswick, Alberta, Quebec, and British Columbia; architects, need a Baccalaureate in architecture and Provincial license and certificate; forestry professionals need a Baccalaureate in forestry management or forestry engineering and licensing in Alberta, British Columbia and Quebec; geomatics professionals who need a Baccalaureate in surveying, geography, or environments sciences plus three years of related experience; land surveyors who need a Baccalaureate and a Provincial license. (Such persons may not engage in secondary employment while in Canada.) |
| Chile | | |
| Intra-corporate transferees | 2 years, may be extended 2 years | 1) Personnel have to have been employed within the organization for at least two years immediately preceding the date of their application for admission and will be performing the same type of duties as they were in the parent company. 2) Foreign natural persons may not make up more that 15% of the total staff employed in Chile. 3) Senior and specialized staff must establish domicile or residence in Chile. Personnel admitted under the length of stay are subject to provisions of the labor social security legislation in force. |
| China | | |
| Intra-corporate transferees | 3 years | None specified |
| Managers, executives and specialists | 3 years or longer if stipulated in the terms of the contracts concerned or whichever is shorter | None specified |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|--|
| China—Continued | | |
| Service Salespersons | 90 days | Persons may not receive remuneration from a source located within China. The salesperson can not sell directly to the general public and is not engaged in supplying the service. |
| Colombia | | |
| Managers, legal representatives, and technical specialists, with the exception of the professional services sub-sectors | None specified | If there are more than 10 employees, 90% of the firm's ordinary employees must be Columbians and no less than 80% of the skilled employees or specialists, administrative staff, or persons in posts of responsibility. |
| Costa Rica | | |
| Managers, administrative directors, supervisors, and general executives of enterprises | None specified | No more than two foreign employees for these positions in each enterprise. |
| Croatia | | |
| Senior managers and executives | None specified | None specified |
| Specialists | | Firms have to be prepared upon request to certify the qualifications of their transferees seeking entry. |
| Essential persons providing services under a services contract | up to 2 year, renewable. No limitations on extensions with valid work contract with employer | Residence and Work permits are required. |
| Business visitors | 90 days | Person may not receive remuneration from within Croatia or seek employment within Croatia. Representatives can not be engaged in making direct sales to the general public or in supplying services themselves. |
| Cuba | | |
| None specified | None specified | Foreigners must pay commercial service transactions, however the services are supplied, in convertible currency unless otherwise authorized. (Taxes and charges on the supply of services by foreigners are paid in local currency, but there must be an equivalent amount in convertible currency, unless otherwise authorized. |
| None specified | None specified | This personnel must not be available in Cuba. Foreign personnel must help to train Cuban personnel in their respective areas of expertise. (Foreign workers may only remit abroad in convertible currency the percentage of their salaries determined by the National Bank of Cuba.) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|------------------------|--|
| Cyprus | | |
| All service suppliers or who are employed by service suppliers | None specified | Entry is subject to Alien and Immigration laws and regulations. Entry permits are awarded only in fields and occupations where no suitably qualified local personnel is available, always taking into account the employment situation and economic needs of the country. An application for such a permit must be made before entry into Cyprus. A visa may also be required but is normally granted with a minimum of formalities upon arrival. (Under the Exchange Control Law, nonresident are not normally permitted to borrow from local sources) |
| Czech Republic | | |
| Essential senior executives and specialists | None specified | Persons concerned must have been employed by their firm for at least one year immediately preceding such movement. Entry does not require an economic needs test. Specialist--In assessing such specialist knowledge account will be taken not only of the knowledge specific to the establishment, but also the level of the specialist's qualification referring to the type of work or trade requiring specific technical knowledge, including membership of an accredited profession. |
| Business representatives and senior positions | None specified | Entry does not require an economic needs test. Representatives must not be engaged in selling or supplying services directly to the general public. |
| Democratic Republic of Congo (Zaire) | | |
| Senior executives and specialists | 1 year, extendable | Entry does not require and economic needs test. |
| Dominica | | |
| All Foreign Natural Persons | None specified | The employment of foreign natural persons is regulated by immigration laws and is subject to Work Permit regulations and labor laws. Permits are generally awarded only to people with managerial and technical skills which are in short supply or not available in Dominica. Professionals in certain disciplines may be required to register with the appropriate professional or governmental body. |
| Dominican Republic | | |
| Senior and specialized staff | None specified | Persons must contribute to the training of Dominican personnel in the areas of specialization concerned. Market access for foreign natural persons is subject to the requirement of a work permit and a work visa. Natural persons performing professional services such as legal, accounting, consultancy, engineering, architectural and medical services, are subject to the fulfilment of the requirements laid down in the laws governing the exercise of such professions. (Under the Tax Code, income received by foreigners in the form of payment of dividends, royalties and interest is subject to payment of the taxes provided for by law. The laws relating to labor are territorial, and apply to Dominicans and foreigners without distinction, except as otherwise provided for in international agreements. The law recognizes the basic rights of workers.) |
| Ecuador | | |
| Managers, administrator, legal representatives, specialists | None specified | Any employer with a staff of more than 10 employees must employ Ecuadorians in proportions of not less than 90 per cent of the staff of ordinary workers, and not less than 80 per cent of skilled employees or specialists, administrative staff or persons in posts of responsibility. This limitation does not apply for an employer with a staff of up to 10 employees. |
| Egypt | | |
| None specified | None specified | The number of foreign personnel necessary to supply services in any entity shall not exceed 10 percent of the total number of personnel employed unless otherwise specified in the sector specific commitments. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|--|
| EI Salvador | | |
| None specified | None specified | Every employer must employ Salvadorian nationals in a proportion of at least 90 per cent of the personnel of his enterprise. The Ministry of Labor and Social Security may authorize the employment of more foreigners when it is difficult or impossible to replace them by nationals, but employers remain obliged to train Salvadorian personnel under the supervision and control of the Ministry within a period of not more than five years. The amount of wages to Salvadoreans may not be less than 85 per cent of the total wages paid. This percentage may be changed with the authorization of the Ministry. (Foreigners may not hold the positions of administrator, director, manager or representative of a small scale enterprise in the trade, industrial or services sector.) |
| Estonia | | |
| Intra-corporate transferees | 3 years may extended 2 years (max. 5 yrs.) | None specified |
| Services salespersons | 90 days per every 6 months | Salespersons may not sell services directly to the public or supply services themselves and may not receive remuneration from a source within Estonia. |
| Persons responsible for setting up a commercial presence in Estonia | 90 days per every 6 months | The concerned persons must have been employees of this enterprise based outside Estonia for a period of no less than one year immediately preceding the date of submitting their application for entry and stay. Persons responsible for the setting-up of a commercial presence may not engage in making direct sales to the general public, supply services themselves or receive remuneration from a source located within Estonia. |
| Employees of an enterprise engaged in substantive business | 90 days per every 6 months | 5 years of working experience in a related field is required. The person must have been employed by the outside entity for no less than one year immediately preceding the date of submitting their application for entry and stay in Estonia. This employee is entering Estonia in order to provide a service only in the following professional categories; Architectural, Engineering and other Technical Services (CPC 867), Management Consulting Services (CPC 865), and Services related to Management Consulting (CPC866). Individual service providers not working for such enterprise do not fall into this category. |
| European Communities (EC12) | | |
| Intra-corporate transferees | None specified | Economic needs test not required. Must have been employed by or have been partners with Member State's company for at least the preceding year before the movement. |
| Persons who are responsible for setting up, in a Member State, of a commercial presence | None specified | Economic needs test not required. The representative will not make direct sales to the general public or supply the service themselves. The service provider has its principal place of business in the territory of a WTO Member other than the Communities and their Member States and has no other representative, office, branch or subsidiary in that Member State. |
| Services sales person | None specified | Economic needs test not required. |
| Finland | | |
| Intra-corporate transferees | None specified | Persons must have been employed or sub-contracted by the company for not less than one year immediately preceding the entry. |
| Executives and managers | None specified | Do not require compliance with labor market tests. |
| Specialists | None specified | In compliance with labor market tests |
| Business visitors | 90 days | Persons must not engage in selling services directly to the general public. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|---|
| FYRO Macedonia | | |
| Intra-corporate transferees | 3 years may extended 2 years (max. 5 yrs.) | None specified |
| Business visitors | 90 days with the possibility of renewal | Representatives must not be based in Macedonia and must not receive remuneration from a source located in Macedonia. Those representatives cannot be engaged in making direct sales to the general public or in supplying services themselves. |
| Gambia | | |
| Management and experts' jobs for the implementation of foreign investment | None specified | The employment of such persons shall be agreed upon by the contracting parties and approved by the office of the President. Enterprises must also provide for training in higher skills for Gambian nationals to enable them to assume specialized roles. The conditions or requirements for an approval for expatriate quota/staff are (1) Payment of payroll tax D10,000.00 (2) Minimum Investment of D1,000,000.00 (3) Unavailability of qualified Gambian for the position. |
| Georgia | | |
| Services salespersons | 90-day period. Prolongation is allowed only once a year after two months from the date of expiration of this period. | The salesperson can receive no remuneration from a source located within the Georgia. The salesperson must not directly make sales to the general public or supplying the service themselves. |
| Persons responsible for setting up a commercial presence | 1 year | Persons must have been employees of that enterprise outside Georgia for a time period not less than one year immediately preceding their application for admission. Persons responsible for the setting-up of a commercial presence may not engage in making direct sales to the general public or supplies services themselves. |
| Persons providing services under a services contract | 3 months | Persons must have been employees of the enterprise outside Georgia for a time period of not less than one year immediately preceding their application for admission. The number of service suppliers granted temporary entry will depend on the size of the task to be performed under the contract. The enterprise outside of Georgia must not have a commercial presence in Georgia. |
| Intra-corporate transferees | 3 years may extended 2 years (max. 5 yrs.) | Persons must have been employees of their firm outside of Georgia for a period of not less than one year, immediately preceding the date of their application for admission. |
| Ghana | | |
| Senior executives and Specialized skill personnel | None specified | Automatic entry and work permit is granted to up to 4 expatriate senior executives and specialized skill personnel in accordance with relevant provisions in the Investment Promotion Law. Approval is required for any additional expatriate workers beyond the automatic level. Enterprises must also provide for training in higher skills for Ghanaians to enable them to assume specialized roles. |
| Grenada | | |
| None specified | None specified | The entry of all foreign natural persons to Grenada is regulated by Grenada's immigration laws. The entry of all foreign natural persons is subject to Work Permit Regulations. Issue of permits is normally confined to people with managerial and technical skills which are in short supply or not available in Grenada. Professionals in certain disciplines may be required to register with the appropriate professional or governmental body. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|---|
| Guatemala | | |
| High level and specialized personnel | None specified | Entry must contribute to the training of Guatemalan personnel in the specialized fields of activity concerned. Employers must employ 90 per cent of Guatemalan workers and pay them at least 85 per cent of total wages paid. These requirements may be modified for the following reasons: protection and promotion of the national economy; lack of Guatemalan technical personnel for specific activities; defense of Guatemalan workers who demonstrate their capabilities. The Ministry of Labour may, at its discretion, decrease these percentages by 10 per cent for a period of five years or increase them to eliminate the employment of foreign workers. An authorization to decrease the percentage must include the requirement to train Guatemalan technical staff in the activity concerned over the same period. |
| Guyana | | |
| Senior managerial personnel and technical experts | None specified | Unbound, except when those positions are not available in the local labor market. |
| Honduras | | |
| Senior and specialized personnel | None specified | The number of foreign personnel must not exceed 10 per cent of the workers in the enterprise. Foreign workers must also not receive more than 15 per cent of total wages paid. The supply of services by suppliers not resident in Honduras must contribute to the training of Honduran personnel in the specialized fields of activity concerned. Managers and supervisors of the enterprise must speak Spanish. A limit of 10 per cent is established on the total number of foreigners affiliated to trade unions, and no foreigner may be a member of the governing body of a trade union. In order to obtain the necessary permit, foreigners must be resident in Honduras |
| Hungary | | |
| Senior Official | The duration of the business directed by that senior official | One senior official per business venture |
| Personalities of internationally recognized reputation | For the duration of the invitation | |
| Intra-corporate transferees | None specified | Employed by their firm for no less than one year without interruption |
| Business visitors | 90 days | Representatives cannot receive remuneration from a source within Hungary and cannot engage in making direct sales to the general public or supplying services themselves. |
| Iceland | | |
| Intra-corporate transferees | None specified | Entry is permitted without compliance with labour market tests. (Subsidies available only to natural persons may be limited to Icelandic citizens.) |
| India | | |
| Business visitors | 90 days | Persons cannot be receiving remunerations from a source within India |
| Intra-corporate transferees | 5 years | Persons must have been employed by the service provider for no less than one year. |
| Professionals | 1 year | He/she possesses the necessary academic and professional qualifications, which includes three years experience in physical sciences, engineering or natural sciences. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|---|
| Indonesia | | |
| Directors, managers and technical experts/advisors | 2 years subject to a 1 year extension. | None specified. (– Any foreign natural persons supplying services are subject to charges levied by National, Provincial and Municipal Governments. – Any expatriate employed by a joint-venture enterprise, representatives office, and/or other types of juridical person and/or an individual services provider must hold a valid working permit issued by the Ministry of Manpower. Any expatriate must meet immigration requirements and procedures to enter the territory of the Republic of Indonesia.) |
| Intra-corporate transferees | None specified | Allowed entry based on an economic needs test. |
| Israel | | |
| Executives and managers | None specified | Entry does not require compliance with labor market tests. |
| Intra-corporate specialists | None specified | Work permit Issued in compliance with labor market tests. |
| Jamaica | | |
| None specified | None specified | Work permits and visas are normal requirements for entry and in some cases licensing may be a pre-requisite for practicing in certain specified professional categories. The Work Permit Review Board must be satisfied that the skills to be employed are unavailable locally. Foreign natural persons who are Managers and executives are exempted from work permits for a period of 30 days and experts and specialists for 14 days |
| Japan | | |
| Intra-corporate transferees | 5 years | Persons must have been employed by the firm for a period of no less than one year. Persons must be participating in one or more of the following activities: (A) Directing a branch office as its head (B) Directing a juridical person as its board member or auditor (C) Directing one or more departments (D) Activities that require technology and/or knowledge at an advanced level pertinent to physical sciences, engineering, or other natural sciences (E) Activities which require knowledge at advanced level pertinent to jurisprudence, economics, business management, accounting, or other humanities sciences. Specialized technology and knowledge referred to in D and E above must be in principle acquired by him or her by completing college education (i.e. bachelor's degree) or higher education.) In addition, these persons can provide certain services which include (a) legal services supplied by a lawyer qualified as "Bengoshi" under Japanese law (b) Consultancy on law of jurisdiction by a qualified lawyer c) Legal services supplied by a patent attorney qualified as "Benrishi" under Japanese law (d) Legal services supplied by a maritime procedure agent qualified as "Kajjidairishi" under Japanese law (e) Accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaieishi" under Japanese law (f) Taxation services supplied by a tax accountant qualified as "Zeirishi" under Japanese law.) |
| Business visitors | 90 days | The visitor seeking entry cannot engage in making direct sales to the general public or supplying the service himself. The visitor seeking entry cannot receive remuneration from within Japan. |
| Jordan | | |
| Business visitors | 90 days | Work permits for all categories are granted on the basis of an economic needs test. Visitors can stay in Jordan without remuneration from a source within Jordan and without engaging in making direct sales to the general public or in supplying services. (Managing director of a branch or juridical entity must be resident in Jordan.) |
| Intra-corporate transferees | 1 year but work and residency permits are renewable | Persons must have been employed by a juridical entity of another member for a period of not less than one year. Intra-corporate transferees are presumed to meet the economic needs test requirements. |
| Executives, managers, and specialists | 1 year but work and residency permits are renewable | Work permits for all categories are granted on the basis of an economic needs test. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|--|
| Jordan—Continued | | |
| Professionals | Same as above | The juridical entity has no commercial presence in Jordan in the activity at a professional level. The person must possess the necessary academic credentials and professional qualifications, which have been duly recognized, where appropriate by the professional association in Jordan. The commitment relates only to the service activity which is the subject of the contract. |
| Kenya | | |
| Persons employed in management and expert jobs for the implementation of foreign investment. | None specified | Natural persons entering for the implementation of foreign investment shall be agreed upon by the contracting parties and approved by Government |
| Korea | | |
| Executives, senior managers, and specialists | 3 years, extendable | Persons must have been employed at that firm for no less than one year. Personnel must observe immigration and labor laws. Korea's commitments regarding temporary movement of natural persons do not apply in the case of labor-management disputes. (Eligibility for subsidies, including tax benefits may be limited to residents according to pertinent laws.) |
| Employees responsible for the establishment of a commercial presence | 90 days | Persons can not be engaged in making direct sales or supplying services themselves. Persons are responsible for setting up a commercial presence only when there is no representative office, branch, or subsidiary already established. Personnel must observe immigration and labor laws. Korea's commitments regarding temporary movement of natural persons do not apply in the case of labor-management disputes. |
| Service Salespersons | 90 days | Persons can not receive remunerations from a source within Korea and cannot sell services or supply services directly to the public. Personnel must observe immigration and labor laws. Korea's commitments regarding temporary movement of natural persons do not apply in the case of labor-management disputes. |
| Kuwait | | |
| Managers, specialists and skilled technicians | None specified | Presence of foreign natural persons as self employers is not allowed. (Housing and social programs and some aspects of free health care, are limited to Kuwaiti citizens.) |
| Kyrgyz Republic | | |
| Service Salesperson | 90 days | The salespersons must not engage in selling the services directly to the general public and must not supply the service themselves. Salespersons must also receiving no remuneration from a source located within the Kyrgyz Republic. (For CIS citizens no entry visa is required. Citizens from other countries are required to obtain entry visas--except countries with which the Kyrgyz Republic has agreements on entrance without visas.) |
| Intra-corporate transferees, persons responsible for setting up a commercial presence, and employees of an enterprise engaged in substantive business in the Kyrgyz Republic without having commercial presence in the Kyrgyz Republic who provide a service as a professional of a service sector. | 3 years may extended 2 years (max. 5 yrs.) | Persons must have been in the prior employ of their firm outside the Kyrgyz Republic for a period of not less than one year immediately preceding the date of their application for admission. (For CIS citizens no entry visa is required. Citizens from other countries are required to obtain entry visas--except countries with which the Kyrgyz Republic has agreements on entrance without visas.) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|---|--|
| Latvia | | |
| Intra-corporate transferees | 5 years | Natural persons who have been in employ of the firm transferring them for one year immediately prior to their transfer. |
| Senior, managerial or executive positions | 5 years | |
| Specialists | 5 years | Firms have to be prepared upon request to certify the qualifications of their transferees seeking entry. Vacancies have to be registered at the State Employment Office together with information on necessary qualifications (e.g. education, job experience, language skills, other special requirements). Vacancy has to be open for applications one month. |
| Persons of an enterprise engaged in substantive business under a service contract | None specified | Natural persons must have been in employ of the enterprise outside Latvia for one year immediately prior to their transfer. Persons must fulfil the conditions of a specialist as defined above and provide a service in Latvia as a professional of in the following sectors; Management Consulting Services (CPC 865) or Services related to Management Consulting (CPC 866). Five years of related experience in the field is required. Individual services providers not employed by such enterprise outside Latvia are considered as persons seeking access to Latvian employment market. Persons entering Latvia to provide services. |
| Business visitor | 90 days | Natural persons seeking entry without acquiring remuneration from or within the Republic of Latvia and without engaging in making direct sales to the general public or supplying services themselves. |
| Lesotho | | |
| Senior executives and specialized skilled personnel | None specified | Automatic entry of up to 4 expatriate senior executives and specialized skill personnel in accordance with relevant provisions in the Laws of Lesotho. Approval is required for any additional expatriate workers beyond the automatic level. Enterprises must also provide for training in higher skills for the locals to enable them to assume specialized roles. |
| Liechtenstein | | |
| Essential persons (Intra-corporate transferees) in the following categories: Executives and senior managers and specialists | 3 years | Entry is subject to authorization, which includes receipt of residency and work permits. (Entry is subject to regulations in regard to: working conditions prevailing in the branch and the place of activity provided by law and/or collective agreement (with respect to remuneration, working hours, etc.), measures limiting professional mobility, regulations related to statutory systems of social security and public retirement plans (with respect to qualifying period, residency requirement, etc.) and all other provisions of the legislation relating to immigration, entry, stay and work. The enterprise employing such persons shall cooperate, upon request, with the authorities in charge of the enforcement of these measures.) |
| Lithuania | | |
| Intra-corporate transferees | | Persons must have been in that prior employment of their firm outside Lithuania for a period of not less than one year immediately preceding the date of their application for admission. (Subsidies available only to natural persons may be limited to Lithuanian citizens.) |
| Senior managerial or executive positions | 3 years but stay can be extended for as long as long as the enterprise exists | |
| Specialists | 3 years (3 months for business visitors) | Upon request establishments are to certify the qualifications of their transferees seeking entry |
| Malawi | | |
| Management and expert jobs for the implementation of foreign investment. | None specified | Employment of such persons shall be agreed upon by the contracting parties and approved by the Ministry of Home Affairs. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|---|--|
| Malaysia | | |
| Intracorporate transferees-- Senior Managers | 5 years | None specified |
| Intracorporate transferees-- Specialists | 5 years | 2 specialists per organization. Additional specialists may be allowed subject to market tests and the training of Malaysians through an acceptable training program in the relevant service. Provided that such persons are employees of the foreign service supplier and have been in the employment of that foreign service supplier for a period of not less than one year immediately preceding the date of their application for a work permit and he is to serve in at least a similar capacity. |
| Specialists | 5 years | Subject to market test and the employment of Malaysians as counterparts and/or training of Malaysians through acceptable training programs in the relevant service. |
| Professionals | 5 years | |
| Business visitors | 90 days | Persons may not receive remuneration from a source within Malaysia and must have been employed by the service supplier for at least one year. These persons may not sell services directly to the public or supply services themselves. |
| Malta | | |
| None specified | None specified | The requirements of Maltese legislation and regulations regarding entry, stay, acquisition of real property, work and social security measures shall continue to apply, including regulations concerning period of stay, minimum wages as well as collective wage agreements. Entry, work and residence permits are granted at the discretion of the Government of Malta |
| Mauritius | | |
| All high qualified natural persons | None specified | Entry will be governed inter alia by the Passport Act of 1969 and the Immigration Act of 1973. (The Persons stay will be governed by the Income Tax Act and Non-Citizens Employment Restrictions Act 1970.) |
| Mexico | | |
| Service salespersons | 90 days | The activity does not in any case constitute a direct sale to the general public. |
| Intra-corporate transferees | 1 year with option of renewal | Employees have to have been employed by that enterprise for at least a year preceding obtention of temporary entry. |
| Moldova | | |
| Services salespersons | 90 days. Prolongation is allowed once a year after 2 months from the date of expiration | Persons concerned must not receive remuneration from a source located within Republic of Moldova. Salespersons may not sell directly to the general public and may not engage in supplying the service. |
| Persons responsible for the setting up of a commercial presence | 90 days. Prolongation is allowed once a year after 2 months from the date of expiration | Persons must have been employees of that enterprise outside Republic of Moldova for a time period not less than one year immediately preceding their application for admission. Persons responsible for the setting-up of a commercial presence may not engage in market direct sales to the general public or supply services themselves. The enterprise may not have a commercial presence in the Republic of Moldova. |
| Service Providers under a concluded service contract | 90 days. Prolongation is allowed once a year after 2 months from the date of expiration | Persons must have been employees of the enterprise outside Moldova for a time-period of not less than one year immediately preceding their application for admission. That enterprise must not have a commercial presence in Moldova. The number of service suppliers granted entry depends on the size of the task to be performed under the contract. Individual service providers not employed by such enterprise outside Moldova are considered as persons seeking access to the Moldovan employment market. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|--|
| Moldova—Continued | | |
| Intra-corporate transferees | 3 years may be extended 2 years (max. 5 yrs.) | Persons must have been prior employees of their firm outside Moldova for a period of not less than one year, immediately preceding the date of their application for admission. |
| Mongolia | | |
| Business visitors, Intracorporate transferees and professionals under a service contract | None specified | Entry and temporary stay of natural persons with managerial and technical skills that fall within these categories and are in short supply in Mongolia |
| Morocco | | |
| Intra-corporate transferees | None specified | Issuance of a work permit is subject to the signing of a contract of employment. |
| Sales Agents | 90 days | None specified |
| Namibia | | |
| None specified | None specified | The entry and residence of foreign natural persons (service providers) are subject to Namibia's Immigrations Control Act of 1993 and labor laws. In accordance with Namibian legislation, the employment of foreign natural persons for implementation of the foreign investment shall be agreed upon by the contracting parties and be subject to approval by the Namibian Government, and such personnel shall be employed in management and expert jobs only. |
| Nepal | | |
| Service Salespersons | 90 days, renewable | The persons may not receive remuneration from a source located within Nepal. Sales may not be made directly made to the general public and the sales person may not engage in supplying the service. |
| Persons responsible for the setting up of a commercial presence | 1 year, renewable | Personnel engaged in setting up commercial presence shall present proof of the commencement of business operation within one year of the date of entry of that person. |
| Intra-corporate transferees | 3 years may extended 7 years (max. 10 yrs.) | Persons must have been in the prior employment of their firm outside Nepal for a period of not less than one year immediately preceding the date of their application for admission. Intra-corporate transferees are limited to 15 percent of local employees. This commitment shall be further liberalized after five years from the date of accession. |
| Netherlands Antilles | | |
| All categories of natural persons | None specified | Test of economic needs is required |
| New Caledonia | | |
| Persons required to set up companies | None specified | Subject to the fulfilment of formalities on the entry and residence of foreigners |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|---|
| New Zealand | | |
| Executives and senior managers as Intra-corporate transferees | 3 years | Persons must have been employed by that organization for at least twelve months prior to their proposed transfer to New Zealand. |
| Specialists and/or senior personnel as Intra-corporate transferees | 12 months | None specified |
| Specialist personnel | 3 years | Entry is subject to labor market tests. |
| Installers and servicers | 3 months within a 12 month period | None specified |
| Service sellers as business visitors | 3 months in any calendar year | Those representatives must not be engaged in making direct sales to the general public. |
| Nicaragua | | |
| Entry limited to senior and specialized personnel in connection to a commercial presence | None specified | Entry must contribute to the training of Nicaraguan personnel in the specialized field of activity concerned. Employers must employ a minimum of 75 per cent Nicaraguan employees. In special circumstances, the Ministry of Labor may authorize the employment of a larger number of foreigners when it is difficult or impossible to replace them by nationals, in which case the employers must train Nicaraguan personnel under the supervision and control of the Ministry for a period of not more than five years. (The supply of professional services involving the presence of natural persons for legal, accounting, auditing, engineering, architectural and medical services requires the fulfilment of the conditions and the authorizations for the exercise of that particular profession.) |
| Nigeria | | |
| Senior management and experts jobs for the implementation of foreign investment | None specified | Their employment shall be agreed upon by the service providers and approved by the IDCC. |
| Norway | | |
| Managers and executives | 2 years | Compliance with an economic needs test is not required. |
| Specialists | 2 years | Compliance with an economic needs test is not required. In assessing such knowledge, account will be taken not only of the knowledge specific to the establishment, but also whether the person has a high level of qualification in regard to the type of work that requires specific technical knowledge, including membership in an accredited profession. |
| Business visitors | 3 months | The representatives must not engage in making direct sales or supplying services. The service supplier has no other representative, branch or subsidiary in Norway. Compliance with an economic needs test is not required. |
| Oman | | |
| Business visitors | 90 days | None specified |
| Employees of juridical Persons who are managers, executives, and specialists | 2 years may be extended 2 years (max. 4 yrs.) | Limited to 20% of the total number of personnel of the service provider. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|---|
| Pakistan | | |
| Executives and specialists | None specified | Maximum of 50% in superior categories (Executives and Specialists). Persons shall have been employed by juridical persons of another Member for a period of not less than one year prior to the date of application for entry into Pakistan, and shall be transferred to render services to the juridical person in Pakistan. |
| Panama | | |
| None specified | None specified | 90% of the ordinary workforce of any employer must be Panamanian workers, or foreigners with a Panamanian spouse or with 10 years residence in the country. Foreign specialized or technical personnel may not exceed 15% of the total workforce. Higher proportions may be permitted for a fixed period of time with the recommendation of the respective Ministry and the approval of the Ministry of Labor and Social Welfare. |
| Sellers of services | None specified | Persons must not be established in Panama and cannot receive remunerations from a source within Panama. |
| Managers, administrators and specialists | None specified | Persons who have been employed by the firm for no less than 6 months preceding the application for entry date. |
| Papua New Guinea | | |
| Managers and specialists | 3 years with any extensions subject to the Department of Labor and Employment Requirements | Entry is limited to those of key importance and where employees are unavailable locally. |
| Peru | | |
| None specified | 3 years which may be extended for successive periods of no more than 3 years. | Natural persons of another GATS member may not comprise more than 20% of the total staff employed by the enterprise. Their remuneration may not exceed 30% of the total payroll. These percentages do not apply in the following cases: the foreign supplier is the spouse, parent, child, or sibling of a Peruvian citizen; personnel of foreign enterprises providing international land, air, or water transport under a foreign flag and registration; foreign personnel working for multinational service enterprises or banks subject to the legal regulations applicable to these cases; foreign investors who keep a minimum five tax units during the term of the contract; artists, sportsmen or women, or other suppliers of services taking part in public performances in Peru for a maximum of three months a year. |
| Managerial or administrative personnel engaged in new business activities; specialized personnel recruited for teaching; personnel of public or private enterprises with a State contract; and in any other case provided for in a Supreme Decree as a result of special expertise. | None specified | May request an exemption from the percentages concerning the number of foreign workers and their payroll proportion. |
| Philippines | | |
| None specified | None specified | Entrance may be awarded for the supply of a service after it has been determined that a person in the Philippines who is competent, able and willing, at the time of application, to perform the services for which entrance is desired is not available. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|---|
| Poland | | |
| Key personnel, managers or specialists | 1 year with a possibility of extension. | Market tests are required for entry. Key personnel must have been employed by their firm for no less than one year. (The acquisition of real estate, direct and indirect, by foreigners and foreign legal persons requires permission. Entry unbound in relation to subsidies and other form of public assistance.) |
| Business visits | 3 months | As long as the visit does not involve direct provision of services. |
| Qatar | | |
| Managers, specialists, and skilled technicians | None specified | Presence of foreign natural persons as self employers is not allowed. (Housing and social programs and some aspects of free health care, are limited to Qatari citizens.) |
| Romania | | |
| None specified | None specified | Natural persons not having Romanian citizenship and residence in Romania, as well as legal persons not having Romanian nationality and their headquarters in Romania, cannot acquire ownership over any kind of land plots, through inter vivos acts |
| Natural persons serving in management and expert jobs necessary to operate the foreign investment. | None specified | None specified |
| Saudi Arabia | | |
| Business visitors | 180 days, including multiple entries | Persons may not acquiring remuneration from within Saudi Arabia or engage in making direct sales to the general public or supplying services. |
| Intra-corporate transferees | 2 years, renewable for similar periods | Persons who have work experience for a period of at least three years in the same field prior to the date of application for entry into the Kingdom, to an affiliate in Saudi Arabia of a juridical person. The number of entrants is limited to 25% of the total workforce of each service supplier. A minimum of three persons will be allowed. The service supplier may have the following option, the number of managers, executives and specialists of each service supplier shall be limited to 15%; and the number of other foreign employees (i.e. other than managers, executives, or specialists) of each service supplier shall be limited to 10%, or vice versa. However, a minimum of two ICT will be allowed as compliant with the 15% threshold. (Certain positions in a company may be reserved for Saudi nationals in all categories. These positions are recruitment and personnel, receptionists, cashiers, civil security guards, and transaction (government relations) follow up.) |
| Contractual service suppliers | 180 days, renewable | Entrance allowed only in the following sectors: Legal services (Part of CPC 861); Architectural services (CPC 8671); Urban planning and landscape architectural services (CPC 8674); Engineering services (CPC 8672); Integrated engineering services (CPC 8673); Related scientific and technical consulting (CPC 8675); Technical testing & analysis services (CPC 8676); Translation services (CPC 87905); Environmental services (all-sub sectors) (CPC 94010 + 94020 + 9403 + 9404 + 9405 + 9406 + 9409); Services incidental to mining (CPC 883 + 5115); Management consulting services (CPC 8650); Services related to management consulting (CPC 8660); Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633 + 8861-8866); Accounting, auditing & bookkeeping (CPC 8621 + 8622); Medical & dental services (CPC 9312); Inter-disciplinary research and development services (CPC 85300); Computer & related services (CPC 841-845 + 849); Construction and related engineering services (CPC 511-518); Travel agency and tour operator services, excluding for Umra and Hajj (CPC 7471); and Restaurant services, including catering services (except bars, nightclubs, etc.) (CPC 6421 + 6422 + 6423). |
| Installers and maintainers | 90 days, renewable | Qualified specialists supplying installation or maintenance services. The supply of that service has to occur on a contractual basis between the builder of the machinery or equipment and the owner of that machinery or equipment, both of them being juridical persons. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|--|--|
| Sierra Leone | | |
| Senior management personnel and technical experts | None specified | Entrance allowed if not available in the local labor market. Prior to a natural person working in Sierra Leone, a Work Permit must be obtained. |
| Singapore | | |
| None specified | None specified | Specific commitments in market access in any sector or subsector, through any mode of delivery, shall not be construed to override the limitations established in the financial services sector. |
| Slovak Republic | | |
| Essential senior executives | None specified | Entry does not require an economic needs test. The persons concerned must have been employed by the firm for at least one year immediately preceding such movement. |
| Specialists | None specified | Entry does not require an economic needs test. The persons concerned must have been employed by the firm for at least one year immediately preceding such movement. In assessing such specialist knowledge account will be taken not only of the knowledge specific to the establishment, but also of whether the specialist has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession |
| Representatives of a service provider | None specified | Entry does not require an economic needs test. Those representatives must not be engaged in making direct sales to the general public or in supplying services themselves. |
| Persons working in senior position who are responsible for setting up a commercial presence of a service provider in the Slovak Republic. | None specified | Entry does not require an economic needs test. Those persons may not be engaged in making direct sales or supplying services. The service provider must have its principal place of business in the territory of a MTO Member other than the Slovak Republic and has no representative office, branch or subsidiary in the Slovak Republic. |
| Slovenia | | |
| Business visitors | 90 days | Business visitors may not receive remuneration from or within the Republic of Slovenia and may not engage in making direct sales to the general public or supplying services. |
| Employee in a senior position | 1 year with extensions "business visa" and a residence permit required | Limited by a business visa and a residence permit. Natural persons must have been employed by their firm for a period of not less than three years immediately preceding the entry or have been partners in it (other than majority shareholders). |
| Specialists | 1 year with extensions "business visa" and a residence permit required | In assessing such knowledge, account will be taken not only of the knowledge specific to the establishment, but also of whether the specialist has a high level of qualification in regard to the type of work being performed, including membership of an accredited profession. Natural persons must have been employed by their firm for a period of not less than three years immediately preceding the entry or have been partners in it (other than majority shareholders). |
| Soloman Islands | | |
| Managers and specialists | 2 years initially with any extension subject to Immigration and Labor requirements | Entry and temporary stay is limited to those of key importance and where employees are unavailable locally. (Foreign employees are required to provide on-the-job training to local employees) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|------------------------|---|
| South Africa | | |
| Services salespersons | 90 days | Salespersons do not require an economic needs tests. Persons must not receive remuneration from a source within South Africa and are not directly selling the service to the general public or supplying the service themselves. |
| Intra-corporate transferees | 3 years | None specified |
| Personnel engaged in establishment | 3 years | Persons must have been employed with that company for at least one year preceding the date of application for admission. |
| Sri Lanka | | |
| None specified | None specified | Entry of natural persons is subject to Sri Lankan laws on immigration, consumer laws, and other relevant laws and regulations. Foreign persons who intend to work or to conduct business in Sri Lanka have to obtain the relevant work permits in addition to complying with the immigration requirements. |
| St. Kitts and Nevis | | |
| None specified | None specified | The employment of foreign natural persons is subject to Work Permit regulations. Permits are normally issued to people with managerial and technical skills which are in short supply or not available in St. Kitts and Nevis. |
| St. Lucia | | |
| None specified | None specified | The employment of foreign natural persons is subject to immigration laws and Work Permit regulations. The issue of permits is normally confined to persons with specialized managerial and technical skills and the administration of the regime is normally guided by a labor market test. Professionals in certain disciplines may be required to register with the appropriate professional or governmental body. |
| St. Vincent and the Grenadines | | |
| None specified | None specified | The entry of all foreign natural persons to St. Vincent and their residence in St. Vincent is regulated by St. Vincent's immigration laws. Employment of foreign natural persons is subject to Work Permit regulations. Issue of permits is normally confined to people with managerial and technical skills which are in short supply or not available in St. Vincent. Professionals in certain disciplines may be required to register with the appropriate professionals or governmental body. |
| Suriname | | |
| Senior managerial personnel and technical experts | None specified | Must not be available in the local labor market. |
| Sweden | | |
| Intra-corporate transferees | 2 years | Persons must have been employed but the service supplier for at least one year immediately preceding the date for their application for admission. |
| Business visitors | 3 months | Service supplier must be a juridical person and the persons concerned have been employed by that service supplier for at least one year immediately preceding the date of their application for admission. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|--|
| Switzerland | | |
| All types listed below | None specified | Entry and Stay of foreign service suppliers is subject to authorization (requirement of residency permit and work permit). Authorization is granted subject to measures fixing overall numbers or work permits allocated. (Natural persons are subject to the following limitations and conditions: Working conditions prevailing in the branch and the place of activity provided by law and/or collective agreement (with respect to remuneration, working hours, etc.), measures limiting professional and geographical mobility within Switzerland, regulations related to statutory systems of social security and public retirement plans (with respect to qualifying period, residency requirement, etc.), and all other provisions of the legislation relating to immigration, entry, stay and work. The enterprise employing such persons shall cooperate, upon request, with the authorities in charge of the enforcement of these measures. Eligibility for subsidies, tax incentives and tax credits may be limited to persons domiciled in a particular geographical subdivision of Switzerland.) |
| Intra-corporate transferees | 3 years, may be extended to a maximum of 4 years. If renewed the applicant must stay abroad for 2 months between 2 consecutive periods of stay. Persons staying in Switzerland on an open ended employment contract not limited by time are not considered as residing in Switzerland for temporary stay or employment. | Entrants must have been employed by their outside enterprise for a period of no less than one year. |
| Service sellers | 3 months within 1 year. If authorization is renewed the applicant must stay abroad for at least 2 months between two consecutive periods of stay. | Service sellers may not sell services directly to the general public or supply the services themselves. |
| Employees involved in the establishment of a commercial presence | Same as above | Persons must have been employed for no less than one year immediately preceding their application admission by their respective enterprise. Persons responsible for establishing a commercial presence may not engage in making direct sales to the public or supplying the service themselves. Persons' employer must not have a commercial presence in Switzerland. |
| Entrants with a service contract | Same as above | Persons must fulfill the conditions of a specialists as previously defined. 5 years of related experience is required. The number of service suppliers given entry is based on the size of the contract and task to be performed under the contract. The service providers work for an enterprise outside of Switzerland, one other than enterprises providing Placement and Personnel Supply CPC872 services. They can provide services in the following sectors; Engineering services, Consultancy services related to the installation of computer hardware, and Software implementation services. Persons must have been employed for no less than one year immediately preceding their application admission by their respective enterprise. |
| Taiwan | | |
| Business visitors | 90 days | Persons must not be engaged in making direct sales to the general public and must not receive remuneration from within Chinese Taipei. |
| Intra-corporate transferees | 3 years but may be renewed for one year periods indefinitely | Employed by the juridical person for no less than one year. |
| Employees of an enterprise with no commercial presence in Taiwan | 90 days or the duration of the contract, whichever is less. Entry permit may be valid for a 12 months and allow multiple entries within that period | May enter and stay with the following conditions: (1) The enterprise outside Chinese Taipei has concluded a service contract with an enterprise engaged in business within Chinese Taipei. (2) Persons have been employed by the outside enterprise by no less than one year and have met the conditions of a specialist defined above. (3) The persons may not engage in other employment while in Chinese Taipei. (4) The commitment relates only to the service activity which is the subject of the contract and does not confer entitlement to practice generally as a licensed professional. (5) The contract has to be obtained for providing certain specific services. |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|--|---|
| Taiwan—Continued | | |
| A natural person employed by business entities in Taiwan | May enter and stay for a period of no more than 3 years | |
| Thailand | | |
| Business visitors | 90 days | None specified |
| Intra-corporate transferees | 1 year which may be extended two terms of no more than 1 year each | Persons must have been employed by the company concerned outside Thailand for a period of not less than one year immediately preceding the date of his or her application for admission. Persons must have satisfied the criteria for management needs stipulated by the Department of Employment. |
| Tonga | | |
| Services salesperson | 90 days | Persons not based in the territory of the Kingdom of Tonga and receiving no remuneration from a source located within Tonga, who are engaged in activities related to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier where: a) such sales are not directly made to the general public and b) the salesperson is not engaged in supplying the service. |
| Intra-corporate transferees | 2 years, renewable | Employees of firms that provide services through a branch, subsidiary or affiliate in Tonga and who have been in the prior employ of their firm outside Tonga for a period of not less than one year immediately preceding the date of their application for admission. |
| Personnel Engaged in Establishment | 2 years, renewable | Natural persons who meet the criteria of executives and senior managers who intend, or are responsible for the establishment in Tonga, of a new business of a service supplier with its head of operations in the territory of another Member and which has no other representative, branch or subsidiary in Tonga. Executives would not directly perform tasks related to the actual provision of a service or services of the organization. |
| Trinidad and Tobago | | |
| None specified | None specified | The entry and residence of foreign natural persons is subject to Trinidad and Tobago's Immigration Laws. Employment of foreign natural persons in excess of thirty days is subject to the obtention of a work permit, which is granted on a base-by-case basis. Foreign natural persons shall be employed only as managers, executives, specialists and experts. |
| Tunisia | | |
| None specified | None specified | Enterprises that are wholly export-oriented may recruit four managerial and supervisory staff of foreign nationality, pursuant to the relevant Tunisian legislation. (Any foreign natural person wishing to engage in a salaried activity of any kind must have a contract of employment endorsed by the competent authorities.) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|--|
| Turkey | | |
| Managers, executives, and specialists | 2 years, renewable | Work permits are given by the relevant authorities in accordance with the Foreign Capital Legislation and the other Laws concerning the employment of foreigners. A residence permit is needed and are given by The Ministry of Interior. (Certain professional services are assigned only to Turkish citizens by the specific laws and cannot be rendered by foreigners. However, foreign citizens with Turkish origin may work in professions which are assigned only to Turkish citizens with permission from the Ministry of Interior. Those professions which are assigned only to Turkish citizens are given below: 1) Doctors, 2) Pharmacists, 3) Nurses, 4) Veterinarians, 5) Responsible directors of the factories producing medicine, 6) Guides, 7) Responsible directors of private hospitals, 8) Responsible directors of travel agencies, 9) Directors of newspapers, 10) Dentists, 11) Notaries, 12) Those personnel working in Free Trade Zones other than managers and qualified personnel, 13) Those personnel undertaking coastal commerce and related activities, 14) Opticians, 15) Doctors, pharmacists and veterinarians dealing with laboratory services, 16) Lawyers who practice in Turkish Courts, 17) Accountants and Certified Public Accountants.) |
| Service sellers | It is not necessary to obtain work permits and residence permits for service sellers who stay in Turkey for no more than 30 days. | Service sellers may not sell directly to the public. |
| United Arab Emirates | | |
| Business visitors | 90 days | Persons must not receive remuneration from a source within the UAE or sell services directly to the public. |
| Intra-corporate transferees | 1 year, may be renewed for 2 years (max. 3 yrs.) | Persons must have been employed by a juridical person of another Member outside the UAE for a period of not less than one year prior to the date of application for entry into the UAE. The number of managers, executives and specialists shall be limited to 50% of the total number of managers, executives and specialists of each service supplier. Their stay in the UAE will be subject to UAE labor and immigration laws |
| United States | | |
| Services salespersons | 90 days | Persons shall receive no remuneration from a source within the United States and is not directly selling that service to the general public or supplying that service themselves. |
| Intra-corporate transferees | 3 years, may be renewed for 2 more (max. 5 yrs.) | Persons have been employed with their firm for no less than one year at the date of their application for admission. |
| Personnel engaged in establishment | None specified | The persons has been employed in the immediately preceding year by an entity described in the United States' list of suppliers of services with sector specific commitments. The persons shall be receiving remuneration from that source. The persons shall submit proof of acquisition of the physical premises for the entity that will commence its business operations within one year of the date of entry of that person. |
| Fashion models and specialty occupations | 3 years | Up to 65,000 persons annually on a worldwide basis in occupations as set out in 8 USC § 1101 (a)(15)(H)(I)(b). Persons engaged in Specialty Occupations must have must have at minimum in order to gain entry (a) theoretical and practical application of highly specialized knowledge and (b) have attained a bachelor's degree or higher in the specialty along with having gained expertise in the specialty through experience in progressively responsible positions. Also the persons must have full licensure to practice in a US state if it is required in that state. (Specialty occupation aliens and their employers must be in compliance with certain labor condition requirements.) |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|--|---|---|
| Uruguay | | |
| Managers , executives, & specialists | None specified | None specified |
| Vietnam | | |
| Intra-corporate transferees | 3 years, may be extended | The persons must have been previously employed by the foreign enterprise for at least one year. At least 20% of the total number of managers, executives and specialists shall be Vietnamese nationals. However, a minimum of 3 non-Vietnamese managers, executives and specialists shall be permitted per enterprise. |
| Other personnel | Will be granted entry and a stay permit in conformity with the term of the concerned employment contract or for an initial period of three years whichever is shorter, which may be extended subject to the employment contract between them and the commercial presence. | None specified |
| Service sales persons | 901 days | Persons not based in the territory of Vietnam and receiving no remuneration from a source located within Vietnam, and who are engaged in activities related to representing a service provider for the purpose of negotiating for the sale of the services of that provider where: (i) such sales are not directly made to the general public; and (ii) the salesperson is not directly engaged in supplying the service. |
| Persons responsible for setting up a commercial presence | 90 days | Managers and executives within a juridical person, who are responsible for the setting up, in Vietnam, of a commercial presence of a service provider of a Member when (i) these people are not engaged in making direct sales or supplying services; and (ii) the service provider has its principal place of business in the territory of a WTO Member other than Vietnam and has no other commercial presence in Vietnam. |
| Contractual service suppliers | Not specified | Natural persons who are employees of a foreign enterprise having no commercial presence in Vietnam may enter and stay in Vietnam for a period of 90 days or for the duration of the contract, whichever is less provided that the following conditions and requirements shall be applied: (1) The foreign enterprise has obtained a service contract from a Vietnamese enterprise engaged in business operation in Vietnam. The competent authority of Vietnam must be able to establish the necessary procedures to guarantee the bona fide character of the contract. These persons must possess: (a) a university degree or a technical qualification document demonstrating knowledge of an equivalent level; (b) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws and regulations of Vietnam; and (c) at least 5 years of professional experience in the sector. The number of these persons covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be decided by the laws and regulations and requirement of Vietnam. These persons should have been employed by the foreign enterprise having no commercial presence in Vietnam for a period of no less than 2 years and have met the requirements prescribed above. The entry of these persons is allowed for computer and related services (CP 841-845, 849) and engineering services (CPC 8672). |

APPENDIX B Horizontal GATS commitments on the provision of services through the movement of natural persons (mode4)^a

| Type of worker | Maximum length of stay | Provisions affecting entries (Other provisions, if any) |
|---|---|--|
| Venezuela | | |
| Sellers of services, administrative staff, managers and executives, and specialists | 1 year, renewable, multiple entries permitted | Citizens of a party will be subject to the restrictions laid down in the current labour law with whatever amendments may be made in future. At present they are as follows: Chiefs of industrial relations, chiefs of personnel, captains of ships or aircraft, supervisors or any person exercising similar functions must be Venezuelan nationals; 90% of the personnel of an enterprise, whether employees or manual workers, must be Venezuelan nationals; and the total remuneration paid to foreigners, including both manual workers and employees, may not exceed 20% of the total remuneration paid to personnel in either category. The Ministry of Labour may authorize temporary exceptions to the above provision after having examined a particular case: In the case of activities that require special technical know-how and if there are no Venezuelan personnel available; in the case of immigrants entering the country under contract to the Government; and In the case of small and medium sized enterprises. When foreign personnel are recruited, preference will be given to persons having children born on Venezuelan territory, or married to Venezuelans, or who have established their domicile in Venezuela or who have the longest period of residence in the country. |
| Zambia | | |
| Management and expert jobs for the implementation of foreign investment. | None specified | The employment of such persons shall be agreed upon by the contracting parties and approved by the Ministry of Home Affairs. Enterprises must also provide for training in higher skills for Zambians to enable them to assume specialized roles. |
| Zimbabwe | | |
| Intra-corporate transferees | None specified | Subject to lack of availability in the local labor market. |

Source: Compiled by the U.S. International Trade Commission based on information obtained from the Schedules of Specific Commitments submitted under the GATS.

Note: No information was specified for the following countries: Angola, Bahrain, Bangladesh, Benin, Burkina Faso, Central Africa Republic, Chad, Côte d'Ivoire, Fiji, Gabon, Guinea, Guinea-Bissau, Haiti, Macao, Madagascar, Mali, Mauritania, Mozambique, Myanmar, Niger, Paraguay, Republic of Maldives, Rwanda, Senegal, Swaziland, Tanzania, and Uganda.

^a Many countries use similar terminology when categorizing their schedule of commitments by type of worker. However, despite the similarities in the titles of the categories of workers, the categories are often defined differently in the schedules and it should therefore not be assumed that the definitions for similar titles and categories of workers are identical for all countries.