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**POLICIES AND REGULATIONS FOR MANAGING SKILLED
INTERNATIONAL MIGRATION FOR WORK***

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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.

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EXECUTIVE SUMMARY

The findings of this report indicate that policies can make a difference in facilitating the number of skilled immigrants. To be sure, the traditional countries of immigration appear to have an edge in the number of skilled immigrants that they attract and one suspects a combination of facilitation and past momentum. And there are statistics on labour force participation and unemployment that suggest that, at the aggregate level, the traditional countries of immigration keep their highly skilled foreign workforce well employed. So, facilitating immigration *per se*

In an ideal world, it would be possible to track an ongoing set of measures that capture the relative

A. INTRODUCTION

B. WHO ARE THE HIGHLY SKILLED?

evaluation of available descriptions of the programmes, as well as discussion with programme administrators was that:

Most European countries, together with developed Asian ones, have not introduced special measures to recruit highly skilled workers. They continue to rely on their existing work permit systems. Where schemes have been introduced, they are invariably aimed at IT and health (especially nurses) staff and intracompany transferees (McLaughlan and Salt, 2002, p. 3).

This is not to say that there are no distinctive differences between admission programmes. Indeed, the authors go onto to observe that the United Kingdom has moved further in terms of initiatives for the highly skilled and processes permits faster than other countries with the exception Australia and Canada. But otherwise there have been rather few significantly new innovations in how such programmes are run.

1. Overview of Prevailing Policy Practices

National admission policies tend to consist of a number of elements that strike a balance between flexibility in meeting apparent employer demand and protection of both national workers and foreigners. Skilled classes of admission tend to include temporary and permanent workers, business visitors, intra-company transferees, senior-level managers and executives, and professionals (Christian, 2000). Nearly all countries that have explicit policies to attract skilled migrants recognize separate categories for managers and executives and impose less stringent admissions requirements on this top stratum. Most countries in Western Europe consider foreign workers to be temporary, at least initially, whereas the traditional countries of immigration administer both temporary and permanent admissions.

Only a few countries, including Switzerland and the United States, regulate the admission of temporary or permanent workers by means of a quota. The United States has no quota caps on most of its temporary visas with the exception of its “specialty worker” visas (H-1B) because it has a lowered or streamlined standard for admission. On the permanent side, U.S. quotas are changed less than once a

Application procedures too may be employer or employee driven. Employer-driven procedures require that the employer initiates the process of recruitment by seeking employment authorization.

detailed comparative study to date, completed in 2000 by Christian (2000), covers some 15 countries comparing them in terms of class of admission (type of migrant/business stream), the use of quotas, the type of employment authorization (employer- or employee-based), and application procedures (employer- or employee-based). Rollason (2002) whose main focus is on the United Kingdom, remarks on the comparative features of temporary or permanent programmes in 11 countries in terms of the category of workers, general/specific admissions, tests for the availability of domestic workers, quotas, period of stay and possibilities for renewal, and the permissibility of family reunification. Having constructed major criteria for comparison, however, none of these studies goes on to draw firm conclusions about best practices. Even the regular reporting on policy changes in the OECD's yearly report, *Trends in*

Policy projects exist that advance the creation of international regimes for worker mobility. But in the absence of an umbrella organization for international mobility, and with no agreement probable in the next few years on a harmonized global migration regime, policymakers will continue to need to consider

is flawless as there is rather little agreed-upon in such an attempt. But it seems like a worthwhile venture to the degree that the rankings solidify casual discussion. Twelve countries are chosen, including all of the traditional countries of immigration (Australia, Canada, New Zealand and the United States), the major European receiving countries (France, Germany, Italy, Norway, Spain, and United Kingdom), South Africa and Japan. In a few instances, different programmes within the same country are scored separately. All policies are ranked on the same criteria.

A four point scale is used with a “4” being highly controlled and a “1” being highly competitive; and there are intermediate rankings of minimally (2 points) and moderately (3 points) controlled. Appendix 1 presents notes on the rankings for each of the seven criteria by admission classes and country. The criteria used are described below and the results are shown in the following figures:

1. *Hard numerical caps*—A high score (4 points) is given if admission numbers are fixed and small numbers permitted; declining points are given if numbers are fixed but generous, or there is an ability to periodically adjust numbers, or there are no caps at all.
2. *Strict labour market test*—A high ranking score is given if there is a strong test of the labour market, i.e., a lack of available native workers; declining points are given if employers need only assert good faith, or the government awards points for skills, or applicants are streamlined through pre-determined shortage occupations, or there is no test at all.
3. *Extensive labour protections*—A high score is given if there are stringent requirements on wage hitting and other protections such as no -u goff-c3c]72.8(t)-2s.fonte Tw [(therl.7(i)r2(such ali0 0 sc0.0307 Tw [(s

Figure 2. Ranking of index of controlled/competitive temporary skilled worker programmes

Figure 2

Figure 3. Ranking of the index of controlled/competitive permanent skilled worker programmes

Figure 3 shows the ranking of permanent admission programmes and is similarly based on total points converted into an index with the most controlled nation, Italy here, set to a value of 100. The list is somewhat shorter here because Australia, Germany, and Japan do not have permanent programmes that parallel the temporary ones. South Africa once again is found near the top of the ranking, this time along with Italy. Australia is once again found at the bottom of the rankings along with the United Kingdom, but on permanent programmes Canada is also ranked as being highly competitive. The United States on this ranking of permanent programmes is again not at the top, however, it falls just above the average ranking for all nations. It is interesting that some countries, like Germany, that score as highly controlled in terms of their temporary programmes ranks as fairly competitive on their permanent programmes. This tends to run counter to intuition, but it makes some sense to the degree that transition to permanency first requires a hard-to-get

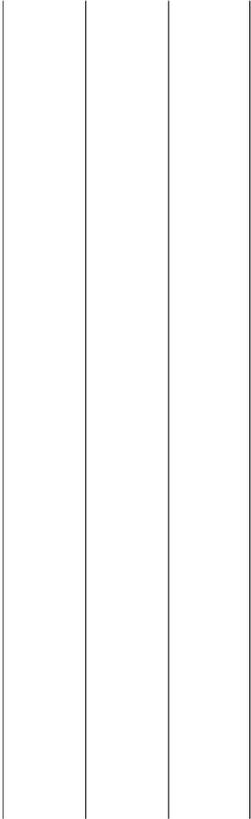
consistency either in national policymaking or in our scoring. The most valuable result, perhaps, is that the rankings highlight that some of the countries that are most successful in selecting/attracting migrants—especially the United States—tend to fall in the middle of the rankings or what one might call “managed.” Otherwise, countries such as Australia and the United Kingdom that have done very well in recent years in selecting/attracting skilled migrants are solidly ranked as having highly competitive policies.

E. EVALUATING SKILLED IMMIGRANT OUTCOMES

In an ideal world, it would be possible to track an ongoing set of measures that capture the relative success of various policy strategies in terms of their outcomes. What is the better way to adjudicate what works and what does not? It is not easy to answer to these questions, although there are the well-known OECD’s reports, *Trends in International Migration*, that compile annually a range of data on various aspects of international mobility of people. In the United States, the National Science Foundation’s data systems on science and technology workers is widely regarded as a rich source of national and international information, although there are serious lacunae in statistics on highly skilled migrants in the country (Lowell, 2001c). Some efforts are underway to improve the international comparability of statistics on various aspects of immigration and its associated outcomes (Åkerblom, 1999; Porter and

the pool of tertiary-educated foreign population, weighted by each country's share of the total population for the countries listed. Hence, Australia, which has explicit policies for admissions of the skilled, is the top ranked country. Note that the United States is the second ranked on this measure. Portugal is on the other extreme. Despite having a very small population, it attracts too few skilled migrants to place it the running with other nations that have more aggressive policies to attract skilled migrants.

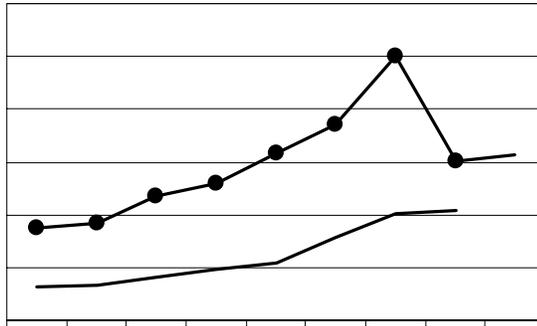
Figure 4. Ranking of the combined index of skilled immigrant competitiveness. 2001



(2) Next, is the the ratio of the employment rate for foreigners relative to that for nationals. This is a more useful measure than that just discussed as it goes some way toward holding constant underlying differences in participation rates. Foreign populations

United States than in Europe and the foreign/national differential is much less.⁷ Compared with European nations, the traditional countries of immigration appear to incorporate tertiary educated migrants fairly well when considering either employment or unemployment rates. And that is likely a fair conclusion, but one that needs some qualification. The reasons for that may lie in policies other than those governing immigration *per se*, but then again immigration policy should take such factors into account. Poor economic incorporation does not benefit either foreign or

Figure 6. Number of temporary work permits issued



Legitimate demand for H-1Bs with special skills, particularly those with graduate degrees, has reinforced less pressing demand by employers who prefer H-1Bs for other reasons.

In the fall of 2003, amid a “jobless” recession, the cap reverted to 65,000 with little debate. From its peak in 2000 the number of employed IT workers dropped by 8.1 per cent. Surprisingly, the drop in employed IT workers made up one quarter of all job losses in the United States in the first year of the recession. The recession, officially starting from the first quarter of 2001 and running through jobless 2003, suggests that H-1Bs may have contributed to an over-heated IT labour market. The first intimation is the historic phase shift of extremely low IT unemployment rates that spiked up to the national average in 2002. The explosive nature of that unemployment implies a surfeit of workers. Surely there was also a surfeit of speculative corporate ventures. By its nature establishing a labour shortage (or over-supply) is

when it supplies a benefit and is facilitated, while it should be carefully managed because there is good evidence of inherent problems.

Yet,, policies are not the sole and, perhaps, not even the primary force attracting skilled migrants. The United States has by this paper's ranking a fairly controlled or "managed" approach compared with

- Work permit requirements should not be onerous—Point systems and other means of facilitating fast admissions are alluring. But any fast track system that lacks a means of dynamic market testing is, ultimately, flawed. Arguably, in a computer age, the lag time that apparently inheres in market testing reflects problems in administrative creativity and management capacity.

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- Temporary programmes that encourage return are a plus for sending countries—As the volume of temporary migration from sending countries increases, so too does the risk of brain drain. Research indicates that high rates of return and circulation are the best way for skilled mobility to stimulate economic development in sending countries; and there are a number of policy options to facilitate return.

These three fundamentals underlie much of the current debate over policies for skilled immigration. The debate starts with whether or not foreign skilled workers are truly needed, when the fact is that the forces of globalization incorporate foreign workers into what have been closed, national labour markets. Legitimate demand, therefore, should be facilitated in terms of the timely processing of immigrant admissions without undue complications and with an optimal administrative process. However, immigrant “facilitators” far too often ignore and even dismiss the fact that immigration is inherently prone to abuse. Immigrants from developing countries, even highly skilled workers, are frequently willing to accept working conditions that native workers will not. And some employers will preferentially hire foreign workers who permit them to undercut the competition. All immigrants should be covered by mechanisms that ensure that native workers are not undercut and that demand is legitimate. Failure to enforce labour conditions and to monitor demand will, in the short run, generate abuses primarily of foreign workers and, over the long run, predictably undermine national workers and public support. And, finally, facilitators often deride temporary programmes because they are purportedly unfair to immigrants, while restrictionists fear that there is no such thing as a temporary migrant. But in the coming two to three decades, the potential supply of (lower-wage) foreign workers will grow ever bigger while competitive forces will reinforce demand. The latent supply and demand for immigrants, absent seismic shifts in public opinion, could easily outpace socially and economically acceptable levels. Temporary programmes offer an alternative—if exacting mechanisms are used to encourage the return of those workers who voluntarily enter into temporary work agreements—to increase the number of foreign workers to optimal

_____ (2003).

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