

FREE TRADE AGREEMENTS AND MIGRATION

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Free Trade Agreements (FTAs) historically liberalized the trade in goods. With the advent of the service economy, the liberalization of services provided across international borders has become an important issue on the political agenda. As a result of the Uruguay Round of negotiations, the General Agreement on Trade in Services (GATS) came into existence within the framework of the World Trade Organization (WTO), and complemented the General Agreement on Tariffs and Trade (GATT). Unlike the case of trade in goods, the barriers to trade in services are not caused by tariffs, but by general immigration legislation (i.e., admission, visa policies), labour market regulation (i.e., work permits), as well as regulations preventing foreigners from working in specific professions, for instance by not recognizing degrees or professional certifications issued in their country of origin (Lavenex 2002). With high wage differentials prevailing around the world, it is not difficult to imagine the potential gains from trade after liberalizing the flow of the labour force. And indeed, in some instances, regional integration has put people's freedom of movement at its core, with European integration being the predominant example.

However, FTAs do not liberalize migration per se, but rather the provision of cross-border services, which entails some mobility of individuals. They nevertheless constitute an additional layer in an intricate web of multi-layered regional, bilateral, and international labour and non-labour migration governance.

An efficient framework can ensure the often-mentioned "triple win": the destination

country benefits from tapping the labour supply it lacks (at whatever skill level it needs), the country of origin gains through migrant remittances and return migration with subsequent knowledge transfers, and the migrants themselves profit from better opportunities abroad (Angenendt 2014).

Through such agreements, the possibilities for individuals to move across international borders go beyond the national migration laws, which traditionally form the cornerstone of regulation restricting the free movement of people. FTAs provide correctives to certain biases present in the admission policies of destination states. For one, mobility clauses in FTAs provide additional means of entry for highly skilled individuals. Bilateral migration agreements, which are formally negotiated independently from FTAs, provide for the admission of lower skilled migrants (Panizzon 2010; Panizzon 2011).

By negotiating questions of mobility together with trade policies, it is possible to engage in deals that allow for wider admission in exchange for concessions in the field of trade policy. These bilateral and regional arrangements complement the international commitments made within the framework of the WTO.

Politically, FTAs might be a tool to compensate for excessively restrictive migration policies at the national level. Depending on the country, the power to sign free trade or migration agreements can be delegated to the executive branch. The government thereby obtains the opportunity to enact more liberal admission policies – at

least to a certain extent – than the legislator would have approved.

It is important to note that FTAs, together with the WTO system and especially the GATS can serve as instruments to create international migration governance. However, it should not be forgotten that while these tools have effects on the numbers of international service providers, these individuals are endowed with less legal protection than individuals crossing borders on a different, more traditional legal basis. In other words, it should be cautioned that numbers should not come to the detriment of rights (Ruhs and Martin 2008).

The landscape of FTAs is constantly evolving, and it can be observed that there is currently a momentum in favour of new and ever larger FTAs (in terms of trade volume). It remains to be seen whether the Transatlantic Trade and Investment Partnership (TTIP), that is, the FTA between the U.S. and the EU currently under negotiation, as well as the Trans-Pacific Partnership (TPP)¹ include substantial clauses facilitating movement across borders, albeit temporary. From the scarce information available at the time of writing, this unfortunately does not seem to be the case. The documents released by the EU seem to indicate that only the recognition of degree across the Atlantic appear on the agenda². This falls short of, for instance, the wish list of businesses operating across the Atlantic³. It is thus to be feared that labor migration between the United States and the European Union remains unnecessarily difficult.

¹ Among Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam

² http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_152999.2%20Services.pdf

³ See e.g. <http://www.transatlanticbusiness.org/wp-content/uploads/2014/05/6.Letter-to-Commissioner-Malmstrom-Calling-for-the-Inclusion-of-Skills-and-Labour-Mobility-Issues-in-the-TTIP-.pdf>

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