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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 introd

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

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-

seeking to tap the best brains

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

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 work	kers under sj	pecial schei	nes	
			Upper	Lower	
		High	Middle	Middle	

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.

Table 3	·	C	foreigountries	S		in A	sian	
Country employment	of	1985	199	97	2000		2004 ³	
East Asia ¹			permit umented		ers +	esti	imates	of
Malaysia				1472		800	13	59
Thailand				1126	1	103		

"...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

	Total	100	100
a 5	Other	23.3	24.7
Table 4 OECD: Employment of Foreigners by sectors, 2000-2001 average Percentages of total foreign employment	Public Administra- tion and ETO	4.2	о
s, 2000-	House		1
rs by sector	Health, and other Community services	6.1	6.9
f Foreigne n employm	Education	2.2	3.6
OECD: Employment of Foreigners b	Hotels and Restaurants	10.7	8.3
OECD: Em	Wholesale and retail	12.9	13.8
Table 4 (Pe	Construction	12.2	8.5
	Mining and manufac- turing	26.5	23
	Agriculture and fishing	1.3	1.2
		Austria	Belgium

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. 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.

[&]quot;The lasting effect of the Bracero Program, however, is that it established and institutionalized networks and labor

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). 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 adequate 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, 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

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 be38dm praegnnt .96 Tw[0 TD0

the granting of work permits which tie the foreign worker to a specific employer. 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

Table	6 Rights accorde	ed to migrant wor	kers as reported by co	ountries responding to ILO 20	03 Survey
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Protect Equal treat

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

- 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. 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

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 re

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

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. 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

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²⁶ According to Hugo more than half of all persons granted residence inAustralia in the economic migration categories had an Australian qualification. See Hugo, Graeme "Australian experience in skilled migration" in

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

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- š Special schemes
- š Facilitated entry
- š 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. 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-

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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

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		

	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			

market and certify to the lack of workers. Ge

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 speci

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

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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 Papademitriou, 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.

Table 8 Use of Quotas in Temporary Admission of Migrant Workers

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 form 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, (seal) Tibus Tubes (uldur)-6.9 (va P017u)6.2 (i9 the)

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/stagiares) ILO 2003 Survey

	Number of Bilateral Agreements with States in						Number with Sta		of Bilateral Agreements tes in				
Reporting				a & Carib	erica		Reporting				a & Carib	merica	
country by region	Africa	Asia	Europe	L. America	North America	Oceania	country by region	Africa	Asia	Europe	L. America	North Ame	Oceania
Africa							Asia						
Algeria	3						China g/			1			
Egypt	3	5	4				India		1				

Table 10 France: Key provisions of bilateral agreements							
	Morocco	Tunisia	Turkey	Algeria			
Equal treatment	Х	Х	Х				
Non-discrimination	X	X	X				
Social security	X	X	X				
Transfer of savings	X	X	X				
Right to family reunion	X	X	X	X			
Provision regarding recruitment	x	X	X				

Possibility of taking another job with working conditions according to French law

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 lesserbdai as ones ton (red)

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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

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.

Table 11 Minimum wage condition for grant of work permit								
		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			
		16	11	0	11			

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.

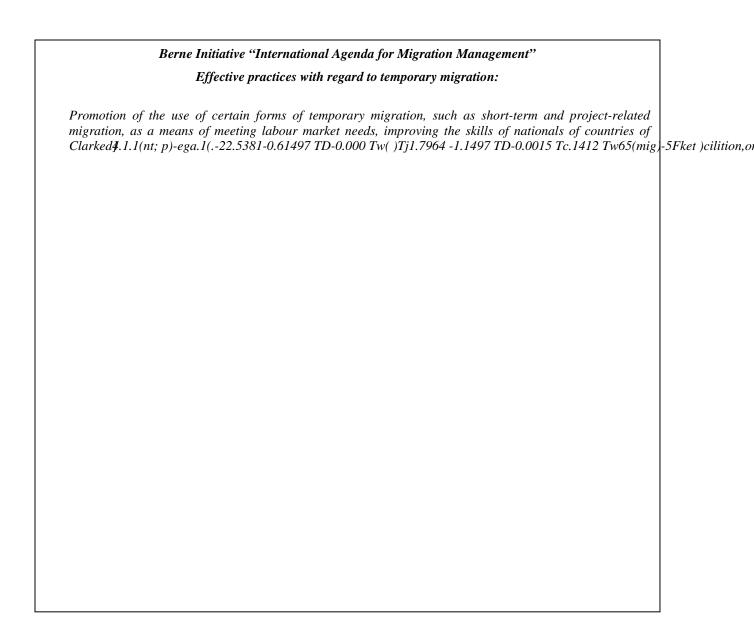
The practical difficulties are many. Responsible national authorities are seldom equipped with staff and resources, and not infrequently with know-how, to ascertain such shortage for skill requirements. Employers may need to employ the foreign workers urgently if they are to employ them at all, but labour 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

of skills training institutions. The Hong Kong La

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 Canadian for certification that they need guest workers because qualified Canadian workers are not available. In the agreement with Mexico workers are guaranteed

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



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

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 ga3999/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

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

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 immigracion) 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.

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.

The settlement of claims however appears to be slow. Only a total of 9 million pesos from guarantee bonds and

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

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 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:

š proper management of labour demand,

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