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**POLICIES AND BEST PRACTICES FOR MANAGEMENT
OF TEMPORARY MIGRATION***

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*The views expressed in the paper do not imply the expression of any opinion on the part of the United Nations Secretariat.

In its final report the Global Commission on International Migration recommended that “..states and the private sector should consider the option of introducing carefully designed temporary migration programmes as a means of addressing economic needs of both countries of origin and destination.”¹ This recommendation echoes the conclusions of other international and inter-governmental bodies that have looked into the growing phenomenon of migration and the challenges and opportunities it poses for many countries. The World Commission on the Social Dimensions of Globalization, for example, spoke of facilitating “...mutually beneficial ways of increasing migration opportunities” and of measures to stimulate “skills circulation”.² In a similar vein one of the recommendations of the Berne Initiative was for “...measures to enable and facilitate temporary migration and multiple short stays...”³ In its 2005 Green Paper on an EU Approach to Managing Economic Migration, the European Commission articulated the need for harmonizing policies because “...more sustained immigration flows could increasingly be required to meet the needs of the EU labour market and ensure Europe’s prosperity.”⁴

Although temporary migration programmes, in their many forms and modalities, have been around for some time, there is today renewed interest in their possible expansion because of perceived advantages over other, more permanent forms of migration. Temporary migration, to start with, is viewed as contributing to greater flexibility in the labour market. For many countries this is of considerable importance given their ageing workforces, the demands of industry for new skills, and the tendency of people to become less mobile as societies become more prosperous. Secondly, compared to permanent immigration, liberalizing temporary admissions is politically easier to sell to electorates that have come to feel threatened by more immigration. And thirdly, some societies have experienced increasing difficulties with integrating long-settled immigrant communities, hence they opt for solutions that would not compound their problems.

A. GROWING SIGNIFICANCE OF TEMPORARY PROGRAMMES

The debate on liberalizing temporary economic migration policies is now taking place in a variety of contexts. One is taking place in the more advanced economies, largely the OECD countries, where it is seen as one of the means available to adjust to labour shortages while remaining competitive in the global market for commodities, and to deal with the intractable problems of illegal migration. The other is taking place in the origin states, mostly developing countries, where temporary migration of labour is viewed as a means to earn foreign exchange and know-how, without the permanent loss of skills usually associated with migration. At the same time it is the source of great concern since in many countries of employment various conditions attached to temporary admission effectively precludes enjoyment of some basic labour rights and entitlements, and place many in a position of vulnerability to discriminatory treatment in wages and abuse. And a third is in the multilateral arena, especially on matters of

¹ See “Principles for Action and Recommendations” in *Migration in an interconnected world: New directions for action*, Report of the Global Commission on International Migration, New York and Geneva, 2005.

² WCDG (2004) *A Fair Globalization: Creating Opportunities for All*, Report of the World Commission on Social Dimensions of Globalization, ILO Geneva

³ Berne Initiative, “International Agenda for Migration Management”, December 2004, at www.iom.int/berneinitiative.

⁴ See p. 5 of Commission of the European Communities, “Green Paper on an EU Approach to Managing Economic Migration” COM (2004) 811 final, Brussels, 11.1.2005

human and labour rights, since temporary migration in many cases places people in situations where such rights are circumscribed by policies meant to ensure “temporariness” of stay.

Very few countries consider themselves as countries of immigration. Although almost all states admit people permanently on grounds of family reunification, few do so for economic reasons other than to encourage foreign investments. The sentiment is more widely spread than is frequently assumed. The UN reported that since it started periodic surveys of attitudes to migration in 1976 the number of countries that wanted lower immigration levels rose from one out of five to one out of every three in 2003. This also helps to explain the growing interest in temporary migration schemes which, at least in theory if not in fact, allows a country to benefit from the “labour” without having to provide entitlements to welfare benefits.

Temporary migration schemes have become more significant for another reason. They are seen to be useful in addressing problems related to illegal migration. One is the argument frequently made that illegal migration will decline if there are legal avenues for economic migration. Anticipating pressures on its borders, Germany, for example, reintroduced seasonal and other forms of “guest worker” programmes following the collapse of the USSR. Another is the use of temporary work permits for those who avail of amnesty and regularization programmes. National authorities typically can grant no more than temporary residence and work permits to those who avail of these programmes. To offer permanent settlement could undermine a country’s immigration policies since it would reward those who have violated them and often have the unintended consequence of making it harder for those who follow the legal procedures.

An aspect of temporary migration policies that has lately also received much attention is in connection with the discussions in the World Trade Organization (WTO) on liberalizing trade in services. Developing countries see their strong comparative advantage in the provision of services especially those involving the so-called “movement of natural persons” Mode IV of General Agreement on Trade in Services (GATS) and have pushed for reduction of barriers to such movements. At the moment it still accounts for an insignificant proportion of total trade in services, but some economists have estimated that liberalization of such movements offers greater potential for raising world income than the liberalization of trade in goods and commodities.⁵ In the eyes of the developed countries, however, the movement of natural persons is no different from labour migration and hence must be covered by the same immigration and labour policies as other temporary migrant workers. This means that the foreign workers providing the services must be given equal treatment as national workers, hence removing their suppliers’ source of comparative advantage.

The debate on the liberalization of temporary migration policies has recently been joined by the World Bank which devoted its *2006 Report on Global Economic Prospects* largely to an

⁵ Prof. Winters of Sussex University estimated huge returns to even relatively small movements of labour. An increase in developed countries’ quotas on the inward movements of both skilled and unskilled temporary workers equivalent to 3% of their workforces would generate an estimated increase in world welfare of over \$US150 billion p.a. See Alan Winters “The Economic Implications of Liberalizing Mode 4 Trade” paper presented at the Joint WTO-World Bank Symposium on the Movement of Natural Persons Mode IV under the GATS, Geneva, 11-12 April 2002

examination of the economic implications of remittances and migration. Citing the results of economic studies, the Bank confirmed what many host and origin countries have long recognized, namely that migration generates significant gains not only for the migrants but also for the natives of the destination and origin societies. Moreover, there has been steady growth of migrants' remittances over the years, displaying none of the volatility that has characterized the flows of foreign direct investments. From the standpoint of many developing countries migration and remittances are their main means of connecting with the global economy and for generating substantial inflows of capital to finance development.

In June 2004 the International Labour Conference of the ILO adopted a resolution calling, among others, for expanding avenues for regular labour migration based on the labour market needs and the sovereign right of all nations to determine their own migration policies. The resolution also called for the development of a rights-based multilateral framework for managing labour migration, one that would consist of principles drawn from international norms and of best practices in admissions and treatment of migrant workers. Although distinction was not drawn between permanent and temporary migration, the framers of the Resolution had temporary migrants very much in mind when they discussed the plight of migrant workers and the weaknesses of existing arrangements for protecting their interests and rights. A Tripartite Meeting of Experts reviewed in December 2005 a draft multilateral framework and endorsed a final version to the ILO Governing Body for its adoption. The latter is expected to take up the issue at its March 2006 session.

“ ... Temporary worker schemes have been preferred over general relaxation of immigration rules as they allow specific labour market demands in the UK to be met in the short-term, without making a longer-term commitments, and in a way that in principle reassures the UK electorate that the government retains control over immigration.”

Professor Richard Black, Director, Development Research Centre on Migration,
Sussex University, Memorandum submitted to The United Kingdom Parliament
<http://www.parliament.uk/>

A final context in which temporary migration policies are being debated is their role in the growing mobility of the highly-skilled. Managers, ITC professionals, medical doctors and nurses, petroleum engineers, aircraft pilots, ship captains and engineers, and many other highly-skilled people are today moving around the world in ever larger numbers because of several developments including the spread of global production systems, the growth of the knowledge industries, the liberalization of trade, and the ageing of populations and consequent demands for health care. The global competition for the highly skilled has spurred the establishment of new programmes for facilitating their recruitment and admission to respond quickly to fast changing demand. This has meant the opening of new temporary migration gates because applications for permanent immigration normally take years to process, much too long to be of relevance in meeting industry requirements. These gates include the now famous “H-1B visas”⁶ in the US and the “Green cards” in Germany. Also of increasing importance are the policies on admission of foreign graduate students, an immigration gate which offers natural advantages for countries

⁶ H-1B visas are for specialty occupations granted to foreign workers with a minimum of the equivalent of a baccalaureate degree in the US. The visa is good for three years but can be extended for a maximum of 6 years.

seeking to tap the best brains and talents available in the global market. These temporary admissions are now being seen as “filters” or screening devices for determining who among the foreigners with desirable qualifications are best able to adapt to the host society and thus ought to be considered for permanent settlement.

B. DEFINING TEMPORARY MIGRATION

The distinction drawn between permanent and temporary migration has a significance that goes far beyond simple categorization of migrants. To start with, the distinction draws a divide between those who have more and those who have less rights and entitlements under the laws of destination states. The distinction plays an important part in attuning migration more closely to the requirements of the economy. Demand for labour in certain dynamic sectors is deemed more easily met through temporary than through permanent migration. The highly-skilled are also much more mobile in an increasingly global labour market. For policy administrators the distinction offers a way of achieving compromises between politics and economics as the consequences of migration often depend on whether individual migrants have a short or a long term stake in the process.⁷

In searching for a working definition of temporary migration one is immediately faced with an asymmetry since almost all countries have laws and regulations governing the admission of foreign nationals for temporary periods, while only a few countries have similar laws and regulations regarding the departure or exit of their nationals. In destination countries laws and regulations usually define temporary migration as the admission of foreign nationals for a definite and limited period of time. On the other hand, temporary migration from the standpoint of the origin country, is the departure of nationals which lead to eventual return over a finite, though not specified, period of time. Because the period is undefined it leads to considerable ambiguity as to what exactly are covered. This paper seeks to avoid this problem by taking the destination country definition and considering as temporary migrants those whose legal status is temporary, regardless of the amount of time they may have actually stayed in a country.⁸ The paper also is concerned only with those migrating for employment, not for tourism, family visits, religious activities, or in connection with cultural exchange.

It is difficult to find an underlying principle behind the duration of admission granted by most states. There are a very few instances where the duration is related to the job such as in the admission of seasonal agricultural workers, and in the admission of construction workers. Beyond these few instances one can find few temporary admission categories that can be related

⁷ There is an unsettled debate on how the fiscal impact of immigration depends on the age at which a person migrates. Those migrating at working ages are likely to be net contributors to the public coffers, but young children will be a fiscal burden for some time. On the other hand people with long-term stake in migration are more likely to invest in acquiring the language and skills that facilitate integration. See M. Fix and J. Passel: Trends in noncitizens' and citizens' use of public benefits following welfare reform: 1994-97 (Urban Institute, Washington, D.C. 1999)

⁸ In defining temporary migration programmes Ruhs also adopts a legal criterion. He said “...the key feature of a TMP is that residence and employment on the basis of a temporary work permit alone does not create an entitlement to stay permanently in the host country.” See Ruhs, Martin (2005) “The Potential of temporary migration programmes in future international migration policy”. Paper prepared for GCIM, Sep 2005. His definition does not exclude the possibility that some migrants admitted under TMP are eventually granted permanent residence.

to the “time-bound” nature of the job. In most others, the policy of temporary admission is made to cover workers destined for employment in regular continuous jobs. It is clear that conflicting objectives are behind these apparent inconsistencies. For example, in some cases the political objective of ensuring “non-settlement” has led to artificially binding immigration policy to principles like “rotation” which may defy economic logic since both the employers and the workers invest in some training for the job but are unable to reap the resulting productivity gains.⁹

In the absence of an operative principle for a definition, the alternative is simply to take an eclectic approach by listing the categories of workers usually admitted on a temporary basis. The following categories, which are not always mutually exclusive, have been used in many temporary migration programmes:

- Frontier Workers
- Seasonal Workers
- Contract workers
- Guest Workers
- Professionals and technical workers
- Intra-Company Transferees
- Working holiday makers
- Occupational trainees/Apprentice
- Young Professionals covered by agreements on exchange of trainees
- Entertainers/Sports people
- Service providers/sellers
- Self-Employed
- Students
- Au pairs

The list is not exhaustive and is meant simply to illustrate the variety of workers usually covered by temporary labour migration policies or programmes. The term “guest workers” is the generic label for all migrant workers who have no right to permanent settlement. In this sense it covers the rest of the categories. Frontier workers are non-residents who are often in permanent employment across the border. Contract workers are those admitted for employment on the strength of sponsorship by an employer who have engaged them under short-term work contracts. They are usually not allowed to change employers and must return home at the end of their contracts. Intra-company transferees refers to people seconded by international companies to work in their operations in other countries for varying periods. Many countries require that such persons must have been in the company’s employ at least one year before the transfer, and they are not permitted to enter the local labour market. Working holiday makers are young people admitted under bilateral agreements aimed at providing the youth with opportunities to gain some income while on holiday in another country. In recent years WHM programmes have been expanding rapidly because of the demand for temporary workers, especially in agriculture. *Au pairs* are not strictly classified as workers, since their main intention is to "allow young

⁹ In Canada 48 percent of all recent migrants obtained employer-sponsored training.

people to improve their linguistic skills and experience life in another country in exchange for day-to-day family duties". However, the reality is that many *au pairs* can be considered migrant domestic workers.¹⁰

TEMPORARY WORKER SCHEMES IN THE UK, 2004

General work permit scheme
Working holidaymakers
Seasonal agricultural workers scheme (SAWS)
Sectors Based Scheme (SBS)
Highly Skilled Migrant Programme (HSMP)
Intra-company transferees
Domestic workers
Au pairs

The United Kingdom, which has a relatively flexible labour market partly on account of its policy on temporary labour immigration, provides an illustration of how an advanced country structures its temporary migrant worker programme. Annual inflow of foreign workers in recent years has been estimated by the Organization for Economic Cooperation and Development (OECD) at about 90,000 a year in a country with a labour force of 30 million. The main General Work Permit scheme has been developed to manage the entry of high level skills into the UK. Admissions are based on sponsorship or job offers by employers. The new Sector Based Scheme (SBS) was introduced in May 2003 to address shortages in lower skilled occupations, initially in two sectors of the economy: food processing and hospitality (hotels and catering). On the other hand, the Highly Skilled Migrant Programme (HSMP), which uses a points system, allows those with exceptional skills and experience to enter the UK even without an employer offer and to pursue self-employment.

C. GROWTH OF TEMPORARY MIGRATION

The ILO estimated that in 2000 there were some 86 million migrant workers (including economically-active refugees) all over the world. These estimates were drawn, using labour force participation rates, from the UN Population Division estimates of the stock of international migrants. The sources of these data, namely census counts reported to the UN periodically by member states, do not make distinctions between permanent and temporary migrants. Other sources that provide information on temporary migrants are limited to only some countries and regions, mainly the more developed ones, and do not allow for the construction of a global picture. This may not however be a serious gap for purposes of this report since the less developed countries generally do not have formal programmes for admitting temporary foreign workers, even if many actually host large numbers of highly mobile, but undocumented, foreign workers.

¹⁰ See Newcombe, E., 2004, *Temporary migration to the UK as an au pair: cultural exchange or reproductive labour?*, Sussex Migration Working Paper no 21, University of Sussex.

The ILO conducted a survey of migration policies and practice of its member-states in 2003 in preparation for the General Discussion of Migrant Workers at the International Labour Conference the following year. The rate of response was relatively high, with 92 member states contributing information. The survey, which is widely cited in this paper, requested information on, among others, the labour admission programmes that states operated. Table 1 below shows how many of the responding countries have special admission schemes for different categories of workers. The countries have been classified according to income group (low income, lower middle income, upper middle income, and high income) following the World Bank classification.

Table 1 Number of countries admitting workers under special schemes				
		Upper	Lower	
	High	Middle	Middle	Low
	Income	Income	Income	Income
Surveyed Countries by income level	31	18	26	17
Categories under special admission schemes				
Professionals, scientists, managers, other highly skilled	11	1	2	0
Contract workers	6	2	0	0
Seasonal workers especially for agriculture	6	3	0	0
Trainees	16	0	0	0
Working holiday makers	7	0	0	0
For employment in priority sectors especially exports & small industries	7	5	6	3
For employment in priority regions	1	1	2	0

Source: ILO 2003 Survey

As expected, the survey shows that low income countries admit foreign labour only in priority sectors and regions, usually as a concession to foreign investors establishing operations in their export or free trade zones. Only the higher income countries operate seasonal worker programmes and only the highest income countries admit working holiday makers and trainees. Only 2 of the 26 lower middle income countries have schemes to attract professionals, scientists, and managers. However it is surprising to find that only one of the 18 upper middle income countries have such programmes. This does not mean that the less developed countries do not admit such people. They do so but have no special schemes for attracting them.

1. Inflows of temporary foreign workers

Since 2000 the temporary migration of foreign workers into the high income countries (OECD member states) has been growing at about 4 to 5 percent a year.¹¹ This estimate however is based largely on work permits issued which in the EU has the effect of excluding “intra-EU” worker migration.¹² It is quite possible that this latter population may have increased faster over the past few years if movements from the new member-states of the EU are taken into account. Table 2 below shows preliminary estimates by the OECD of the inflows of foreign workers into OECD countries from 1990 to 2004. It shows that the US must have pulled up the overall average for the OECD since the number of all foreign workers in that country has been growing rapidly, but particularly for temporary foreign workers which experienced a growth of almost 9 percent a year since 1997.

¹¹ Note that the data available on OECD countries do not include those for a few other high-income countries like Sweden and Republic of Korea.

¹² Foreign workers in the EU states refer only to third-country nationals since other EU workers do not require work permits to work in another EU country.

Table 2. Inflows of foreign workers into selected OECD countries (in thousands)

Source: OECD		1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Australia																
	Permanent settlers	42.8	48.4	40.3	22.1	12.8	20.2	20	19.7	26	27.9	32.4	35.7	36	38.5	51.5
	Temporary workers	..	..	14.6	14.9	14.2	14.3	15.4	31.7	37.3	37	39.2	45.7	43.3	48.8	43.1
Austria		¹ 103.4	62.6	57.9	37.7	27.1	15.4	16.3	15.2	15.4	18.3	25.4	27	24.6	24.1	24.5
	Permanent settlers	..	5.1	4.4	4.3	4.1	2.8	2.2	2.5	7.3	8.7	7.5	7	6.7	4.6	4.3
	Temporary workers	85.4	77.9	70.5	65.5	67.6	69.7	71.6	75.8	80.3	87.1	97	99.1	93.3	85.5	90.7
Denmark		³ 2.8	2.4	2.4	2.1	2.1	2.2	2.8	3.1	3.2	3.1	3.6	5.1	4.8	2.3	4.3
Finland		..	..	..	..	..	..	..	..	..	..	10.4	14.1	13.3	13.8	14.2
France																
	Permanents	22.4	25.6	42.3	24.4	18.3	6.1	4.8	5.2	5.4	6.3	6.4	9.2	8	6.9	7
	<i>APT</i>	3.8	4.1	3.9	4	4.1	4.5	4.8	4.7	4.3	5.8	7.5	9.6	9.8	10.1	10
Germany		⁵ 138.6	241.9	408.9	325.6	221.2	270.8	262.5	285.4	275.5	304.9	333.8	373.8	374	372.2	380.3
Hungary		51.9	41.7	24.6	19.5	18.6	18.4	14.5	19.7	22.6	29.6	40.2	47.3	49.8	57.4	79.2
Ireland		1.4	3.8	3.6	4.3	4.3	4.3	3.8	4.5	5.7	6.3	18	36.4	40.3	47.6	34.1
Italy		..	..	..	..	..	..	..	..	21.6	21.4	58	92.4	139.1		
Japan		94.9	113.6	108.1	97.1	111.7	81.5	78.5	93.9	101.9	108	129.9	142	145.1	155.8	158.9
Luxembourg		⁷ 16.9	16.9	15.9	15.5	16.2	16.5	18.3	18.6	22	24.2	26.5	25.8	22.4	22.6	22.9
Mexico		71.1	70.3	66.4	83.1	33.4	70.1	72.4	73.2	73.9	64.9	65.3	61.9	57	60.1	68.8
Netherlands		..	..	..	..	..	..	9.2	11.1	15.2	20.8	27.7	30.2	34.6	38	44.1
New Zealand																
	Permanent settlers	..	..	..	..	..	..	..	..	5	5.1	6.7	9.8	13.8	12	8.2
	Temporary workers	..	..	..	..	..	..	..	..	25.4	29.5	32.5	43.1	54.6	63.4	69.8

5. New work permits issued. Data include essentially newly entered foreign workers, contract workers and seasonal workers. Citizens of EU Member states are not included, except those of Greece until 1987, and of Spain and Portugal until 1992. Data refer to western Germany up to 1990, to Germany as a whole from 1991 on.

6. New work permits issued to non-EU foreigners.

7. Data cover both arrivals of foreign workers and residents admitted for the first time to the labour market.

8. Data include B work permits issued for the first time (wage and salary earners, permits issued for up to one year for a specific activity, renewable), D permits (self-employed, permits issued for up to one year) Since 1992, EU citizens do not need a work permit.

9. Data cover foreigners who enter Switzerland to work and who obtain an annual residence permit, whether the permit is renewable or not (e.g. trainees). The data also include holders of a settlement permit returning to Switzerland after a short stay abroad. Issues of an annual permit to persons holding a seasonal one are not included.

10. Most long-term permits are delivered to highly qualified workers. Short duration permits are for students doing temporary or part-time jobs, or taking training with a firm. Citizens of EU Member states are excluded.

"First permissions" (issued to foreigners already residents and now entering the labour market) are included

Aside from volume of the inflows, the duration of stay of temporary migrants makes a big difference to the size of the temporary migrant population at any point in time. In Australia, for example, Hugo (2003) estimates that at any time 2.3 percent of the Australian workforce is made up of people on temporary working visas. In 2001 there were 88,900 incoming permanent settlers but a total of 340,200 foreigners were granted temporary residence permits of up to 4 years. At end of June 2001 there was a resident population in Australia of 19,413,200 and 554,000 on a temporary basis (of whom 289,300 had the right to work).¹³

The financial crisis which unraveled in 1997 and lasted for a few years also put a brake on the rapid expansion of temporary labour migration in East Asia, but the last few years have seen signs that growth has resumed. Taiwan (Prov of China) and the Republic of Korea have both opened wider gates for "guest workers". The number of foreign workers in Taiwan almost doubled between 2000 and 2004, while those in Korea rose by almost half. Table 3 below shows that the numbers have also jumped between the two years in Malaysia and Thailand if estimates of undocumented workers are taken into account.

¹³ From Hugo, G. (2003) "Circular Migration: Keeping Development Rolling?" *Migration Information Source* April 2003, Migration Policy Institute, Washington, D.C.

Table 3 Temporary foreign workers in Asian countries				
(stock estimates, in thousands)				
Country of employment	1985	1997	2000	2004 ³
East Asia¹	<i>Work permit holders + estimates of undocumented</i>			
Malaysia		1472	800	1359
Thailand		1126	1103	1624
Singapore			612	580
Brunei			80-90	
Vietnam			30	
China		82	60	80
Hong Kong(China)		171	217	217
Taiwan (China)		246	327	600
Rep. of Korea		245	285	423
West Asia²	<i>Work permit holders</i>			
Bahrain		99	180	
Jordan			35	
Kuwait		574	976	
Lebanon			75	
Oman		191	557	
Qatar		77	277	
Saudi Arabia		2722	3060	
UAE		784	1300	
Sources:				
¹ OECD (2003) Main trends in International Migration, Table 1.2.2;				
² Gulf Cooperation Council				
³ From estimates of Hugo,G. (2005) Migration in the Asia Pacific Region, report prepared for the Global Commission on International Migration, September, Geneva				

In the six Gulf Cooperation Council (GCC) states contract labour migration from the mid 1970s to the mid 1980s expanded at dizzying levels, but has since slowed down as infrastructure modernization targets were achieved. Table 3 above shows the population of temporary foreign workers (stock data) at two points in time. They suggest a rate of growth of only about 2.5 percent a year between 1985 and 2000 although there were significant differences among the countries.

2. Sectoral distribution of foreign workers

Migrant workers, according to the ILO's report "Towards a Fair Deal for Migrant Workers in a Global Economy", are concentrated in the labour markets that are sometimes characterized as

“...the bargain-basement of globalization. Most are employed in low-skill services, agriculture and labour-intensive manufacturing, in which employers are small enterprises that are basically “price-takers”- that is, they have no influence on the prices of their products or services.”(ILO, 2004). In its analysis of how migration contributes to labour market flexibility, the OECD noted that migrant workers have served as “shock-absorbers” since they are concentrated in those sectors that are subject to much greater volatility than the rest of the economy. Aside from the precariousness of their employment, migrant workers perform jobs that native workers tend to leave as soon as they are able to. The Japanese call these jobs the “3-K jobs” which translates into English as 3-D jobs (dirty, dangerous, demeaning).

There are no comparable data sets across many countries on how temporary migrant workers are distributed across employment sectors. Our main source is still the OECD which has been able to construct a picture of the distribution across sectors of all foreign workers, both temporary and permanent immigrants, for its high-income member states. Its latest tabulation is reproduced in Table 4 below. It shows that in the OECD countries migrant workers are generally over-represented ¹⁴ in three sectors – services, manufacturing, and hotels and restaurants. In a number of countries, one out of every three migrant workers is likely to be employed in some kind of low-skill services. That proportion rises further if hotels and restaurants are included in the services sector. They are, as one would expect, under-represented in public administration and education. The data also indicate that they are also very under-represented in agriculture and fishing except in Spain, the Netherlands, and the United States. In 13 of the 20 countries they are over-represented in manufacturing, mining and energy, and in 12 of the 20 in the construction sector.

¹⁴ Note numbers in bold where share of foreign employment is higher than the share of foreign employment in total employment.

Table 4 OECD: Employment of Foreigners by sectors, 2000-2001 average
Percentages of total foreign employment

	Agriculture and fishing	Mining and manufacturing	Construction	Wholesale and retail	Hotels and Restaurants	Education	Health, and other Community services	Households	Public Administration and ETO	Other services	Total
Austria	1.3	26.5	12.2	12.9	10.7	2.2	6.1	-	4.2	23.3	100
Belgium	1.2	23	8.5	13.8	8.3	3.6	6.9	1	9	24.7	100
Czech Rep	-	24.9	11.3	27.3	5.2	-	-	-	-	19.7	100
Denmark	-	16.2	-	11.9	9.5	5.9	18.5	-	-	30.1	100
France	3.1	18	17.4	11.4	7.4	3	4.8	6.5	2.5	25.8	100
Germany	1.5	32.8	9.2	12.3	10.6	2.5	6.8	0.5	2.2	21.4	100
Greece	2.8	17.5	27.1	11	9.5	-	-	18.1	-	10.3	100
Ireland	-	17.6	8.1	9.3	11.9	6.4	8.9	-	-	32.1	100
Italy	4.5	28.9	11.1	9.7	7.9	2.8	4.6	10.8	2.4	17.4	100
Japan	0.4	60	2.2	8.3	¹	-	--	--	--	29.1	100
Luxembourg	0.8	10	15.9	14.1	8.9	2.4	6.4	3.6	9.5	28.4	100
Netherlands	3.8	22.3	4	13.1	7.2	3.6	9.4	-	2.6	34	100
Norway	-	17.8	5.6	13.3	6.4	8	20	-	2.9	24.2	100
Spain	7.8	10.4	13	11.7	15.9	4.1	1.7	15.7	-	19.1	100
Sweden	-	23.3	-	9.2	7.4	9.6	14.8	-	-	30.6	100
Switzerland	1.2	22.5	9.9	15.5	6	5.2	11.6	1.2	2.3	24.8	100
United Kingdom	-	13.2	4.4	11.5	9.9	7.9	13.9	1.5	4.1	33.2	100
Australia ²	2.1	17.9	7.8	16.5	6	6.2	10	3.2	3.3	26.9	100
Canada ²	2.4	19.6	5	24.1	¹	³	24.6	--	3.8	20.4	100
United States ²	3.5	18	7.7	22	¹	5.7	10	1.9	2	29.3	100

Note: The numbers in bold indicate the sectors where foreigners are over-represented (i.e. the share of foreign employment in that sector is higher than the share of foreign

Employment in total employment. The sign”- “indicates that the figure calculated was not statistically significant.

1. Hotels and restaurants included in the Wholesale and retail trade category.

2. The data refers to foreign born population.

3. The Education sector is included in the Health and Other community services category.

Note: For Australia, Canada, Hungary and the United States, the data refer to the foreign born population.

Source: *EU labour force survey data supplied by Eurostat, labour force survey, Australian Bureau of Statistics; Statistics Canada; and Current Population Survey, US Bureau of the Census.*

Source: OECD Employment Outlook 2003

The distribution of temporary migrant workers in East and West Asia follows roughly similar patterns, the majority being in low-skill services and construction, and significant proportions also in restaurants and hotels, as well as manufacturing. There have been important shifts over the years, as for example the decline in the proportion going to construction jobs in West Asia, and a corresponding rise in the share of those performing services for households as domestic helpers. In Malaysia and Thailand migrant workers are replacing the native workers in agriculture and some agri-industries, while in Taiwan (Province of China) hardly any are in agriculture but almost all are in labour-intensive manufacturing. At the end of 2000 Taiwan had a foreign guest worker population of 324,800 some 56 percent of whom were employed in electronics, textiles, plastics, and similarly labour-intensive industries, and another 32 percent were in services.

D. QUESTIONS ON THE ROLE OF TEMPORARY PROGRAMMES

The current debate over temporary migration policies have centered on at least three major issues:

- *Do temporary migration programmes really add to labour market flexibility?*
- *What rights should temporary migrant workers be entitled to and how can these best be protected?*
- *Are temporary migration programmes the solution to countries facing long-term labour market deficits?*

In a number of middle and high-income countries in Europe and in Asia temporary or time-bound admission programmes have expanded in recent years, ostensibly for reasons of aligning the supply of labour more closely to the volatile conditions in their labour markets. There is a strong presumption that the supply of labour, especially of the unskilled, is inelastic so that one can easily control supply by simply turning “on or off” the controls on migrant inflows. There is, as the analogy goes, always pressure on the pipe because of the existence of large excess supplies of labour in many developing countries. With temporary migration policies one has, at least in principle, the possibility of not only increasing, through migration, the supply of labour during periods of economic expansion, but also of reducing supplies through return or repatriation during periods of recession.

Impact on the labour market

“Foreign labour accordingly seems to have a twofold impact on the equilibrium and dynamics of the labour market in periods of expansion. It provides a response to greater demand for labour, in particular at periods when it is rising very strongly. Further, it assists the reassignment of nationals employment to more dynamic and attractive sectors. The latter effect ties in with the theory of labour market segmentation (see Piore 1979), under which activities at the bottom of the social scale exert little attraction and display chronic labour shortages, which foreigners are ready to fill..”

OECD Employment Outlook 2001

The controversy on this issue is really not on the principle but on whether actual outcomes bear out the expectations. Since the Second World War many countries including the US and several in western Europe, and more recently in Asia, have operated temporary or guest worker programmes. Assessments of their experience have however been mixed. In Germany the “*Gastarbeiter*” programme which started in the mid 1950s and lasted till the mid 1970s is frequently cited as a failure since not everyone went back home when the German economy went into a recession. The programme however is credited with permitting Germany a long period of sustained recovery and growth.¹⁵ In the US the “*Bracero*” programme saw millions of Mexican workers go back and forth from Mexico, but the process created unanticipated consequences. It created the networks that helped spawn large-scale illegal migration after the programme finally ended.

“ The lasting effect of the Bracero Program, however, is that it established and institutionalized networks and labor market relationships between Mexico and the United States that really are the reason, or the basis, for the undocumented or illegal migration that has characterized the decades since the Bracero Program ended in the 1960s.”

Doris Meissner
Former Commissioner
U.S. Immigration and Naturalization Service

Various schemes to attract the highly-skilled have recently been introduced in the US, Australia, the United Kingdom, and Germany among others. All these schemes make use of the gates for temporary admission since the procedures countries usually follow for admission of permanent migrants simply take too long to be of relevance to employers. Some of the new schemes have made speedy processing of employer requests as their main feature. In the US the requirement for certification in the case of H1B workers has been replaced by the system of employer “attestation” which simply requires employers to attest to payment of the appropriate wage, that there will be no adverse affect on the working conditions of similarly employed workers, nor are there strikes or lockouts, and that the intention to employ foreign workers has been posted. There have been criticisms however that such schemes are widely abused and are also merely the first step to permanent immigration.

¹⁵ The number of foreign-born workers in Germany rose from 0.6 percent of the employed labour force in 1957 to 11.2 percent in 1973. See Dustmann and Kirchkamp (2002).

At another level the debate is on whether conventional approaches to temporary migration programmes are sufficient to ensure that the migrant does not over-stay. The problem arises because many temporary migrant workers have been observed to over-stay their visas and become undocumented. The “optimal” period of stay from the migrant’s standpoint may indeed be longer or shorter than what immigration policies provide for (Dustmann and Kirchkamp, 2002).¹⁶ Employers who have invested in the training of new workers are also often reluctant to see them leave. What would constitute a rational policy on the period of temporary stay has always been contentious and has important human rights implications aside from economic. Since administrative resources to enforce immigration regulations are seldom adequate¹⁷ there have been suggestions for greater use of economic incentives rather than civil or criminal penalties for inducing return at the designated time. These might include withholding a part of wages and salaries to be kept as savings and given back to the migrant only upon return,¹⁸ a policy which contravenes ILO’s Protection of Wages Convention. Alternatively it might include only what would have constituted the worker’s and the employer’s contribution to social security plus interest, or some other forms of assistance.

The second major issue has to do with the rights of migrant workers admitted for temporary periods. Should they have the right to equal treatment as national workers in matters of wages and social protection? The existing ILO conventions on migrant workers were not drafted with the protection of temporary migrant workers in mind. In its report “Towards a Fair Deal for Migrant Workers in a Global Economy” the ILO pointed out that “...temporary migrant workers enjoy the protection of the fundamental principles and rights and are entitled to benefit from the provisions of Convention No. 97 concerning equal treatment”. At the same time it recognized that Convention 143 excluded from its coverage “employees of organizations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request of their employer to undertake specific assignments, for a limited and definite period of time, and who are required to leave the country on the completion of their duties or assignments.” The Convention likewise excluded “artists and members of the liberal professions who have entered the country on a short term basis” and qualified that the principle of equal treatment in the case of loss of employment is limited to the duration of residence or work permits.”¹⁹

¹⁶ Dustmann and Kirchkamp (2002) argued that the optimal period depends on what activities the migrant intends to pursue upon return such as whether to seek wage employment, be self-employed, or to retire. Higher wages in the host country may in fact lessen the optimal duration of stay if the migrant intends to be self-employed upon return. Educational qualifications of the migrant affect his earnings abroad, while age at the time of migration affects the decision on what to do upon return.

¹⁷ Japan, for example, receives some 5 million temporary visitors a year about 2 percent of whom over-stay but has only 1266 immigration control officers (Immigration Bureau, *Immigration Control 2005*, Ministry of Justice, Tokyo).

¹⁸ There was such a provision in the Bracero Program which ended in a fiasco because the money deposited in Mexican banks did not actually reach the returning workers. Another problem associated with deductions for forced savings is the likelihood that migrants would opt to work illegally in order to avoid them.

¹⁹ See p.89-90 of “Towards a Fair Deal for Migrant Workers in a Global Economy”. This means that temporary migrant workers who lose their employment are entitled to look for new employment opportunities as long as they remain lawfully resident. ILO Convention 143 does not prevent ratifying states from requiring temporary migrants to return at the end of their contracts.

The unequal treatment of temporary migrant workers has taken severe forms in countries where the organization of migration is left in the hands of job brokers or sponsors, intermediaries, and labour-contractors, and where labour institutions such as trade unions are weak or not allowed to exist. The practice of withholding passports and travel documents by employers is rampant in some regions, not only tolerated but sometimes even encouraged by national authorities who view it as an informal but effective means of ensuring control over the stay and return of migrant workers. In at least one country female domestic helpers are sent home if they become pregnant. In some countries migrants are not allowed to organize or to join trade unions, and are excluded by law from membership in old-age benefits schemes under social security. Of course, family reunification is a privilege enjoyed by only a few temporary migrants, usually those earning high incomes.

The difference in rights of temporary as opposed to permanent migrants plays an important role in the management of temporary migration. This has been highlighted in the debate over liberalization of admission of service providers under the General Agreement on Trade in Services (GATS). Progress of negotiations has stumbled on lack of agreement on exempting workers providing the services from the coverage of the labour standards of the countries importing the services and from quotas and other regulations on labour migration. In this instance, insistence on equal treatment has the effect of reducing the comparative advantage of low-wage countries. India and other developing countries have argued that their respective standards should apply since the workers are under the employ of their companies and the provision of services is not the same as migration.

Table 5 Policies on Occupational Mobility of Temporary Foreign Workers

	Number of countries reporting	No restriction on mobility	Prior authorization obtained	Occupational mobility allowed on condition regular migrant has worked for a minimum of					No mobility permitted
				1 year	2 years	3 years	4 years	5 years	
Africa	13	0	8			1		1	3
Asia	15	2	12			0	0	0	1
Europe	26	2	18	2		2	1	1	0
L America	14	5	8	1		0		0	0
N America	2	0	2			0		0	0
Oceania	3	0	2			0	1	0	0

Source: ILO 2003 Survey

Aside from the debates over service providers there are ethical questions as Ruhs points out (2005) over restrictions usually in force over the temporary migrant's freedom of movement to certain sectors in the host society's labour market. Most temporary migrant programmes involve

the granting of work permits which tie the foreign worker to a specific employer.²⁰ This inhibits the worker's ability to obtain better terms of employment. On the other hand, allowing complete occupational mobility will no longer make it possible for the national authorities to align migration to the perceived requirements of the labour market. Table 5 above gives a picture of how far countries limit the occupational mobility of temporary migrant workers. It shows that the two extremes – no restriction on mobility and no mobility allowed are a minority (except in Latin America and the Caribbean where 35 percent of the countries allow full mobility). The large majority of countries allow some mobility subject to prior authorization, and in a few instances full mobility is provided for by law after a number of years of legal employment. What happens in practice is difficult to assess but it may be safe to assume that very few migrant workers admitted on the basis of contracts actually change employers. It is common knowledge that in some countries many migrant women domestic helpers have sought refuge in their diplomatic missions because of inability to part with their employers in case of disputes or maltreatment.

The ILO 2003 Survey also provides some idea of how some basic labour rights are respected by different countries. In the Survey the countries were asked whether they gave migrant workers the right to form or join trade unions, and to bargain collectively; if migrants have a right to equal treatment with national workers in respect of wages, and are protected against forced labour. These are fundamental rights under ILO's Conventions. They were also asked if they allowed the migrants to be accompanied by family members and have access to social protection. In Table 6 below we have grouped the responding countries according to whether they were net emigration countries (meaning more emigration than immigration of workers), net immigration countries (meaning more immigration than emigration), or zero net immigration (emigration is equal to immigration) in 1990. The groups were then distributed further by region.

²⁰ Weinstein proposed a Coasian solution to the problems arising from employer-sponsored migration where the worker is tied to the employer. A system of allowing work permits to be tradeable should in principle be more efficient as well as fair. Workers will be free to change employers within a given sector; and will not necessarily cost less to employers compared to native workers. See Weinstein, E. (2002) "Migration for the benefit of all" *International Labour Review*, 4(3) 225-252.

Table 6 Rights accorded to migrant workers as reported by countries responding to ILO 2003 Survey

	No. of countries		To join trade unions/to organize	To bargain collectively	Protect ion against forced labour	Equal treat ment in wages	Right to family reunification	Equal access to social protection
(in percent)								
Net emigration countries	39	100	59	56	77	79	54	69
Net immigration countries	42	100	60	67	83	81	69	64
Zero net immigration	11	100	55	55	45	64	64	55
Countries of net emigration								
By region								
Africa	13	100	85	77	100	100	85	85
Asia	8	100	25	25	50	63	13	63
Europe	6	100	67	67	83	100	50	83
L. America	11	100	45	45	64	55	45	45
N. America	0							
Oceania	1	100	100	100	100	100	100	100
Countries of net immigration								
Africa	5	100	20	40	100	80	80	60
Asia	13	100	38	46	69	69	62	46
Europe	18	100	78	83	83	83	61	72
L. America	2	100	50	50	100	100	100	100
N. America	2	100	100	100	100	100	100	100
Oceania	2	100	100	100	100	100	100	50

Notes: The classification of countries into net emigration, net immigration and zero net immigration was based on the UN Population Division data on net migration rates for 1990 (latest year available), but adjustments were made to update the information where countries have clearly changed. In Asia, the Rep of Korea, Kuwait, and Saudi Arabia are here classified as net immigration countries while Myanmar has been classified as net emigration country.

Source: ILO 2003 Survey

It is interesting to find that net immigration countries are clearly more protective of rights than net emigration or zero net immigration countries. It of course reflects the fact that the net immigration countries tend also to be the more economically advanced. Why the countries with zero net immigration show low recognition of rights is a little more difficult to understand. The table also shows that some rights are more respected than others, irrespective of the grouping. The right to equal treatment in wages and to be protected against forced labour are more widely respected than others but the right to join or form trade unions and the right to family reunification are not widely granted, and notably in Asia.

The third major issue is over the role that temporary schemes should play in meeting the problem of ageing populations and declining work forces faced by many welfare states. The controversy was sparked by a report of the UN population Division which estimated that in many of these countries large number of immigrants will be needed to maintain constant the size of the working population.²¹ The report prompted speculations about how ageing would reduce the standard of living and threaten the sustainability of social security in many states. Given the problems with social integration of immigrants already being faced by many countries few would count on much greater immigration as a politically feasible solution.²² Moreover, permanent immigration also has implications on social security since it also contributes to the size of the aged population. Temporary migration, on the other hand does not raise the same issue if one can assume that most workers would eventually return home.

E. THE MANY OBJECTIVES BEHIND TEMPORARY PROGRAMMES

Judging from the variety of programmes and categories of workers included under temporary admission programmes it is evident that complex and varied policy objectives underpin most of them. Among the most common of the policy objectives behind temporary migration programmes are:

- : to increase the flexibility of the labour market to respond to seasonal and cyclical fluctuations in the economy;
- : to support specific industries/economic sectors facing labour shortage;
- : to increase a country's competitive edge in certain industries;
- : to minimize possible displacement of native workers by managing the sectoral and spatial allocation of foreign workers;
- : to minimize the cost of providing social welfare benefits for an equivalent population of local workers;

²¹ The report estimated , for example, that for the 15 states of the pre-enlargement EU about 47 million migrants would be needed to maintain the overall size of the population till 2050; about 79 million migrants would be needed to maintain constant the size of the work force (15 to 64 years of age); and as many as 674 million would be needed to maintain a constant old-age dependency ratio. See UN Population Division, *Replacement Migration: Is it a solution to declining and ageing population?* Doc. ESA/PWP.160, New York, 2000.

²² The necessary levels of immigration would be even larger since the structural labour gap widens when immigrants come with their families thereby raising consumption levels. An ILO study of the impact of ageing on the sustainability of the social security system in the EU-15 found that financial stability can only be safeguarded through a careful mix of policies (to increase labour force participation, investing in retraining of older workers, some migration) and accepting lower economic growth. See ILO "Fair Deal for Migrant Workers .." p. 38

- : to serve as a first sieve for selecting those who can be successfully integrated as permanent migrants;
- : to support multinational firms which have to move their staff between branches/subsidiaries and headquarters as part of their normal global operations;
- : to promote goodwill by providing young workers from certain countries opportunities for short-term training or apprenticeship;
- : to promote international commerce and investments by facilitating the movement of traders and service providers; and
- : to promote cultural exchange by allowing the youth to finance their holidays partly through part-time or short-term employment in countries visited.

1. Increasing labour market flexibility

The inherent advantage seen by policy-makers in temporary, as opposed to permanent, immigration programmes is how the former offer a means to enhance the flexibility of their labour market without involving permanent settlement by the workers. The meaning of flexibility in this context is the availability and willingness of sufficient numbers of workers to work at prevailing wages. Such flexibility is of prime importance in the agricultural sector where the demand for labour is inherently seasonal, one of the reasons why labour shortage takes on a chronic character in the rich countries where native workers are drawn to more stable employment elsewhere.²³ Labour-short countries usually source their seasonal workers for agriculture from neighbouring countries (i.e. Switzerland from Italy, Malaysia from Thailand and Myanmar, and South Africa from Lesotho and Mozambique). However, distance need not be important when transport costs are a small fraction of production costs. Since the mid 1960s, for example, Canada has admitted many thousands of seasonal agricultural workers from the Caribbean under bilateral treaties with the island countries in the region, ensuring Canadian farmers of needed workers during the peak months for planting and harvesting. These workers are brought into Canada under a well-supervised system of recruitment and employment involving authorities at both ends. The Caribbean workers return home after the season is over, most expecting to be rehired again for the next season. Farmers have in fact tended to rely on the same Caribbean workers year after year.

Temporary migration programmes have also been important to the supply of labour for housing construction, an activity that changes with the seasons but more significantly, over longer cycles of booms and busts. The fluctuations inherent in the business makes it difficult to maintain a steady workforce at the level of the enterprise as well as the industry as a whole. The industry tends to quickly become dependent on foreign labour also because construction work is often difficult and dangerous, prompting native workers to leave at the first opportunity. Employment is generally based on project-based contracts with one of a large number of small contractors specialized in different aspects of construction such as plumbing, heating, masonry, tiling, and interiors. There is typically a layering of contractors and sub-contractors who are often no more than “labour-only” providers. Even in countries with surplus labour the highly cyclical nature of

²³ According to the ILO the median underemployment time in agriculture is 33 percent, or four months per year. See ILO, Wage workers in agriculture: Conditions of employment and work, Report for discussion at the Tripartite Meeting Improving the Conditions of Employment and Work of Agricultural Wage Workers in the Context of Economic Restructuring, Geneva, 1996.

construction has led to the employment of large numbers of migrant labour in the industry. In Thailand, for example, a recent programme to register undocumented migrant workers yielded some 43,000 who were employed in the construction industry which consisted of some 13,000 small contractors.²⁴

2. Supporting strategic industries

Some industries face a more permanent or chronic problem in finding enough workers from the local labour market because they offer workers very limited opportunities for advancement. The small industry sector, for example, is in many cases at a disadvantage in attracting workers because they generally cannot provide job security. Except for those in high-technology fields, small industries in most countries have a high turn-over rate because of dependence on one product line, high costs of borrowing and problems with capitalization, and stiff competition. Because of size they do not have enough places in the organization for career advancement. Governments however cannot abandon support for these small enterprises because of their importance as suppliers of parts and components to large industry and as employers and source of revenues for local communities. Where labour laws limit the ability of companies to lay off workers, there is a natural tendency to sub-contract certain operations. As contractors or sub-contractors to big industries they provide the latter with the flexibility to respond to downturns in demand. In the Republic of Korea this was the objective behind the decision of the Government to allow the Korea Federation of Small Business to basically manage a foreign worker trainee scheme that supplies unskilled foreign workers to their members.²⁵

3. Increasing competitive edge

Migration policies may also be aimed, not at keeping sunset industries alive for a variety of economic and social reasons, but also to support innovation and strengthen a country's competitive edge. The famous case is that of the quota for H-1B visas (for temporary or non-immigrant admissions to the US) which was greatly expanded by Congress upon the plea of the IT industry for bringing in foreign talents who can keep America in the lead in every aspect of computer and information technology. Germany and Japan followed suit in offering facilitated admissions for temporary periods for foreign specialists in the field. Although competition for scarce skills is pushing countries to offer more secure permanent residence visas for professionals, temporary migration schemes are still more frequently found since the illusion of impermanence makes them politically easier to sell. These schemes include as well those aimed at attracting graduate students from abroad to come and study, as well as work after completion of their studies.

²⁴ Many native workers in the industry were also displaced because the undocumented workers, mainly from neighbouring Myanmar, were reported to be receiving at the beginning of 2002 a daily wage of 150 bahts (for men) compared to 200 bahts for Thais. See, Martin, P.(2003) *Thailand: Improving the management of foreign workers* a joint publication of ILO and IOM

²⁵ See Abella, Park and Bohning (1995), and Park, Young-bum (2004)

4. Minimizing displacement of local labour

All countries design their policies to ensure that immigration does not lead to displacement of local workers but this is very difficult to achieve in the case of permanent settlers who normally are granted full rights to settle where they wish and to settle and work wherever they could find a job. Regardless of where labour shortages may exist, migrants tend, sooner or later, to find their way and concentrate in major metropolitan centres where ethnic diaspora communities have taken root. Unlike programmes for permanent immigration, however, temporary schemes are often seen as a way to direct migration to meet specific labour market needs. One extreme is where temporary work visas are granted and made valid only if the migrant is employed with a specific employer, hence it also determines his or her location of work. In most other instances the visa may allow a change of employer provided the worker remains in the same occupation, and also, but more rarely, to change employers provided the migrant finds employment in the same district or region. The possibility of using temporary migration programmes with these limitations appeal to authorities who are under pressure, on the one hand, from employers to open up the gates for more workers, and on the other, from political groups, unions and other to minimize the displacement and to protect the jobs of local workers.

5. Lowering charges on welfare

For states with highly-developed social welfare systems the most attractive feature of temporary immigration is that it does not necessarily entail the same charge on social welfare services as permanent immigration. This is largely because they are not accompanied by their families, especially young children who have to go to school and elderly parents who may need years of health care. A study in Germany estimated that someone who immigrates before his or her first birthday creates a net burden on public finances of 60,000 euros but someone who immigrates at 30 contributes 110,000 euros over his or her lifetime. While most countries do not restrict family reunification, workers under temporary migration programmes generally seek to maximize earnings and savings over the limited period of time they are admitted, and hence do not bring their families with them. Temporary migration programmes thus represent to host countries a low-cost or low fiscal burden strategy for dealing with labour shortage.

6. Serving to select potential permanent immigrants

The temporary admission of workers or students has also served the purpose of creating a pool of people who would be among the best candidates for permanent settlement. In the immigration countries policies that allow for adjustment of status from temporary to permanent residence do precisely that. In the US, holders of H-1B and L-1 visas can apply for immigrant visas. The importance of this route to permanent settlement is reflected in the fact that 77 percent of all permanent employment admissions (134,900) were adjusted from some type of temporary visa. New Zealand gives applicants for work permits a 30-month visa, after which they can apply for permanent residence. Under the UK's *Highly Skilled Migrant Programme* which started in 2002, applicants admitted through points system are granted a one-year visa which can be extended for an additional 3 years, after which they can apply for permanent settlement. Many countries including Australia, New Zealand, Germany, and recently France give residence status to

foreigners who graduate from one of their universities and are able to find a job within a few months after graduation.²⁶

7. *Supporting multinationals*

An important dimension of business travel has to do with the movement of the so-called “*intra-company transferees*”. These are usually managerial and technical employees of branches and subsidiaries of multinational corporations who are being moved around to provide services or to receive training from headquarters or other units of their global industrial, commercial or services operations. The home countries of these multinationals have found it necessary to open their gates wider for these movements in order to support their international operations, and usually put them as a special category of their temporary migration programmes. It is estimated that there are now some 65,000 multinational enterprises with around 850,000 foreign affiliates. They coordinate global supply chains which links firms across countries.²⁷ In 2004 the US admitted some 315,000 people as “*intra-company transferees*”.

8. *Promoting goodwill and economic relations*

Aside from students, young people undergoing apprenticeship or training in skills or languages have been among the largest users of temporary migration doors for entering other countries. These have been the subject of many bilateral agreements in Europe. Switzerland, for example, has agreements with thirty countries for the temporary admission of trainees and apprentices, mainly in the industrial field. The Swiss closely supervise the programme which has so far been aimed at strengthening economic linkages with other western European states and more recently with the Commonwealth of Independent States (CIS). Japan has also made it the subject of technical cooperation programmes with some developing countries. In 2002 it admitted some 58,500 trainees.

The remarkable growth of global trade and investments would not have been possible without the facilitated temporary admission of businessmen and commercial agents. Most countries readily grant temporary entry to bona fide businessmen seeking entry for the purpose of conducting business but not for entering the local labour market. There are also multilateral agreements on temporary admission of business travelers notably that of APEC (Asia Pacific Economic Cooperation) which provides for the use of a common APEC card for short term admission to any of the 17 member countries.

Fostering inter-cultural learning especially for young people was originally the idea behind some temporary admission schemes like the so-called “*Working Holiday Makers*” but its recent expansion in some countries suggests that it is also responding to the needs of employers, especially in agriculture. The scheme was initiated by as a reciprocal exchange between Commonwealth countries but has since been extended to others and now includes Japan and some European countries. It normally covers people below 30 years of age who are admitted on

²⁶ According to Hugo more than half of all persons granted residence in Australia in the economic migration categories had an Australian qualification. See Hugo, Graeme “Australian experience in skilled migration” in *Competing for Global Talent*, Kuptsch and Pang (eds), Institute for Labour Studies, Geneva, 2006, p. 129

²⁷ See p.33 of WCDG(2004), *A Fair Globalization : Creating opportunities for all*, ILO, Geneva,

an extended holiday for up to two years and are allowed to work for no more than 12 months during their stay.²⁸ The programme in some countries has expanded because it is meeting not only the demand of young adventurous travelers but also the excess demand of employers for flexible labour supplies. In Australia the number admitted under the Working Holiday Maker category more than doubled during the 1990s, reaching almost 89,000 in 2002/03.²⁹

F. APPROACHES TO MANAGING TEMPORARY MIGRATION

The evolution of temporary migration policies reflects the efforts of governments to respond, on the one hand, to the demands of their industries for greater access to labour and skills they lack at home, and on the other, to the concerns of their electorates for protecting local workers and maintaining social cohesion. These often conflicting objectives have posed immense challenges for immigration authorities who seek to find compromises, on the one hand by allowing more scope for market-led admissions, and on the other, by imposing limits and constraints to such admissions through greater selectivity and ensuring temporariness of stay. This section focuses on the bureaucratic methods for selection and for controlling the duration of stay that are commonly employed by countries.

A distinct and coherent body of pre-entry controls, selection criteria, conditions, rules and procedures normally applies to the admission of each category of entrant. In this paper that distinct body is referred to as an “admission programme”. Depending on the variety of migrants countries admit, there may be several distinct programmes in place. For example, the admission of seasonal agricultural workers normally calls for very similar controls, selection criteria and procedures addressing the peculiarities of this group of entrants. Typical of pre-entry controls are bilateral agreements on seasonal workers entered into by the host and origin governments which specify how recruitment is to be conducted and by whom, how travel to and return will be organized, what wages and conditions of work and employment will apply, and how services like housing will be provided to the migrant workers. However, some countries prefer to use unilateral quotas for pre-entry control (to limit numbers) rather than making it a subject for negotiation in bilateral agreements, or simply to require a labour market test when employers make a request to bring in foreign workers. Whatever pre-entry control is used, all those seeking admission under the programme would still be bound by the same selection criteria, conditions of stay, and limitations.

The following are among the more common admission programmes :

- Trainees and apprentices
- Seasonal agriculture
- Youth or student programme
- Working holiday makers
- Points System
- Priority occupations

²⁸ They must also show proof that they can support and accommodate themselves without help from public funds, and have no dependent children.

²⁹ See Hugo, G. “Australia Country Report” presented at the February 2004 International Migration and Labour Markets in Asia, Japan Institute of Labor, Tokyo.

- Special schemes
- Facilitated entry
- Intra-company transferees

1. Trainees and apprentices

Admission through training or apprenticeship programmes is almost always covered by bilateral agreements and seen by both parties as a form of technical cooperation. The principal objective is to provide skills that will be used in the trainee's country of origin, not in the country providing training. It has a long tradition in Europe. Many of the European countries that responded to the ILO 2003 Survey reported having entered into one or more bilateral agreements with other European countries. The most notable is Switzerland which reported having agreements with 22 other European countries, each providing for temporary admission of each other's nationals for the purpose of occupational training or apprenticeship. In addition it had similar agreements with the US, Canada, South Africa and the Philippines. The three other countries in Europe admitting the largest number of trainees are Germany, the UK, and the Netherlands. Outside of Europe, the other major providers of training are Australia, the US, and Japan.

Apprenticeship is often on a craft basis and organized by local industry associations or chambers. In Japan the Technical Internship Programme covers 62 job categories in agriculture, fishery, construction, food manufacturing, textile, machinery and metals, and a few others, with each type of job evaluated according to the National Skills Test. From 2000 to 2004 some 95,043 trainees were accepted for periods of training which had been recently lengthened from two to three years.³⁰ In Switzerland trainees must come from countries with which a bilateral agreement exists. Employers wishing to bring in trainees must enter into a contract with them which satisfies Swiss labour laws including the provision of adequate insurance. Length of admission varies by craft but is normally not more than 18 months. Part time work or working as self-employed is not permitted.

Countries draw distinctions among trainees often on the basis of level of educational qualifications (e.g. Australia has a different visa for the highly-skilled participating in company exchange), on whether they are admitted under bilateral agreements or other schemes (e.g. France), or whether the trainees are simply continuing their vocational education or to further their professional expertise (e.g. Netherlands).³¹

Trainee schemes have posed problems of control where they have been used as an avenue for bringing in cheap unskilled labour to subsidize certain industries. This has been the experience of the Republic of Korea where the scheme was adopted, before the enactment of a law in 2004 providing for a work permit system, as a concession to small and medium sized manufacturing industries which could not compete with big enterprises in attracting native Korean workers. The Government essentially left the management of the programme to the Korean Federation of Small Business which negotiated recruitment agreements with source countries in the region,

³⁰ See Immigration Bureau, Immigration Control Report 2005, Ministry of Justice (Japan), Tokyo.

³¹ OECD, *Annual Report on Trends in International Migration 1998 Continuous Reporting System on Migration (SOPEMI)*, Paris.

organized the admission of the trainees, and allocated them to member enterprises. There was a big demand for trainees who received at most only three-fourths of the wages of the equivalent Korean workers. In 2002 some 146,000 trainees were admitted, making the Korean programme the largest in the world. It was not surprising that by the late 1990s many observers blamed the programme for the rise of illegal employment of foreign workers since trainees gladly accepted informal jobs as soon as they became more familiar with the labour market.³² The wage-depressing impact of these flows prompted the labour unions to press the Government for a regular guest-worker programme. As a transition step the Government decided that beginning in 2000 trainees who completed two years could stay and work as regular workers for another two years, and after 2002 for another three years.

2. Seasonal agriculture programmes

The United Kingdom and some other European countries have admission programmes especially designed for young people seeking seasonal employment. The UK's Seasonal Agricultural Workers Scheme (SAWS), for example, dates back to the post-war period when young people from across Europe were encouraged to work in the UK during the main harvest periods. Priority was given to full-time agricultural students aged from 18 to 25, who attended agricultural colleges in their home countries, mainly in Eastern Europe. There was an annual quota of 5,500 all the way up to 1996, which increased to 15,202 in 2001 and then to 20,200 in 2003. The scheme is run by approved "Operators" the majority of which are farms recruiting labour for their own purposes. They have adopted a Code of Practice which covers aspects such as recruitment, accommodation, minimum pay and co-operation with the Home Office. Students may only join the scheme once, but there has been some flexibility especially in the case of strong demand for supervisors. SAWS is a unilateral scheme.³³

The seasonal agricultural programmes illustrate how the search for labour market flexibility is made compatible with the objective of avoiding settlement of unskilled workers through a combination of measures attaching different limitations and conditions for admissions. The most common elements are quotas, age ceiling, the specification of qualified countries of origin, the obligation to leave after the agricultural season is over, and the denial of rights to family reunification. The recruitment and placement of these workers are often made through intermediaries who in turn are supervised strictly by some countries, but only loosely by others. The experience is not everywhere the same. In much of the developing countries, as well as in a few developed ones, the conditions of employment of seasonal agricultural workers have generally been much worse than those of native workers. However, in Germany, Switzerland and in Canada seasonal migration programmes have worked reasonably well. Foreign workers come and work for short periods of time during the year, their employment conditions appear satisfactory, and most of them return.³⁴

³² According to Park the number of undocumented foreign workers in Korea rose from an estimated 100,000 in 1998 to 189,000 in 2000 and to 289,000 in 2002 (Park, Young-bum, Republic of Korea Country Paper, Joint JIL/OECD/ILO Workshop on Migration and Labour Markets in Asia, Tokyo, 2004).

³³ For a fuller description of the system see Nicolas Rollason *Bilateral Agreements and other Forms of Labour Recruitment : The United Kingdom Perspective* presented at Seminar Jointly Organised by the OECD and the Swiss Federal Office of Immigration, Integration and Emigration (IMES), June 2003

³⁴ A review of the SAWS programme in the UK in 2002 found, for example, that only between 4 to 10 percent of participants overstayed their visa. In May 2002, Work Permits (UK) published a review of the SAWS in order to make recommendations for improving the operation of the scheme.

Table 7 Temporary migration : categories, admission systems, and controls

Admission category	Applicable admission programme	Pre-entry control	Selection variables	Typical conditions imposed	Other means of control
Occupational Trainees/ apprentices		Bilateral agreements	Source country Industry Previous Vocational training	Approved Training Max no /firm Minimum allowances Limited stay Accommodation Return after completion	Change of immigration status not allowed No family
Seasonal workers	Seasonal agriculture Youth /student programme	Quotas Bilateral agreements LM Test	Numbers Source country Age Education Agent	Prevailing wage Housing Med insurance Return at end of season	No right to bring in family members.
Contract workers Project workers	Work permit	Bilateral agreements Contracting regulations LM test	Industry Project Source country	Employee of contractor No change of employer Apply labour Standards	Deposit as guarantee of return Employer responsible for return <i>Khafeels</i> or sponsors
Unskilled	Work permit Working holiday makers	Quotas Bilateral agreements Labour Market Test	Numbers Source country	Apply labour standards Duration of Stay Guarantee of Return	Foreign worker levy Change of immigration status not allowed Deposit as guarantee of return
Professionals/ skilled	Points System Priority occupations	Applicant qualifications	Adjustable pts for: ▪ Education ▪ Experience ▪ Language skill ▪ Age ▪ Family links ▪ Others Occupation	Change of status to permanent stay possible in some countries. No prior lay-offs; Prevailing salary rates	

	Special schemes e.g. H-1B, Green card	LM Test Employer attestation	Qualifications Industry Language Spouse skills	No change employer; Location of employment	
Artists/ sports/ entertainers	Short-term visitor	Sponsorship			
Business visitors	Short-term visitor	Certified bona fide business		No entry in LM	
	Facilitated entry	Treaty (i.e.APEC)		Short duration	
Company managers/ other personnel	Intra-company transferees	Sponsorship Time employed by company	Decided by co	Apply labour Standards No change of employer	

NOTES: Temporary admissions not for the purpose of work (tourism, study, religious pilgrimages, etc are not included in the table. Some temporary admissions like those for students, which may also allow part time employment, are not included here. Temporary admission of investors is also not included because they are meant for indefinite stay as long as money has been invested or enterprise established.

APEC Asia Pacific Economic Cooperation

Khafeels is an Arabic word for an employment sponsor. Some are not direct employers but obtain permits to bring in foreign workers.

Many observers believe that the German seasonal foreign workers programme succeeded in turning some otherwise unauthorized migrants into legal guest workers. About 90 percent of the 293,000 seasonal migrants admitted in 2002 came from neighbouring Poland, and 90 percent worked in agriculture. The programme was administered by the German Public Employment Service and its counterparts in origin countries. Before being allowed to bring in foreign workers German employers had to ask labour offices in Germany to conduct tests in the local labour

³⁷ See <http://www.cic.gc.ca/english/skilled/assess/index.html> The policy is a good example of the “human capital approach” to immigration where the objective is to build up the supply of well educated and trained workers. Expecting to reap benefits from the positive externalities that come with their presence, countries like Canada are taking the risk of admitting such people even without the need for sponsorship by employers. See Abella, M. (2006) “Global competition for skilled workers and consequences” in *Competing for Global Talent*, Kuptsch, C. and Pang, Eng Fong (eds) Institute for Labour Studies, ILO, Geneva.

market and certify to the lack of workers. German employers and migrants are required to pay payroll taxes that are about 35 percent of wages.

The 92 countries surveyed by the ILO in 2003 reported twenty bilateral agreements on seasonal agricultural workers. The oldest agreement was between Switzerland and Italy which was signed in 1964. Many of the agreements were entered into by western European countries with the former communist countries after the collapse of communism, notably those of Germany (with Czech Republic, Poland, Slovakia, and Romania), Greece (with Bulgaria and Albania), Spain (with Poland and Romania), France (with Poland), and Italy (with Albania). These may have been prompted by concern that clandestine movements would otherwise become a problem. In the western hemisphere, Canada had the most agreements for seasonal agricultural workers— first with several Caribbean countries and later with Mexico. The US mainly relied on Mexican workers who were brought in under an agreement between the two countries starting in 1942. Called the Bracero Program, it lasted for 22 years during which time some 4.6 million admissions of farm workers from Mexico were recorded.

3. Points System

The most transparent system for administering admissions on the basis of an objective criteria is “points system”, an innovation largely credited to Canada for use in selecting employment-based immigrants.³⁷ The system has since been copied by a few other countries and applied as well to the selection of candidates for temporary admission under highly-skilled worker programmes. The system takes much of the discretion out of the selection process by specifying an objective criteria, assigning points for each criterion, and requiring candidates to reach a certain minimum score. The criteria usually comprise employment-related qualifications – education, work experience, past earnings, and age – which can be assessed objectively. Some countries may still limit the selection to candidates from certain countries, usually their neighbours, and the scheme still only applies to the highly-skilled, but it has made it possible for interested applicants to assess by themselves their chance of being accepted. The degree of transparency is illustrated by the accessibility of the application system through the internet which carries detailed description of available programmes, criteria, information required, and how long it would take to process the application.

The points system is today only applied to the process of screening potential entrants under skilled migrant schemes, especially professionals whose academic degrees and years of experience lend themselves to some kind of ordinal or cardinal ordering. However, there is nothing in the idea of assigning points to migrant characteristics which is inconsistent with any non-discretionary method for migrant selection, except perhaps for refugees where the grounds for admission are more complex. Points can also be assigned to characteristics such as “degree of relationship” to a citizen or to a permanent resident, age, status of health, and so on. Where it is unlikely to be helpful is where the admissibility of an applicant is based on racial or ethnic preferences, religion, country of origin, or sexual orientation.

The system aims at expanding the general supply of skilled workers, not at meeting the specific job offers of employers. There is therefore no guarantee that it will meet current skill shortages felt by companies even if sufficient care is taken to consult with the business community on how

many points ought to be given to various qualifications. In general, it is a good method for screening applicants for settlement, not for filling up vacant posts in business. Indeed, the originators of the points system meant it for selecting immigrants who will easily find their own way in the labour market.

4. Priority Occupations

Almost every country has an implicit set of priority occupations in their administration of labour immigration policy but few go as far as making them explicit. The establishment of “priority occupations” is based on confidence that national authorities are in a position to specify what their countries need and are taking a “pro-active” stance to encourage those trained in the specific occupations to apply. An example is Australia’s so-called “Migration Occupations in Demand List (MODL)”, or occupations and specializations identified by the Department of Employment and Workplace Relations (DEWR) as being in ongoing national shortage. The list, which is reviewed twice a year, contained some 40 professional occupations/categories and 30 tradespersons categories at the end of 2005. Points are assigned to each category which applicants can use in their application for skilled migration visas.

A frequent criticism of this approach is that it does not reflect the rapid changes in the labour market and the demands of employers for new skills, particularly in technology-driven sectors. In the UK the Government tried to meet this criticism by establishing a number of sector-based panels to review shortages on an ongoing basis. Sector panels are now held regularly with representatives from industry bodies, key employers and other Government departments to assess industry issues such as training, recruitment, skills and pay. There are currently six Sector Panels covering ITCE (Information Technology Communications and Electronics), health, engineering, hotel and catering, teaching and finance.³⁸

5. Youth programmes

Some countries have special programmes to allow the employment of young people for temporary periods in sectors other than agriculture, like hotel and tourism, or to learn a language while working for a short period with an employer. There are also so-called “young executives programmes”. These are by and large relatively small admission programmes which are accompanied by similar controls as those which apply to seasonal agricultural workers.

6. Working Holiday Makers

The Working Holiday Makers scheme has been adopted by countries other than those from the British Commonwealth where it started. For example, Italy signed an agreement on “working holidays” for young people with New Zealand in 2001. The agreement allows the issuance of work-holiday visas to each other’s nationals belonging to ages 18-30 years old whose “primary intention is to holiday, with employment being an incidental rather than a primary reason for the

³⁸ Nicolas Rollason, Partner, Kingsley Napley Bilateral Agreements and Other Forms of Labour Recruitment: The United Kingdom Perspective presented at Seminar on Bilateral Labour Agreements jointly organised by the OECD and the Swiss Federal Office of Immigration, Integration and Emigration (IMES), June 2003.

visit". This visa allows the holder to work for up to six months, but cannot work for the same employer for more than 3 months.

7. Work Permit System

Work permit schemes are generally the programmes through which employers seeking to employ foreign workers for regular full-time work must apply. It usually comprises a whole body of rules and procedures that employers and foreign workers must meet if the latter's employment is to be allowed by the concerned authorities. The central element in that body of rules is, in almost all cases, the need to ensure that no foreign workers are admitted if local workers are available and willing to do the job at prevailing wage rates. A second key element of such schemes is the limited duration of permits. Work permits made their first appearance in the UK after the First World War and were meant for admission of people from non-Commonwealth countries who were needed by British industries. In the aftermath of the Second World War the need to rebuild European economies led to widespread use of the system for bringing in unskilled and semi-skilled workers. Work permit schemes are now largely meant for "contract workers" (those hired by local employers on the strength of one or two-year employment contracts), and for those sent by foreign contractors as project-tied or posted workers. These permits are obviously only issued to temporary migrants, not to permanent settlers who have the right, and who are in fact encouraged, to enter the labour market.

Almost all countries issue one form of work permit or another since even the least developed countries have some work activity which are carried out by foreign nationals including, for example, the installation of machineries and the management of tourist hotels. Of interest here, however, are special work permit schemes that have been established by labour-short countries in order to more closely manage substantial admissions of temporary foreign workers. Most of these schemes are applicable to all temporary foreign workers, regardless of skill or occupation, but there is a trend towards treating professional workers differently and under separate programmes, as will be seen below.

The practice of granting work permits to third party intermediaries or sponsors (so-called *khafeels* in the Middle East) is currently undergoing a re-examination in a number of countries because of abuses associated with it. These sponsors are known to profit handsomely from selling the "no objection certificates" (NOC's which amounts to a franchise to bring in foreign workers) to recruitment agents in origin countries. The latter, in turn, pass on the charges (and more) to aspiring migrant workers. In many of the Gulf States the system inevitably led to overcrowding of the market for unskilled labour, a severe decline in wages, and a growing population of unemployed surplus foreign labour. The system has raised the cost of migration for the migrant workers, thus motivating them to stay longer in countries of employment to achieve their target savings.

8. Labour Market Test

In administering work permit programmes the most common task is to decide on whether or not there is a risk of displacing native workers. The borders stay shut until the responsible authorities certify that no qualified workers in the domestic labour market are available to do the job. In the

certification procedures of many countries, the authorities simply ask employers applying for permission to bring in foreign workers for evidence that they have exhausted all means to find workers in the domestic labour market. Some require employers to post newspaper advertisements of jobs, to offer whatever may be the prevailing wage, and show evidence that there are no suitably-qualified applicants over a stipulated waiting period. Others require that the job opening be referred to the public employment offices which would then check their rosters of job applicants, and if none qualified are found, issue a certification to confirm the lack of suitable applicants. In the European Union there is an agreement on the use of a common web platform (EURES) to make known and to offer jobs to nationals of member states. In the US the required certification should be to the effect that there are no qualified workers available in the domestic labour market to do the job and that the admission of foreign workers will not have adverse impact on wages and conditions of employment of native workers.³⁹

However, these procedures evidently take time and were seen as inappropriate in today's increasing competition for skilled workers. The argument frequently made is that by the time the procedures are completed local enterprises may already have missed out on opportunities in an increasingly competitive global market. But more importantly the policy is based on the assumption, not warranted by facts, that displacement can somehow be avoided through administrative action of this kind. In reality jobs are lost, regardless of how admissions are restricted, if the industry becomes uncompetitive. There may even be an increase in the jobs available in the industry as a whole where the employment of some highly skilled foreign workers leads to new products and increased productivity.

In response to this problem the US adopted a more market-led approach, the so-called "attestation method" which had the effect of removing up-front barriers and delays. Attestations are legally binding employer declarations about the terms and conditions under which a foreign worker will be engaged. Compliance is supposed to be safeguarded through post-entry auditing and enforcement of the employer declarations.⁴⁰ The new approach does meet the needs of employers, especially where temporary admission is given on condition that the worker stays in the same occupation and geographic location. On the other hand it may not work for permanent admissions where freedom of mobility in the labour market is guaranteed. As some observers have noted, rural hospitals in the US found it easier to hire foreign doctors with the attestation system but the latter never stayed very long in rural areas.⁴¹

9. Use of Quotas

There are other approaches used by governments to avoid the possible displacement and other adverse consequences of immigration on native workers. The ILO 2003 Survey revealed that slightly over half of the responding countries set quotas on admissions, while a few like Australia

³⁹ Satisfaction of the latter condition is evidently more difficult to establish for every case. There are unresolved issues about the methods for assessing the impact of immigration on wages. In his studies in the US Borjas found that native wages have been adversely affected. See Borjas (2004)

⁴⁰ See p. 12 of Papadimitriou, D. and O'Neil, K. *Efficient Practices for the Selection of Economic Migrants*, Migration Research Group, Paper prepared for the European Commission DG Employment and Social Affairs, July 2004

⁴¹ See p.67 in Martin, P. Abella, M. and Kuptsch *Managing Labor Migration in the Twenty-first Century*, Yale University Press, New Haven, 2005.

use the policy of limiting admissions only to those who fall under a pre-determined list of priority occupations.

Quotas are usually negotiated periodically with various economic sectors and are administered and allocated with the help of organizations from those sectors. This means that everyone is aware of the limits and should be able to plan accordingly. Properly phased, they also can be an effective instrument for pressuring industries to progressively re-structure themselves, change product lines, shift production offshore, or adopt labour-saving technologies. Since quotas apply to all for a period of time bureaucracies are not burdened with individual requests from employers for case by case certifications or attestations.

	All regions	Africa	Asia	Europe	L.America Caribbean	N.America	Oceania
Countries responding	80	19	20	24	13	2	2
No quotas	39	10	14	7	5	1	2
Global quota	3	0	0	3	0	0	0
Sector quotas	19	3	4	10	1	1	0
Quota per enterprise	11	4	0	1	6	0	0
Occupation/Skill based	15	3	5	7	0	0	0
Set by bilateral agreement	3	0	0	2	1	0	0
Country quotas	5	0	2	2	1	0	0
No details provided	2	1	0	0	1	0	0

Notes: Countries may use one or more types of quotas hence columns are not additive

Source: ILO 2003 Survey

Quotas are now used in many countries, more in some regions than others. As shown in Table 6 above 17 of 24 countries in Europe relied on one form of quota-setting or another. Of these, 10 countries set quotas for employment of foreign workers in certain sectors, 7 for their employment in certain occupations, and 3 set a global quota for the country as a whole. In Hungary the global quota is determined by taking an average month of the preceding year and calculating the labour market needs in that month. That sets the limit to admissions in the current year. In Latin America and the Caribbean the preference appears to be the use of a much simpler method of establishing a limit at the enterprise level – a simple maximum ratio of foreign to local workers. It is interesting that fewer countries in Asia and Oceania rely on quotas.

The main problem with quotas is that they tend to allow only for ‘sub-optimal’ admission of foreign workers. In other words, the number of foreign workers allowed will tend to less than the

number that would have maximized productivity, but will depend only on the judgement of administrators who are likely to put a lower than optimal cap because of worries about the voluntary return of the workers. In some cases, quotas are political compromises established through referendum as in Switzerland. With such systems, there are evident “trade-offs” between the potential productivity gains that can be reaped through more admissions and whatever may be the political advantages of having less or not having any change.

10. Bilateral agreements to jointly manage migration

Cooperation with origin countries in managing recruitment and return should, in principle, reduce the cost to destination countries of managing foreign worker programmes. Usually the subject of bilateral agreement, cooperation sets out the obligations of each side to ensure success of the programme – from recruitment of the right skills to guarantee of their orderly return. It thus helps reduce market failures resulting from lack of information and the risks normally associated with migration which individual migrants usually try to reduce through payment of high recruitment fees.

Given the spread and dimensions of current migration flows – the ILO estimates that about 10 million workers cross borders every year – it is curious why so few labour migration agreements have so far been entered into by countries of employment and countries of origin. Of the 92 countries that responded to the ILO 2003 Survey 57 reported having bilateral agreements on issues dealing with treatment and rights of the migrant workers, facilitation of their recruitment, placement and admission, housing, health and safety protection, repatriation or return. Table 9 shows the countries that reported having entered into bilateral agreements on any or all of these issues. The columns show the distribution of the agreements according to the region of the other party to the agreement. Excluded from the count are the large numbers of reported agreements on social security which has not been a major issue in the management of migration, and on exchange of trainees which usually cover only small numbers for very brief periods of time. Of the 19 countries in Africa that responded to the Survey 13 reported having entered into some kind of bilateral agreement but of these only 9 had agreements dealing squarely with labour migration issues. Of the 24 countries in Asia that responded, 15 reported having one or more agreements but only 10 had agreements dealing with labour migration. The Philippines, which is one of the largest suppliers of migrant labour in the world, has reported 10 bilateral agreements but all are on social security, and none on labour migration per se, hence it does not appear in the table.

Table 9 Number of reported bilateral agreements on labour migration, distributed according to region of state parties, (excluding agreements on social security and on exchange of trainees/stagiaries) ILO 2003 Survey

Reporting country by region	Number of Bilateral Agreements with States in						Reporting country by region	Number of Bilateral Agreements with States in					
	Africa	Asia	Europe	L. America & Carib	North America	Oceania		Africa	Asia	Europe	L. America & Carib	North America	Oceania
Africa							Asia						
Algeria	3						China g/			1			
Egypt	3	5	4				India		1				
Eritrea	1						Kazakhstan		3	1			
Morocco		5	4				Tajikistan		1	1			
Sudan	1	1					Indonesia		5				
Tunisia	4		11				Malaysia		1				
South Africa	4						Myanmar		1				
Senegal	3		1				Thailand		2				
Togo	1						Armenia		1	4			
							United Arab Emirates	4	1				
Europe							Latin America and the Caribbean						
Belarus		2	6				Barbados		1	1			
Bulgaria			8				Costa Rica			3			
Czech Republic	2	8	7	1			Guatemala			2			
Hungary			3				Honduras				1		
Poland	1		12				Mexico				1		
Romania			4				Nicaragua			1			
Slovakia			8				Argentina			5			
Ukraine		1	10				Bolivia			3			
Denmark			2				Brazil		1				
Estonia			1				Colombia		1				
Finland			1		2		Ecuador		3	4			
Iceland			2										
Sweden	1		1		1		Northern America						
United Kingdom		3	1				Canada			4			
Albania			3				USA	1		2	1		
Croatia			1										
Greece	1		3										
Malta					1								
Spain	2		2	3									
Austria			1										

Belgium	3	4		
France	6	1	2	1 1
Germany			26	
Switzerland			2	
Portugal		1	1	

Notes: Of the 92 countries that responded to the ILO 2003 Survey 68 reported having entered into bilateral agreements with one or more countries. A number of countries have a large number of bilateral agreements but most of them are on social security only. Several reported being signatory to multilateral treaties (e.g. EU treaty, or to treaty of the Gulf Cooperation Council) but those were excluded in this table. The above tabulation is limited to bilateral treaties which are relevant to the management of labour migration issues such as on facilitating admissions, free circulation, recruitment and work permits, seasonal work, undertaking of contracted work, terms and conditions of employment, medical care, repatriation, combating trafficking, and general social protection matters. Agreements on social security benefits entitlements and on portability of benefits have been excluded. Bilateral agreements on exchange of trainees are also excluded.
Source: ILO 2003 Survey

A few states do appear to place great store in the value of cooperation to effectively manage their borders. Germany, which in the “pre-enlargement” EU guarded its eastern borders, entered into many agreements on labour migration from about 1988 to 1995 in anticipation of migration pressures from its economically less advanced neighbouring states. Germany reported having 26 agreements on guest workers and so-called “posted workers” and “contracts of manufacture” (in addition to some 20 just on social security) – many of them with former communist states in eastern Europe. Poland, the Czech Republic and Ukraine also appear to have succeeded in negotiating agreements on labour migration with their neighbours in Europe and with a few others in Asia.

The agreements signed by France with Morocco, Tunisia, Turkey and Algeria illustrate some of the principles that are usually invoked in such inter-state cooperation, notably the treatment of migrant workers and the facilitation of their admission. It is implicit in these agreements that preferential treatment is accorded reciprocally to the nationals of the state parties. They also serve to harmonize rights and entitlements of nationals of countries which started from different conditions of political relationship, such as what one would note from the differences in the provisions of agreements with Morocco, Tunisia and Turkey, on the one hand, and Algeria (at one time treated as a Department of France) on the other. According to Lary de la Tour (2003), the objective of the Franco-Algerian agreement was “...to change the situation of Algerians from the freedom of movement that they enjoyed before and after independence (1962) to that of controlled movement...”. The Franco-Algerian agreement was both a labour agreement (although the annual quota was not renewed after 1971), and an agreement on the legal system applying to Algerians in France.

Table 10 France: Key provisions of bilateral agreements

	Morocco	Tunisia	Turkey	Algeria
<i>Equal treatment</i>	x	x	x	
<i>Non-discrimination</i>	x	x	x	
<i>Social security</i>	x	x	x	
<i>Transfer of savings</i>	x	x	x	
<i>Right to family reunion</i>	x	x	x	x
<i>Provision regarding recruitment</i>	x	x	x	
<i>Possibility of taking another job with working conditions according to French law</i>	x	x	x	
<i>Specification of a legal regime for work and residence</i>	-	-	-	x
<i>Clause regarding vocational training</i>	x	x	-	-
<i>Provisions laying down an annual quota of workers</i>	-	-	-	x

Source: Henri de Lary, (2003) “Bilateral Immigration Agreements concluded by France”, paper presented at Seminar on Bilateral Labour Agreements and other forms of Recruitment of Foreign Workers, jointly organised by the OECD and the Swiss Federal Office of Immigration, Integration and Emigration, Montreux.

Italy, in the past an important source of labour for neighbouring European countries as well as for the Americas and Australia, has a long experience with the use of bilateral agreements to manage labour migration. It had agreements with Belgium and the Netherlands for the employment of Italian coal miners, with the United Kingdom for workers in steel mills, with France for frontier workers and with Switzerland for seasonal agricultural workers, among others. Since becoming a large country of immigration Italy has also tried to use bilateral agreements with origin countries to put some order into the movements. Over the decade of the 1990s Italy negotiated “Readmission Agreements” with Poland, Slovenia, Macedonia, Romania, Georgia, Hungary, Lithuania, Latvia, Estonia, Yugoslavia, Croatia, France, Austria, Albania Morocco, and Tunisia.⁴² As part of its approach to stopping illegal migration Italy established “preferential quotas” for nationals of Albania, Tunisia, Morocco, Egypt, Sri Lanka, Nigeria, Moldova, Somalia, and Argentina, and negotiated agreements with their governments on how these would be filled up.

⁴² Source: Chaloff, Jonathan (2003) “Bilateral agreements on labour flows: Italy” paper presented at Seminar on Bilateral Labour Agreements and other forms of Recruitment of Foreign Workers, jointly organised by the OECD and the Swiss Federal Office of Immigration, Integration and Emigration, Montreux.

G. IMPACT ON LABOUR MARKET FLEXIBILITY

Do temporary migration policies succeed in bringing about greater flexibility of the labour market? In other words, is there evidence to show that admissions rise in response to rising demand, and do the migrant workers return to their home countries when demand declines?

At the level of individual migrants the decision to return, given a choice, will depend not only on conditions of the labour market in the host country, but also of those in his or her country of origin (OECD, 2001). In the normal course of things the likelihood is that conditions at home would continue to remain less favourable than those in the host country, hence the temporary migrant is likely to want to stay longer, especially if he or she is still young. The individual migrant may also find that the duration of employment is not sufficiently long to earn the return they expect on their investments in migration. Some studies have shown that it takes many years before a migrant worker can attain parity with native workers in terms of wages and earnings, unless one enters under employer-sponsorship as a highly-skilled worker⁴³. Where the duration of stay is not “optimal” from the migrant’s standpoint, or for that matter from the employer’s standpoint, policies on return may not work as expected.

Migration almost always involves an investment by the worker and such investment can be considerable. For example, studies of South Asian workers going to the Gulf States show that recruitment fees alone can easily equal three months wages in the host country (Shah,1996). There is another loss involved in migration in that a worker going to an unfamiliar labour market is unable to take advantage of his or her accumulated social capital. He or she must once again invest in building up such capital by learning a new language, a new skill, and becoming familiar with how things work in another society. When the duration of stay is short (as in the case of temporary contract labour migration) the opportunity cost of spending time to learn a new language, instead of working, is correspondingly high (Dustmann and Kirchkamp,2002). Each hour invested in learning a new language, or a new skill, or looking for better paying job is potential income lost.

The OECD has examined the question of whether immigration has in fact contributed to the flexibility of the labour market by looking at the impact of migration on the equilibrium of the labour market in OECD countries in periods of expansion and recession. It found that migration provides a response to greater demand for labour but there are differences among countries depending on their immigration policies. A review of past macroeconomic trends showed that until the end of the 1970s migration flows moved in parallel with the business indicators in Germany, the Netherlands, Sweden, and the United Kingdom, and to a lesser extent in Australia. However, no similar correlation could be found for Canada and the United States, two immigration countries where family reunification remains a key principle to admissions. Moreover, from the early 1980s on, disparate trends in immigration and conjunctural indicators were observed for all the countries.

⁴³ These studies on the subject come mainly from the major immigration countries – US, Canada and Australia. See Borjas (2005) Chiswick and Miller (2001) for US studies. See also Richardson, S and Lester, L. (2004) “Comparison of Australian and Canadian Immigration Policies and Labour Market Outcomes”, Report to the Department of Immigration, Multicultural and Indigenous Affairs, Commonwealth of Australia.

While data on employment of foreign workers are available, there are no comparable data on return since most countries do not record exits. Hence the flexibility issue can only be assessed from the standpoint of fluctuations in the employment of migrant and native workers. During periods of recession such as the period after the second oil shock (1979 to 1983) and the less severe one in the early 1990s the OECD noted a significant difference in the impact on native and on foreign workers. The foreign workers for the most part absorbed the shock through greater loss of employment relative to native workers. The reasons are because migrants are over-represented in those sectors that are most sensitive to cyclical downturns (like construction and retailing) and are on the average less skilled than nationals.

Impact of foreign labour on labour market flexibility

“Foreign labour accordingly seems to have a twofold impact on the equilibrium and dynamics of the labour market in periods of expansion. It provides a response to greater demand for labour, in particular at periods when it is rising very strongly. Further, it assists the reassignment of nationals employment to more dynamic and attractive sectors.

....

In countries where the geographical and sectoral mobility of the native population is limited, foreign workers may also introduce greater flexibility to the labour market and hence assist its development. This is in particular the case in European Union countries, where intra-regional mobility remains low despite the fact that workers are free to move and settle...Foreign workers are often more mobile than their national counterparts, because they are on the average younger and tend to have fewer family attachments in the host country. The self-selecting aspect of the migration process may also help explain why, *ceteris paribus*, the foreign population is generally more geographically mobile..”⁴⁴.

OECD, *Employment Outlook 2001*, p. 185.

H. ELEMENTS OF BEST PRACTICE IN TEMPORARY MIGRATION

The management of labour migration has drawn a lot of attention in recent years because of the growth of clandestine or irregular movements on the one hand, and the perceived benefits of remittances for source countries on the other. Although the subject remains controversial a slow but definite consensus is emerging on the need for a regulated liberalization of movements of workers in order to meet shortages in the labour market. A basic principle in this consensus is the “preferential access” of nationals to jobs, thus treating admission of foreign workers as a means to deal with any residual demand (Ruhs,2005). There is also consensus that foreign workers are entitled to equal treatment with national workers (ILO 2004). The following reviews some of the lessons drawn from experience with the management of labour migration and draws attention to what may loosely be considered as “best practice” in policies and programmes.⁴⁵

1. Managing demand for labour

Since the principal justification for admission of foreign labour is to meet an excess demand for labour it is axiomatic that first consideration should be given to “managing” the demand for

⁴⁴ See chap. 5 of OECD *Employment Outlook 2001*, Paris.

⁴⁵ In the ILO report entitled “Draft ILO Multilateral Framework on Labour Migration” presented to the Tripartite Meeting of Experts in Dec 2005, an Annex on Best Practices is included. This section draws on some of the examples cited in that report.

labour. As Ruhs (2005) argues in his report for the Global Commission on International Migration managing the demand for labour is the first critical step in developing sound policies on temporary foreign workers. Employers will always have a “need” or a demand for foreign workers if by employing them they can lower their costs. If labour and migration policies make it possible, either by intent or by default, to employ foreign workers below minimum standards, then it should not be a surprise to find employers clamouring for more liberal admission of foreign workers. In most countries in the Persian Gulf the policy of liberal admission of unskilled foreign labour in the private sector has driven down real wages to about half of what they were two decades ago and created problems of unemployment for native workers who would not accept such wages.

	Surveyed countries	Responding countries	Higher than for local	At least equal
Africa	19	13	3	10
Asia	24	12	1	11
Europe	28	21	3	18
L.America & Caribbean	16	11	0	11
N. America	2	2	0	2
Oceania	3	2	0	2

Source: ILO 2003 Survey

As shown in Table 11 the large majority of countries recognize this economic reality and explicitly state in their policies that the grant of work permits is conditional on offering wages and salaries at least equal to, if not higher than, that offered to a local worker. The practical problem is often that of defining what that wage or salary should be for each specific occupation. In most countries the national authorities have not defined or predetermined such level. In the United States the law provides for payment of a “prevailing wage” to most H temporary visa workers, a standard interpreted to mean that foreign workers must be paid at least 95 percent of the average wage for the occupation and locality based on recent data (ILO 2003).

2. Non-migration adjustments to labour shortage

As Ruhs (2005) has pointed out employers have other ways of responding to perceived shortages of labour including: (1) increasing the capital or technology intensity of the production process; (2) “offshoring” or relocating to countries where labour costs are lower; (3) increasing working hours; and (4) switching to production of less labour-intensive commodities. These forms of adjustment to labour shortage have been particularly notable in the case of Japan which from the very beginning adopted a policy of not allowing the admission of unskilled foreign labour. The Japanese economy is today very closely integrated with the rest of Southeast Asia because of trade and “offshoring” of the more labour-intensive industries to neighbouring countries. In the United States after the ending of the Bracero Program, the tomato-processing industry was forced to mechanize harvesting and developed, together with the University of California, tomatoes that ripened uniformly and had an oblong shape amenable to mechanical harvesting. The changes eliminated 90 percent of hand-harvesting jobs and brought down considerably to price of tomatoes (Martin et al, 2005).

Singapore is credited with an innovative approach to “managing” the demand for foreign labour consisting of a foreign levy imposed on employers. The avowed purpose is to moderate the demand for foreign workers by making it more costly to employ one, especially unskilled workers. Table 12 below shows the schedule of levies imposed by the Singapore Government⁴⁶. Employers are supposed to absorb the cost of the levy since foreign workers are entitled to receive equal pay as national workers.⁴⁷ The policy also aims to penalize dependence on foreign labour by making the levy rise with the proportion of foreign workers employed. The policy supported the restructuring of the Singaporean economy over the past two decades to become an exporter of high-technology manufactures and as centre of financial and sophisticated business services in the region.

<i>Sector</i>	<i>Dependency Level (DC)</i>	<i>Category of Foreign Workers</i>	<i>Levy Rates S (\$)</i>
<i>Manufacturing</i>	Up to 40% of the total workforce	Skilled	100
		Unskilled	240
	Above 40% to 50% of the total workforce	Skilled	100
		Unskilled	310
	Above 50% to 60% of the total workforce	Skilled/Unskilled	500
	<i>Construction</i>	1 Local Full-time worker to 4 Foreign workers	Skilled	100
Unskilled			470
<i>Marine</i>	1 Local Full-time worker to 3 Foreign workers	Skilled	100
		Unskilled	295
<i>Process</i>	1 Local Full-time worker to 3 Foreign workers	Skilled	100
		Unskilled	295
<i>Service</i>	Up to 30% of total work force	Skilled	100
		Unskilled	240
	Above 30% to 40% of total workforce	Skilled/unskilled	500

The demand-management approach pioneered by Singapore and later followed by others⁴⁸ is still very much the exception in policies on labour migration. What are more common are labour market tests and other measures we have seen earlier aimed at controlling supply either through quotas (a quantitative restriction) or preferences (increasing admissions of the highly-skilled).

⁴⁶ <http://www.mom.gov.sg/Forms/WorkPermit/ForBusinessEmployers/ForeignWorkerLevy/>

⁴⁷ There is a problem of the levy being passed on by the employer to the foreign worker in the form of lower wages where the latter are not employed in companies that have collective agreements. This is the case, for example, with domestic helpers where no minimum wages apply.

⁴⁸ Malaysia and Taiwan (Prov. Of China) have followed with their own versions of the foreign workers levy.

3. Improving Labour Market Testing

The main weakness of labour market tests stems from the conceptual and practical difficulty of ascertaining a lack or a shortage of local workers able and willing to do the job at prevailing wages. At the conceptual level one has to recognize that shortages may occur not because there are no workers available who can do the job, but because of mismatches (Boswell and Straubhaar, 2004). Mismatches in turn can be on account of regional factors (workers and jobs are in different places), lack of information, or preferences (workers will not accept certain jobs even at prevailing wages). In the European Union there is now a common policy to give EU nationals preferential access to jobs but many jobs remain unfilled even if there is full freedom of movement because EU workers have become very immobile.

The practical difficulties are many. Responsible national authorities are seldom equipped with staff and resources, and not infrequently with know-how, to ascertain such shortage for skill requirements. Employers may need to employ the foreign workers urgently if they are to employ them at all, but labour market tests take time. Some employers may already be employing the foreign workers illegally when they apply for their permits and tailor the job to fit the qualifications of the foreign worker. Efforts to improve the effectiveness of systems based on labour market testing have included safeguards such as prohibitions against lay-offs of native workers during a prescribed period before and after the employment of a migrant. In the US the Immigration and Naturalization Service (INS) will prohibit companies from hiring H-1B workers if they have laid off American workers doing similar work and the latter must certify that there is no strike or lockout (Jachimowicz and Meyers, 2002)⁴⁹

4. Forecasting labour shortages

In some countries “pre-determination” of future shortages in the labour market has been used successfully not as a substitute for, but as a complement to, employer-sponsored admissions that involve labour-market testing. Forecasting shortages over the short-term, such as over the next year or two, can be done with some confidence using very simple methods of surveying industries. The United Kingdom, for example, undertakes a yearly survey of 4000 employers to enquire into the nature, extent, causes and implications of skills deficits. The US Bureau of Labor Statistics undertakes a Job Openings and Labor Turnover Survey (JOLTS), which measures labour market tightness and efficiency (matching). It is a monthly study, which gathers data on total employment, job openings, hires, quits, layoffs and discharges, and other separations. Data is taken from a sample of 16,000 US businesses in all non-agricultural industries in the public and private sectors.

In smaller countries with only a few industries it may suffice to set up advisory bodies such as industry boards consisting of people closely connected with the business - personnel managers of representative firms, representatives of local units of trade unions, company managers, and heads

⁴⁹ The American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) included new worker protections for H-1B dependent firms (those with more than 15 percent of their workforce comprised of H-1B workers. See Jachimowicz, M. and Meyers, D. (2002) “Temporary High-Skilled Migration”, Migration Policy Institute, Nov. 1

of skills training institutions. The Hong Kong Labour Department made very good use of such boards to arrive at very precise information on the training requirements of industries.

One of the more sophisticated systems has been developed in Australia where labour market forecasts are carried out by the Centre of Policy Studies (COPS), a research centre at Monash University devoted to quantitative analysis of issues relevant to Australian economic policy. The COPS system has been used since 1994 to provide forecasts conducted within an economy-wide framework which integrates a macro model (to determine aggregate employment), an applied general equilibrium model and a labour market extension (to determine employment by occupation).

Forecasting Labour Skills Shortages

Centre of Policy Studies (COPS), Monash University, Australia

A MONASH forecast of the demand for labour proceeds in five stages applying a top down approach. The starting point is a macro scenario providing GDP forecasts which is derived from the Five Year business Outlook. In the second stage GDP and its components are converted into output and employment by industries, taking into account forecasts of expert bodies regarding structural changes impacting labour demand. Afterwards, national forecast for output and employment are converted into regional forecasts (56 statistical divisions). The next step of the calculation is the conversion from an employment forecast on an industry basis to an occupational basis for 340 unit groups of the Australian Standard Classification of Occupations. Finally, employment forecasts are used to determine the employment outlook for workers identified by age, sex, qualifications and hours worked per week. On the whole, the methodological approach chosen for Australian labour market forecasts is relatively advanced. In particular, the application of a CGE model reflects the state-of-the-art regarding economic modelling of quantitative forecasts. Moreover, the reliability and quality of the forecast is enhanced by the fact that the forecasting system integrates available forecasts for relevant determinants. The employment forecasts are provided for industries and occupations at a deeply disaggregated level, providing a broad information base. The disaggregated forecasts are consistent with a growth scenario for the macroeconomic development of Australia. And the model can also develop different scenarios regarding future development of labour markets. Furthermore, COPS is concerned to improve the model. To date, the development of the system has focused primarily on the effect of technological and social change on future labour demand. A complementary supply side forecasting system is currently in preparation.

“Forecasting Labour and Skills Shortages:
How Can Projections Better Inform Labour
Migration Policies? “

by Boswell, Stiller and Straubhaar ⁵⁰

5. Employing seasonal agricultural workers

Canada is credited with a seasonal agricultural worker programme that is widely considered a model for balancing the flow of temporary foreign workers with the needs of Canadian employers. Some aspects of the Canadian seasonal farm worker program deserve special consideration namely the active involvement of farm employers in program design and administration, the involvement of the origin country government in recruiting and monitoring workers' conditions while in Canada, and the health insurance coverage upon arrival. On the basis of a Memoranda of Understanding between the Labour Department of Canada and those of

⁵⁰ C. Boswell, S. Stiller and T. Straubhaar (2004) “How Can Projections Better Inform Labour Migration Policies?” Hamburg Institute of International Economics (HWWA) Paper Prepared for the European Commission, DG Employment and Social Affairs July 2004

source countries, Canadian farmers have been allowed to import foreign workers for up to 8 months a year from the Caribbean since 1966, and from Mexico since 1974.

Canada admits each year almost 20,000 guest workers for such seasonal work, 60 percent of whom are Mexicans. Canadian farm employers must apply to the local Human Resources Centers (HRCs) for certification that they need guest workers because qualified Canadian workers are not available. In the agreement with Mexico workers are guaranteed at least 240 hours of work over six weeks, free approved housing and meals or cooking facilities, and the higher of the prevailing minimum wage or piece-rate paid to Canadians doing the same job. Labour certification of employment opportunities ensures that Canadian agricultural workers are provided first access to employment opportunities. The assurance that employers would have access to the labour needed to see their crops harvested has encouraged Canadian farmers to expand their horticultural production. In many cases this has led to an increase in the number of year-round jobs farm employers are able to offer to Canadian workers. The industry expansion has created additional jobs in upstream (chemicals, seed etc.) and downstream occupations (trucking, packing, storage, etc.) that are dependent on the production and handling of farm product.

Agreements, available in the worker's native language, are signed by every employer and employee and by the Government Agent prior to the worker's arrival. Workers destined to Canada are selected and briefed by their respective ministries of labour in order to ensure that workers are aware of their rights and are as prepared as possible for working conditions in Canada. HRDC also arranges to have migrant workers admitted under Workers' Compensation programs. An organization funded by farmers, Foreign Agricultural Resource Management Services (FARMS), arranges the transport to Canada and to the employer's farm. No more than C\$ 575 can be deducted from worker's pay to reimburse these transport costs. Guest workers are on probation for two weeks, and farmers provide written evaluation of each worker at the end of the season. These employer evaluations are placed in sealed envelopes and delivered by returning workers to Mexican authorities to qualify them for re-selection the following year.

The employer community dependent on the program was required to set-up a not-for-profit corporation, separate and distinct from any existing agricultural organization. Its operations were to be governed by a Board of Directors representing major commodity groups with ex-officio representation from HRDCs' national and regional office. The agency would be solely responsible for the timeliness of processing all foreign worker requests authorized by HRDC. This reduced significantly federal government delivery costs and provided HRDC with a data base of program participants (both employers and employees).

6. Increasing the portability of qualifications

The underutilization of migrant workers' skills is a common problem especially for those temporarily admitted because it takes time to become familiar with the labour market and for workers to convince employers of their capabilities. Promoting the recognition of formal qualifications is however fraught with difficulties for technical reasons and also because of opposition from local professional groups. The European Union has perhaps done more than others to increase the portability of qualifications of EU nationals because of the integration of

their labour markets. In 1984 it created a network of *National Academic Recognition Information Centres (NARICs)*, which covers all EU and European Economic Area Member States and all the associated countries in Central and Eastern Europe, Cyprus and Malta.⁵¹ These centres provide authoritative advice and information on the academic recognition of diplomas and periods of study undertaken abroad. Ten years ago the European Commission introduced the European Credit Transfer System which aimed at transparency of qualifications and serves as a common basis for recognizing students' study periods abroad.⁵² The ECTS continues to expand, even beyond Europe. For vocational qualifications the EU has established a network of *National Reference Points for vocational qualifications* in the Member States which will be the first point of contact for questions relating to *vocational qualifications*. The Certificate Supplement for vocational qualifications, has been developed in parallel to the Diploma supplement in higher education, and is currently being tested in the Member States. Furthermore, a common *European format for Curriculum Vitae (CV)* has been recommended by the Commission, aiming at a simple and efficient presentation of individual qualifications and competences. A further instrument, the *Europass* assists and promotes mobility within work-linked training by providing a voluntary Europe-wide means of recording periods of training outside the 'home' Member State.⁵³ *Professional recognition* in the regulated professions is covered by a set of directives specifying the rights of individual citizens in the field of *qualifications*. This set of directives will in the near future be replaced by one single directive covering all regulated professions. The broader long-term aim is to enable people to meet the challenges of the knowledge-based society by promoting the development of their knowledge and competences at all stages of their lives. An important element is the validation of 'non-formal learning', which may be acquired for example in the workplace or through voluntary activity.

⁵¹ <http://www.enic-naric.net/>

⁵² http://europa.eu.int/comm/education/programmes/socrates/ects/index_en.htm

⁵³ <http://europass.cedefop.eu.int/>

Berne Initiative “International Agenda for Migration Management”

Effective practices with regard to temporary migration:

Promotion of the use of certain forms of temporary migration, such as short-term and project-related migration, as a means of meeting labour market needs, improving the skills of nationals of countries of origin, especially developing countries and countries with economies in transition.

Facilitation of regular consultations on a bilateral or multilateral basis to identify and meet temporary migration needs through orderly channels, including through conclusion of bilateral or multilateral agreements.

Identification of employment sectors that would be designated as suitable for temporary migrant workers.

Definition of categories for temporary migrants according to specific intended objectives, for example business, family visit or study.

Implementation of measures to enable and facilitate temporary migration and multiple short stays, including through efficient registration systems and delivery of multi-entry visas based on available technology and information sharing for tourists, business visitors, family visits and other temporary purposes.

Provision of clear, accessible and user-friendly information on temporary migration opportunities and procedural requirements, migrant rights and responsibilities, as well as means to access such information, including through such services as migrant information centres.

Implementation of temporary migration programmes which provide temporary migrants with a secure legal status, with rights and responsibilities that reflect their temporary status.

Promotion and implementation of measures to ensure that temporary migration remains temporary, such as conditioning subsequent re-entry on timely return.

For those States utilising temporary migration programmes as a possible route to permanent migration, articulation of clear conditions under which those who qualify can gain permanent status.

Promotion of data collection and analysis regarding temporary migration.

7. Using points system for selecting highly-skilled migrants

A number of countries including Canada, Australia, the UK and the Czech Republic are making use of the so-called “points system” for deciding on admission of highly-skilled workers. In the UK it is referred to as the “Point Score System” which has been used in implementing the Highly-Skilled Migration Programme (HSMP). To make a successful application, individuals need to demonstrate that they will be able to continue their chosen career in the UK and also provide evidence that they score 75 points or more in five areas: educational qualifications; work experience; past earnings; achievement in the chosen field; and HSMP priority applications.⁵⁴

⁵⁴ See *Work permits and foreign labour in the UK: a statistical review Labour Market Trends*, Nov 2003 by Clarke, James, Salt, John Migration Research Unit, University College London http://www.findarticles.com/p/articles/mi_qa3999/is_200311/ai_n9302468

For example, high points are given to youth (under 28 years + 5 pts), and education MBA degree, PHD (30 pts) Masters (25 pts). Over the period 1 February 2002 to 31 July 2003, 4,861 applications under the HSMP have been made, of which 2,978 (61 per cent) have been accepted. Four main groups dominate these acceptances: finance (including accountancy, banking, investment, etc.); business managers (including consultants, directors and executives); ICT (including software engineers, computer specialists and telecommunications specialists); and medical occupations. Other important categories are: science, academic and research; other engineering; and sales and marketing. To a considerable extent, these occupations are similar to those coming through the main work permits scheme. According to Clarke and Salt (2003), the relatively small numbers have little quantitative impact on the UK labour market. The main significance of the scheme is its deliberate policy of encouraging entrepreneurs to make the UK their home and the message that conveys about the UK's attitude towards skill acquisition and global competition in a broad sense.

8. Combining supply and demand approaches to selecting temporary workers

Implicit in supply-side approaches like the “points system” is the assumption that human capital is flexible and no barriers exist to the employment of people with skills needed in the labour market. However it is possible that local employers may not recognize the credentials and experience of those who get admitted. Immigrants trained as doctors sometimes wind up driving taxis. The approach could be strengthened by incorporating certain practices which relies on employers to say what skills are needed and to find suitable workers. This is the best represented by the approach used in the US for granting H1-B visas where the government's role is to ensure, before issuing an immigrant visa to the foreigner, that local workers are not available to fill these jobs and that the presence of the foreigners will not have adverse effects on similar local workers. The best practice may be to combine *supply* and *demand* approaches to selecting immigrants in managed programs that aim to deal with labour shortages and the problem of ageing. Under a combined approach, either individuals or employers could initiate the immigration process. Individuals could receive additional points for having a job offer from a local employer which would minimize brain waste and unemployment. Employers, on the other hand, could be required to recruit only foreigners that satisfied education, language, or other criteria to fill vacant jobs (ILO, 2005).

9. Bilateral agreements for better organization of migration

In 2001 Spain adopted a comprehensive programme (GRECO) to regulate and coordinate foreign residents' affairs and the admission and employment of foreign workers in Spain. The programme involved setting up the criteria for the admission of immigrants; estimation of skills shortages in the labour market; identifying the countries with which to negotiate agreements; regulation of all aspects of the management of migratory flows; and the establishment of mechanisms to select and, as necessary, train foreign workers in the sending countries. In Spain's bilateral agreement with Ecuador, for example, there are provisions covering the pre-selection of workers, the communication of job offers, the selection and recruitment of workers by the authorities, the participation of employers or their representatives, special provisions in the case of temporary workers, the organization of travel, guarantees of labour conditions and rights at the destination, the possibility of family reunification, and provisions for the return which are

compulsory for temporary contracts. The authorities in Ecuador have set up, with the collaboration of the IOM, a “Technical Unit for the Selection of Migrant Workers” (UTSTM) to coordinate requests by its nationals who wish to go to work in Spain. Spain has concluded eight bilateral agreements: Morocco (1999), Colombia, Ecuador and the Dominican Republic (2001), Romania and Poland (2002) and Guinea-Bissau (2003) and Bulgaria. At present, over 40 States have asked to sign bilateral migration agreements with Spain, some with a high number of Spaniards in their territories, such as Argentina and Mexico.

10. Adapting labour inspections to meet specific problems of migrant workers

Mauritius has a few thousand foreign contract workers employed by garment factories in its free trade zone. The workers had protested the poor quality and the cost of their food, illegal deductions being taken from their pay, failure to pay contractual wage rates, delays in transfers of wages to families coursed through labour contractors, poor dormitory conditions, unreasonable restriction on freedom of movement outside work hours, sexual harassment, and other mistreatment. In response to these problems the Ministry of Labour decided to require that employers pay the workers directly without passing through their contractors, prohibit any unauthorized deductions, and to adapt procedures for inspections to the situation in the zones. It strengthened the Special Migrant Workers Unit, hired inspectors and an interpreter who speaks the languages of migrant workers, increased day time inspections, conducted night inspections at workplaces and in dormitories, informed workers of their rights upon hire, distributed information pamphlets in their languages, conducted educational programmes for workers and employers, set up a hotline for workers to call with complaints, and ensured that the problems raised by workers are covered in their contracts before their employment. After the introduction of these measures there have been fewer conflicts at workplaces, and a corresponding drastic reduction in work stoppages, as well as positive feedback from both workers and employers. Complaints are resolved quickly, with most complaints and grievances resolved on the same day or following day at the latest. Procedures are constantly monitored for improvements.

11. Role of origin country: supervision of recruitment and contracting agencies for contract migrant workers

The Philippines has developed a programme that provides safe migration channels, labour attaches in diplomatic missions abroad who can deal with complaints and urgent needs of national workers abroad, migration information and awareness-raising campaigns. In supervising recruitment a “carrot and stick” strategy is employed by the Philippine Overseas Employment Administration (POEA) which handles the orderly placement to over 100 countries of some 800,000 migrant workers a year. All migrants must have a contract agreed to by POEA. Recruitment is not allowed for certain countries where workers’ rights are not respected and there are strict rules regarding recruitment fees (not more than the equivalent of one-month wage), minimum age of the workers, and certification of skills in certain professions. Under Philippine law both the foreign employer and the Philippine agent are jointly and severally liable for claims and awards in favour of the workers. There is a requirement that a licensed recruiter

put up financial guarantees in case of claims by the workers.⁵⁵ It is clear that regulation of recruitment is a huge task. Over a two-year period, 2003-2004, the POEA cancelled licenses of 142 agencies for recruitment violations and suspended for various periods of time some 800 license-holders for recruitment violations and 151 for not replenishing guarantees that the POEA had garnished to pay for claims.⁵⁶

On the other hand those who meet the criteria for good performance are rewarded with various privileges - recommendations to foreign employers, facilitation of contract approvals including through electronic processing, and inclusion in government-sponsored promotional missions. Every year outstanding agencies are given official awards by the Philippine President. From a “one-stop processing centre” that it established in the early 1980s, the POEA is now going into a fully electronic processing of employment contracts submitted for approval and issuing electronic identification cards to all migrant workers. These *e*-cards are issued in collaboration with four Philippine commercial banks and facilitate remittance by also serving as ATM cards for those who work in countries where these banks have correspondent banks.

12. Role of trade unions in protecting migrant worker rights

Trade unions have been known to oppose the admission of foreign workers because of conflict of interest with their members but this attitude has changed very significantly in recent years. Today many trade unions in destination countries are very actively involved in advocating sound immigration programmes which protect migrant worker rights. The General Union of Algerian Workers, for example, called on unions in other Maghreb countries to campaign for the ratification of Convention 97. Algeria has ratified Convention 97 and has now announced its ratification of the UN Convention on migrant workers. In Spain the *Union General de Trabajadores* (UGT) has called for a state compact on immigration issues (*pacto de estado en materia de inmigracion*) in order to establish a stable forum for discussing migration issues and for the creation of a tripartite labour commission in order to integrate migrant workers into the national labour market and to guarantee their rights. It has also opened an information center in Ecuador for would-be migrants, and maintains regular liaison with trade unions in Morocco on migration issues. In Switzerland, the trade unions have organized campaigns since the 1980s to increase membership from migrants and placed their representatives in positions where they can participate in deciding on the direction of Swiss trade unions policies on migration. The Korean Confederation of Trade Unions (KCTU) has mobilized support for the regularization of all undocumented workers. In South Africa, the Domestic Services and Allied Workers Unions is organizing migrant domestic workers, defending their rights, and lobbying for an increase in the minimum wage of domestic workers. And in Australia, where there are 30-40 ethnic radio stations, the Australian Confederation of Trade Unions (ACTU) regularly broadcasts in several languages to inform migrants of their rights and of the services available to them.

⁵⁵ The escrow deposit is about US \$ 20,000 and an additional US\$ 2000 is needed to serve as financial guarantee in case of claims. The number of licensed agencies rose rapidly from 44 in 1974 when the migration phenomenon started to 1023 in 1983, but dropped to 894 in 2003 and is about 800 at the beginning of 2005.

⁵⁶ The settlement of claims however appears to be slow. Only a total of 9 million pesos from guarantee bonds and deposits were awarded to some 352 migrant workers who established valid claims.

I. CONCLUSIONS

What is the future of temporary migration? Three facts are important in reckoning the likely future of temporary migration. One is that the forces of globalization have so far produced unfair outcomes and magnified, not reduced, the economic differences among countries. Those in a position to gain from the breaking down of barriers to trade and capital movements have sped ahead, while others plagued with problems of poor governance, political conflict, foreign debt, loss of markets and destruction of traditional industries because of unfair rules in the existing multilateral system have stagnated and failed to catch up. The World Commission on the Social Dimensions of Globalization has warned that unless global macroeconomic governance is improved with fair rules for trade, finance, and the cross border movements of workers, the situation is likely to persist and worsen. These conditions suggest that pressures for cross-border movements would continue to rise, and means must be found to release the pressures which would otherwise find release through illegal paths.⁵⁷

The second is the dilemma faced by countries that need to admit more foreign workers to replace an ageing workforce but have a political environment that is opposed to any major change in immigration. The welfare states in Europe are having great difficulties with integrating immigrants and asylum seekers and policies on immigration in Asia are unlikely to change for some time. Other than the traditional countries of immigration there are no new gates for permanent migration, except for the highly-skilled. The only gates for the less skilled are through family reunification in the few traditional countries of settlement, and even these countries are reserving spaces and giving priority to the highly-skilled. The compromises being made to deal with the dilemma point to further openings of temporary migration gates.

And the third is the appearance of new countries of destination which are now facing the problem of managing irregular migration. They include upper middle income to middle –income countries like the Czech Republic, Poland, Republic of Korea, Turkey, Kazakhstan, Malaysia, Thailand, Costa Rica and Chile, Lebanon and Libya aside from the Gulf States. The Russian Federation is also now faced with new waves of economically-motivated migration, as a destination and as a transit country, from neighboring CIS countries, China, and South Asia. All these countries are responding to the challenges posed by irregular migration in various ways but a common element is the opening of temporary worker programmes.

These facts all seem to point to a likely expansion of temporary migration programmes in the future, especially through unilateral programmes of labour-short countries. These policies, although driven by national interests, could still be convergent with the larger interests of promoting more liberal access to labour markets.

Can temporary migration programmes be made to work? This paper has surveyed the various forms of temporary migration schemes in many countries, and the measures being employed to make them work. There are sufficient examples of schemes judged to be successes in the

⁵⁷ In assessing emigration pressures in Africa, Timothy Hatton and Jeffrey Williamson found that the conditions which existed in Europe during the mass migrations of the late 19th to the early 20th century exist today in Africa. They include a very young age structure, population pressure on resources, large wage gap with destination countries, and declining costs of transport.

countries that adopted them to conclude that they can be made to work, but much remains to be done to identify the conditions that must exist if they are to be replicated in different countries. What works in Canada may not work as well in Malaysia, or for that matter even in Italy or Spain. The elements that make for successful programmes are however not difficult to identify. They include:

- proper management of labour demand,
- combining long-term forecast of supply deficits with practical methods for responding to current demands of industry,
- transparency of the admissions criteria for selection and length of approval process,
- recognition of qualifications to enhance utilization of migrants' skills;
- cooperation between origin and destination countries especially in supervising recruitment and employment,
- protection of the fundamental rights of the migrant workers,
- flexibility in determining periods of stay to allow for differences in the type of work to be performed and conditions in the labour market,
- allowing for change of employers within certain limits, and
- avoiding creating conditions (i.e. imposing forced savings schemes, employment of cheap labour through trainee schemes) which will motivate migrants to opt for irregular status.

Reaching a conclusion on whether they can be made to work, of course, depends on a host of conditions that must be present to make any policy a success including the political will to implement the policy, the reasonableness of the objectives, and whether the policy has coherence with other programmes and policies of the government. All too often policies are loaded with national objectives that they are not suited to achieve such as when temporary admission policies are used to deal with the problems of irregular migrants already inside a country. Some expectations may also be unrealistic such as where a temporary migration policy is deemed a success only when all foreign workers eventually return home. Some academic researchers have reminded us that there is an "optimal" duration of migration for individual migrants which depends on how quickly they can achieve their aims. Since life is short, migrants generally want to return home to reap the benefits from their savings before they become too old to enjoy them. Higher wages and earnings abroad and secure migration status which allows for frequent return, are therefore paradoxically essential features of effective approaches to temporary migration.

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