

# Social Security Agreements (SSAs) in practice: Evidence from India's SSAs with countries in Europe

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# Social Security Agreements (SSAs) in practice: Evidence from India's SSA with countries in Europe

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## Abstract

India has signed 18 Social Security Agreements from 2009 till 2016. Social Security Agreements (SSAs) are bilateral treaties, which allow export of social security benefits, totalisation of insurance periods, and prevent dual contribution of social security in the country of origin and destination for inter-corporate transfers. Thus, the SSAs help in protecting the interest of workers, and in increasing circular migration of highly skilled labour.

Since SSAs are of recent origin in the context of India, a systematic study on Indian SSAs has not yet been undertaken. A key policy question in this context is promotion of circular migration of highly skilled labour willing to migrate to other countries. In this paper, we summarise the existing framework of SSAs in India, understand the demographics of people utilising SSAs (using a novel dataset) and discuss some areas of concern. The key policy issues in this field pertain to detachment benefits, totalization procedure and ensuring greater coverage under these agreements.

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# 1 Introduction

It is estimated that around 215 million people, constituting about three per cent of the world's population, living outside their country of origin, are engaged in the world economy (IOM, 2010). This transnational movement of people for employment or migration is, contrary to popular perception, not due to different levels of development but due to the economic development in a globalized world that tends to stimulate migration. It is in this background that we find transnational enterprises sending their skilled workers and professionals abroad to host countries as 'posted or detached' workers,<sup>1</sup> who return to their countries of origin or home country after completing their assignment. India is one country where the migration rate of high skilled workers has been higher than the total migration rate.

One of the key factors influencing the international mobility and transnational movement of workers is the dual contribution of social security benefits in both the host and home country. It is in this context that totalisation arrangements assume significance. Consider a software engineer from India who is posted to Germany, Social security agreement provides exemption from contribution to the German social security system during this period. Taking an estimated average monthly salary for the worker to be around USD 4,417,<sup>2</sup> social security exemption of 10.85% translates into a monthly saving of about USD 480 each for the employer and the employee. Thus, social security agreements reduce the cost to employer sending its employee abroad for work.

Totalisation agreements come under the rubric of Social Security Agreements (SSAs, hereafter), which are the bilateral instruments (treaties) between two countries that allow provisions which prevent dual contribution of social security, provide exportability of benefits to third country, and totalisation.

SSAs in India are of recent origin. The first agreement was operationalised with Belgium in 2009. Since then, India has signed agreements with 18 countries; 16 of them have been operationalised till June 2016. Therefore, it is important to study how SSAs have shaped the migration of workers, and the Indian social security system landscape. Our contribution to the literature is two fold - *first*, we investigate the provisions of social security agreements and address some areas of policy concern; *second*, we seek to understand the demographics of the workers who have utilised the agreements.

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<sup>1</sup>'Posted/detached' workers mean intra-corporate transferees to other countries.

<sup>2</sup>More details on the savings under the present social security system can be found in *Table 1*.

We begin with a discussion on the social security agreements and the social security landscape in *Section 2*. We explore the rationale behind social security agreements, its principles and benefits associated with the agreements. We look at the existing framework of social security agreements that India has signed in *Section 3*. We do a qualitative analysis of the agreements and present the differences in the present agreements. *Section 4* describes the data on the demographics of the people who have utilised the provisions of the agreements. We show that the agreements have been utilised mostly by workers in the age group of 25-45, and for a duration of less than 1 year. *Section 5* addresses key areas of policy concern in the field of social security agreements. Here we look at four areas: a) dispute resolution mechanism, b) detachment benefits, c) totalisation procedure, and d) extending the scope of agreements.

## 2 Social security agreements

“Social security” refers to State established programs that insure individuals against interruptions or loss of earning power arising from retirement, unemployment or disability. Protection of the insured person and dependents usually is extended through cash payments to replace at least a portion of the income lost as a result of old age, sickness, death or any such event (ISSA, 2016).

Social security programs across the world are, in general, financed using one of two systems - defined-contribution and defined-benefit. In a defined-contribution or ‘funded’ system, individuals make contributions to their accounts and upon eligibility, receive benefits from these same accounts. In a defined-benefit or Pay-As-You-Go (PAYG) system, benefit amount is defined by the government and comes from contributions made by workers paying into the system currently. Defined-contribution plans present less risk to the government and they are mostly seen in the developing nations while PAYG systems are more commonly seen in developed ones, though many countries do have hybrid systems as well (Population Reference Bureau, 2009).

### 2.1 Indian social security system

As compared to developed countries, the Indian social security system (as applicable to the formal sector) is poorly developed. “The best way to describe social security coverage in India is a patchwork. There is no such thing

as one umbrella coverage for all workers in all sectors; and what happens in the formal sector is very different from the informal sector” (ISSA, 2013). India is characterised by a large economy with a huge informal sector and low tax base thus impacting the ability of states to provide social security for all.

The Indian social security system is governed by the Employees’ Provident Fund and Miscellaneous Provisions Act 1952 (PF Act) and the schemes made there under. The Employees’ Provident Fund Organisation (EPFO), a statutory body established by the government of India, administers the social security regulations in India.

Every establishment in India, employing 20 or more persons is required to register with the social security authority if not an exempt establishment. An establishment employing less than 20 persons can voluntarily opt to register with the authorities for the welfare of its employees. Upon voluntary registration, the provisions of the Indian social security regulations apply in exactly the same way as if such registration were mandatory.

The social security system (contribution-based) for formal workers that is overseen by the EPFO under different Acts consists of three streams: the Employee Provident Fund (EPF), Employee Pension Scheme (EPS), and the Employee Insurance Scheme. While the EPF is largely a defined contribution scheme (that provides a lump-sum payment on retirement); the EPS is a defined benefit scheme that pays a pension proportional to earnings at the time of retirement after a minimum 10 years of contribution. The schemes are partly financed by the contributions from the employer, employee and the government. As on 31 March 2016, EPFO covered 926,297 establishments with 171.41 million enrolled members (including 5,357,781 pensioners). Contributions collected in 2015-16 were USD 18,040 million, while total funds managed under the EPFO were USD 108,677.88 million, thus making it by far the largest pension fund in India.

## 2.2 Rationale behind SSAs

One of the key instruments impacting ‘circular migration’<sup>3</sup> of ‘posted/detached’ workers<sup>4</sup> is the SSA. It is because most of the developed countries, and India,

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<sup>3</sup>“Circular migration” means transnational movement of people for employment to a host country for a given period of time after which they return to the home country.

<sup>4</sup>As per SSA, ‘detached worker’ implies a worker posted in an establishment in India, who contributes to the social security programme of the home country in whose favour

have a mandatory social security system based on the contributions made by the employers and employees concerned.

However, such a system poses three kinds of difficulties for the ‘posted/detached’ workers. *First*, such contributions need to be made for a specified period before the benefits can be drawn. Since the ‘posted/detached’ workers ordinarily leave host countries much before the stipulated period, they do not derive any benefits out of the contribution made. *Second*, the ‘posted/detached’ workers make double contributions: both in the home, and the host country. *Third*, in case of relocation to their countries of origin - even if they made contributions for stipulated period because of the host countries’ legislation - they cannot export such benefits. It is here that the framework of SSA helps.

SSAs are binding bilateral reciprocal instruments (treaties) between two nation states to overcome these obstacles in the manner described below:

1. *Exemption from social security contribution for the ‘posted/detached’ worker in the host country* (provided the said worker is covered under the social security system of the home country, and continues to pay the contribution in the home country during the period of migration to the host country). Towards this, the said worker is required to obtain a Certificate of Coverage (CoC) from the social security institution of the home country, and submit it to the social security institution of the host country so as to be exempt from making contribution to the host country’s social security system for a certain period.
2. *Exportability of benefits* in case of relocation to home country, or any third country, after having made the social security contribution in the host country.
3. *Totalization for the periods of contributions* made in both host and home countries for the purpose of assessing eligibility for benefit/pension under the legislation of each country. Thus, only such SSAs that have the component of totalization within it, are, in common parlance, called the ‘Totalization Agreements’, which presupposes the existence of other elements that are described above.

While the International Labour Organisation (ILO) recommends a rights-based approach to social security coverage, and its portability in respect of migrant workers; the instrument of SSAs, by reducing the cost of employees not only makes companies more competitive but also protects the social se-

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CoC is issued by the competent authority in the home country.

curity cover of such workers and thereby reduces the barriers to international mobility of skilled workers.

In so far mobility of persons is necessary for flow of capital and goods under globalization, our understanding of the efficacy of the instruments (like SSA) that aid the flow of labour as a factor of production would be crucial to understand the deepening of the process of globalization.

### 2.2.1 Cost savings

One of the major benefits of SSA is reduced cost in terms of savings for employers and employees by removing dual contribution of the social security system.

We estimate the savings of employers and employees by collecting data on the approximate average monthly salaries and exemption rate in different countries with which India has signed an SSA. *Table 1* provides an estimate of the costs for different countries using the number of CoCs issued during this period. We use the monthly average salary for a software engineer from Payscale.com in that country as a proxy salary for Indian workers going to that country. Next, we calculate the number of CoCs issued using data from EPFO as an indicator for number of Indian workers who utilised the SSAs for work in the host country. Thus, total monthly exemption for employers' equals the product of monthly salary, number of CoCs issued and the employers' exemption rate. Similarly, we do the same calculations for employees.

Next, we look at some indirect benefits of SSAs. In particular, we look at the linkages of migration with trade and social welfare.

### 2.2.2 Trade and migration

The process of globalization is considered to have led to intensification of transnational movement of capital, goods, services and information. However, there is considerable evidence that supports the argument that gradual reductions in trade barriers - including barriers to migration, would yield huge benefits at little economic cost because labour mobility and infusion of new skills are essential to sustain economic growth in the context of expansion of global supply chains and production structures. An increase in migration from developing to high-income countries that accumulates to a three percent boost in the latter's labour force (both skilled and unskilled)

**Table 1** Social Security savings

This table shows a country level summary of the estimated monthly social security savings due to SSAs. Employers' estimated monthly savings are calculated using the employers' exemption rate with the total number of CoCs issued and average monthly salary. Similarly, employee exemption is estimated using the employee's exemption rate.

Country	Estimated average monthly salary (USD) (1)	Total number of CoCs issued (2)	Employers' exemption % (3)	Employers' estimated monthly savings (USD) (4)=(1)*(2)*(3)	Employee's exemption % (5)	Employee's estimated monthly savings (USD) (6)=(1)*(2)*(5)
Germany	4,417	33,657	10.85%	1,61,28,715	10.85%	1,61,28,715
Denmark	5,750	2,723	852.00	23,19,996	1,704.00	46,39,992
Luxembourg	4,583	398	12.45%	2,27,109	14.89%	2,71,618
Netherlands	3,667	11,096	27.65%	1,12,49,495	12.39%	50,40,913
Hungary	2,500	531	23.50%	3,11,963	18.50%	2,45,588
Finland	3,583	1,579	18.00%	10,18,455	5.70%	3,22,511
Sweden	4,583	3,763	13.37%	23,05,935	7.00%	12,07,296
Czech Republic	2,667	132	25.00%	88,000	6.50%	22,880
Norway	6,000	1,1181	14.10%	9,99,126	8.20%	5,81,052
Canada	4,333	1,434	4.95%	3,07,593	4.95%	3,07,593
Australia	6,250	9,674	9.50%	57,43,938	0.00%	-

1. Average salary as per Payscale.com for a software engineer in that country.

2. Number of CoCs issued from 1 Oct 2008 to 31 Mar 2016 considered as per EPFO website.

3. Denmark's social security contribution is absolute numbers.

4. The above savings do not consider the impact of tax benefit due to exemption from social security contribution.

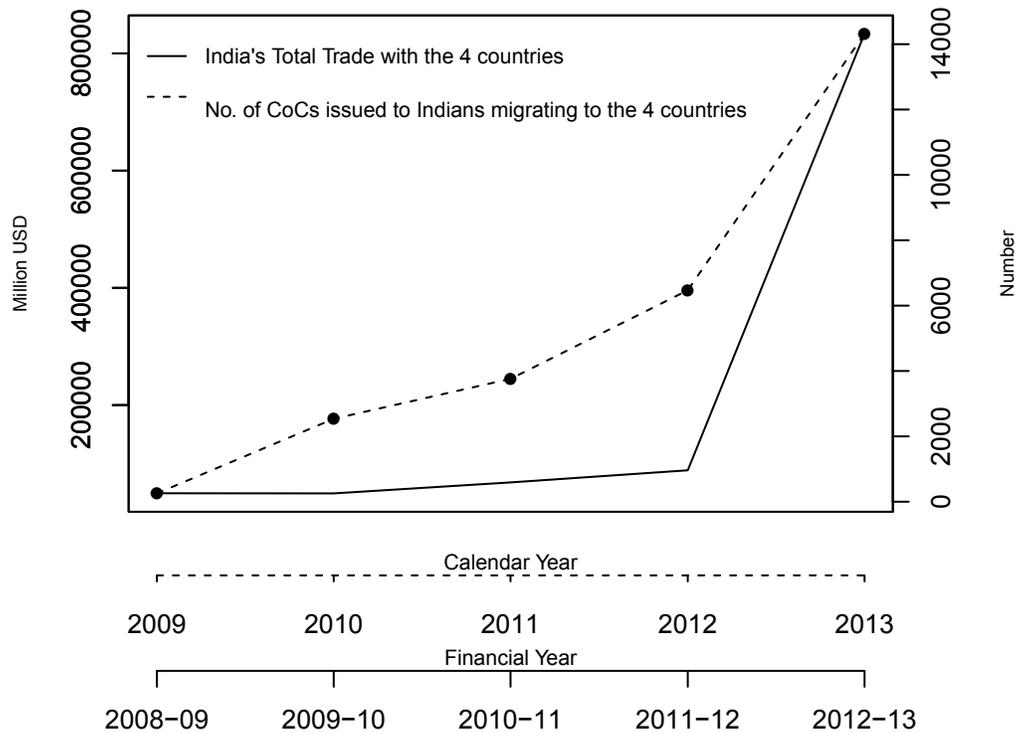
by 2025 might increase global income by approximately USD 700 billion year by 2025 (The World Bank, International Organisation for Migration, 2004).

The extant literature on links between migration and trade broadly supports the hypothesis that both are being complementary but not without qualifications and not unambiguously. Barra et al. (2016) show a positive non-linear relationship between the extensive margin of trade and the proportion of migrants in the total population. Bruder (2004) establishes a substitutional link between trade and foreign labour force, while indicating no substantial impact of labour migration on trade and a significantly negative effect of trade volume on labour migration. Hatzigeorgiou and Lodefalk (2015), however, talk about how migrants spur exports, especially along the extensive product margin of trade and for differentiated products, but with no significant impact on imports.

Starting with Gould (1994), there are many studies which analyse the empirical relation between trade and migration. For example, As *Figure 1* shows, India's bilateral trade with a cluster of four countries in EU is positively correlated with mobility of poster workers. However, in light of various esti-

**Figure 1** India’s total trade with Belgium, Germany, Netherlands and Switzerland versus CoCs issued

This plot shows the total trade with Belgium, Germany, Netherlands and Switzerland, along with the combined migration to the four countries.



mation issues, estimating the SSA’s impact on migration by isolating it as a factor and its subsequent impact on trade is an even more rigorous exercise. It is not difficult to find why it is so.

*Firstly*, the global trade is affected not just by various tariffs, taxes, etc. but also by a slew of other factors. Same is true of migration. *Secondly*, even if all the variables and their relation to trade and migration are postulated, determining the effect of SSAs on trade through its impact on migration requires a considerable sample size, which, as of now, is not available. This is attributable to the fact that not much time has elapsed since the SSAs started becoming effective. Given such constraints, any empirical study on links between Indian SSAs and trade would be difficult to pursue.

Hence for the near future, researchers may have to concentrate on analytical

frameworks for studying the links between the two and wait for the SSAs to mature to have their frameworks empirically tested.

### 2.2.3 Social welfare and migration

Some of the provisions of SSAs like totalisation and portability of accrued benefits, and even the SSAs in general (in so far these facilitate legal migration by working on disincentives to migration), have positive impact on welfare of migrants, and the mobility of international workers. The circular migration facilitates transfer of skills and technology from host to home countries through the return of the posted workers to home country, besides increasing the remittance inflow (Koettl et al., 2006).

Koettl et al. (2006) and Kapur (2005) argue that even though highly skilled migrant workers earn more compared to other classes of migrants, their propensity to remit back is much less compared to other classes. This behaviour arises from the fact that highly skilled migrant families are seldom in need of remittances; the workers themselves stay for longer durations abroad and very often reunite with their families in their host countries. Secondly, remittances are an endogenous function of society, since both their magnitude and efficacy in contributing to the overall welfare of the migrant's origin society is a function of the general development conditions of the given society. Such a contingency on the efficacy of remittances implies that the scope for aiming and improving the developmental impact of remittances is limited (De Haas, 2007). But, this is not our concern in this essay as it is a separate area of enquiry.

Razin and Sadka (1999) show through an analytical framework that even when migrants are low-skilled and net beneficiaries of the welfare state, in a dynamic set up, all the age and income groups would be better off due to the arrival of migrants. This is so because the migrants help in paying the social security benefits to the current elderly while more than compensating for any other distortions that they may cause in the host country. Interestingly, such an analysis holds good especially for non-contributory benefits as well.

## 3 Existing framework

### 3.1 International worker

Taking note of outwardly mobile Indian workers, as also inwardly mobile foreign workers, who, since paid salaries in excess of INR 6,500 per month, were outside the ambit of EPF Act in India - and to level the playing field - a category of International Worker (IW) was created by a notification of EPFO on 1 October 2008. A foreign national qualifies as an IW if he/she is working for an establishment to which the Indian social security regulations apply, provided he/she is not declared as an 'excluded employee'. If, however, the foreign national is from a country with whom India has a reciprocal SSA, then he/she is 'excluded' from application of Indian social security regulations (because he/she enjoys the status of 'detached worker as per the terms of the SSA).

In addition, the salary limit above which these IW and their employers were not required to contribute to pension and provident fund was removed, and they were mandatorily required to make contributions towards pension and provident fund on his/her full salary, without any ceiling. When translated into the Indian currency, at 12% each from the IW and his/her employer, the contributions turn out to be substantial. It prompted many countries to consider SSA with India, as is evidenced by a large number of SSAs that India entered into within a span of five years. It is another matter that for Indian workers qualifying as IW, it poses challenges that need to be addressed by the EPFO.<sup>5</sup>

### 3.2 Framework of SSAs

While the social security coordination between countries, particularly within the European Union (EU) have been in existence for decades (Jorens, 2010), the first SSA between India and Belgium was made operational only on 1st September 2009. India has, since then, signed SSAs with 18 countries, and 16 of these are effective as on June 2016 (see *Table 2*).

We may evaluate the Indian SSAs on four principles that are broadly agreed as laying the foundation of the SSA (Jorens, 2010):

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<sup>5</sup>An Indian national qualifies as an IW if he/she has worked or going to work in a country with which India as entered into a SSA, and is eligible to avail the benefits under the social security programme of the host country. Thus, once an IW, always an IW.

**Table 2** Countries having SSA with India

This table shows the status of all Indian SSAs as on 31-Jan-2017, along with their implementation dates.

Country	Signed	Operationalisation Date
Belgium	Yes	01-Sep-09
Germany	Yes	01-Oct-09
Switzerland	Yes	29-Jan-11
Denmark	Yes	01-May-11
Luxembourg	Yes	01-Jun-11
France	Yes	01-Jul-11
Republic of Korea	Yes	01-Nov-11
Netherlands	Yes	01-Dec-11
Hungary	Yes	01-Apr-13
Finland	Yes	01-Aug-14
Sweden	Yes	01-Aug-14
Czech Republic	Yes	01-Sep-14
Norway	Yes	01-Jan-15
Austria	Yes	01-Jul-15
Canada	Yes	01-Aug-15
Australia	Yes	01-Jan-16
Japan	Yes	01-Oct-16
Portugal	Yes	NA

1. *The principle of equality of treatment and reciprocity:* The equality principles states that an individual who ordinarily resides in the territory of a Contracting State shall receive equal treatment with nationals of that Contracting State in the application of the legislation of that Contracting State. In other words, it means that the discrimination on grounds of nationality or the rules that either directly or indirectly favour their own nationals over other nationals are prohibited. We find that all the SSAs of India, except the SSA between India and Switzerland, have this principle.

In so far reciprocity is concerned, it mostly applies to benefits arising out of contributions made by the employer/employees on reciprocal basis. Thus, it does not cover non-contributory benefits as available in developed countries. The Indian schemes covered are (a) old-age and survivors' pension for employed person, and (b) the permanent total disability pension for the employed person. These arrangements reflect the limited coverage and applicability of SSAs, pertaining to the characteristics of India. However, some countries cover non-contributory benefits also in the SSA. For example, health insurance (the Indo-Switzerland and Indo-Norway SSA). Czech Republic, Luxembourg, Belgium and Norway have as their scope, other than (a) and (b), 'the social security for employed persons'. However, the full impact of this clause requires further enquiry. The Indo-Belgium SSA also covers social security schemes for self-employed persons, along with the employed ones.

2. *The detachment principles applied on emigrating workers:* This enables exemption from payment of social security contributions in the host country (based on production of Certificate of Coverage or CoC) provided such payments are made in the home country. However, the duration for which a CoC is valid ranges from two years (Sweden) to six years (Switzerland). Further, the period for which the exemption period can be extended on mutual consultation also varies as also treatment of detachment to a third state (see German SSA).
3. *The principles of portability of accrued benefits:* The portability of accrued benefits (like pension) to the home country or to beneficiaries in a third country, on completion of their assignment or retirement varies between the SSAs. The Indo-Swiss SSA does not provide for portability of Swiss benefits though it allows withdrawal and portability of Indian benefits and contributions made in India. The Indo-German SSA simply has no such portability provision. The Indo-Australian SSA does not provide portability to a third country. Other than these

three SSAs, all other have the portability to home country and third country provisions. However, it must be noted that under the portability regime, non-contributory benefits are kept out of its purview.

4. *The principles of totalisation of contribution periods*: It means that the insurance periods completed pursuant to one of the Contracting State's legislation are 'totalised' - when necessary and to the extent that they do not overlap - with the insurance periods completed pursuant to the other Contracting States' legislation. The SSAs differ on this aspect. The SSAs with Germany, the Netherlands and Switzerland do not have totalisation provision at all, while others have such provision mostly with the methodology mentioned therein.<sup>6</sup>

With this background, we analyse the SSAs signed by India from different perspectives as detailed in *Table 3*.

More detailed analysis on the existing framework is available in Appendix.

## 4 Data description

The data for CoC is taken from the EPFO which is the agency that issues CoCs to people travelling abroad for work. We have individual level data of employees who were posted in the countries where SSAs have been operationalised and contains the following fields of the CoC form:

1. Location of the EPFO office where CoC was issued,
2. State,
3. Age group the individual belongs to, and
4. Validity (or duration) of the CoC.

Data is available on an annual basis from 2009 to 2016. 83,274 CoCs were issued during this period from 17 different states and 59 different offices, which include both EPFO and non-EPFO offices. We also use the data on emigration from the International Migration database provided by the Organisation of Economic Cooperation and Development.<sup>7</sup> International migration

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<sup>6</sup>If a person has completed periods of coverage under the legislation of both Contracting States, these periods, insofar as they do not overlap, if necessary, shall be added together for the purpose of acquiring entitlement to a benefit, as if they were periods of coverage in the relevant Contracting State (Article 10 (1) of Indo-Austrian SSA).

<sup>7</sup><https://stats.oecd.org/Index.aspx?DataSetCode=MIG>

**Table 3** Provisions in Indian SSAs

Country	Equality of treatment	Portability	Totalisation	CoC validity*
Belgium	Yes	Yes	Yes	60
Germany	Yes	-	-	48
Switzerland	-	-	-	72
Denmark	Yes	Yes	Yes	60(36)**
Luxembourg	Yes	Yes	Yes	60
France	Yes	Yes	Yes	60
Republic of Korea	Yes	Yes	Yes	60
Netherlands	Yes	Yes	-	60
Hungary	Yes	Yes	Yes	60
Finland	Yes	Yes	Yes	60
Sweden	Yes	Yes	Yes	24
Czech Republic	Yes	Yes	Yes	60
Norway	Yes	Yes	Yes	60
Austria	Yes	Yes	Yes	60
Canada	Yes	Yes	Yes	60
Australia	Yes	Yes	Yes	60
Japan	Yes	Yes	Yes	60
Portugal	Yes	Yes	Yes	60

\* 60 months for Indians and 36 months for Danes.

database provides the total inflows of foreign population by nationality on an annual basis for each country. We subset the data to the time period of our study.

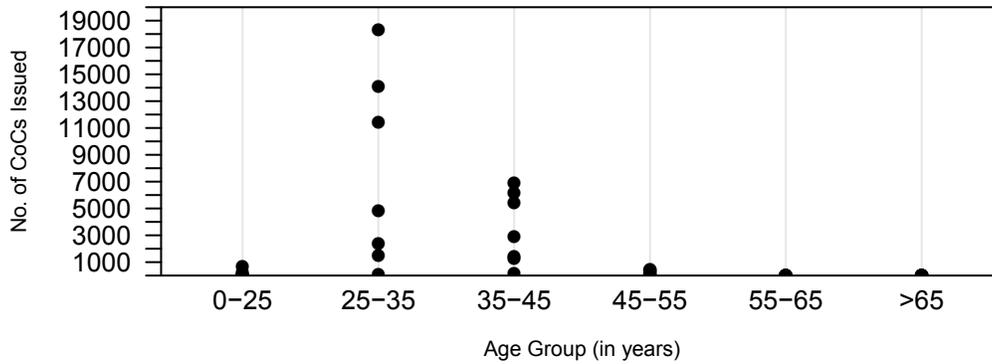
#### 4.1 Broad facts about Indian SSA

In this section, we analyse the data on number of CoCs issued to Indians emigrating for work abroad by the EPFO, and the emigration data from the OECD. By way of analysis, we try to come up with some insights on the demographics that is making the most use of the SSAs, and, whether these have been dynamic or not. It is to be noted that there is a greater emphasis on the demographics to whom the COCs are being issued than on the magnitude of the COCs issued since the latter would continue to increase as more SSAs would become operational over the period of time analysed.

*Figure 2* shows a dot plot for the CoCs issued to different age groups from

**Figure 2** CoCs issued to different age groups

This dot plot shows CoCs issued to different age groups for the period 2009-2015.



Source: Authors' calculation from EPFO data

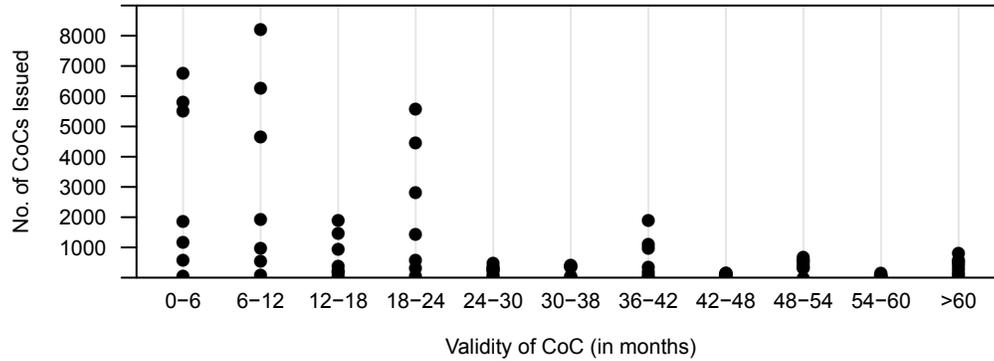
2009 till 2015. It shows a clear positively skewed distribution between the number of CoCs issued and the age group of the CoC applicant, with most number of CoCs consistently being issued to individuals in the age group of 25-35 years, followed by age group of 35-45 years. This pattern is a reflection of the interaction of a large number of intrinsic and extrinsic characteristics of individuals and industries. The natural risk aversion of different age groups, demographic composition of different industries could be a few examples of the factors affecting the observed pattern.

While admittedly an individual's choice to migrate for employment abroad is not influenced by a lack of portability of social security benefits; such portability constitutes a critical element in the individual's lifecycle planning and social risk management. Employees who are near their retirement may not want to jeopardise their retirement benefits by getting a posting abroad. This sense of jeopardy stems from the fact that the SSA environment in India is in its nascent stages. It may also mean that a large number of business enterprises are either unaware of the SSA's provisions, or given the SSA's current wordings, consider these to be uncertain.

The second reason for the pattern outlined in the first paragraph is regarding the demographics in particular industries. A lot of the industries like IT and Engineering have blossomed only in the last couple of decades. It is, therefore, possible for them to have a younger work force. Employees getting posted abroad from such industries will naturally be from the younger section of the

**Figure 3** CoCs issued according to their validity duration

This dot plot shows the CoCs issued for the period 2009-2015, based on the duration of their validity.



Source: Authors' calculation from EPFO data

work force.

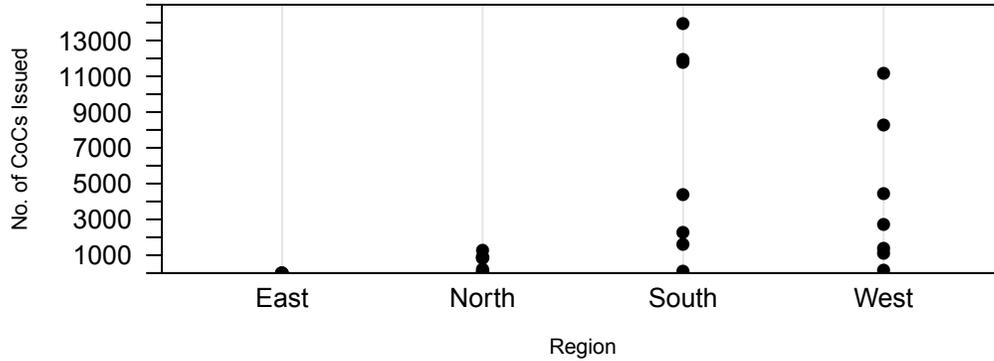
The dot plot in *Figure 3* also shows a clearly discernible trend amongst the different validities of the CoCs issued. We see that the data is bi-modal at observations of 6-12 and 36-42 months. We also observe that the validity of the majority of the CoCs issued is less than one year and such CoCs constitute approximately 40-60% of the CoCs issued in any given year (not shown here). This trend of CoC with validity of less than one year is despite the fact that most of the SSAs have a provision for CoCs with validity of upto 60 months. Similar to trends in the previous paragraph, this trend, too, is attributable to various factors, like validity of work visas granted, nature of work assigned, visa policies of the destination countries, the level of the engagement with the destination economy. Any enquiry to ascertain its root cause(s) requires more data and subsequent analysis.

The most number of CoCs are issued by the EPFO offices located in the South, followed by West regions of India, as seen from *Figure 4*. Most of the CoCs issued in the South, according to the EPFO, are to the employees of firms from the IT industry while most of CoCs issued in the West are either to the Engineering Products or Engineers-Contractors industry (data not shown here).

This should not be confused with CoCs being issued to individuals from these regions. It might be the case that a substantial proportion of the

**Figure 4** CoCs issued in various regions of India

This dot plot shows the CoCs issued for the period 2009-2015, based on regional offices of EPFO where they were issued.



- East has the States of Jharkhand, Madhya Pradesh, West Bengal.
- North has the States of Chandigarh, Delhi, Haryana, Uttar Pradesh, Uttarakhand.
- South has the States of Karnataka, Kerala, Puduchery, Tamil Nadu, Telangana.
- West has the States of Gujarat, Maharashtra, Rajasthan
- 31 CoCs were issued by Non EPFO offices and Banks

Source: Authors' calculation from EPFO data

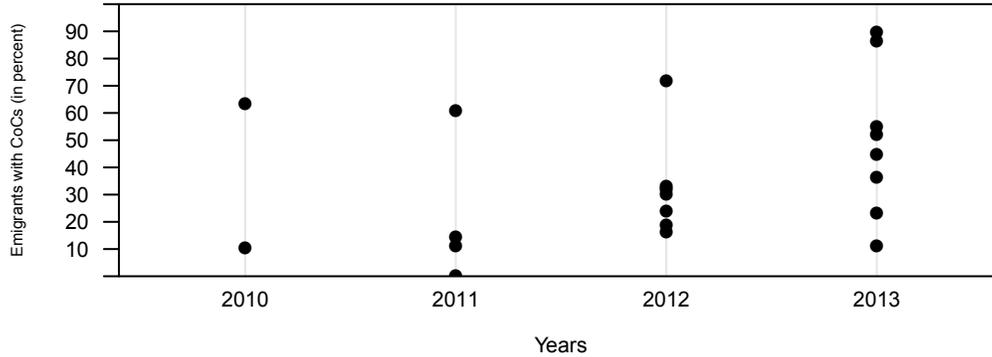
CoCs being issued in a particular region are to individuals, who are not from that region. This can be the case for industries which have highly localised physical infrastructure but whose employees are from across the country. Firms belonging to the IT industry and concentrated in southern Indian cities like Bangalore and Hyderabad could be cited for this pattern.

The analysis of the previous paragraphs is important since based on it agencies can model the SSAs to cater to the particular needs of the industries or sectors that are in the need of making use of provisions of SSAs.

From *Figure 5*, it appears that there is a rise in the number of CoCs being issued testifying that the provisions of SSAs are being utilised for circular migration. However, due to the nature of the available data and its small sample size, it is not possible to comment on their efficacy in achieving their intended purpose; and, indeed, if all such persons venturing on circular migration are utilising the provision to seek exemption from the social security legislation of the host State. Without speculating on the status before the advent of SSAs, we could, nonetheless, venture to state that there is a demand, and fulfilment of demand for CoCs, and the government should work

**Figure 5** Percentage of emigrants with CoCs

This dot plot shows the proportion of Indian emigrants who had been issued CoCs as a percentage of the total number of emigrants to each country during the period 2010-2013. The data on CoCs issued is obtained from EPFO while data on the total number of emigrants is procured from OECD.



Source: Authors' calculation from EPFO data

towards its further popularisation so that more people use this provision of SSA; and depending on the demand, accelerate efforts to have SSAs with such host countries where Indians are going on detachment postings. We should remind ourselves that SSAs do not apply to independent professionals or self-employed persons as this category of transnational workers are beyond the scope of the social security system of India.

## 5 Areas of concern

In this section, we address some of the areas of concern based upon our discussion in Section 3 and 4. We have seen differences in provisions across SSAs that India has signed. For example, only the Indo-Belgian SSA lays down totalisation procedure in detail unlike the SSAs signed by India with Germany, Netherlands and Switzerland. This section talks about some key problems with the existing framework and the need to address some of them in order for SSAs to be more efficient.

## 5.1 Dispute resolution mechanism

In general, the bilateral SSAs signed by India contain a single paragraph on dispute resolution relegating it to the ‘competent authorities’. The SSA with the Netherlands states that ruling by one of the Contracting State’s courts can be overruled by the other Contracting State if it is ‘contrary’ to the public policy of that Contracting State. Besides, it does not specify the course of action to be taken in such a scenario (Article 15 of Indo-Netherlands SSA).

Here, the example from EU becomes relevant. The Court of Justice of the EU has passed more than 600 judgments on the provisions of social security whenever there is a doubt on their application vis-a-vis the national laws. The aggrieved party approaches the Court after having tried available national remedies, and once the matter is in the Court, it passes a judgment on the relevant provision (s) of the law, and it becomes a precedent. Besides, the national court may seek EU court’s insights in interpretation of the contested provision.

While adoption of such a system may not be feasible in the Indian context, an arbitration council on the lines of EU court appears feasible. Such a council, drawn from members not only from the concerned competent authorities mentioned in the administrative arrangements may give rulings on the provisions of the concerned SSA and not individual cases per se. The council may adopt protocols for speedy resolution of disputes, and should meet at least once in one/two years to review the working of the SSAs and suggest any amendments that may be required (Spiegel, 2010).

## 5.2 Detachment benefits

The detachment clause under some of the Indian SSAs requires the migrating employee to be working ‘on behalf of’ the Indian entity. In practice, however, when an employee goes on an ‘assignment’ abroad, he/she is considered to be working for the host country entity (and not for its Indian counterpart). This is done to avoid a corporate tax exposure for the Indian entity in the host country.

SSAs of India with Austria, Belgium, France, Japan, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland have such clauses. The wording in these agreements is such that it is unclear whether an employee going on assignment to another country is eligible for a Certificate of Coverage from the EPFO or not. A clarification from the Government that a CoC

can be obtained by such an employee irrespective of the terms of the SSA with the host country, provided the PF contributions continue to be paid in India, remains to be made.

Additionally, many SSAs also provide that the benefit of detachment can be availed for the extended period of deputation. No specific instruction/circular, however, has so far been issued by the EPFO on the process for availing this benefit.

### 5.3 Data availability

The current template of CoC form consists of two pages, and contains not very useful information. For example, the CoC form for Denmark does not even ask for the gender of the applicant. The hurdle in improving CoC form is that these are mutually agreed upon and these cannot be tweaked without the express consent of the other Contracting State. Given this limitation, it can be proposed that there could be a two-tier process: the first tier has the usual CoC form while the applicants can be made to fill an extra form so as to collect data of the applicants and their economic activities, like the nature of job, nature of employer, duration of stay, and the extent of utilisation of SSA's provisions, etc. For example, we would like to confirm that a substantial proportion of Indians seeking CoC while going to Germany are from the Engineers-contractors industry.

Further, the CoC data should be interfaced with the data collected by the immigration authorities. This would enable drawing of changing dynamics of circular migration that are also linked with the immigration and the trade, and also allow for incorporating provisions that best meet the needs of a particular kind of detached workers. Interfacing CoCs with immigration data would enable to have a finding on the utility of SSA. For example, while it is possible to obtain data of Indian posted workers going to Germany, it was not possible to obtain reciprocal data of German nationals migrating to India with CoCs obtained from competent authorities in Germany.

### 5.4 Totalisation procedure

Without the totalisation provisions, the utility of SSAs diminishes in so far it relates to ensuring the benefits accruing from contributions made in the host and home countries. While all SSAs provide for detachment, totalisation is not provided for in certain SSAs. Some recent SSAs, namely those

with Australia and Portugal, do provide for all kinds of benefits. It is also typically the more complex process thus requiring that the methodology relating to totalisation (as available in Article 12 of the Indo-Belgian SSA that is identical with the Indo-Hungary SSA) are revisited since some of the SSAs have been in operation for more than five years.

## 5.5 Extending the scope of SSAs

Any enlargement of benefits in the SSA is constrained by the Indian social security system (contributory in nature), and the practice of reciprocity applied in the bilateral agreements. However, we recommend that two provisions could still be inserted: first, exportability of benefits to third countries (whenever this provision is lacking in the extant SSAs), and, second, measures to cover medical insurance in the host country. The absence of latter compels the Indian posted workers (and their families) to subscribe to health insurance policies both in India. This leads to adding to the cost per employee and thereby non-realisation of full benefits of SSAs on the circular mobility of such persons.

## 6 Conclusion

The purpose of this paper is to familiarise readers with the dynamics of the SSA in the very-much overlapping contexts of trade, mobility and migration, and social security cover. The mobility of persons as a factor of production has only recently started getting serious attention (as in Mode IV of GATS that, however, remain subject to domestic regulations).

Using novel data from EPFO, we show that more number of CoCs are issued for young and middle aged employees than otherwise, and are mostly issued for a period of less than one year. We also show that there is a considerable increase in the popularity of CoCs, since the percentage of migrants applying from them has constantly risen. However, data constraints and the lack of sound academic theory in the subject, limit our conclusions. We suggest the setting up of a two-tiered CoC application process to start with, specifically designed to provide reliable migration data to enable deeper analysis of this emerging area of research.

We have found that the SSAs suffer from various issues: some are generic in nature (such as overwhelming percentage of informal workers) while others

are specific (like formulation of International Workers). There is a variation in the provisions of SSAs signed by India with various countries, and the actual implementation of SSA raises many pertinent issues that require attention of the policy makers and the practitioner alike. It would be fair to state that if the benefits of SSAs, as these are, get attention of the business enterprises, more number of 'posted/detached' workers would take advantage of it.

Moving forward we try to establish that trade, circular migration and social welfare get a boost from signing of SSAs. While trade is facilitated because of the migrants' knowledge of the local customs and markets in both the host and home countries, their welfare in terms of social security coverage is promoted due to provisions of SSA. Studies even suggest that migration is welfare enhancing for the host countries since the migrants help in balancing the social security system from being burdened by an ageing population. We have touched upon some of the issues, all of which, and more, require separate enquiries.

## A Appendix

Table 4: Social Security Schemes covered under SSAs

Country	Beginning of table	
	Foreign Social Securities	Indian Social Securities
Belgium (Ministry of External Affairs, GoI, 2006)	Old-age and survivors' pension for employed persons and self-employed persons; invalidity insurance for employed persons and self-employed persons	(i) old-age and survivors' pension for employed persons; (ii) the Permanent Total Disability pension for employed persons.
Germany (Ministry of External Affairs, GoI, 2009)	Statutory Pension Insurance	Same as above.
Switzerland (Ministry of External Affairs, GoI, 2014c)	Old-age and survivors' insurance; disability insurance; accident insurance; health insurance	Same as above and; (iii) health insurance.
Denmark (Ministry of External Affairs, GoI, 2010b)	Social Pensions Act; Act on various anticipatory pension; Labour Market Supplementary Pension Act	Same as above.
Luxembourg (Ministry of External Affairs, GoI, 2011b)	Pension insurance in case of old-age, invalidity and survivorship; the social security for employed persons (sickness insurance, accidents at work and occupational diseases insurance, unemployment benefits and family benefits)	Same as above.
France (Ministry of External Affairs, GoI, 2011a)	Old-age pension including survivors' pension schemes; invalidity insurance including survivors' pension	Same as above.
Republic of Korea (Ministry of External Affairs, GoI, 2010a)	National Pension Act and its regulations that provide pension benefits in case of old-age or death of bread-winner	Same as above.

Continuation of table 4		
Country	Foreign Social Securities	Indian Social Securities
Netherlands (Ministry of External Affairs, GoI, 2014e)	Legislation on social insurance concerning old-age, disablement, survivors' health; sickness, maternity, unemployment, children's allowances	Same as above.
Hungary (Ministry of External Affairs, GoI, 2011e)	Legislation concerning the insurance obligation and the payment of contributions covering social insurance benefits and benefits paid in case of unemployment, as well as the social insurance pension benefits	Same as above.
Finland (Ministry of External Affairs, GoI, 2012)	Old-age, disability and survivors' pension under Earnings related pension scheme	Same as above.
Sweden (Ministry of External Affairs, GoI, 2014d)	Income based old-age and survivors' pension; sickness; activity compensation; guarantee pension and surviving children's allowance*	Same as above.
Czech Republic (Ministry of External Affairs, GoI, 2011c)	Pension insurance; liability for payment of social security and state employment policy contributions	Same as above.
Norway (Ministry of External Affairs, GoI, 2011d)	Old-age and survivors' pension; disability grant; funeral grant; Labour and Welfare Service Act; National Insurance and Family Allowances Act (iii) Health insurance	
Austria (Ministry of External Affairs, GoI, 2014a)	Pension insurance; sickness and accident insurance	Same as above.
Australia (Ministry of External Affairs, GoI, 2014b)	Age pension; superannuation guarantee	Same as above.

End of table

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