

GATS Agreement

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Trade agreement, any contractual arrangement between states concerning their trade relationships. The volume of international trade in services has grown rapidly over recent decades and, in fact, has outpaced growth in goods trade. Over the period 1980 to 2011 global goods trade grew on average by 7.3% annually, while services trade grew by 8.2% per year (WTO 2013). Over the same period many developed countries experienced rapid growth in immigration.

In news: President Biden withdraws plans to shelve H4 work permit allowing spouses of H1-B holders to work in US

Placing it in syllabus: Economy

Dimensions

- GATS and Different Modes in GATS
- Mobility of Indian workers
- Issues faced by migrant workers
- Role of Trade agreements in people's movement (India-ASEAN)

Content

GATS and Different Modes in GATS:

- The **General Agreement on Trade in Services (GATS)** is a treaty of the **World Trade Organization (WTO)**. It entered into force in January **1995** as a result of the **Uruguay Round negotiations**.
- GATS has the objective of establishing a sound multilateral framework or principles and rules for **trade in services**.
- All members of the WTO are parties to the GATS.
- The basic WTO principle of **most favoured nation (MFN)** applies to GATS as well. However, upon accession,

- members may introduce temporary exemptions to this rule.
- members are free to choose which sectors are to be progressively “liberalised” (i.e. marketised and privatised); which mode of supply would apply to a particular sector; and to what extent that “liberalisation” will occur over a given period of time.
 - Members’ commitments are governed by a **ratchet effect**: commitments are one-way and are not to be wound back once entered into.

The GATS agreement defines services in four ‘modes’ of supply as follows:

- **Mode 1 Cross-border supply:** Services supplied from the territory of one WTO Member into the territory of any other Member. (eg. Distance learning, consultancy, BPO services.)
- **Mode 2. Consumption abroad:** services supplied in the territory of one WTO Member to the service consumer of any other Member. Nationals of a country have moved abroad as tourists, students, or patients to consume the respective services.
- **Mode 3. Commercial presence:** Services supplied by a service supplier of one WTO Member, through commercial presence, in the territory of any other Member. (eg. domestic subsidiaries of foreign insurance companies or hotel chains)
- **Mode 4. Presence of natural persons:** Services supplied by a service supplier of one WTO Member, through the presence of natural persons of a Member in the territory of any other Member which includes employees of service suppliers and suppliers present for less than a year in foreign markets. A foreign national provides a service within the country as an independent supplier (e.g., consultant, health worker) or employee of a service supplier (e.g. consultancy firm, hospital, construction

company).

Mobility of Indian workers

- India is a major country of origin and transit, as well as a popular destination, for workers across international borders.
- As per official figures, there are over 30 million Indians overseas. Out of these over 9 million of the Indian diaspora concentrated in the GCC region (now known as the Cooperation Council for the Arab States of the Gulf).
- Over 90% of Indian migrant workers, most of whom are low- and semi-skilled workers, work in the Gulf region and South-East Asia.
- Analysis of international migration trends in India is inhibited by the limited official data available.
- Data is available only for workers migrating on Emigration Check Required (ECR) passports and to one of the 18 ECR countries.
- That is, labour migration data is available mostly for workers who have to register for emigration clearance. This includes those who have not passed Class 10 at least, are leaving via employment visas into specific sectors or are workers emigrating for the first time to the GCC region, Malaysia and a few other countries.
- Workers are also migrating on non-ECR passports and beyond ECR countries, for which data is not available.

Issues faced by migrant workers

- **Economic Exploitation:** Low skilled and ECR Indian emigrants often face violation of contractual terms, adverse working conditions, wage related issues, employer related problems, medical and insurance related problems and compensation/death claims.
- **Political Barriers:** Several barriers are placed for entry of Indian emigrants. The leaders of the world are

increasingly insisting on providing jobs to the local population and this is cause of great concern for Diaspora who are denied opportunities. Eg: H1B and H4 issue in USA, and Saudi Arabia's Nitaqat policy

- **Social and Racial Prejudice:** Indian immigrants especially in countries like the USA have become targets of hate crimes. In many western countries discriminative practices owing to a racist, colonial mindset still persist. E.g.: Murder of Software professional, Attack on turban wearing Sardar.
- **Caught in Conflict Zones:** Indians are caught in conflict affected zones like Yemen, Syria.
- **Alienation From Indian culture and values:** Cultural integration into a foreign culture has its own challenges for migrants. The Indian Diaspora feels alienated in foreign land and is unable to express themselves.

Role of Trade agreements in people's movement

- International **Free Trade Agreements (FTAs)** contain provisions to facilitate temporary entry for business persons on a reciprocal basis.
- Eligible persons entering under an FTA will generally require a work permit.
- The movement of natural persons is one of the four ways through which services can be supplied internationally.
- Relative to the other three modes of supply, available estimates suggest that trade through Mode 4 remains a very small component of overall trade in services, accounting for between 1 and 2 percent of the total
- the economic literature is largely agreed on the point that removal of barriers to labor mobility would have substantially greater positive impacts on world GDP than removal of barriers to trade and capital flow
- Many countries have not created a common market for the movement of labor with their trading Partners.

Key features of the Trade in Services Agreement between ASEAN and India:

- The **ASEAN-India Investment and Services Agreement** came into force on 1st July 2015.
- The Trade in Services Agreement with the ASEAN contains all features of a modern and comprehensive agreement on services and is in line with the other bilateral agreements that India has signed so far.
- Some of the important Articles contained in the Agreement are ones on transparency, domestic regulations, recognition, market access, and national treatment, increasing participation of developing countries, joint committee on services, review, dispute settlement and denial of benefits.
- Both India and ASEAN member states have taken General Agreement on Trade in Services (GATS) plus commitments in various services and modes of supply
- A brief annex on Movement of Natural persons (one of the key areas of interest for India) has been included in the Agreement.
- This Annex defines **Business Visitors, Intra Corporate Transferees (Managers, Executives and Specialists) and Contractual Service Suppliers**.
- This will help provide a commercially meaningful market across in ASEAN for Indian professionals, including those from the IT/ITES sector.
- Independent professionals have not been defined in the Annex.
- Based on the **World Bank's Services Trade Restrictions Database**, the middle income economies in ASEAN—Indonesia, Malaysia, the Philippines, and Thailand—have “virtually closed” to “completely closed” policy regimes in mode 4 (professional services).
- Overall, the services trade regimes in middle-income ASEAN range from “restrictive” to “virtually closed”.
- Reaching a consensus on liberalising domestic

regulations for services trade and Mutual Recognition Agreements on qualifications in professional services, and licensing equivalence agreements are more time consuming and complex compared to tariff reduction modalities

Mould your thought: What is GATS? Discuss the modes of supply of services under GATS.

Approach to the answer:

- Introduction
- Write about GATS and its importance
- List out modes of supply under GATS with relevant examples
- Conclusion