

COMMUNICATION FROM INDIA

The following communication, dated 25 May 1998, was received from the Permanent Mission of India with the request that it be circulated to Members.

**GLOBAL RELATIONSHIP BETWEEN THE MOBILITY OF CAPITAL AND THE
MOBILITY OF LABOUR: SELECTED ISSUES FOR CONSIDERATION**

1. India would like to make this contribution under the Working Group's Checklist of Issues indent on the relationship between the mobility of capital and the mobility of labour.
2. Capital and labour are two basic and complementary factors of production in addition to other factors like land and technology. In any production process, capital is required to provide the resources, finance, equipment, infrastructural support, etc. to help labour produce goods and services, while labour is required to utilize capital resources and other factors for producing such goods and services. Hence, capital requires labour as an integral factor of production while labour is seldom capable of producing without capital.
3. Both the mobility of capital and the mobility of labour are accepted as delivery modes for trade and investment in goods and services. If capital is mobile and flows across countries and regions, it is a natural corollary that labour must also have comparable mobility. A liberal integrated approach is necessary to the mobility of labour as part of the free global flows of capital, goods and services.
4. Both the mobility of capital and labour are two sides of the same coin and yet are being treated as two separate water-tight compartments. This is essentially because we have not yet appreciated the complementary and critical role of the relationship. The countries with a relative advantage in capital resources are keen on promoting the mobility of capital *vis-à-vis* the countries which are looking for opportunities to export labour services, given their relative advantage in such resources. Although the basic economics of the mobility of capital and labour call for cooperation amongst countries based on competitive advantage and relative scarcity of resources, polarization of the issues has led to controversies in international forums. The fact remains that there is a two-way relationship between capital and labour and any discussion on the mobility of capital remains incomplete without appropriate investigation into the scope for the mobility of labour.

5. Presently, both the mobility of capital and labour are affected by barriers against their free flow. For understanding the differential nature of barriers relating to the mobility of capital and labour, take as an example the GATS Schedules. While doing this one must keep in mind that in the GATS, Mode Four, namely, movement on natural persons, was treated as the balancing factor, from the point of view of manpower surplus but capital deficit countries, for Mode Three, namely, commercial presence. Compared to the larger issue of mobility of capital and mobility of labour, what we are dealing with in the GATS is limited mobility of capital and limited mobility of skilled manpower. However, the GATS enables us to have a comparison of the differential nature of barriers relating to the mobility of capital and labour. Some of the limitations listed in the different schedules of commitments under the GATS on market access and national treatment are worth looking at by the Working Group, for the purpose of understanding the nature and scope of such limitations.

6. As regards the intensity of barriers, the weaker partner is, obviously, labour, which has not received adequate coverage under the Uruguay Round. The deal has been mostly done in a manner by "keeping out" mobility of all categories of labour except higher category of personnel and business visitors. For instance, the framework of the GATS does not encourage mobility of labour as a mode of delivery for exporting services. For the sake of clarity, we would like to once again emphasize that the free mobility of labour in the context of free mobility of investment is not in any way relatable or comparable to Mode Four.

7. Not ensuring the mobility of labour as a complementary and critical factor to the mobility of capital can have far-reaching consequences on production frontiers, scales and scope of production and associated costs. If the mobility of capital is encouraged without the mobility of labour, then it is not difficult to visualize several consequences. Production frontiers of global firms would get affected by severe crunch of labour and achievable scale and scope economies would get constrained by labour shortage. As a result the global firms may be forced to adopt one of the following alternatives:

- work with lower supply of labour or inferior quality of labour with lowered scales of production;
- forego economies of scope thus foregoing the benefits of combining two or multiple production processes;
- look for technology to displace labour as much as it is possible;
- employ illegal migrants;
- spend funds, in the medium to long run, on training of local labour, as a substitute.

8. Such choices, forced on global firms, are not always easy, nor cheap, and often risky as well. Such steps would adversely affect the efficiency and effectiveness of the capital employed by the firms, slow down global trade and investment and also reflect on the futility of WTO's role as a facilitator for bringing a package deal for augmenting global trade and investment.

9. At present, mostly higher level professionals are allowed under the GATS for rendering services abroad. Whereas, in reality, there is a huge shortage of different categories of labour (including professional, managerial and administrative work force) in the global workplace for which one basic reason lies in the difficulties regarding mobility of labour. This implies that without guarantees for reasonable mobility of labour, either the mobility of capital faces constraints of different categories of labour flows or manages to attract labour through informal or illegal channels resulting in loss of predictability and stability from the perspective of labour exporting countries.

10. With informal movement of labour (including illegal movement of labour) coming to the rescue of capital flows to a country, international business gets deprived of any guarantee for appropriate movement of labour. Such business also runs the risk of facing major labour constraints with sudden changes in the policy of the country concerned.

11. Cost-wise, guarantees for mobility of labour is a cheaper option. In many countries ready-made answers to labour shortage seldom exist.

12. The following are some of our suggestions for the consideration of the Working Group:

- (i) It is important for the Working Group on the Relationship between Trade and Investment to hold discussions to explore the nature and extent of issues in labour resources faced by different sectors. The Working Group can consider ways to overcome the labour crunch and improve productivity of capital by improving the mobility of labour.
 - (ii) Even if the Working Group considers ways for the mobility of capital, there is little or no guarantee that appropriate labour inputs would become available for utilization of that capital. Hence, the Working Group can help align grassroots realities and suggest easy mobility of selected categories of labour apart from the higher categories of personnel for which most Member countries of the WTO have already undertaken commitments under the GATS. For complementing immediate production purposes, the Working Group can suggest ways for selected labour to move from surplus regions to deficit regions. The Working Group should be able to consider degrees of mobility of labour under the aegis of the WTO.
-