Mode 4 at work

The effects of mode 4 on immigration rules

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Comparing EU mode 4 commitments with India's commitments

Uruguay Round (1994/1997)

Similar mode 4 categories

- Business visitors
- Intra-corporate transferees (EU managers, India 'managers' and 'executive', substance is the same)
- Professionals (India) / Contractual Service Suppliers (EU)

Revised offer (2005)

- Addition of Independent Professionals
- EU also ICT Graduate trainees

Comparing GATS and RTA provisions,

EU CARIFORUM / EU – Canada (CETA) / India – Korea CEPA

Model of RTAs for service liberalization is the GATS model

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Implementation of mode 4 into national legislation

Example of several EU Member States

Background: a tightening of entry conditions for most economic migrants, except highly skilled

Clear indication that (EU) Member States did not have entry schemes in immigration rules dealing with mode 4 type of movement

- After GATS: simple reference, entry possible under conditions GATS
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RTAs converge and lead to reforms of immigration rules

Example of independent professionals

Independent Professionals:

Not in current GATS commitments, included in RTAs

Category does not really fit investigated existing entry schemes.

- entry for self-employed persons under certain conditions, need of registration with the Chamber of Commerce, a business plan, an initial investment etc.
- Clearly does not suit intention of RTAs to have self-employed persons comply with conditions that relate to more permanent movement (as this is more akin to mode 3)

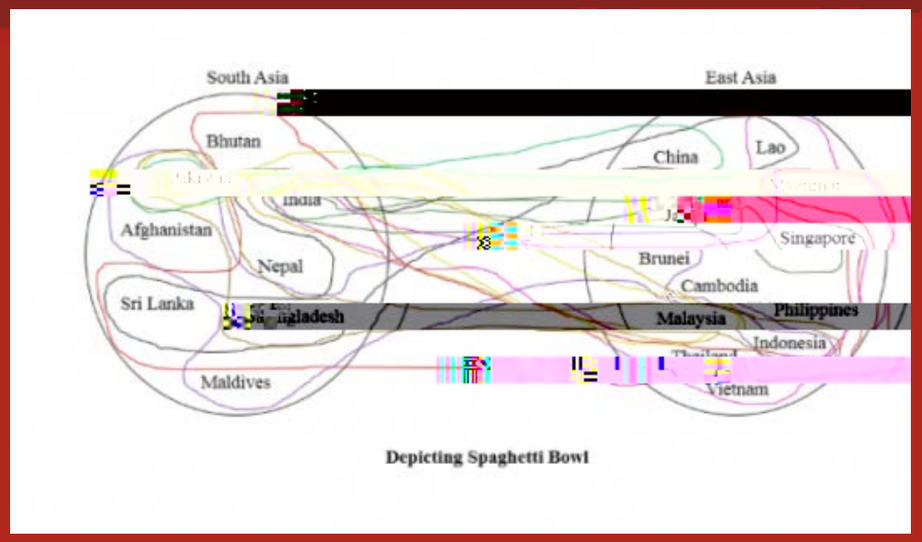
Clear need to create new entry schemes for IP on basis of RTAs

Conclusions

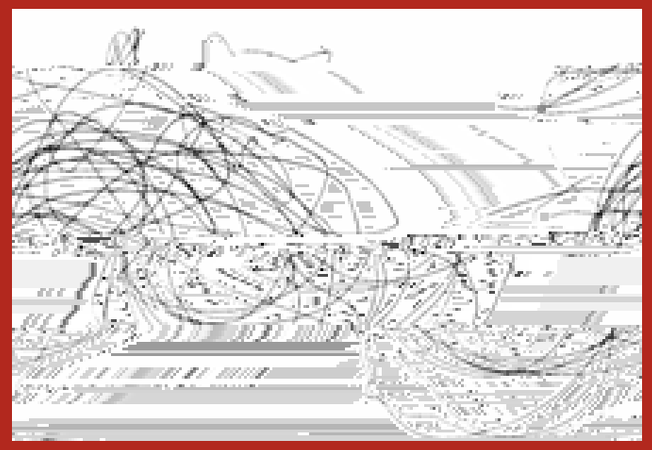
Mode 4 in GATS and RTAs unprecedented form of movement

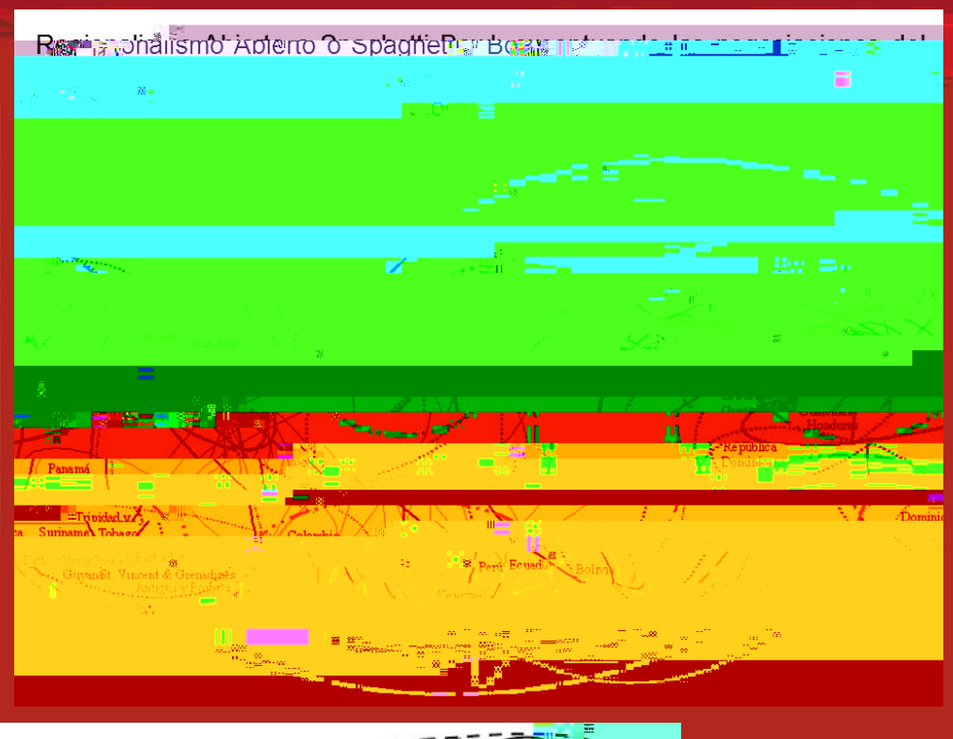
- This partly explains similar definitions adopted under GATS, which were then used as model under RTAs
- This explains the need to create separate entry schemes when implementing mode 4 commitments, as they ill-suit existing schemes
- Mode 4 commitments thus seem to change immigration rules, and are thus not part of the general perception that GATS commitments bind Members under the level of actual unilateral entry level (however, schemes relating to the highly skilled already existed, but not specifically tailored to mode 4 movement)

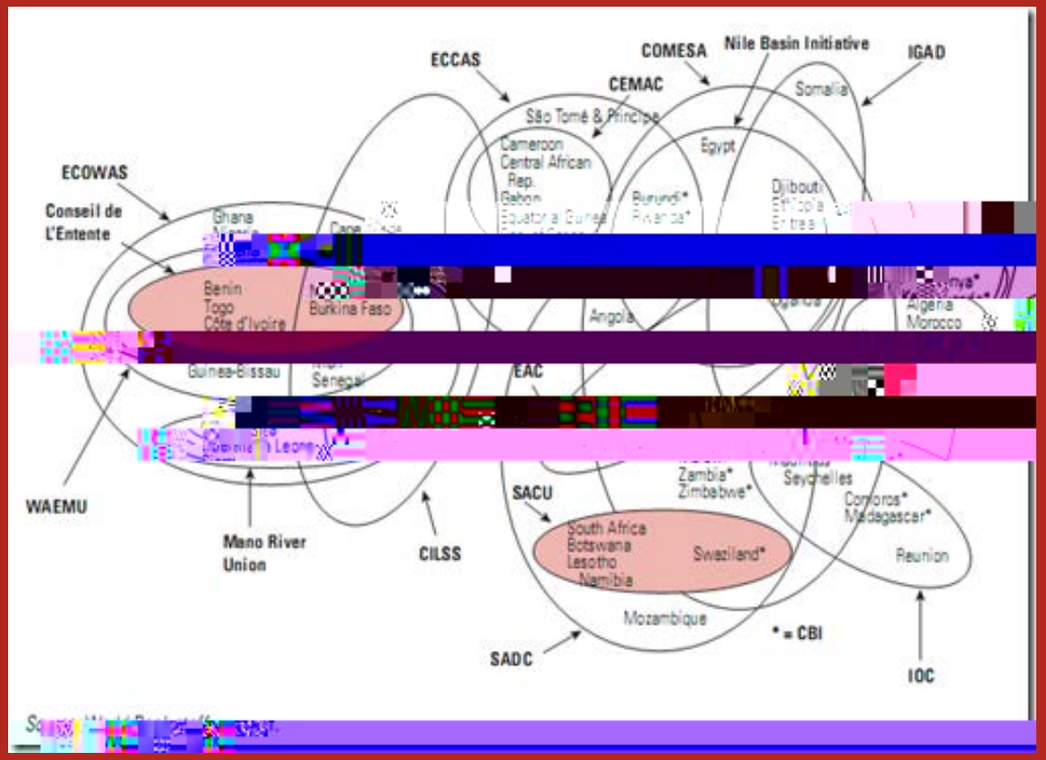
The Spaghetti Bowl Effect



Depicting Spaghetti Bowl







Lessons to be learned