



Statement on Temporary Entry of Natural Persons

The Pacific Basin Economic Council (PBEC) would like to express its strong interest in obtaining significant improvements in the liberalization of GATS commitments affecting the temporary entry of natural persons. Some APEC members have consistently expressed general support for expansion of "Mode Four" commitments. We believe it is now appropriate to advance this issue by tabling a specific set of proposals.

The issue of personnel mobility has a profound impact on the success of a large number of our most globally competitive companies especially in the knowledge based service industries, like insurance, information technology, and professional services like consulting, accountancy and law. The progress that we hope can be made in the WTO to reduce barriers to trade in other modes of supply will be offset if these businesses and professions are not able to move people in a timely and efficient manner to support the sale of products and services around the globe.

This issue is often perceived as an immigration issue. It is not. The kinds of personnel transfers we need to facilitate, and that we want our negotiators to address, are truly short term in nature. This issue is properly a trade issue, and can be addressed in trade negotiations now under way. We believe that a new set of rules and commitments is needed that will enable services suppliers to deploy personnel for overseas work on short notice. Companies frequently lose contracts because they cannot quickly get highly skilled professionals and specialists placed on the job in other countries. Visa approval processes frequently preclude services companies from meeting the demands of clients and customers in a timely and predictable manner. Business and work visas take weeks, often months, for approval.

Current WTO member obligations in this area barely address these problems.

Nearly all countries, including the United States, allow for the transfer of senior managerial personnel for longer term assignments to their affiliate offices in other countries. These are important obligations, but they do not address companies' needs to move their specialists around the globe to meet client and customer demands on a short-term basis. The issue is of particular importance to developing countries that perceive that their greatest competitive advantage is the skills of their people. If handled properly, this can be a win-win solution for many participants in the WTO services negotiations.

The very limited nature of current Mode Four commitments reflects concerns that foreign workers could use temporary visas too frequently to gain permanent residency, or otherwise displace national workers. We are acutely aware of these concerns and believe our proposals address them.

PBEC's interest is confined to a relatively narrow, carefully defined segment of the workforce, the highly skilled, and often more highly paid workers, where we believe there is much less likelihood of abuse. We are confident that such an approach is also more acceptable to all APEC economies, which must address the same concerns relating to visa abuse and worker displacement. PBEC members therefore believe that improvements to Mode Four commitments will make our companies more competitive abroad.



We recommend that governments focus on each of the following specific areas:

1. **Transparency.** We strongly urge that countries make commitments that provide for clearer, more predictable regulations and administrative procedures regarding the issuance of visas. Countries should state clearly what personal data are necessary in order for foreign persons to obtain visas. Countries should permit prior comment on proposed regulations affecting temporary entry, as well as the publication of written criteria that establish the specific basis for economic needs tests as they are applied to the number of foreign visa holders.
2. **“GATS Permit”.** We urge that member countries adopt a GATS permit that allows for two kinds of entry for highly skilled professionals and specialists: (a) persons traveling for short-term periods to fulfill client needs originating either from the home office or through the employer’s foreign offices, and (b) persons employed by companies that do not have foreign affiliates but have contracts that must be filled by their highly specialized personnel in the host country.
3. **Kinds of workers covered.** The GATS permit would assure expedited treatment for professionals or persons who have unique and specialized knowledge of the company’s technology or operations on the basis of specific training they have received from the company. This expands current obligations to more junior professionals and persons with highly specialized skills not otherwise in a management position within the company. For greater detail, we attach a proposed “model schedule” of commitments that outlines a system for a GATS permit and transparency obligations. This proposal includes a number of important safeguards that would provide authorities with a sound basis to enforce existing laws against those who would intend to abuse this temporary entry system. At the same time, we are convinced that current law and practice do not enable our member companies to fulfill their obligations abroad, and that it must be updated and adapted to the needs of companies that seek to compete globally in substantial part through the use of their skilled technical and managerial personnel.

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