



EU/India Free Trade Agreement

Summary

1. A key aspect of international trade negotiations now is the concession allowing transnational corporations to move workers across borders; in trade language this is called 'Mode 4'.
2. The EU is offering Mode 4 access in all the trade agreements it is negotiating.
3. India is the country pursuing Mode 4 access to the EU most strongly, on behalf of its transnational corporations (such as Tata).
4. An EU/India Free Trade Agreement is currently being fast-tracked, for which negotiations may be completed as early as December 2010.
5. Mode 4 does not have numerical limits or quotas.
6. The Mode 4 concession, in this trade agreement in particular, conflicts with the UK government's policy to cap non-EU economic migration. If ICTs are included in the cap there will have to be enough headroom to accommodate however many such migrants from India are admitted to the UK.

Background

7. The impression persists that trade is 'goods', but 'services' trade is now of major importance. In fact, services such as financial services and banking as well as transport and telecommunications, underpin all other forms of trade.
8. A major element in services trade is the Mode 4 concession that allows transnationally-established companies to move workers across borders. While there are 4 categories within Mode 4, it is the 'Intracorporate Transferee' (ICT) category that offers the most scope for corporations to profit from cross-border labour movement. While the public rhetoric is of 'the brightest and the best' and 'global talent', 'ICTs' provide the opportunity to capitalise on cross-border wage differentials.
9. The potential consequence for the UK workforce is direct displacement from jobs, as well as indirect displacement through cut-price outsourcing.
10. The EU is offering Mode 4 access in all its trade agreement negotiations.
11. In the multilateral World Trade Organisation (WTO) negotiations, the EU has included Mode 4 in its General Agreement on Trade in Service (GATS) offer (tabled 2.6.2005), as part of the Doha Round. This offers EU labour access to all 152 WTO Member States. The WTO Doha negotiations have stalled, but when reactivated, the EU offer will stand.
12. Meanwhile, the bilateral agreements between the EU and other countries, notably and imminently India, are the means of advancing the international trade agenda, including Mode 4 worker movement.

13. Because trade agreements fall under Commission competence, the UK has no veto on immigration of this kind, a consequence of the Lisbon Treaty that was not publicly discussed.
14. Furthermore, once an agreement is signed, it is effectively irreversible.
15. Although the EU/India FTA is negotiated at the EU level, the UK, with historical and language ties, extensive Indian investment in the UK facilitating Mode 4 access, and the most liberalised economy, will be the Member State most affected.
16. The definition of Mode 4 in the WTO General Agreement in Trade in Services (GATS) is used across trade agreements generally; it rules out quotas for Mode 4.
17. In addition, the EU, in its trade offers, has abandoned any economic needs test, such as the Resident Labour Market Test, which would have required jobs to be offered to UK workers first. Therefore there is no such requirement for Mode 4.
18. The EU Trade Commission negotiates all external trade agreements on our behalf, but Mode 4 commitments in the EU/India FTA and the other agreements depend on, and vary with, national Member State labour migration regulations.
19. ICTs have been exempted from the UK government's interim cap, but there has been no decision so far as to their inclusion in a permanent cap. A cap on ICTs will interfere with the Mode 4 offers, so an exemption is needed quickly to match the Mode 4 offers in the imminent EU/India FTA. But if the cap is supposedly about limits, and the Mode 4 offers have no limits, then there is an inherent contradiction. The argument that ICTs are not permanent migrants does not address the effects of ICTs on UK workers.
20. When Mode 4 trade commitments are made, EU Member States and even the EU effectively lose the ability to place limits on labour migration from outside the EU; instead the initiative passes to transnational corporations.
21. Already, under existing GATT commitments, the UK government can only require ICTs to have worked with the company concerned for one year.
22. An attempt retrospectively to change Mode 4 entry could invoke not just state-to-state trade disputes, but, with the EU moving to 'investor protection', also the possibility of corporations suing governments for any effects on future profits. The cost would be prohibitive, deterring governments from pulling back on commitments however much UK workers were affected by them. In the context of trade agreements this is regarded as important to 'investor security'.
23. The EU GATS offer is public, but the offers and texts of bilateral agreements like the EU/India FTA are not public until negotiations are frozen, i.e. completed and awaiting formal European Parliament ratification. Thus the public in Member States do not know what offers have been made - although transnational business appears to have both information and lobbying access.

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