Trade Policy, Investment and Migration
The Liberalisation Paradigm

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Fragmentation
The Challenge

http://filispagnoli.wordpress.com/2008/05/17/human-rights-cartoon-82/
The Liberal Paradox

http://stkarnick.com/blog2/2008/04/post_118.html
Thinking Outside the Box

http://jrempel.wordpress.com/2011/04/21/creative-thinking-inside-the-box/
TRADE

- WTO Legislation
- Regional Trade Agreements
- Bilateral Trade Agreements
- National Legislation
- other
Short Introduction to WTO System

• The WTO (1995) results from an ever increasing complexity of successive agreements and dispute settlement practices
• The WTO provides common structure to GATT 95, GATS and TRIPs and Dispute Settlement (DSU)
• Other than for DSU, it did not fundamentally alter the traditions of GATT
• The Doha Development Agenda (2001-****)
Tariff Reductions in the Industrial Sector (Developed Countries)

Weighted Average Tariffs

- 40% Foundation of GATT, Geneva 1947 (23)
- 30% Annecy 1994 (13)
- 25% Torquay 1950-51 (23)
- 23% Geneva 1956 (26)
- 15% Dillon-Round 1960-62 (26)
- 10% Kennedy-Round 1964-67 (62)
- 6.4% Tokyo-Round 1973-79 (99)
- 4% Uruguay-Round 1986-93 (117)

Source: GATT
Principles of Multilateral Trade Regulation

• Non-discrimination (MFN, National Treatment)
• Progressive Liberalisation of Goods and Services
• Protection of Intellectual Property
• Transparency
• Consensus in Decision-Making
• Binding Dispute Settlement and Enforcement
Eight Rounds (1947-1993)

- Overall Tariff Reduction from 40% ad valorem to 4% world wide
- Addressing second generation trade barriers
  - Technical barriers to trade
  - Subsidies, Anti-dumping disciplines
- Addressing third generation barriers to trade in domestic regulations in Uruguay Round
  - Services, Intellectual Property, Agricultural Domestic Support Levels
Number of Preferential Trade Agreements World Wide

Source: WTO secretariat and http://voxeu.org/index.php?q=node/6777
Relevant Aspects of Trade Policy for Migration: Global

- WTO Legislation
- Regional Trade Agreements
- Bilateral Trade Agreements
- National Legislation
- Other
Revisiting GATT

- Enhancing Market Access for Agricultural Products by Industrialised and Emerging Economies
- Tariff Reduction and Tariff Escalation
- Limiting Non-tariff Barriers
- Labelling (fair trade)
- Textiles
Revisiting GATS

• Revisiting Mode 4
  – Binding Visa-Fast Track Procedure
  – Multilaterally agreed Criteria for Non-Formal Qualifications?
  – Extension to Low-Skilled Labour?
  – Modes of Graduation

• Multilaterally agreed System of Limited Working Permission?
Revisiting other WTO Agreements

• Local Content Requirements
  – TRIMs Agreement (NT)
  – GPA (Agreement on Government Procurement)

• Knowledge-Transfer
  – TRIPs Agreement Art. 66:2 (tax breaks)

• Modes of Graduation
Relevant Aspects of Trade Policy for Migration: Regional
Revisiting Free Trade Agreements

• Adding Migration as a Pillar in FTAs
  – Market Access Regulation
  – Regulation of Circular Migration?
  – Extending GATS mode 4 to Low-Skilled Labour?
  – Educational Component
INVESTMENT

other

National Legislation

Bilateral Investment Protection Agreements

ICSID

Future Multilateral Agreement
Short Introduction to International Investment Regulation

- Highly Fragmented Regulation (mainly National and Bilateral Regulation, some Regional Agreements and no Multilateral Agreement yet)
- Focus on Protection of Investment
- Rethinking the Balance of Rights and Obligations
Number of BITs, DTTs and other IIAs World Wide

Source: UNCTAD world investment report 2011
http://www.unctad.org/templates/webflyer.asp?docid=15213&intItemID=1465&lang=1
Global FDI Inflows by Groups of Economies ($bn)

http://www.ft.com/intl/cms/s/0/6b23fe18-a39f-11de-9fed-00144feabdc0.html#axzz1WiAFnCvq
Relevant Aspects of Investment Policy for Migration: Global
Towards Global Standards

- Proper Balance of Rights and Obligations
- Transparency
- Securing Sustainable Investment
- Strengthening of Corporate Social Responsibility
- Limiting Sovereign Wealth Investment
- Binding Labour Standards
- Rule of Law
- Investment Dispute Prevention and Binding, cost-effective Judicial Dispute Settlement
Relevant Aspects of Investment Policy for Migration: Regional

- Future Multilateral Agreements
- ICSID
- Bilateral Investment Protection Agreements
- National Legislation
- Other
Revisiting Bilateral Investment Protection Agreements

- Adding Migration as a Pillar to BITs
- Preparing for the Global Standards (trial and error)
- Specific Bilateral Commitments in the Field of Education, Knowledge-Transfer
Emerging Coherence

Migration

Shared Policies

Investment

Trade
Thank you for your attention!

I wish you an inspiring conference in Bern.

Prof. Thomas Cottier
**BIO NOTE**

**Thomas Cottier**, Managing Director of the World Trade Institute and the Institute of European and International Economic Law, is Professor of European and International Economic Law at the University of Bern. He directs the national research programme on trade law and policy (NCCR Trade Regulation: From Fragmentation to Coherence) located at the WTI. He is an associate editor of several journals. He was a visiting professor at the Graduate Institute, Geneva and also currently teaches at the Europa Institut Saarbrücken, Germany and at Wuhan University, China. He was a member of the Swiss National Research Council from 1997 to 2004 and served on the board of the International Plant Genetic Resources Institute (IPGRI) Rome during the same period. He served the Baker & McKenzie law firm as Of Counsel from 1998 to 2005. Prof. Cottier has a long-standing involvement in GATT/WTO activities. He served on the Swiss negotiating team of the Uruguay Round from 1986 to 1993, first as Chief negotiator on dispute settlement and subsidies for Switzerland and subsequently as Chief negotiator on TRIPs. He held several positions in the Swiss External Economic Affairs Department and was the Deputy-Director General of the Swiss Intellectual Property Office. In addition to his conceptual work in the fields of services and intellectual property and legal counselling, he has also served as a member or chair of several GATT and WTO panels.