

ILO Asia-Pacific Working Paper Series

Reaping the economic and social benefits of labour mobility: ASEAN 2015

Philip Martin and Manolo Abella
November 2014



ILO Asia-Pacific Working Paper Series

Reaping the economic and social benefits
of labour mobility: ASEAN 2015

Philip Martin and Manolo Abella

November 2014

Regional Office for Asia and the Pacific

Copyright © International Labour Organization 2014
First published 2014

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

Martin, Philip ; Abella, Manolo

Reaping the economic and social benefits of labour mobility : ASEAN 2015 / Philip Martin and Manolo Abella ; ILO Regional Office for Asia and the Pacific. - Bangkok: ILO, 2014
(ILO Asia-Pacific working paper series, ISSN: 2227-4405 (web pdf))

ILO Regional Office for Asia and the Pacific

labour market / labour mobility / migrant worker / workers rights / social security / interindustry shift / trade agreement / economic implication / economic integration / regional cooperation / ASEAN countries

13.01.1

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland, or ILO Regional Office for Asia and the Pacific, 11th Floor, United Nations Building, Rajdamnern Nok Avenue, Bangkok 10200, Thailand, or by email: BANGKOK@ilo.org. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our website: www.ilo.org/publns or www.ilo.org/asia

Printed in Thailand

Preface

By 2015, the ASEAN Economic Community (AEC), envisioned as a single common market and production base, will become a reality. This will lead to the freer flow of goods, services, investment capital and skilled labour in the region. Tariff and non-tariff barriers will be reduced, which will have implications for intraregional trade and investment. New opportunities for growth and prosperity are likely to emerge, but the challenge is to ensure that growth is inclusive and prosperity is shared.

Ultimately, the success of ASEAN regional integration will depend on how it affects the labour market and therefore how it improves the quality of life of women and men in the region. To prepare for the impact and find the opportunities to seize, the International Labour Organization initiated with the Asian Development Bank a joint study to examine the impact of the AEC on labour. Findings from the series of studies that were initiated are collected in the 2014 publication *ASEAN Community 2015: Managing integration for better jobs and shared prosperity*. That report highlights the challenges and opportunities that will accompany the AEC, including managing labour migration, boosting productivity and wages and improving job quality. The report offers policy recommendations for creating better jobs and ensuring that the benefits of the AEC are equitably shared among different countries and sectors.

The background papers to the joint publication are available as part of the ILO Asia–Pacific Working Paper Series, which is intended to enhance the body of knowledge, stimulate discussion and encourage knowledge sharing and further research for the promotion of decent work in Asia and the Pacific. This paper by Philip Martin and Manolo Abella examines how countries may benefit economically and socially from the labour mobility that is expected with ASEAN integration.

The ILO is devoted to advancing opportunities for women and men to obtain decent and productive work. It aims to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. As countries in the Asia and the Pacific region continue to recover from the global economic crisis, the ILO's Decent Work Agenda and the Global Jobs Pact provide critical policy frameworks to strengthen the foundations for a more inclusive and sustainable future.

Yoshiteru Uramoto
Assistant Director-General and
Regional Director for Asia and the Pacific

Contents

Preface.....	iii
Acknowledgements.....	vii
Executive summary.....	xi
Abbreviations.....	xiii
1. Introduction.....	1
1.1 Trade and migration: theory and evidence.....	2
1.2 Free trade agreements and high-skilled mobility.....	6
2. Overview of free trade agreements and labour mobility.....	8
2.1 Caribbean Community.....	8
2.2 European Union.....	10
2.3 North American Free Trade Agreement.....	12
2.4 General Agreement on Trade in Services, Mode 4.....	14
2.5 Other free trade agreements and labour mobility.....	16
3. ASEAN economic community and labour mobility.....	17
4. Migrant protection issues in ASEAN.....	23
4.1 Irregular migrants in ASEAN.....	24
4.2 Labour law exclusions.....	26
4.3 Unequal treatment.....	27
4.4 ILO fundamental principles.....	28
4.5 Social security.....	29
5. Managing regional labour mobility.....	30
6. Conclusions.....	36
References.....	38

Tables

1. Migration humps: Trade and low-skill migration as complements.....	6
2. ASEAN migration stocks, 2010.....	18
3. ASEAN Share of unskilled workers in bilateral migration flows, 2007 (%).....	20
4. ASEAN: Growth rates of working-age population, 2000–30.....	21
5. ASEAN: GDP per capita, 1990–2010.....	21
6. ASEAN Comparative indicators of labour supply potential.....	22
7. Evolution of employment by occupation: Malaysia and Thailand.....	23
8. Minimum wages in ASEAN, 2012.....	27
9. Ratification of ILO core Conventions by ASEAN countries.....	28
10. ASEAN social security agreements.....	30

Figures

1. Factor price equalization with freer trade.....	2
2. Mexico-US migration hump under NAFTA.....	4

Acknowledgements

The authors are grateful to Sukti Dasgupta, Senior Economist and Head of the Regional Economic and Social Analysis Unit, Nilim Baruah, Senior Migration Specialist, and Manuel Imson, Senior Programme Officer/Project Coordinator of the ASEAN Triangle Project, ILO Regional Office for Asia and the Pacific, for their insights.

Executive summary

The ASEAN Economic Community (AEC) plans more steps towards full economic integration among Member States in 2015, including the free mobility of professionals and highly skilled workers. Economic integration aims to generate inclusive growth and shared prosperity for the 600 million residents and 285 million workers in the ten ASEAN Member States.¹ ASEAN Member States include significant migrant source countries, such as the Philippines, and migrant receiving countries, such as Singapore. Malaysia and Thailand send workers abroad and admit workers from other ASEAN Member States.

As part of a study to inform ASEAN Member States and the ASEAN Secretariat of policies to spur the creation of decent work, protect migrant workers and promote inclusive development, this paper reviews:

- the economic rationale for free trade agreements and their effects on labour mobility;
- labour mobility in free trade agreements in other regions;
- recent trends in labour mobility in ASEAN, major driving forces and the likely impact of the ASEAN Economic Community on labour mobility;
- implications of the AEC for protecting migrant workers; and
- managing regional labour mobility.

This paper offers lessons for labour mobility from the experiences of other regions and, based on that analysis, reaches the following conclusions:

1. The freer flow of goods and capital that can accelerate economic and job growth in AEC Member States may also accelerate intraregional movements in the short to medium term because more technologically advanced producers in richer countries with superior infrastructure, such as Thailand, are likely to become more competitive than producers in the lower-income countries, such as Myanmar, at least until sufficient investments are made in the latter to reduce their initial disadvantages.
2. Two competing forces – path dependence and wage convergence – are likely to shape labour migration as ASEAN Member States develop a single market. Path dependence, such as when firms make decisions that assume they will have continued access to cheap labour, suggests that cross-border movements will continue and perhaps even increase with regional economic integration. On the other hand, wage convergence can, over time, reduce incentives for workers to cross borders. The ASEAN Member States begin the integration era from very different economic starting points, raising questions about whether path dependence could lead to diverging rather than converging growth.

¹ See www.asean.org/communities/asean-socio-cultural-community/category/asean-labour-ministers-meeting [26 Sep. 2014].

3. Migration will continue to be dominated by low-skilled workers because most workers in ASEAN are low-skilled, and the demand for such workers may expand rapidly in countries that benefit immediately from economic integration. Low-skilled migration often increases as

industries restructure in the enlarged regional economy, creating jobs in some places and destroying them in others. Free trade agreements speed up processes already underway, such as rural–urban migration, and may lead to a surge in cross-border movements (a “migration hump”). Anticipating similar migration surges in ASEAN, and slowing disruptive displacements via phased steps towards freer trade, while providing targeted assistance, could help to avoid a backlash against irregular migration.²

4. ASEAN’s goal of creating a more prosperous and inclusive community will be more easily achieved if governments take measures to liberalize and regularize the cross-border movements of labour. The challenge is to open doors wider for low-skilled workers to migrate regularly, so that they are not forced into irregular status which makes them vulnerable to exploitation by employers who can enjoy cost advantages over competing firms who follow the rules. Because many low-skilled workers are already in an irregular situation, bilateral efforts to regularize their status should be a priority.
5. ASEAN countries are already committed to liberalizing the cross-border movement of skilled workers and have concluded several mutual recognition agreements to ensure that credentials earned in one country are recognized in another. The movement of professionals is important in the medium to long terms because more people are expected to move with the increasing flows of foreign direct investment and the growth of intraregional and extraregional trade, especially in complex goods.
6. The key principle to protecting migrant workers is equal treatment in the workplace. The 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers is an important step, but the Cebu Declaration (as it is known) is not legally binding and does not require governments to change their labour laws. Ensuring that migrants enjoy equal protection under labour laws and equal treatment under social security will require national legislation and effective enforcement mechanisms.
7. Demographic realities suggest that the excess demand for labour is structural rather than cyclical. Thus, paths to settlement and integration should be considered in countries receiving migrant workers. Long-term migrant workers should have the right to have their family members join them, and both workers and their families should have access to health care, education and other services as well as the security of a permanent residence status.
8. The increased migration flows likely to accompany the changes wrought by ASEAN 2015 justify more attention to regional cooperation for managing mobility and involving governments, as well as unions and employers’ organizations. ASEAN is likely to require regional coordinating bodies and mechanisms to standardize job requirements and occupational qualifications, a body to adjudicate charges of discrimination and violations of free-mobility

²The Asian Development Bank (2013, p. 35) observed, “The biggest challenge is to better manage and work toward resolving the issue of illegal foreign workers and worker protection... If conflicts become severe, they often lead to immigration bans, which hurt both source and recipient economies.”

rules and a system like the European Union's Erasmus programme to encourage students to study in other Member States.³

About the authors

Philip Martin is Professor of Agricultural and Resource Economics at the University of California, Davis (plmartin@ucdavis.edu) and Manolo Abella is Senior Researcher at Compas at Oxford University (manolo.abella@gmail.com).

The responsibility for opinions expressed in articles, studies and other contributions rests solely with the authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them, or of any products, processes or geographical designations mentioned.

³ Since 1987, the European Union has encouraged the movement of students from one EU country to another via Erasmus Mundus (http://ec.europa.eu/education/external-relation-programmes/mundus_en.htm), which makes small grants to students who spend up to six months in another EU country, and 3 million students moved to another EU country under Erasmus between 1987 and 2013. The amount of the grant is set by national authorities, who are reimbursed by the European Union. In 2012, the average grant was €252 a month. Between 2014 and 2020, the European Union earmarked €15 billion for Erasmus.

Abbreviations

ADB	Asian Development Bank
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Area
ASEAN	Association of Southeast Asian Nations
CARICOM	Caribbean Community
ECOWAS	Economic Committee of West African States
EFTA	European Free Trade Association
EU	European Union
FDI	foreign direct investment
GATS	General Agreement on Trade in Services
LCA	labour condition attestations
NAFTA	North American Free Trade Agreement
TN	NAFTA trade visa

1. Introduction

The Association of Southeast Asian Nations (ASEAN) aims to create a free trade area encompassing almost 600 million people in ten nations.⁴ The Economic Community goal is to eliminate tariffs among the original six ASEAN member States by 2010 and among all ten States by 2015.⁵

The original ASEAN Vision 2020, endorsed by heads of government in 1997, did not mention migration, although it emphasized a “free flow of goods, services, investment and capital”⁶ The Hanoi Plan of Action in 1998 revised the Vision 2020 to call for a “freer flow of skilled labour and professionals in the region”, including the creation of “ASEAN lanes” at ports of entry to facilitate travel by citizens of Member States.⁷ Focal points were designated in each ASEAN Member State to facilitate cooperation to combat irregular migration and trafficking in persons, which was considered essential for the adoption of more liberal policies on regular migration. In 2006, ASEAN leaders agreed to allow nationals among the Member States to enter each other’s countries for visits without visas for up to 14 days.

ASEAN labour ministers have been meeting since 1975, and their Senior Labour Officials Meeting is charged with implementing the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The senior labour officials also deal with safety and health issues (including HIV) in the workplace; but many of the issues affecting labour mobility, such as preventing trafficking and unsafe migration, are the primary responsibility of other agencies, such as home affairs or interior ministries. The workplan of the senior labour officials between 2010 and 2015 includes promoting established practices for protecting migrants’ rights.

As an Economic Community, ASEAN leaders plan to implement freer labour mobility in a top-down fashion, beginning with skilled workers. This stands in sharp contrast with the existing realities – most intra-ASEAN labour migrants are low-skilled workers – and no doubt reflects concerns that the richer countries will be swamped with the immediate freedom of movement for all types of workers. There is already significant intra-ASEAN labour migration, most of it informal, notably from Myanmar, the Lao People’s Democratic Republic and Cambodia into Thailand, from Indonesia and Viet Nam into Malaysia, and from Malaysia, the Philippines and other ASEAN nations into Singapore. Brunei Darussalam also attracts migrant workers.

Manning and Bhatnagar (2004) examined patterns of labour mobility within ASEAN and recommended that freedom of movement begin with the occupations that already have the largest share of migrants,

⁴ASEAN was created in August 1967, and the ASEAN Charter of December 2008 calls for an ASEAN Community by 2015. ASEAN has signed free-trade agreements with Australia, China, India, Japan, the Republic of Korea and New Zealand.

⁵ Average tariffs were reported to be about 2 per cent in 2008, down from 4.4 per cent in 2000 (Pitsuwan, 2009).

⁶ See www.asean.org/news/item/asean-vision-2020 [26 Sep. 2014].

⁷ See www.asean.org/news/item/hanoi-plan-of-action [26 Sep. 2014].

including seafarers, business executives, construction workers and domestic workers. They argued that the ASEAN Economic Community could realistically aim to achieve freedom of movement for professional, business and skilled workers by 2020 (Pitsuwan, 2004).

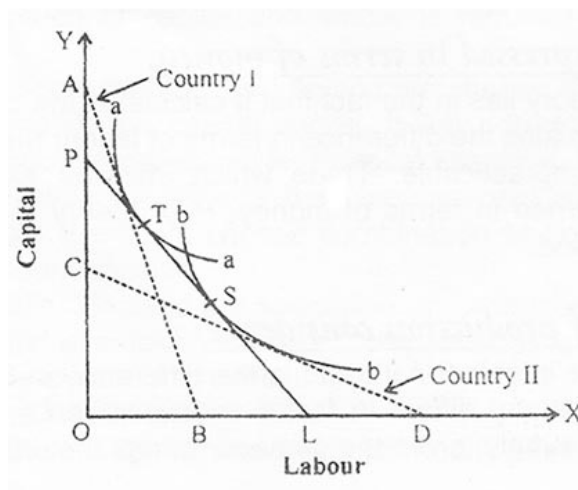
1.1 Trade and migration: Theory and evidence

The factor-price equalization theorem assumes that there are two countries, C1 and C2, producing two goods, G1 (shown as a in Figure 1) and G2 (or b), using two inputs: capital and labour. If G1 is a capital-intensive good and G2 is a labour-intensive good and the price of capital relative to labour is lower in C1 than in C2, then C1 is the capital-intensive country and C2 is the labour-intensive country.

Comparative advantage posits that countries export primarily commodities that require intensive use of their relatively cheaper factors. Thus, capital-intensive country C1 should export mostly capital-intensive good G1 to country C2, while labour-intensive C2 should export labour-intensive good G2 to country C1. Figure 1 shows that freer trade will encourage country C1 to specialize in producing good G1 (or a), which is the capital-intensive good, and exporting it to country C2, which produces more good G2 (or b), the labour-intensive good, and exports it to country C1.

With trade (and continuing with the graphing of it), the factor-price line for C1 (which is AB in Figure 1) rotates counterclockwise over time, reducing the price of capital, and the factor-price line for C2 (which is CD) rotates clockwise. In equilibrium, there is a new common factor-price line (PL) tangent to the C1 isoquant at T and tangent to the C2 isoquant at S. Different endowments of capital and labour mean that C1 should continue to produce and export capital-intensive goods and C2 should produce and export labour-intensive goods.

Figure 1. Factor price equalization with freer trade



Source: Authors.

Over time, this trade pattern – the higher-wage capital-intensive country exporting capital-intensive goods and importing labour-intensive goods from the lower-wage labour-intensive country – should narrow the differences in the cost of capital and labour (wages) in the two trading countries (Mundell, 1957). And that pattern should thereby reduce economic incentives to migrate from the lower-wage country to the higher-wage country. Freer trade thus acts as a substitute for international labour migration, with capital-intensive countries specializing in producing capital-intensive goods and labour-intensive countries specializing in producing labour-intensive goods (Samuelson, 1948).

Factor-price equalization embodies a number of assumptions that may not hold in particular trading relationships, which explains why “factor-price equalization is a real-world rarity” between low-wage and high-wage trading partners (*The Economist*, 2012). A quick look at five of these assumptions in the context of trade and migration between Mexico and the United States after the North American Free Trade Agreement (NAFTA) went into effect in 1994 shows how trade and migration between low-wage and high-wage countries can be complements rather than substitutes, producing a temporary increase in migration or a migration hump (Martin, 1993).⁸

One critical assumption of the trade-as-a-substitute-for-migration classical model is that the two trading countries share the same production functions or technologies. However, if the basis for trade is a difference in technologies across borders instead of each country’s endowment of capital and labour, migration and trade may be complements. If tractors plough corn fields in the United States and oxen pull ploughs in Mexico, trade theory assumes that the reason for this difference is that Mexico has more labour and lower wages – not that tractor technology is unavailable to small farmers in Mexico. In other words, the differences in the labour and capital intensities of production in the two countries are due solely to differences in their factor endowments. In this scenario, US farmers have higher capital–labour ratios than Mexican farmers because capital is cheaper in the United States and not because Mexico’s rural poor lack access to tractors.

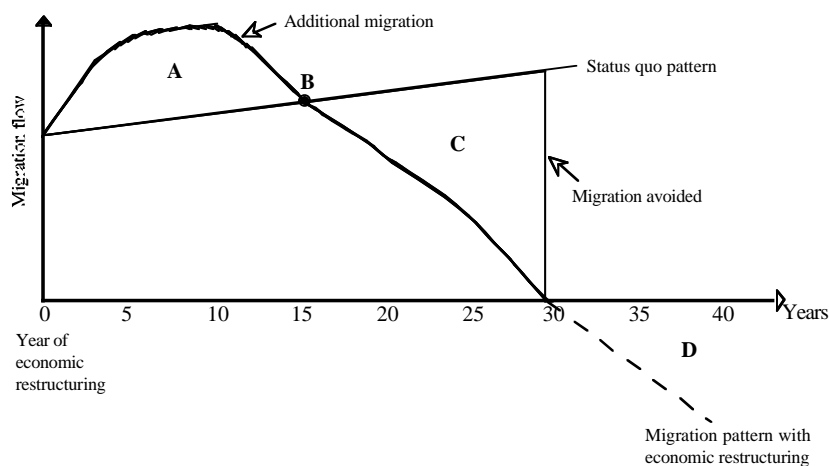
When NAFTA went into effect in 1994, about 30 per cent of Mexicans were employed in agriculture, and corn was the major crop of more than half of Mexico’s farmers. Iowa, the leading US corn-producing state, which accounted for about 20 per cent of US corn, produced twice as much as Mexico and at about half the price. Prior to NAFTA, the Mexican Government’s agricultural policy aimed to reduce rural poverty by offering higher-than-world prices for corn. But these price subsidies benefited primarily larger farmers who produced a surplus to sell and not the small corn farmers who dominated the ranks of Mexico’s rural poor. NAFTA’s free-trade provisions required Mexico to reduce protections for its labour-intensive corn-farming sector. Freer trade in corn opened new export markets for capital-intensive US corn farmers, but hastened the demise of labour-intensive Mexican corn farmers, some of whom had migration links to the United States at a time when US unemployment was low. One result was the so-called Mexico–US “migration

⁸ Canada and the United States entered into a free trade agreement in 1989; thus, the addition of Mexico with NAFTA in 1994 primarily reduced trade and investment barriers between Mexico and the United States, where wage differences were about 1:8 in the early 1990s.

hump” in the late 1990s, during which time trade with Mexico and the migration of low-skilled Mexicans to the United States increased together (Martin, 1993).⁹

The migration hump pictured in Figure 2 shows that more Mexicans migrated to the United States as NAFTA was implemented. This additional migration due to freer trade is shown as area A, or the extra migration due to freer trade that would not have occurred in the absence of NAFTA. However, the freer trade and more investment also spurred economic growth in Mexico, and many of the children of displaced farmers who received more education than their parents found jobs in the Mexican factories and businesses that were created as a result of NAFTA. In Figure 2, the additional migration associated with freer trade falls after 15 years and, after another 15 years, the out-migration country becomes a net migration destination. It is too soon to know if this timing applies to the Mexico–US case, but net Mexico–US migration was minimal in the 2008–10 period (*The Economist*, 2012).

Figure 2. Mexico–US migration hump under NAFTA



Source: Martin, 1993.

The migration hump conclusion that deeper economic integration can speed economic and job growth and temporarily increase migration was used as an argument for and against NAFTA. Unions that opposed NAFTA pointed to more unauthorized migration, while trade specialists and then-President Bill Clinton argued that freer trade and investment was the only sure policy to stimulate the economic growth in Mexico, which was needed to reduce Mexico–US migration over time.

⁹ A million Mexicans lost jobs in 1995. Two-thirds of Mexican farmers questioned in a survey reported that their incomes had been reduced by a NAFTA-induced influx of corn, processed meat and milk products that lowered the prices they received for farm products in Mexico. That same year, an estimated 800,000 Mexicans entered the United States, mostly irregularly.

A second reason why trade may not be a substitute for migration between low-wage and high-wage countries is because the differences in factor productivity that lie at the core of comparative advantage may arise from infrastructure and other public goods rather than factor endowments. In an extreme case, a labour-intensive country, such as Mexico, may not have a comparative advantage in producing some labour-intensive goods, despite low wages, because a lagging infrastructure makes it too expensive to send inputs to available workers and finished products out of the country. In such cases, it can be more efficient for US producers of labour-intensive goods to import low-wage Mexican workers and take advantage of the superior US infrastructure so that migration increases alongside trade.

An example is the migration of Mexican shoe workers to Los Angeles in the 1980s, resulting in more US shoe production and falling Mexican shoe exports, despite a peso devaluation that should have stimulated Mexican shoe exports. Migration became a complement to freer trade in shoes because of economies of scale: Increased shoe production in Los Angeles lowered the costs of production and encouraged expansion. Gerking and Mutti (1983, p. 375) suggested that the movement of low-skilled workers to higher-wage countries also draw capital from lower-wage to higher-wage countries. If this occurs, wages may fall more in migrant-sending than in migrant-receiving countries and wage differences may increase.

Standard trade models assume complete markets with perfect information and no transactions costs. Rural areas in Mexico and other low-wage countries often lack well-functioning banking and insurance markets, making it hard for farmers who want to take advantage of new opportunities that are opened by freer trade to obtain capital to expand or experiment with new crops that become more profitable. In such cases, migration to a higher-wage country may provide the fastest way to obtain additional capital, cope with natural disasters or earn money to repay unexpected health and related expenses.¹⁰

Trade and migration also can be complements for other reasons, including transactions costs. Information and transportation costs normally fall as trade and migration increase, as deeper economic integration lowers the cost of communication between two countries by augmenting communication networks and increasing the number of bilingual residents. More trade and investment can also raise the density of transport links and lower transportation costs for ever larger flows of goods and people.

The so-called new economics of labour migration has developed other reasons why migration may increase alongside more trade and rising incomes in the poorer country (Taylor and Martin, 2001). One reason is relative deprivation, which occurs when a successful migrant returns from working abroad and uses accumulated savings to buy a television or household appliances, encouraging other families to send members abroad so that they, too, can afford these items. Some of the reasons for a migration hump are summarized in Table 1.

¹⁰ Surveys of Mexican migrants in the United States found that a significant share of young men migrated across the border to earn the money needed to repay loans that were incurred by their families to deal with health and similar emergencies.

Table 1. Migration humps: Trade and low-skill migration as complements

Theoretical rationale	Complementarity between trade and migration in the short run	Substitutability between trade and migration in the long run	Reason for larger migration hump
Technologies differ	Labour-intensive production in developing countries cannot compete with capital-intensive production in industrial countries	Production of goods in developing countries has a comparative advantage generates jobs.	Poor infrastructure and public services may retard new job creation.
Factor productivity differences	Wage differences are insufficient to create comparative advantage in labour-intensive production in developing countries	Public investment in education and infrastructure closes the productivity gap.	Public policies fail to close the productivity gap over time.
Economies of scale	Industries using migrant labour industrial countries expand, lowering costs of production, and the South cannot compete.	Public investment in education and infrastructure in developing countries closes the productivity gap.	Public policies fail to counteract scale economies in migrant-intensive industries in industrial countries.
Adjustment lags and costs	Lags exist between economic integration and job creation. Factor specificity: For example, displaced corn farmers were not hired as factory workers, so the loss of subsidies prompted their emigration.	Economic integration creates jobs in developing countries, especially for better educated younger workers most prone to migrate.	Poor public services discourage investment, extend the investment-employment lag and fail to overcome factor specificity problems.
Market failures	New jobs in developing countries provide the funds to undertake risky migration.	New jobs and factor market development offer alternatives for migration.	Limited employment expansion cannot provide sufficient attractive alternatives to migration, due to the above.
Migration networks	By minimizing migration costs and risks, networks increase the likelihood that the short-run deterioration of employment and wages in developing countries become manifested as new migration. Given a short-run increase in migration, networks accelerate migration effects.	Diminishing returns to migration networks combines with increasing opportunities from trade reform in the migrant-sending country.	Diminishing returns to networks and/or slow employment and income growth are absent in a sending country.
Relative deprivation	Short-run increases in income disparities caused by trade reforms stimulate migration as a means to reduce relative deprivation.	Broadened access to market opportunities and/or migration eventually reduces relative deprivation and associated migration pressures.	Unequal access to income opportunities persist in a migrant-sending country.

Source: See text.

1.2 Free trade agreements and high-skilled worker mobility

There are three major reasons why freer trade and investment are associated with more migration of highly skilled professionals: complex goods, movements linked to multinational enterprises and foreign investment.

First, increased trade in complex goods (those that require specialized and customized inputs and are often tailored to the needs of particular buyers) usually require the seller to educate the buyer before the sale and

to provide services after the sale. Complex goods are often in use for years or decades, requiring the manufacturer to have an ongoing relationship with the buyer. Research suggests that sales of complex goods are greatest between countries with strong institutions, including enforceable contracts and migration laws that facilitate the movement of professionals (Ma, Qu and Zhang, 2012). Much of the professional migration linked to the sale and service of complex goods may be short term, as foreign specialists help potential customers to understand the benefits of the product and then service it after installation. However, complex goods produced in one country and sold in another, such as with airplanes and automobiles, can lead to the establishment of sales and service offices in countries where such items are bought, which can reduce migration over time if local professionals eventually replace migrants.

The second reason for more migration of professionals is the spread of multinational enterprises, which by definition operate in more than one country. Most want to move managers and skilled professionals between their subsidiaries abroad so that the techniques that ensured success in one country can be transferred to another (such as “just-in-time” inventories in manufacturing). As with sales and service, foreign professionals may be replaced eventually by locally trained managers; but some multinational enterprises continue to rotate managers and professionals among their operations in various countries to provide future leaders with experience in all of the firm’s operations.

Investors may also want to live to the country in which they are investing or send managers and professionals to begin operations there. The expectation of profit is the major criterion, but an easy-entry visa is often a key part of an investor’s decision about whether and how much to invest in a particular country. Not all investors have an operation in their own country, which helps explain why some countries have investor visas that provide probationary and eventually settler visas to foreigners who invest at least a certain amount and create or preserve a certain number of jobs.

Most of the issues linked to the migration of professionals have been in migrant-sending rather than migrant-receiving countries. The major issue is the brain drain, or the fear that poorer countries lose “too many” professionals educated at government expense to richer countries of destination. During the 1960s and 1970s, there were calls for richer countries to compensate poorer countries for the professionals they accepted as immigrants (Bhagwati, 1976). More recent analysis suggests that sending professionals abroad can accelerate development at home via remittances and the return of new ideas and skills, so there can be a “brain gain via a brain drain” for migrant-sending countries (Boeri et al., 2012).¹¹

There was some concern in Canada about Canadian professionals entering the United States with the easy-entry trade visa created by NAFTA (TN) for professionals in more than 70 occupations. The number of Canadians entering the United States with the TN visa almost quadrupled between 1995 and 2000, reflecting the relatively weak Canadian dollar and significantly higher US wages, and prompted calls in

¹¹ In 2000, there were about 12 million migrants with post-secondary (tertiary) education from developing countries living in countries of the Organisation for Economic Co-operation and Development (OECD), plus 8 million tertiary-educated migrants from other OECD countries. The 20 million tertiary-educated migrants were about 11 per cent of the estimated 182 million workers in OECD countries with tertiary education.

Canada to lower relatively high taxes to reduce the brain drain to the United States. However, Globerman's (2002) survey of Canadian and US firm executives on why they thought Canadian professionals migrated found little evidence that high taxes drove professionals from Canada or lower taxes attracted them to the United States. Instead, "career development opportunities" and "intra-corporate transfers related to trade and investment adjustments" were found to be the major reasons for Canadian professionals moving south across the border.

2. Overview of free trade agreements and labour mobility

There are at least 20 major multilateral free trade agreements and an even longer list of bilateral free trade agreements.¹² This section highlights a few. The major purpose of such an agreement is to free up trade in goods and flows of investment between participating countries. But many agreements also include provisions aimed at expediting the entry of business investors, service providers and sometimes workers employed for wages in an agreement's partner country. Most free trade agreements include contiguous or neighbouring countries, and some aim to be more than simply free-trade areas, as with the European Union.

2.1 Caribbean Community

The Caribbean Community, or CARICOM,¹³ is an organization of 15 nations and dependencies created by the 1973 Treaty of Chaguaramas that aims to promote economic integration, including freedom of movement, between member States.¹⁴ The population of CARICOM was about 6.5 million in 2000, but three countries represented almost three-fourths of CARICOM's residents – Jamaica, at 40 per cent,¹⁵ Trinidad and Tobago, at 20 per cent, and Guyana, at 12 per cent.

¹² For a listing of the operating and proposed multilateral free trade agreements, go to http://en.wikipedia.org/wiki/List_of_free_trade_agreements [accessed 26 Sep. 2014] and for a listing of bilateral free trade agreements, go to http://en.wikipedia.org/wiki/List_of_bilateral_free_trade_agreements [accessed 26 Sep. 2014].

¹³ See www.caricom.org [accessed 26 Sep. 2014].

¹⁴ The treaty establishing the Caribbean Community and Common Market was signed at Chaguaramas, Trinidad and Tobago in July 1973. CARICOM members are Antigua and Barbuda, Barbados, Bermuda, the Bahamas, Belize, Dominica, St. Lucia, St. Vincent and the Grenadines, Grenada, Trinidad and Tobago, Jamaica, and Guyana.

¹⁵ Jamaica has a very high emigration rate – about 20,000 people a year, almost 1 per cent of its 2.6 million residents, are accepted as immigrants each year, 80 per cent by the United States. Short-term, seasonal movements to the United States are even more common. Lucas and Chappell (2009, p. 4) reported that 15 per cent of Jamaican households had a member who was outside the country, and 28 per cent had a returned migrant.

The CARICOM Single Market and Economy treaty went into effect 1 January 2006.¹⁶ The single market component includes freedom of movement of goods, services, capital, business enterprises¹⁷ and skilled labour.¹⁸ A Protocol on the Contingent Rights of Skilled CARICOM nationals was signed on 1 January 2006, but it has not yet been integrated into national legislation. According to the treaty, family members of skilled migrants are to have access to education on the same basis as nationals and access to emergency health care, but it is not clear how easy such access is in practice.

CARICOM began the freedom-of-movement process at the beginning of 1996 with five types of workers: graduates of approved universities,¹⁹ media workers, musicians, artists and sports persons certified by national professional bodies, with free mobility to be extended later to three more occupations – teachers, nurses and domestic workers (Girvan, 2007). The mobility for domestic workers became effective on 1 January 2010; however, Antigua and Barbuda, and Belize were allowed to delay it for up to five years to allow time to study its socio-economic impacts.

The treaty allows that those wanting to move between CARICOM Member States to work must first obtain a Certificate of Recognition of CARICOM Skills Qualification, usually from their home country's labour ministry, and present it to immigration authorities upon arrival in another CARICOM Member State. They receive a six-month work-and-residence permit while the certificate is reviewed. After their credentials are verified, CARICOM nationals are to receive an indefinite work-and-residence permit from the host government. CARICOM recognized the importance of skills certification and social security transferability for wage earners and created a register of the self-employed, although progress in achieving full transferability of social security benefits has been slow.

CARICOM governments are committed to establish mechanisms for certifying and establishing the equivalency of degrees and credentials earned in member States. Skills certificates issued in one CARICOM Member State are to be recognized automatically in others (mutual recognition), and dependants of migrants with skills certificates have the right to move with the certificate holder and work without having to obtain a work permit. However, as of July 2009, only Barbados and Trinidad had national accreditation bodies to establish the equivalency of degrees and diplomas earned in other CARICOM Member States. A register listing self-employed service providers is to be developed so that self-employed persons can move between CARICOM Member States to provide services that are in demand. Migrant service providers have the right to have their family members accompany them.

¹⁶ Barbados, Belize, Jamaica, Guyana, Suriname and Trinidad and Tobago were the first full members; they were joined by Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines in July 2006.

¹⁷ Since January 2006, CARICOM nationals have had the right to establish a business in any Member State and be treated as a national of that State; their families are allowed to join them.

¹⁸ The Bahamas will not join the single market because of its free-movement provisions, although many CARICOM nationals are employed in the Bahamas.

¹⁹ The University of West Indies began as an external college of the University of London in 1948 and became fully independent in 1962. Today it has about 39,000 students on three campuses: Cave Hill, Barbados; Mona, Jamaica; and St. Augustine, Trinidad. There is also an open campus, and the university graduates about 5,800 students a year.

Implementing the freedom of movement has not been smooth, as illustrated by conflicts between Barbados and Guyana. Barbados, with about 275,000 residents and a per capita gross national income (GNI) of US\$25,000 (at purchasing power parity (PPP)) in 2013, is much richer than Guyana, which has about 750,000 residents and a per capita GNI of US\$7,900 at PPP. About 120,000 Guyanese arrived in Barbados in 2008, and some worked without proper documentation. In June 2009, Barbados began a six-month legalization programme for CARICOM nationals who had arrived before 31 December 2005, had lived in Barbados at least eight years and underwent a criminal background check; this legalization was accompanied with stepped-up enforcement (Ferguson, 2009). The enforcement crackdown drew complaints from Guyana, and Barbados responded with plans for an expanded guest worker programme. However, many supporters of faster CARICOM integration decried the legalization and enforcement campaign in Barbados.

It is still too early to assess the impact of the creation of a single CARICOM market on trade and migration. Over the past two decades, intraregional trade has fluctuated and, with a few exceptions, still represents a small proportion of exports and imports. Intraregional imports as a share of total imports for CARICOM as a whole, for example, were a tenth of total imports between 1995 and 2004. The share of intraregional exports to CARICOM's total exports increased from 16.5 per cent in 1994 to 21.5 per cent in 1998 but was down to 13.4 per cent in 2004 (CARICOM, 2005).

2.2 European Union (EU)

Freedom of movement of goods, capital, workers and services was a founding principle of the then-European Economic Community in 1957, which provided for free labour mobility for employees in articles 48–51 of the Treaty of Rome and for the self-employed in articles 52–58. The Treaty on the Functioning of the European Union and developed by secondary legislation specifies that EU citizens are entitled to:

- look for a job in another EU country;
- work there without needing a work permit;
- reside there for that purpose;
- stay there even after the employment has finished; and
- enjoy equal treatment with nationals in access to employment, working conditions and all other social and tax advantages.

In addition, “certain rights are extended to family members of the worker ... the right to live with the worker in the host Member State and the right to equal treatment as regards, for example, education and social advantages. Some members of the family have also the right to work there” (European Commission, undated). EU nationals employed at least five years continuously in another Member State automatically acquire the right to permanent residence in that State.²⁰

²⁰ The European Free Trade Association (EFTA), established in 1960 by seven then non-members of the European Economic Community, today has four members: Iceland, Liechtenstein, Norway and Switzerland. There is limited freedom of movement

There are several important limitations on freedom of movement in the European Union. First, EU Member States may restrict jobs in the public sector that involve the exercise of national sovereignty to their own nationals, although the privatization of railroads, airlines and other industries as well as court decisions have reduced the number of jobs that are off-limits to other EU nationals. Second, existing EU Member States may choose to restrict freedom of movement for the nationals of new Member States for a certain period.²¹

Posted workers, workers employed by a firm in one EU Member State and posted or sent to work in another have caused controversy. Under the freedom to provide services, employers based in one EU State may win a contract in another and send employees over borders to “service the contract”, which often means constructing or refurbishing a building or working in a factory or service business. The European Commission in 2008 estimated that a million workers were “posted” to an EU Member State of which they were not a citizen (*Migration News*, 2008). Some of the richer EU Member States fear “social dumping” (*Migration News*, 1997) or an influx of posted workers from poorer States that can put downward pressure on wages. To avoid a decline in wages, national governments are allowed to require that posted workers be paid at least the local minimum wage, if there is one, prompting more EU countries, 21 of 27 in 2009, to adopt national minimum wages.

Germany does not have a national minimum wage; subcontracting in construction that includes the posting of workers from lower-wage EU Member States to Germany has caused controversy. Germany’s 1949 Collective Bargaining Act allows the federal Government to “extend” the wages negotiated between unions and employers that cover at least 50 per cent of workers in a sector to all employers and workers in a sector. After firms in lower-wage EU Member States posted their employees, paying at home-country wages plus a bonus during the reunification boom of the mid-1990s, Germany reacted with an Employee Posting Act (*Arbeitnehmer-Entsendegesetz*) in 1996 that required employers of EU nationals posted to Germany to pay at least the negotiated minimum wage. The state of Lower Saxony and most other German government entities required firms bidding on public projects to pay all workers at least this negotiated wage. However, a contractor building a prison in Goettingen used a Polish subcontractor and 53 posted Polish workers for part of the project; the Polish workers were paid less than half of the local union wage. In April 2008, the European Court of Justice ruled that EU member governments could require posted workers to receive local minimum wages but only if the minimum wages applied to all workers, not just those employed in public

between the European Union and EFTA. For example, the Swiss Government in April 2013 announced that it would limit the number of long-term residence permits for EU nationals from the 15 long-term EU members to 53,700 for 2013, and the number for nationals of the so-called A8 countries that joined the EU in 2004 to 2,180.

²¹ For example, Italians had to wait ten years before they received freedom of movement rights (until 1967), and Greeks, Portuguese and Spaniards had to wait seven years. However, there were no restrictions on freedom of movement for UK nationals, Austrians, Swedes and other later EU entrants of the so-called “EU-15”. When the ten Eastern European countries joined the European Union in 2004, and when Bulgaria and Romania joined in 2007, existing Member States were allowed to restrict the freedom of movement employment for the nationals of new Member States up to seven years, although they had to justify to the European Commission their reasons for doing so. Only the United Kingdom, Ireland and Sweden gave so-called EU-8 nationals immediate freedom of movement in 2004, with the result that far more Poles and other Eastern Europeans moved to the United Kingdom and Ireland than projected. Fearing the same, none of the EU-15 Member States allowed Bulgarians and Romanians to move freely to seek jobs when these countries joined the European Union in 2007.

projects (*Migration News*, 2008). The Court's decision highlights the fact that controversy over intra-European Union labour mobility continues.

In the early 2000s, the European Commission and many EU leaders argued there was too little intra-European Union labour migration, prompting²⁵ recommendations in February 2002 to increase such labour migration. The then-Social Affairs Commissioner Anna Diamantopoulou highlighted four priorities to increase labour market flexibility and mobility:

- find the correct link between the education system and labour markets;
- overcome the problem of mutual recognition of qualifications and work experience;
- facilitate the transfer of pension and health rights between Member States; and
- speed up the implementation of the European Union's common policy on immigration.

The European Commission has continued to work to reduce obstacles to freer movement, which it noted (2007, p. 2) "range from legal and administrative obstacles, housing costs and availability, employment of spouses and partners, portability of pensions, linguistic barriers, and issues on the acceptance of qualifications in other Member States."

The flows of migrants to the European Union 15²² from the eight new Member States from Central and Eastern Europe, which joined the European Union in 2004, rose from about 900,000 persons before enlargement to about 1.9 million in 2007 (EIC, 2009). Over the same period, the number of Bulgarians and Romanians in the European Union 15 increased from about 700,000 to almost 1.9 million. The flows have since subsided for most countries, with a few notable exceptions. The Romanian population in Germany, for example, almost doubled, from 84,600 in 2007 to 159,200 in 2011; and in the United Kingdom it quadrupled, from only 19,000 in 2007 to 79,000 in 2011 – despite the rapid economic growth of the country during this period.

2.3 North American Free Trade Agreement

NAFTA, which went into effect in 1994, aimed to free up trade and investment between Canada, Mexico and the United States. Canada and the United States already had a free trade agreement, as of 1989. Canada and Mexico are the top-two trading partners of the United States, and several industries, particularly automobiles, have developed closely integrated production systems spread over the three countries. Automobile production is a showcase for the trade and investment promises of NAFTA because automobiles that have at least 62.5 per cent North American components can be sold freely in the three partner countries.

²² The reference for the so-called "older" Member States.

Of NAFTA's 22 chapters, chapter 16 on Temporary Entry for Business Purposes²³ facilitates the entry of Canadian and Mexican business visitors, traders and investors, intracompany transferees and "specified professionals". The free mobility provision covers:

- business visitor, who is primarily paid in their country of residence;
- a treaty trader or investors, who is an executive or supervisor moving to the country to engage in trade or manage an investment;
- an intra-company transferee, who is a manager or worker with specialized knowledge moving to a branch of a multinational to provide services; and
- NAFTA professional, who is a person with at least a first university degree in more than 70 occupations who have a job offer from an employer in the NAFTA country they are seeking to enter.²⁴

The United States is the major destination for NAFTA-related business visitors (Martin, 2011). The first three groups of NAFTA-related migrants could enter the United States with visas that existed before NAFTA went into effect: Business visitors could use the B-1 visa, treaty traders and investors could use the E-1 and E-2 visas and intracompany transferees of multinationals could use the L-1 and L-2 visas.

NAFTA created the NAFTA trade visa (the TN) for the fourth group, NAFTA professionals. It allows US employers to make job offers to Canadians and Mexicans who have college degrees and are coming to the United States to fill jobs that require college degrees. There has never been a quota on the number of TN visas available for Canadians, but there was a 5,500 a year quota on TN visas available to Mexicans between 1994 and 2004.

There are separate procedures for issuing TN visas to Canadians and Mexicans. Canadian professionals can receive renewable three-year TN visas at US ports of entry by showing a qualifying job offer from a US employer and providing proof of their bachelor's degree and Canadian citizenship. Mexicans, by contrast, must obtain TN visas at US consulates in Mexico before departing for the United States. US employers seeking TN visas for Mexicans file the same labour condition attestations (LCAs) that are filed by employers seeking H-1B workers,²⁵ and the Mexicans designated in approved LCAs take their qualifying US job offer and proof of their bachelor's degree to a US consulate in Mexico to receive a three-year TN

²³ The text of Chapter 16 is available at http://tcc.export.gov/Trade_Agreements/Exporters_Guides/List_All_Guides/NAFTA_chapter16_guide.asp [26 Sep. 2014].

²⁴ The list of professionals covered by NAFTA Appendix 1603.D.1 is at <http://canada.usembassy.gov/business/doing-business-in-america/professions-covered-by-nafta.html> [26 Sep. 2014].

²⁵ The H-1B visa programme allows US employers to request H-1B visas for foreign professionals to enter the the United States to fill jobs in specialty occupations, defined as those that require "require theoretical and practical application of highly specialized knowledge to perform fully" and at least a bachelor's degree or its equivalent; fashion models of distinguished merit or ability may also be sponsored by employers for H-1B visas. The list of qualified occupations includes accounting, computer occupations, engineers, financial analysts, health care professionals, architects and lawyers. See www.foreignlabourcert.doleta.gov/h-1b.cfm [26 Sep. 2014].

visa. Unlike the H-1B visa, the TN visa does not allow dual intent to work and immigrate, that is, applicants for TN visas must show that they intend to return to Canada or Mexico.

The number of Canadian professionals entering the United States with a TN visa almost quadrupled between 1995 and 2000 but fell after the IT-bubble burst in 2000, to fewer than 60,000 a year in 2003 and 2005. Many of the Canadians moving to the United States during the late 1990s were nurses, prompting criticism and new US testing requirements that sharply limited the influx (Gabriel, 2008). Admissions of Canadian TN visa holders increased to almost 70,000 a year recently but are still below the 90,000 a year level of 2000. The number of Mexican entries rose even faster, but from a very low base, doubling between 2006 and 2008 to almost 20,000 a year. The number of admissions of spouses and dependants, who receive TN visas and do not obtain a derivative right to work because of their relationship to a TN visa holder have fluctuated between 12,000 and 22,000 a year.²⁶

There is little controversy about the entry and employment of Canadian and Mexican TN visa holders in the United States, although Canadians complain because their dependants do not automatically receive the right to work in the United States. The movement of Americans to Canada and Mexico with a TN visa has been limited, but the oil shale boom in Alberta contributed recently to the movement of 35,000 American workers a year, across the northern border (Lopez, 2012).

Mexico–US trade increased from US\$88 billion in 1994 to US\$350 billion in 2001, but migration, both regular and irregular, rose, from about 300,000 to more than half a million a year (*Migration News*, 2003). The number of Mexicans living undocumented in the United States was estimated to have shot up, from 2.5 million in 1995 to 11 million in 2005, thanks to a booming US economy. Migration from Mexico started after 2007 due to the 2008–09 recession and the boom in Mexican manufactured exports, notably automobiles, to the United States. Mexican exports of manufactured goods to its two NAFTA partners rose to US\$146 billion in 2009, 16 times more than its exports to the two countries in 1990. These trends suggest that NAFTA has finally started to have an impact on migration through its effects on trade, albeit almost two decades later.

2.4 General Agreement on Trade in Services, Mode 4

Negotiations at the global level to liberalize trade in services under the auspices of the World Trade Organization (WTO) have direct implications for the cross-border movements of workers. There are four major modes, or ways, to provide services across national borders: cross-border supply (Mode 1),

²⁶ It is hard to compare Canadian and Mexican experience with TN visas because the regulations differ, making the data hard to interpret. Canadians are admitted by Department of Homeland Security's (DHS) Customs and Border Protection Agency at ports of entry, while Mexicans receive visas from Department of State (DOS) consulates in Mexico. In FY2009, DHS reported 99,000 admissions of TN-visa holders and DOS issued 6,614 TN visas to Mexican workers, but Department of Homeland Security's admissions data count entries, so a Canadians with a TN visa is recorded each time they enter the US. DOS visa issuance data, by contrast, refer to unique individuals, making admissions not comparable with visa-issuance numbers.

consumption abroad (Mode 2), foreign direct investment (FDI) or commercial presence (Mode 2) and temporary movement of “natural persons” (Mode 4). Rules for trade in services, which totalled US\$3.3 trillion in 2009, are negotiated under the General Agreement on Trade in Services (GATS), potentially putting the movement of service provider workers under the purview of the WTO.

Mode 4 movements of service providers can be substitutes or complements to the other types of trade in services. For example, accountancy services can be provided online (Mode 1) rather than by sending an accountant abroad to audit financial statements (Mode 4), or the client could travel to the country where the service provider is located to receive services (Mode 2). Similarly, an IT service provider could visit a client abroad (Mode 4) or provide services to foreign clients via the Internet (Mode 1).

Mode 4 remittances are less than 10 per cent of the total trade in services, but could be much larger if all sectors were opened to foreign service providers by making horizontal commitments the norm. Opening doors to service providers under GATS has been hindered by the fact that under WTO rules, commitments offered under GATS should be extended to all WTO members, which makes countries in freedom-of-movement zones, such as the European Union, reluctant to make extensive commitments. Additionally, many Mode 4 commitments are unbound, meaning there is no opening or they provide a partial opening (as with unbound, and then on an “except for” list). The most extensive GATS free-movement commitments are for business visitors and intracorporate transfers (Martin, 2006).

Migrant-sending countries want to liberalize Mode 4 movements by obtaining commitments from migrant-receiving countries in four major areas. First, developing countries want industrialized countries to eliminate the economic needs tests that receiving countries often use to determine if foreign workers are needed, usually by requiring their employers to search first for local workers. Second, developing countries want industrialized countries to expedite the issuance of visas and work permits, preferably via one-stop shops that include appeals procedures in the event that a visa or permit is denied. Third, developing countries want industrialized countries to facilitate recognition of credentials earned abroad so that service providers can obtain the needed licenses and certificates to work in countries of destination. Fourth, developing countries want industrialized countries to exempt their nationals from participating in work-related benefit programmes and having migrants or their employers pay the taxes that finance them (Martin, 2006).

Each of these issues has a numbers-versus-rights component, as illustrated by the debate over whether migrant service providers should be required to receive at least the minimum wage in the destination country (Ruhs and Martin, 2008). A bedrock principle of the International Labour Organization Conventions is equality of treatment, including wage parity between migrant and local workers. However, Chaudhuri, Mattoo and Self (2004) contend that requiring migrant service providers to be paid minimum or equal wages may reduce the number of service providers who obtain employment in higher-wage countries: “Wage-parity ... is intended to provide a non-discriminatory environment, [but] tends to erode the cost advantage of hiring foreigners and works like a de facto quota.” Another Indian economist asserts that equal wages “negates the very basis of cross-country labour flows which stems from endowment-based cost differentials between countries” (Chanda, 2001, p. 635).

2.5 Other free trade agreements and labour mobility

There are other free trade agreements that encourage the freedom of movement for workers, including the Nordic Agreement of the Free Movement of Persons of 1954 and the Trans-Tasman Travel Arrangement of 1973 that allows citizens of Australia and New Zealand to travel freely and work in most jobs in both countries, although the access of newcomers to some welfare benefits may be restricted. A Nordic Convention on Social Security adopted in 1955 required signatory countries to coordinate their systems so as to enable migrants to accumulate social security rights earned in several countries (“totalization”) and to receive work-related benefits even if they return home or live in another signatory country.

In Africa, more than 50 States have signed several regional free trade agreements aimed at facilitating freedom of movement, such as under the Economic Committee of West African States (ECOWAS), the East African Community and the Southern African Development Community. For example, the 1979 ECOWAS Protocol on the Free Movement of Persons and the Rights of Residency and Establishment covered residents of 16 countries. However, in 2012, most of the estimated 7.5 million West Africans who had moved from one member country to another were not properly registered or recognized.

Article 10 of the East African Community’s Common Market Protocol, which went into effect in July 2010, guarantees freedom of movement between Tanzania, Uganda, Kenya, Rwanda and Burundi so that nationals of member States can move to another member State, apply for and accept job offers, form and join unions and receive social security benefits associated with their jobs. Freedom of movement within the East African Community is supposed to function like NAFTA – a worker arrives at a port of entry with an ID and job offer and receives a six-month temporary permit that is to become a regular work permit once the worker arrives at the workplace and submits a request via the employer.

Even though freedom of movement is guaranteed for all workers, the categories specified by Uganda are only professionals and managers. Most workers in the East African Community are low skilled, and many already work in neighbouring countries; most do not receive job offers or work permits (Basnett, 2013). The public sector, the largest source of formal jobs in the East African Community, is excluded in the agreement, and member countries can also block migrant workers for reasons of “public health, policy, or security.” This experience reinforces the conclusion that “regional agreements among developing countries have made little progress in easing constraints on migration, compared with the major agreements among industrial countries (notably the European Union and the treaty between Australia and New Zealand)” (Ratha and Shaw, 2007, p. 16; see also Akinboade, 2013).

If trade and migration are substitutes, free trade agreements may reduce labour mobility over time by narrowing the wage and income gaps between member countries. Most free trade agreements are between countries at similar levels of development, hence there is not much incentive for people to migrate. Trade agreements are almost always struck first, with the implementation of clauses that liberalize labour

movement often delayed in the hope that, when freedom of movement arrives, there will be little or no unwanted migration (Martin, 1993).

Trade agreements are complex and difficult to negotiate, particularly if they involve common external trade barriers. It is even more difficult to reach agreement on the free movement of labour during trade negotiations because:

1. Migration, whether within a free trade area or otherwise, can have major distributional consequences, because some parties in the host country gain while others are hurt economically by new arrivals.
2. Although the motives of individuals are diverse, most migrants move from lower-income to higher-income countries. If free trade agreements encompass countries with different income levels, there is likely to be net migration to the higher-income member countries.
3. It is easiest to negotiate agreements to liberalize skilled labour migration because the number of potential migrants is smaller, the economic and public finance gains to receiving countries are generally larger, and skilled migrants often generate positive externalities where they live.
4. The populations of most countries include nationals and foreigners, so that liberalizing freedom of movement between two countries requires consideration of so-called “third-country nationals”, or persons who are not citizens of the countries covered by a free trade agreement. Most agreements grant only nationals of member countries freedom-of-movement rights, but they exclude even long-term third-country nationals who reside in a partner country from moving freely between free trade agreement member countries.
5. Free trade agreements deal with temporary workers, not permanent or settler immigrants. It is well known that temporary workers may settle and that permanent immigrants can and do return to their countries of origin. Most free trade agreements as well as the GATS Mode 4 negotiations, emphasize the movement of temporary workers over borders rather than immigrant settlers to avoid discussion of often controversial issues that range from access to the social safety net to voting rights.

3. ASEAN economic community and labour mobility

ASEAN nationals have been migrating within and from the region for decades. Much of the movement is informal, making it hard to map migration stocks and flows. In 2007, almost half of the 1.04 million Indonesians living abroad were in Malaysia and more than 20,000 were in Singapore, according to census data, while two-thirds of the 541,000 Malaysians reported to be living abroad were in Singapore (Orbeta,

2012; Walmsley, Ahmed and Parsons, 2007). Although Malaysia and Singapore separated shortly after independence from the United Kingdom, strong economic and social ties have ensured that cross-border migration continued. More than a quarter of the 136,000 Singaporeans abroad in 2010 were in Malaysia. Malaysia is richer than Indonesia, and a shared ancestry facilitates migration.

Thailand has been a magnet for most of the migrants from Myanmar, over a million in 2007, and attracts migrants from neighbouring Cambodia and the Lao People's Democratic Republic. In the past, many were refugees, but today most are migrant workers. There has long been migration from the Philippines to the United States and other countries outside the region, and there continues to be significant migration from Viet Nam to destinations outside ASEAN. The World Bank's migration database reported 13 million ASEAN emigrants in 2010 and 7 million immigrants, including 4 million migrants from other ASEAN countries. These stock data refer to persons living abroad at least one year or more.²⁷

Table 2 shows that migration in ASEAN is concentrated: Only a few countries account for most of the migration, either as origin or destination. Three ASEAN Member States – Indonesia, the Philippines and Viet Nam – accounted for 9 million, or almost 70 per cent of the total emigrant stock from ASEAN, while Malaysia, Singapore and Thailand accounted for 80 per cent of the immigrant migrant stock in ASEAN. Similarly, Indonesia and Malaysia accounted for two-thirds of intra-ASEAN emigration, while Malaysia and Singapore accounted for 80 per cent of intra-ASEAN immigration.

Table 2. ASEAN migration stocks, 2010

	Intra-ASEAN		All migration	
	Emigration	Immigration	Emigration	Immigration
Brunei Darussalam	9 313	120 578	24 343	148 123
Cambodia	53 722	320 573	350 485	335 829
Indonesia	1 518 687	158 485	2 504 297	397 124
Lao PDR	82 788	10 134	366 663	18 916
Malaysia	1 195 566	1 882 987	1 481 202	2 357 603
Myanmar*	321 100	814	514 667	98 008
Philippines	335 407	9 096	4 275 612	435 423
Singapore	122 254	1 162 960	297 234	1 966 865
Thailand	262 721	448 218	811 123	1 157 263
Viet Nam	221 956	21 511	2 226 401	69 307
Total	4 123 514	4 135 356	12 852 027	6 984 461

Source: World Bank, <http://go.worldbank.org/JITC7NYTT0> [accessed 26 Sep. 2014].

²⁷ Hall (2012) uses the UN data to set the stage for asserting that, because 60 per cent of workers in ASEAN are not employed in formal jobs, many intra-ASEAN migrant workers lack the protections laid out in ILO and UN Conventions.

The large majority of the workers involved in intra-ASEAN movements are in manual, often low-skill occupations, such as farming, fishing, domestic services, milling, food processing, garment-making and construction. Orbeta (2013) estimated that 87 per cent of migrants in ASEAN countries are unskilled workers (Table 3). On the other hand, ASEAN countries on the whole appear to send skilled migrants to other destinations, such as the Organisation for Economic Co-operation and Development (OECD) countries. More than half of the Filipinos, Malaysians and Singaporeans in OECD countries in 2010 were highly educated, compared with less than 30 per cent of Vietnamese (Capannelli, 2013).

Table 3. ASEAN Share of unskilled workers in bilateral migration flows, 2007 (%)

Source/ destination	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Viet Nam	SE Asia other	SE Asia Total	Rest of world	Total
Cambodia		100	100	84.7	81.8	50.8	89.5	100	86.8	89.5	69.4	71.5
Indonesia	81.8		51.1	98.7	78.3	73.9	64.5	75.6	95.6	96.2	69.4	83.9
Lao PDR	100	100		84.6	84.4	51	91.3	100	90.3	91.4	71.6	74.3
Malaysia	18.8	72.9	30.7		53	76.8	48	57.8	82.1	76.8	46.3	69.1
Philippines	100	64.7	34.1	96		51	41.4	54.5	83.1	89.5	44.6	47.8
Singapore	55.5	61.6	33.3	79.6	49.4		73.5	59.1	97.2	79.2	48	57.9
Thailand	85.9	62.2	74.1	96.1	49.7	51.1		75.5	87.4	86.3	57.2	66.4
Viet Nam	86.3	77.1	81	83.5	69.8	50.9	68		97.9	82.6	59.7	62.2
SE Asia others	56.5	98.7	88.3	90.3	77.9	47.4	81.4	97.4		82.3	64.3	73
SE Asia total	85.9	79.6	80.9	96.9	72.9	75.4	82.7	73.2	86.1	87.1	55.7	65
Rest of world	52	75.1	52	83.3	68.6	68.7	66.8	57.8	79.1	71.1	73.8	73.7
Total	84.2	76.1	70.3	95.4	69.6	73.5	75.6	66.7	83	82.7	72.3	72.8

Source: Orbeta, 2013, citing as the basic source the GTAP8GMig 2 database 2012.

In 1995, the ASEAN Member States adopted the ASEAN Framework Agreement in Services, which contained provisions on the mutual recognition of education and experience in anticipation of freer movements of skilled service workers. This preceded the agreement to establish a single market (the ASEAN Economic Community, or AEC) reached in Bali in 2003 and elaborated in a 2007 AEC Blueprint. One of the five core elements of the AEC is the free flow of skilled labour, in particular for natural persons engaged in trade in goods, services and investments (Orbeta, 2013). So far, few skilled workers and service providers such as nurses, accountants, architects and engineers have migrated within ASEAN, and many of those who do migrate move to Singapore.

The framers of the AEC expect that deeper economic integration will generate greater production efficiencies and faster economic growth, which over time should lead to more trade and less migration (Asra, Estrada and Pernia, 2011). Production efficiencies arise as integration promotes trade and goods are sourced from the lowest-cost producers. Consumers gain from having a greater variety of goods and qualities to choose from at lower prices. A second impetus for economic growth is economies of scale that attract more foreign direct investment, generate technology spillover effects and improve the investment

climate (de la Torre and Kelly, 1992). Because capital moves more easily than labour, the removal of trade restrictions would be expected to increase capital flows to the lower-wage countries, increase employment and real wages and eventually reduce migration pressures. Comparative advantage should encourage labour-intensive industries to relocate to the lower-wage countries until wages there catch up with those in the more advanced economies.

Does economic integration contribute to the further agglomeration of industries in the larger, more industrialized countries? Most economists find that scale economies strengthen agglomeration pressures and lead, at least initially, to widening gaps between the more industrialized and the less developed economies (Krugman, 1991; Baldwin and Venables, 1995). In ASEAN, this means that the richest countries could become even more attractive to foreign investors. If these investors create more jobs in the more advanced ASEAN countries, there may be more reasons for workers from poorer neighbouring countries to enter to find jobs.

Cheewatrakoolpong, Sabhasri and Buditwattanawong (2013) noted that most foreign investment in ASEAN come from the United States, the European Union and Japan and is motivated more by investment promotion agreements than free trade agreements. The investment strengthens production systems that use some ASEAN countries for assembly of imported component parts, with finished products exported to non-ASEAN countries. Some of the assembly industries are akin to maquiladoras in Mexico that import components, assemble final goods and export them. The value added in pure assembly operations is relatively low, often less than 15 per cent of the cost of the good, and consists primarily of wages and benefits paid to assembly-line workers. What would have a greater impact is for production to move up the value chain, employing higher-skilled workers making higher-value components, so that a network of suppliers is more likely to emerge around the assembly plant.

Migration is driven by differences. The first important difference is demographic. Most migrant workers are young and come from countries that have a rapidly growing population of working age citizens, and migrants often move to countries with slow-growing and ageing workforces. Table 4 shows the annual growth rates of the working-age populations of the ASEAN countries, based on UN statistics for 2000–10 and estimates for 2010–30. Growth rates have been falling, but significant differences remain. The working-age populations of Thailand and Singapore have been on the decline since 2000, while that of the Philippines is still growing. Indonesia's working-age population is still growing but very slowly. Similar cohorts of the population of Cambodia and the Lao People's Democratic Republic underwent rapid growth in the past decade, but the same will not be sustained in the future.

Table 4. ASEAN: Growth rates of working-age population, 2000–30

	2000–10	2010–20	2020–30
Brunei	2.83	0.91	0.36
Cambodia	3.76	-0.73	1.01
Indonesia	-0.02	0.02	-0.39
Lao PDR	3.40	-0.10	0.25
Malaysia	2.16	0.43	0.11
Myanmar	-0.30	-1.08	-0.57
Philippines	1.75	1.13	0.57
Singapore	2.75	-1.57	-3.05
Thailand	-1.94	-0.85	-0.23
Viet Nam	1.52	-1.60	0.23

Source: United Nations, 2012.

Table 5 shows per capita incomes over the past two decades by ASEAN Member States. These differences are often significant, providing an incentive to migrate over borders.

Table 5. ASEAN: GDP per capita, 1990–2010

Economies	1990	1995	2000	2005	2010
Brunei Darussalam	13 913	16 495	18 465	25 759	30 173
Cambodia	106	297	288	455	733
Indonesia	699	1 144	807	1 300	3 023
Lao PDR	217	391	304	464	1 035
Malaysia	2 432	4 358	4 030	5 213	8 260
Myanmar	68	123	178	216	715
Philippines	718	1 105	987	1 159	2 014
Singapore	12 388	23 716	22 791	28 500	43 898
Thailand	1 521	2 826	1 983	2 825	4 735
Viet Nam	98	289	402	637	1 239
ASEAN	805	1 415	1 166	1 630	3 105

Source: ADBI, 2012, p.25.

Significant per capita income differences can combine with a large, rapidly growing and young workforce to encourage emigration, as from the Philippines (Table 6). However, the number of Filipino migrants in other ASEAN countries has remained small, at 335,000, compared with an estimated 4.2 million employed in all countries (Table 2). Language, education and long-established networks have enabled most Filipinos to go to other destinations, notably the Gulf States, East Asia and the OECD countries. For these reasons, Filipinos are next expected to comprise a bigger share of intraregional movements if cross-border movements are liberalized.

Table 6. ASEAN: Comparative indicators of labour potential labour emigration

	Labour force (millions)	LFPR 2009		Growth of labour force	Growth of non-agriculture employment	Unemployment rate	% LF with tertiary education	Net international migration rate
		M	F					
Brunei	0.18	77.6	56.9	2.1		2.6		1.8
Cambodia	7.4	80.8	76		1.9*	1.7	3.4	-0.1
Indonesia	118	83.7	51	2.0	3.62	6.1	21	-0.6
Lao PDR	3.9				1.81**	1.9		-2.4
Malaysia	12.5	78.9	46.4	2.6	4.0	3.1		1
Myanmar		82.5	50.1			4		-2
Philippines	40.4	78.3	48.2	3.0	1.51	7	27	-2
Singapore	3.3	76.1	55.6	3.0	3.47	2.7		22
Thailand	38.7	81.1	64.2	1.5	1.62	0.7	21	0.9
Viet Nam	52.6	57.3		1.9	2.27	1.8	13	-0.5

Note: LFPR=labour force participation rate; LF=labour force. Unemployment rates are for 2012, except for Brunei Darussalam and Myanmar, which are for 2011. Growth of non-agricultural employment data are the average for the period 2008–12, except for *Cambodia, which is 2001 and **Lao PDR, which is 2003. Net international migration rates are for the period 2005–10. The rate refers to the number of immigrants minus the number of emigrants over a period, divided by the person-years lived by the population of the receiving country over that period. It is expressed as net number of migrants per 1,000 population. M=male; F=female.

Source: ADB, 2014.

Indonesia has the largest population in ASEAN and a high rate of unemployment. It has become a major source of migrants, supplying workers to Brunei Darussalam, Malaysia and Singapore and outside the region to the Middle East. Indonesia's working-age population is growing very slowly, and rapid economic growth over the past decade has created many more opportunities for employment within the country. The growth of employment outside agriculture over the past five years was 3.6 per cent a year, considerably faster than the 2 per cent rate of growth of the labour force (ADB, 2014). The AEC is likely to make Indonesia an attractive destination for foreign investments, which should lead to faster growth of employment and wages and reduced migration pressure.

The migration "hump" expected from trade liberalization in ASEAN will most likely take place between countries with very large initial differences in incomes and supporting infrastructure but with close links through shared borders, language, religion, culture and social networks. This suggests that Malaysia and Thailand (Table 7), both with strong capacities to benefit early from trade liberalization but both already at full employment, could become even bigger employers of labour from neighbouring Cambodia, the Lao People's Democratic Republic and Myanmar. Employment opportunities will most likely expand in these countries in the industrial occupations that new investment and growth of trade will create.

Table 7. Evolution of employment by occupation: Malaysia and Thailand

Year	Malaysia			Thailand		
	1990	2000	2012	1990	2000	2008
Professional, technical	7.8	11.3	19.9	2.8	4.1	8.1
Managerial	2.2	4.24	5.4	1.5	2.9	2.6
Clerical	9.9	10.9	9.2	3	3.6	3.8
Services & sales	22.6	24.4	20.6	12.7	18.4	16.4
Agricultural, forestry & fishing	26.2	16.7	9.2	62.9	48	39.3
Plant & machinery operators	31.3	32.5	35.7	17.1	23	29.8
	100	100	100	100	100	100

Source: ADB, 2014.

4. Migrant protection issues in ASEAN

ASEAN leaders are committed to protecting migrant workers, making it important that measures for social protection are implemented early in the process of economic integration so that competition for investments and jobs does not lead a “race to the bottom”. Current restrictions on labour rights of workers employed in free trade zones are remindful of how this competitive drive for FDI can reduce standards. If the welfare gains from economic integration are to be shared, it is important to maintain labour standards by harmonizing policies upwards rather than downwards.

The growth of cross-border movements of workers in ASEAN during the past two decades underscores the economic gains and the challenges that labour migration poses for social protection. In the more advanced ASEAN economies, cyclical and recurring seasonal labour shortages in agriculture, construction and major export industries have been avoided or mitigated by foreign workers who are generally admitted for temporary periods, helping to insulate the economies in which they work from external shocks.

However, this flexibility in the labour market has been bought at the cost of widening income gaps between skilled and low-skilled workers. Hui (2013) found that in Singapore between 1998 and 2010, the real wages of employed residents in the bottom quintiles of the wage distribution declined by about 8 per cent, while those in the upper five deciles gained, from 8 to 28 per cent: “Significant resources have also been ploughed into subsidized job upgrading and training schemes for locals since the late 1990s. Despite this, depressed wages have plagued those at the lower end of the wage structure due to the huge influx of foreign labour, leading to worsening income inequality” (Pholphirul, 2012).²⁸

²⁸ In Thailand a 10 percentage point increase of migrant share of the work force is found to cause a 0.23 per cent reduction in domestic wages. The reduction in wages is much larger for younger workers with less than a secondary education (Pholphirul, 2012).

ASEAN leaders in 2007 (in Cebu, Philippines) adopted a Declaration on the Protection and Promotion of the Rights of Migrant Workers, which obliges member States to draw up charters to ensure decent working conditions, protect workers from all forms of abuse and establish a minimum wage for intra-ASEAN migrant workers. The Cebu Declaration calls on member States to protect the fundamental rights of migrants and their families, cooperate to deal with irregular workers and promote the full potential and dignity of migrants. However, the Cebu Declaration is not legally binding and does not require governments to change their labour laws.

The Cebu Declaration calls on migrant-sending countries to ensure access to decent work for all citizens while facilitating orderly international labour migration by regulating recruitment practices and ensuring that migrant workers have valid contracts. The Cebu Declaration is a reminder that migrant-receiving countries should protect the rights, welfare and dignity of migrant workers, including employment protections and access to systems to resolve complaints.

There is not yet a binding treaty requiring ASEAN member States to uphold the principles contained in the 2007 Cebu Declaration. Concrete steps were taken in 2008, when the ASEAN foreign ministers met in Singapore and created a Committee on the Implementation of the ASEAN Declaration to develop an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers. The Committee has not yet produced a draft ASEAN instrument, however.

It is hard to determine the optimal migrant worker protections. Researchers who examined labour migration practices in six ASEAN countries emphasized the need to integrate labour migration into bilateral and regional development efforts and labour agreements, to increase administrative capacity and cooperation at the national and regional levels to manage regular migration and reduce irregular migration and to talk to migrant workers about their desired level of “protection”. But they also concluded that migrant workers may not want all the protections that governments enact, citing the examples of Filipino domestic workers willing to pay (banned) recruitment fees or agreeing to work abroad for less than the US\$400 a month minimum wage set by the Philippine Government, and Cambodians preferring to use brokers to enter Thailand rather than legal recruitment agencies because the brokers are cheaper (Orbeta and Gonzales, 2013, p. 14). Orbeta and Gonzales (2013, p. 15) concluded that “stringent [migrant protection] rules can drive migrants into informal modes of employment if the migrant finds them too restrictive”.

4.1 Irregular migrants in ASEAN

There are a large number of irregular migrants in some ASEAN countries, including Malaysia and Thailand, which are fast-growing economies with large informal sectors and porous borders. Of the more than four million intra-ASEAN migrant workers, at least a third are irregular. Irregular workers typically have little leverage to bargain for fair wages, suffer the worst working conditions, often have no recourse to legal

remedies in cases of abuse and exploitation and may experience frequent harassment even from the authorities.

Both Thailand and Malaysia have taken measures to address irregular migration but with very mixed results. In Thailand, four amnesty and registration programmes have been implemented since 2001 (2001, 2004, 2009 and 2011), and some 1.85 million migrants were reported to have registered by August 2011. The Thai Government also sought the cooperation of origin countries (Cambodia, the Lao People's Democratic Republic and Myanmar) by entering into bilateral agreements (in the form of memoranda of understanding) that laid out procedures for establishing the nationality of the irregular migrants and for acquiring regular work visas and permits. Unfortunately, the confusing, cumbersome and expensive procedures on both sides greatly undermined the effectiveness of registration and admissions under the MOUs.

According to a recent report (Hall, 2012), some 1.24 million migrant workers (or 68 per cent of all registered foreign workers) remained registered but irregular due to problems with verification of their nationality. In February 2012, for example, the Thai Ministry of Labour reported that 905,573 migrants from Myanmar were "registered to work" but were still waiting for nationality verification and thus remained barred from social security, compensation in case of accidents and had no right to travel freely within Thailand. Even after having their nationalities verified, there is still no guarantee that the workers will be issued passports by their governments. Because Thai work permits are only valid for one year, many migrants revert back to an irregular status unless they or their employers apply for an extension.

In Malaysia, legal channels for the entry for migrant workers have been progressively widened over the past decades in response to labour shortages experienced in many sectors of the economy. Kanapathy (2008) reported that at the end of 2006, there were 1.9 million foreign workers with valid work permits, up from 242,000 in 1990. Despite this apparent success in routing migration into regular channels, an estimated 700,000 migrants in Peninsular Malaysia plus another 200,000 in the state of Sabah were reported to be in an irregular situation at the end of 2006.

There are many reasons for the continued presence of irregular migrants in Malaysia, including porous borders with Indonesia and Thailand and historical links with these source countries. However, incoherent policies have contributed to irregular migration. Kanapathy noted that the foreign worker levy is lower for occupations and skills considered to be in short supply, which encouraged employers who needed foreign workers to sponsor them for work visas for low-levy occupations even if they actually intended to have the workers perform other types of work.²⁹ Once migrant workers learned that they were performing higher-skill work, there were disputes, and some workers left their employers, making them irregular.

Another factor contributing to irregular migration was the decision, later reversed, to allow Malaysian labour contractors to recruit foreign workers for enterprises with labour shortage situations. Envisaged as a

²⁹ The foreign worker levy for a domestic helper is 360 ringgit (MYR) while for a restaurant worker it is MYR1,440. It is not surprising why some employers of domestic helpers actually employ them only to work in their restaurants.

good way to insure that migrant workers, once admitted, will have some work despite the volatile economic conditions, the outsourcing policy quickly turned into a scam in which foreign workers paid to come to Malaysia even if the contractors had no jobs for them.

4.2 Labour law exclusions

Foreign domestic workers are one of the largest groups of foreign workers in ASEAN countries, but they tend to be excluded from labour laws or, if included, fail to enjoy effective protection due to lack of enforcement. The Thai Ministry of Labour reported 129,267 domestic workers from Myanmar, the Lao People's Democratic Republic and Cambodia in 2009. According to an ILO study (Boontinand, 2010)³⁰ of domestic workers in Thailand, 60 per cent were expected by their employers to work more than 14 hours a day, and about the same share did not have any day off. Three of every four domestic workers were not paid for overtime work. In principle, all migrant workers in Thailand, regardless of documented status, are covered by the Labour Protection Act of 1998 (amended in 2007) and entitled to equal treatment with national workers. However, the ILO study revealed that, in practice, most domestic workers do not enjoy any protection at all.

In Malaysia, the 300,000 or so foreign domestic workers are supposed to be covered under Employment Act No. 265 of 1955. However, exclusions in the legislation (parts IX, XII and XIIA) mean that domestic workers do not enjoy basic labour rights, including maternity and termination benefits, annual or sick leave and days off (APFWLD, 2010). In Singapore, foreign domestic workers are not covered under the Employment Act, the law that specifies minimum rest days, hours of work, overtime entitlements and medical leave. They are also excluded from the Work Injury Compensation Act, and they receive limited coverage under the compulsory medical insurance in the event of accidents.

Serious diplomatic tensions among ASEAN Member States have been provoked by the ill-treatment of foreign domestic workers. In June 2009 the Indonesian Government announced a moratorium on sending domestic workers to Malaysia after an Indonesian housemaid suffered at the hands of her employer. The Indonesian Government demanded a renegotiation of the bilateral agreement with Malaysia, asking for better protection for Indonesian domestic workers and a minimum wage of MR600 a month for domestic helpers.³¹ Similar problems have marred relations between Indonesia and Singapore, which has 200,000 domestic workers – 90 per cent of them Indonesian.

³⁰ See also Punpuing and Pearson, 2006.

³¹ The moratorium was lifted in 2011.

4.3 Unequal treatment

Because of their particular vulnerability, female domestic workers have received more attention than other migrant workers. However, migrant workers, regardless of their status, do not enjoy equal treatment in ASEAN countries. Unfortunately, there is little systematic study of discrimination against migrants in ASEAN. A rather dated (1993) study of the construction industry in Singapore revealed a three-tier wage structure, with wages for Singaporean workers at 10 per cent more than what Malaysian migrant workers doing the same job were paid and two to three times more than the wages of migrant workers coming from the so-called non-traditional countries (Ofori, 1993).

Because of differences in economic development among ASEAN countries, combating discrimination in employment is particularly difficult, such as with wages paid. Table 8 displays a comparison of minimum wages; some are the statutory minimum, as in the Philippines and Thailand, while others, where no minimum is set by law, are the lowest prevailing wage in representative industries.³² Differences could be reduced by regulating wages, but most governments in the region have refrained from taking such policies.

Table 8. Minimum wages in ASEAN, 2012

		Daily minimum wages		Monthly
		In local currency	in US\$	in US\$
Lao PDR				43.50–78.15
Myanmar			0.58	56
Cambodia	(riel)	6 831	2.03	70
Viet Nam	(dong)	36 000–40 000	1.83–2.04	79–112.68
Indonesia	(rupiah)	18 233–34 000	2–3.73	85.45–226.50
Philippines	(pesos)	240–404	5.46–11.10	164–333
Thailand	(baht)	300	10	300
Malaysia	(ringgit)	26.77–54.63	8.66–17.67	260–530
Singapore	(dollar)	26.67–80	20.56–61.68	616.70–1 850

Note: Data is for low-skill workers but derived from different sources and not always comparable since in some cases they refer to legal minimum wages (such as in the Philippines and Thailand) and in others to prevailing wages in garment industry (as in Vietnam). Minimum wages vary by region with wide differences between capital city and far flung regions.

Sources: Dezan Shira Associates, ASEAN Briefing, www.aseanbriefing.com/news/2013/04/16/minimum-wage-levels-across-asean.html [accessed 26 Sep. 2014]; National Wages and Productivity Council, Philippines, at <http://nwpc.dole.gov.ph/pages/statistics/Asean%20Wages%202010.pdf> [accessed 26 Sep. 2014]; The Asia Foundation "Thailand adopts minimum wage policy amid controversy", <http://asiafoundation.org/in-asia/2013/01/30/thailand-adopts-nationwide-minimum-wage-policy-amid-controversy/> [accessed 26 Sep. 2014].

³² Because the minimum wage is usually higher in the metropolitan centres than in the poorer, more distant provinces or districts, a range is given for several countries.

4.4 ILO fundamental principles

Finding common ground to harmonize labour policies usually starts from reviewing state commitments to ILO fundamental principles, as enunciated in its core Conventions. Except for Brunei Darussalam, all ASEAN Member States have ratified the Convention on Forced Labour (No. 29), but four of the ten ASEAN Member States have not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The ILO Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), are particularly relevant to promote the equal treatment of migrant workers. Two important labour-receiving countries, Malaysia and Thailand, have ratified Convention No. 100, but Singapore has not.

Of the other ILO Conventions, the ILO Migration for Employment (Revised) Convention No. 97 has been ratified by only two ASEAN countries – Malaysia and the Philippines. The Migrant Workers (Supplementary Provisions) Convention No.143 has been ratified only by the Philippines. The 1990 UN Convention on the Rights of Migrant Workers and Members of their Families has been ratified by two States – the Philippines and Indonesia. Cambodia expects to ratify the 1990 UN Convention, but none of the ASEAN labour-receiving States are planning to ratify it.

Table 9. Ratification of ILO core Conventions, by ASEAN countries

Country	Freedom of association		Forced labour		Discrimination		Child labour	
	No. 87	No. 98	No. 29	No. 105	No. 100	No. 111	No. 138	No. 182
Brunei Darussalam							2011	2008
Cambodia	1999	1999	1969	1999	1999	1999	1999	2006
Indonesia	1998	1957	1950	1999	1958	1999	1999	2000
Lao PDR			1964		2008	2008	2005	2005
Malaysia		1961	1957	1958	1997		1997	2000
Myanmar	1955		1955					
Philippines	1953	1953	2005	1960	1953	1960	1998	2000
Singapore		1965	1965	1965				
Thailand			1969	1969	1999		2004	2001
Viet Nam			2007		1997	1997	2003	2000

Source: ILO Ratification Database, www.ilo.org/global/standards/lang--en/index.htm [accessed 26 Sep. 2014].

4.5 Social security

Because they seldom stay long enough in one country of employment to earn entitlement to certain benefits under social security, especially old age benefits, migrant workers are disadvantaged by the absence of agreements that would enable them to accumulate rights and make entitlements portable. Of the current intra-ASEAN migrant population of more than 4 million, some 2.5 million are in countries that allow migrants to enrol in the national provident fund or social insurance (Pasadilla and Abella, 2012), such as Indonesia, Malaysia, the Philippines and Thailand (irregular migrants, mostly in Malaysia and Thailand, are excluded). Brunei Darussalam and Singapore allow only permanent residents to join provident funds, while Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam have no social security system or any data on migrants' access to social security.

The ILO seeks to expand social security protection for migrant workers in ASEAN. The main obstacle to agreement among the countries is the different types of schemes. Some ASEAN countries have only provident fund schemes while others have social insurance (Tamagno, 2008). Totalizing social security benefits earned in several countries, which particularly important for migrants, leads to asymmetric results between countries with different types of social security systems. For countries with social insurance, a regional agreement would oblige them to pay pensions not otherwise payable under their own programme to persons who qualify as a result of totalizing benefits earned in two countries, and the additional cost would be borne entirely from the scheme's own funds. However, for a country with a provident fund, there is no such obligation because there is no minimum period required for eligibility or because the benefits depend on contributions (Pasadilla and Abella, 2012).

Another obstacle is the fact that migration flows are not symmetric, giving net labour-importing countries little incentive to sign social security agreements because the cost of portability may exceed the benefits. This is especially true if ASEAN members focus on the projected cost of implementing the agreement and aim to have equal costs in each country. In the European Union, where the cross-border flows of labour are more symmetric, obligations arising from social security agreements might balance out and not be too burdensome on net labour recipient countries.

Table 10. ASEAN social security agreements

	Brunei Darussalam		Indonesia	Lao PDR	Malaysia		Philippines	Singapore	Thailand	Viet Nam
	Universal scheme	Provident fund	Provident fund	Social insurance	Provident fund	Social insurance	Social Insurance	Provident fund	Social insurance	Social Insurance
Branches covered:										
Old age	b	b	b	b	b		b	b	b	b
Invalidity	b	b	b	b	b	b	b	b	b	b
Survivor	b	b	b	b	b	b	b	b	b	b
Coverage limited to nationals and/or permanent residents	Yes	Yes	No	(...)	No	Yes	No	Yes	No a	(...)
Export of benefits allowed	No	Yes	Yes	(...)	Yes	Yes	Yes	Yes	(...)	(...)
Minimum period for eligibility (years)	Yes	No	No	5	No	Yes	10/15b	No	15	15

Source: Pasadilla, G. and Abella, M. Social Protection for Migrant Workers in ASEAN, Leibniz Information Centre for Economics, The Open Access Publication Server of ZBW, www.econstor.eu 2012.

5. Managing regional labour mobility

The Asian Development Bank Institute’s *ASEAN 2030* report asserts that “ASEAN would benefit from allowing freer movement of labour across its borders” (2012, p. 50). The report calls for “an integrated system of managed labour movement, essentially moving toward a borderless labour market, in which more labour of all skills will be freer to work anywhere within ASEAN and enjoy labour protection equal to that of domestic workers.” While much of the region has long histories of settlement through migration, and there is strong evidence of the many advantages to freer movement, adoption of the policy and governance reforms necessary to realize this vision still pose considerable challenges, including:

1. **Regularizing the status of undocumented migrants.** Thailand and Malaysia, in particular, host large numbers of undocumented economic migrants and asylum-seekers. Migrant workers may bring economic advantages to some sectors, but they can also depress wages and their presence signals that governments cannot control their borders. The presence of unauthorized workers can

lead to negative attitudes towards migrants and to xenophobia and make it hard to liberalize cross-border movements. One result of persisting irregular migration is migration governance based largely on security concerns rather than the economic costs and benefits of migrant workers and their human rights.

Thailand's experience with regularization programmes suggest that labour migration can be improved by:

- reducing the cost of recruitment and placement through regular channels to discourage clandestine entry and employment;
- prolonging the period of work permits for those who take advantage of amnesties and go through the regularization processes;
- seeking the cooperation and active involvement of origin governments, especially to verify the nationality of workers in ways that are respectful of human rights, efficient, inexpensive and free from graft and corruption; and
- involving local authorities and civil society groups to encourage employers and migrants to participate in regularization programmes.

2. **Improving policies on and governance of low-skill immigration.** Immigration policies are often anchored by the principle of “welcoming the skilled and rotating the low-skilled”. However, there may be a persisting demand for low-skilled workers, and neither workers nor employers may have incentives to abide by rotation regulations, forcing governments to violate the human rights of workers, such as when they deport domestic workers who become pregnant.

Policies to discourage dependence on foreign workers, such as the foreign worker levy, make it relatively more costly for employers to employ low-skilled compared with higher-skilled workers. However, the cost of the levy can easily be passed on to the migrants in the form of lower-than-market wages.

The preference for welcoming the skilled may be well grounded in long-term economic interests but is not a sound basis for denying low-skilled migrants equal treatment in employment, access to social protection and equal protection under the law. Low-skilled migrant workers should be accorded equal treatment and protection to avoid the labour market segmentation that has occurred in the Gulf States, where governments are having a hard time to persuade employers to employ native workers.

A sound approach to managing the admission and employment of low-skilled foreign workers involves:

- establishing targets or quotas for admission based on an assessment of labour market conditions and in consultation with workers' and employers' organizations;
- adopting clear and transparent criteria for admission, and establishing simple and efficient procedures to employ migrant workers via regular migration channels;

- negotiating arrangements for the temporary admission of service providers free trade agreements;
- licensing and regulating for-profit recruiters to minimize fraud and reduce costs for workers and employers;
- establishing systems and procedures to ensure equality of treatment in wages and other conditions of employment for migrant workers, and providing easy access to remedies if workers' rights are violated;
- giving migrant workers the right to change employers within the same industry or sector or to have complete freedom in the labour market;
- enforcing sanctions against employers of irregular migrants; and
- adopting policies to enable low-skilled migrants to earn the right to permanent residence.

Liberalizing cross-border labour movements in ASEAN is planned initially only for highly skilled workers; but the reality is that the demand for low-skilled workers is even greater in agriculture and fishing, construction, garment manufacturing, informal trade and services (see Orbeta, 2013). Young native workers in countries richer than their neighbours are less attracted to these occupations as they attain higher levels of education. Restricting the admission of migrant workers to fill jobs in these occupations prompts clandestine entry, irregular employment and the division of labour markets into protected and unprotected segments.

Expanding admissions to include the lower-skilled workers would channel movements to the “front” instead of the “back” door and require:

- adopting policies and regulations to enable ASEAN nationals to convert temporary visitor visas into regular work permits if they receive job offers;
- strengthening public employment services to enable them to provide free placement services to ASEAN nationals seeking employment (over time it may be possible to develop an ASEAN-wide job-placement system to serve employers and low-skilled workers);
- developing seasonal agricultural workers schemes that lay out clear procedures for recruitment, transport, housing and the return of migrant workers (Canada's Commonwealth Caribbean and Mexican Seasonal Agricultural Workers Program has, since the mid-1960s, admitted guest workers to fill jobs mostly on Ontario fruit and vegetable farms that involve farm employers organizing themselves into cooperatives to take advantage of economies of scale and reduce costs. The governments of migrant-sending countries post labour attachés in Canada to deal with complaints from migrant workers.); and
- establishing efficient and transparent systems and procedures for the admission of self-employed service providers.

ASEAN 2030: Towards a Borderless Economic Community – Highlights

Labour mobility can enhance the economies of both “exporting” and “importing” countries. Brunei Darussalam provides a stark example. It is far too small an economy to maintain the labour resources needed for either its public or private sectors to quickly respond to changing conditions or opportunities. Brunei Darussalam needs access to both skilled and unskilled labour. It would benefit from careful, institutionally structured liberalization of regional labour migration, a goal of ASEAN under the AEC. Part of this would require the establishment and strengthening of regulatory institutions in labour-surplus countries to better match skills with those needed in labour-deficit countries. This would also help control irregular labour migration. Even as the region works toward freer labour and capital movement and improving governance standards, more direct methods of bridging the development gap needs to be explored. Adopting the ASEAN Framework for Equitable Economic ASEAN leaders at the 2011 Bali Summit – is a welcome step in defining the process of reducing the development divide across ASEAN.

3. **Improving cross-border recruitment.** The key ingredient of successful job matching is information. However, information flows in the labour market are asymmetric because employers know more about the requirements of the jobs they offer than potential employees and workers know more about their abilities than potential employers. This asymmetry is amplified in the case of cross-border recruitment because of each side’s unfamiliarity with standards and conditions in the other.

One consequence is dependence on intermediaries to recruit workers, which can increase transaction costs. Employers may seek to minimize the risk (and costs) of recruitment mistakes by offering low wages or otherwise passing recruitment costs on to workers. In a buyer’s market, this means that wages will be lower than they would have been if there had been better information. Workers with proven skills may be able to negotiate higher wages over time, but the fact that the contract labour system is based on limited periods of employment means that it is hard for even very proficient workers to renegotiate the terms of their contracts.

Reducing the cost of recruitment and promoting greater efficiency in cross-border jobs can be enhanced by:

- removing obstacles to, and providing facilities for, the direct hiring of workers by employers;
- removing protectionist laws in origin and destination countries that bar recruitment except through locally owned licensed agencies and enabling recruiters licensed in one ASEAN country to operate in other Member States through an agreement on mutual accreditation of licensed agencies;
- adopting a common occupational classification system and promoting its use in recruitment;
- harmonizing skills standards and testing for skills in demand across borders; and
- developing an ASEAN labour market information system to provide detailed and timely information on job vacancies in Member States. Better labour market information can aid

authorities to decide whether to grant employers permission to recruit contract workers, reduce some of the problems encountered in operating employer-driven work permit systems³³ and contribute to the more productive employment of labour across the region.

4. **Liberalizing the cross-border movements of skilled labour.** International migration can entail “brain waste”, as when highly qualified workers fill low-skilled jobs after they move to another country. The cost of brain waste can be significant. If immigrants to Canada worked in the occupations for which their credentials qualified them and earned the average earnings in those occupations, immigrant earnings would have been CAD2 billion higher in 2004.³⁴

Liberalizing migration is easiest to implement for skilled workers whose economic benefits are most apparent. ASEAN countries have to compete for highly trained professionals and thus have fairly liberal policies on their admission and employment. There is already an ASEAN Agreement on the Movement of Natural Persons (2012) to facilitate the temporary movement of intra-company transferees paid in the country in which they work and business visitors and contractual service suppliers paid from the home country.³⁵

However, substantial legal and institutional barriers remain in some professions where training and accreditation has been obtained in another country. For example, there may be significant differences in the education and testing requirements to earn professional recognition, and professional associations are often reluctant to change standards to accommodate individuals trained elsewhere or to admit foreign-trained individuals who could be competitors. Some countries restrict certain professions to citizens, especially in the public sector, from teachers to police (Nielson, 2003). Most analyses of skill recognition issues for professionals emphasize that the problem is complex and that the wide variety of regulatory bodies, some private and some public, and covering various geographic regions, makes it hard to obtain an overview of skills recognition processes and issues (Sumption, 2013).

The ASEAN Member States have shown a willingness to remove these obstacles and have committed themselves to developing mutual recognition agreements. Such agreements would allow, say, an engineer in one member State to be automatically considered an engineer in another by both licensing organizations and employers. By the beginning of 2012, mutual recognition agreements for seven professions had been signed – one for engineering signed in December 2005, one for

³³ Employer-driven contract labour systems are flexible in the sense that they allow employers to determine how many and which workers they prefer. However, employers may request more workers than they actually need because of visa trading practices, especially when they seek low-skilled contract workers.

³⁴ There are 13 jurisdictions, 15 regulated professions and more than 400 bodies that regulate various occupations in Canada, and the Canadian Government made grants to several to speed up recognition of immigrants' credentials. *Migration News*, 2005.

³⁵ See the agreement at <http://asean.fta.govt.nz/chapter-9-movement-of-natural-persons/> and summarized at: <http://aseanec.blogspot.com/2012/09/summary-of-asean-movement-of-natural.html> [accessed 26 Sep. 2014].

nursing in December 2006, for architects and surveyors in November 2007 and for doctors, dentists and accountants³⁶ in February 2009.³⁷

There remain considerable hurdles to implementing these mutual recognition agreements. Some are still waiting for the creation of an ASEAN secretariat to oversee their implementation. While some nationality restrictions may be relaxed on grounds of reciprocity, practising a profession may be allowed only for a limited period or subject to stringent conditions.

Employers ultimately make decisions on whether applicants for jobs are qualified, putting limits on what governments can and should do. Providing information on the equivalence of foreign credentials is a useful and relatively inexpensive government function, but establishing training programmes to help newcomers to meet local licensing requirements can be expensive.³⁸ Under the auspices of the ASEAN University Network, the ASEAN Credit Transfer System is being developed to facilitate student mobility within the region. Some urge ASEAN to copy the European Union's Erasmus programme, which allows students of one EU country to study in universities in other EU countries and receive credit for their foreign studies at home.

5. *Protecting rights and promoting social integration.* Countries that tolerate the exploitive employment of foreign workers put the welfare of national workers at risk and compromise their ability to manage change in their societies. If foreign workers are paid less than national workers, employers may prefer migrants, leading to the displacement of natives. The result can be segmented labour markets, as in the Gulf States, that prompt governments to adopt "employment nationalization" laws to compel private sector employers to hire national workers through quotas.

Differences in wages and opportunities within ASEAN are likely to prompt more cross-border labour migration. A phased transition to manage this inevitable migration will require adept management, including adjustments in capital flows and trade as well as management of cross-border labour flows.

³⁶ Accounting and actuarial sciences are considered the most standardized occupations around the world, largely because of the requirements imposed on firms to list and sell stock. There is discussion of standardizing training and requirements for health care workers.

³⁷ For examples of mutual recognition agreements in other regions, see the EU Professional Qualifications Directive 2005/36/EC, which aims to expedite the local licensing of professionals who move from one EU Member State to another by requiring national authorities to issue required local licenses if the migrant has a similar license from their country of origin. There is some national discretion in granting licenses to intra-European Union migrants, as when the licensing authority deems the training and licensing system in the migrant's home country sufficiently different and imposes testing or experience requirements on migrants. See http://ec.europa.eu/internal_market/qualifications/policy_developments/legislation/index_en.htm [accessed 26 Sep. 2014].

³⁸ The ILO has a programme to provide advice to institutions that train mid-skilled workers before they go abroad, for example to the Republic of Korea, and to promote the recognition of skills acquired abroad at home. The Regional Skills and Employability Programme (SKILLS-AP) has organized several workshops on skills recognition that highlight the large number of training institutions and methods used to teach and assess skills. See www.ilo.org/public/english/region/asro/bangkok/skills-ap/ [accessed 26 Sep. 2014].

6. Conclusions

The ASEAN Economic Community established in 2003 plans a major step towards deeper economic integration in 2015 with freer trade and investment policies and freer mobility of skilled workers. The goal of the AEC is to create an economic environment that enables a rising tide to lift all boats, fostering decent work and inclusive development for the 600 million residents and 285 million workers in ASEAN's ten Member States.

This paper emphasized that ASEAN Member States can reap additional economic and social benefits by promoting freer labour mobility alongside freer trade and investment. The first section considered why classical trade theory, which assumes that trade in goods is a substitute for the migration of labour, may not be helpful in forecasting what the effects of the AEC would be on cross-border movements of labour. The classical trade theory is based on rather restrictive assumptions that the only differences between the countries lies in endowments of capital and labour, but in ASEAN, there are many other differences (technology levels and infrastructure, for example). If the classical assumptions are violated, trade in goods and the migration of labour can increase together.

Economic integration in the face of persisting demographic and economic differences is likely to be associated with more low-skill labour migration over the medium term, requiring cooperative efforts to minimize irregular migration and to protect migrant workers. There was a temporary migration hump in Mexico after the NAFTA came into being, with conditions similar to those between some ASEAN Member States. The policy implication is that the same free trade and investment regimes that accelerate converging economic and job growth in the medium to long terms can displace workers and increase low-skilled migration in the short term, requiring intergovernment cooperation to manage the migration upsurge. Anticipating similar migration humps in ASEAN and slowing disruptive displacements by phasing in freer trade in sensitive commodities and industries could help to avoid a backlash against irregular migration that has been a factor in decisions to build a fence on the Mexico–US border.³⁹

The paper next reviewed the migration provisions of free trade agreements. Almost all such agreements facilitate the movement of business visitors who are paid wages in their country of origin, and many include provisions that allow multinationals to move skilled workers and managers between their operations in member countries without labour market and similar economic needs tests before these migrant workers can earn wages in the host country. Many free trade agreements begin the process of liberalizing freedom of movement with skilled workers, such as accountants and nurses, and some anticipate extending freedom of movement down the job ladder as economic conditions in Member States converge, as in CARICOM. The European Union, by contrast, made freedom of movement for all types of workers a core component of its four freedoms (goods, capital, services and labour), but there is nonetheless limited intra-European

³⁹ As the ADB observed, “The biggest challenge is to better manage and work toward resolving the issue of illegal foreign workers and worker protection... If conflicts become severe, they often lead to immigration bans, which hurt both source and recipient economies” (ADB, 2013, p. 35).

Union labour migration for reasons that range from converging wages and opportunities to differences in language and social benefits that discourage mobility.

The third section reviewed recent trends in intra-ASEAN labour migration and migration from the ASEAN region. Two-thirds of ASEAN migrants abroad for a year or more have left the region, either as settler immigrants to traditional immigration countries or as temporary workers in East Asia and the Gulf. Much of the intra-ASEAN migration is also temporary, and many of the workers involved are irregular, highlighting the need to improve the management of migration to protect migrant and local workers and maximize the benefits of labour mobility. Deeper economic integration is likely to increase migration pressures in the short to medium terms. Policies that ensure that the resulting labour migration is properly documented and migrant workers are protected can accelerate sustainable development. This includes the enactment of national laws to implement the 2007 Declaration on the Protection and Promotion of the Rights of Migrant Workers.

Our final section is devoted to the management of labour mobility in ASEAN. Member States with large numbers of irregular migrants should review their labour migration policies to channel more migration into regular programmes. Cooperation to improve documented labour migration should reduce the trafficking and smuggling of workers, although coordinated efforts to stamp out this dark side of labour migration are likely to continue to be required. An ASEAN-wide skills framework with standard requirements for particular jobs, mechanisms that allow workers to document skills acquired in several countries and totalize social security and other work-related benefits⁴⁰ and improved recruitment practices that lower migration costs could ensure that the migration that is likely to increase in ASEAN is regular and protects workers.

⁴⁰ Work-related benefits should be totalized if earned in several countries and made portable, so that they are paid in the country in which the worker lives.

References

- Akinboade, O.A. 2013. “A review of the status, challenges and innovations regarding temporary immigration of labour in the regional economic areas of Africa”, in *Journal of International Migration and Integration*, Vol. 15, Issue 1, pp. 27-47. Available at: <http://link.springer.com/article/10.1007/s12134-012-0267-z#> [7 Nov. 2014].
- Asia Pacific Forum on Women, Law and Development. 2010. *The right to unite: A handbook on domestic worker rights across Asia* (Manila).
- Asian Development Bank (ADB). 2008. *Regional Conference on Services Trade Liberalization and Labour Migration Policies in ASEAN: Towards the ASEAN Economic Community*, Bangkok, 2008. Available at: www.adbi.org/event/2685.services.trade.liberalization.labour.migration.asean/ [7 Nov. 2014].
- . 2013. *Asian economic integration monitor*. (Manila). Available at: <http://www.adb.org/sites/default/files/publication/30181/aem-201303.pdf> [7 Nov. 2014].
- . 2014. *Key indicators for Asia and the Pacific 2014* (Manila). Available at: www.adb.org/publications/key-indicators-asia-and-pacific-2014 [7 Nov. 2014].
- Asian Development Bank Institute (ADBI). 2012. *ASEAN 2030: Toward a borderless economic community* (Tokyo). Available at www.adbi.org/asean.2030/ [26 Sep. 2014].
- Asra, A.; Estrada, G.; Pernia, E. 2011. “Implications for poverty reduction in Southeast Asia”, in D. Hew (ed.): *Roadmap to an ASEAN economic community* (Singapore, Institute of Southeast Asian Studies), pp. 218-245.
- Baldwin, R.; Venables, A.J. 1995. “Regional economic integration”, in G. Grossman and K. Rogoff (eds.): *Handbook of International Economics*, Vol. 3 (Amsterdam, North Holland). Available at: <http://www.sciencedirect.com/science/article/pii/S1573440405800115> [7 Nov. 2014].
- Basnett, Y. 2013. “Labour mobility in East Africa: An analysis of the East African community's common market and the free movement of workers”, in *Development Policy Review*, Vol. 31, pp. 131–148. Available at: <http://onlinelibrary.wiley.com/doi/10.1111/dpr.12000/abstract> [7 Nov. 2014].
- Bhagwati, J. 1976. *Taxing the brain drain*. Vols. 1 and 2. (Amsterdam, North Holland). Available at: www.jstor.org/stable/1840388 [7 Nov. 2014].
- Bodvarsson, Ö.; Van den Berg, H. 2009. *The economics of immigration. Theory and policy* (Berlin, Springer). Available at: <http://www.springer.com/economics/economic+theory/book/978-1-4614-2115-3> [7 Nov. 2014].
- Boeri, T.; Brucker, H.; Doquier, F.; Rapoport, H. (eds.). 2012. *Brain drain and brain gain: The global competition to attract high-skilled migrants* (Oxford, Oxford University Press). Available at:

www.oup.com/us/catalog/general/subject/Economics/Labour/?view=usa&ci=9780199654826 [7 Nov. 2014].

Böhning, R. 1972. *The migration of workers in the United Kingdom and the European Community* (Oxford, Oxford University Press for the Institute of Race Relations).

Boontinand, V. 2010. *Domestic workers in Thailand: Their situation, challenges and the way forward* (Bangkok, ILO).

Borjas, G. 1994. “The economics of immigration”, in *Journal of Economic Literature*, Vol. 32, No. 4, pp. 1667–1717.

Bruni, M. 2013. *Labour market and demographic scenarios for ASEAN countries (2010–35): Education, skill development, manpower needs, migration flows and economic growth*, DEMB Working Paper Series 6. Available at: http://merlino.unimo.it/campusone/web_dep/wpdemb/0006.pdf [7 Nov. 2014].

Capannelli, G. 2013. *Key issues of labour mobility in ASEAN*. PowerPoint presentation to the ADBI-OECD roundtable. Available at: <http://www.adbi.org/files/2013.01.23.cpp.sess2.1.capannelli.labor.mobility.asean.pdf> [7 Nov. 2014].

CARICOM Secretariat. 2005. *The free movement of skills and social security* (Georgetown, Guyana). Available at: http://www.caricom.org/jsp/single_market/freemovementskills_socialsecurity.pdf [7 Nov. 2014].

Chanda, R. 2001. “Movement of natural persons and the GATS”, in *World Economy*, Vol. 24, No. 5, pp. 631–654.

Chaudhuri, S.; Mattoo, A.; Self, R. 2004. “Moving people to deliver services: How can the WTO help?”, in *Journal of World Trade*, Vol. 38, No. 3, pp. 363–394.

Cheewatrakoolpong, K.; Sabhasri, C.; Bunditwattanawong, N. 2013. *Impact of the ASEAN Economic Community on ASEAN production networks* (Tokyo, Asian Development Bank Institute). Available at: www.adbi.org/working-paper/2013/02/21/5525.impact.asean.production.networks/ [7 Nov. 2014].

Congressional Research Service. 1980. *Temporary worker programs: Background and issues*. Prepared for the Senate Committee on the Judiciary (Washington, DC).

de la Torre, A.; Kelly, M. 1992. *Regional trade arrangements* (Washington, DC, IMF). Available at: books.google.com/books?isbn=1557752273. [7 Nov. 2014].

Dollar, D.; Kraay, A. 2002. “Growth is good for the poor”, in *Journal of Economic Growth*, Vol. 7, No. 3, Sep. 2002, pp. 195–225.

European Commission (EC). Undated. “Employment, social affairs & inclusion”. Available at: <http://ec.europa.eu/social/main.jsp?catId=458&langId=en> [7 Nov. 2014].

European Integration Consortium (EIC). 2009. *Labour mobility within the EU in the context of enlargement and the functioning of the transitional arrangements* (Brussels).

Ferguson, H. 2009. “Barbados open to ‘structured’ readmission of overstays”, in *Stabroek News*, 2 July 2009.

Findlay, C.; Soesastro, H. (eds.). 2006. *Reshaping the Asia Pacific economic order* (New York, Routledge). Available at: www.routledge.com/books/details/9780415651479/ [7 Nov. 2014].

Gabriel, C. 2008. “A healthy trade? NAFTA, labor, mobility and Canadian nurses”, in C. Gabriel and H. Pellerin (eds.): *Governing international labour migration: Current issues, challenges and dilemmas* (New York, Routledge/RIPE Studies in Global Political Economy). Available at: www.routledge.com/books/details/9780415433686/ [26 Sep. 2014].

Gerking, S.; Mutti, J. 1983. “Factor rewards and the international migration of unskilled labour: A model with capital mobility”, in *Journal of International Economics*, Vol. 14, No. 3–4, May 1983, pp. 367–380. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/12339350> [7 Nov. 2014].

Girvan, N. 2007. “Four questions for regional integration”. Available at: www.normangirvan.info/four-questions-for-regional-integration/ [7 Nov. 2014].

Globerman, S. 2002. “Trade liberalization and the migration of skilled professionals and managers: The North American experience”, in *The World Economy*. Vol. 23, No. 7, pp. 901–922. Available at: <http://onlinelibrary.wiley.com/doi/10.1111/1467-9701.00308/abstract> [7 Nov. 2014].

Greene, E. 2005. *Free movement of persons: The vision and the reality* (Georgetown, Guyana, CARICOM Community Secretariat). Available at: www.caricom.org/jsp/single_market/free_movement.jsp?menu=csme [7 Nov. 2014].

Hall, A. 2012. *Myanmar and migrant workers: Briefing and recommendations* (Bangkok, Institute for Population and Social Research, Mahidol University).

Hall, K. 2012. “Migrant workers and social protection in ASEAN: Moving towards a regional standard?”, in *Journal of Population and Social Studies*, Vol. 21, No. 1, pp. 12–38. Available at: www.cabdirect.org/abstracts/20123320881.html;jsessionid=AC25F74BA1B8BE6083482A3122FB3371 [7 Nov. 2014].

Hui, W.T. 2013. “Economic growth and inequality: Minimum wage for Singapore”, in *International Labour Review* (Geneva, ILO). Available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1564-913X.2013.00171.x/abstract> [7 Nov. 2014].

Kanapathy, V. 2008. *Managing cross-border labour mobility in Malaysia: Two decades of policy experiments* (Kuala Lumpur, Institute of Strategic and International Studies).

Krugman, P. 1991. *Geography and trade* (Cambridge, MA, MIT Press). Available at: www.sciencedirect.com/science/article/pii/1059056092900269 [7 Nov. 2014].

Lopez, R. 2012. “Canada looks to lure energy workers from the U.S.”, in *Los Angeles Times*, 12 Nov. 2012. Available at: www.latimes.com/business/la-fi-canada-recruit-20121111,0,6209802.story [7 Nov. 2014].

Lucas, R.; Chappell, L. 2009. *Measuring migration's development impacts: Preliminary evidence from Jamaica. Development on the move*. Working Paper 2 (London, Institute for Public Policy Research). Available at: www.ippr.org/publication/55/1677/measuring-migrations-development-impacts-preliminary-evidence-from-jamaica [7 Nov. 2014].

Ma, Y.; Qu, B.; Zhang, Y. 2012. “Complex goods' exports and institutions: Empirics at the firm level”, in *Review of International Economics*, Vol. 20, Issue 4, pp. 841–853. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2135394 [7 Nov. 2014].

Manning, C.; Bhatnagar, P. 2004. *The movement of natural persons in Southeast Asia: How natural?* (Canberra, Australian National University). Available at: <https://socialpolicy.crawford.anu.edu.au/acde/publications/publish/papers/wp2004/wp-econ-2004-02.pdf> [7 Nov. 2014].

Martin, P. 1993. *Trade and migration: NAFTA and agriculture* (Washington, DC, Institute for International Economics).

—. 2004. “Germany: Managing migration in the 21st century”, in W.A. Cornelius, T. Tsuda, P. L. Martin and J. F. Hollifield (eds.): *Controlling immigration. A global perspective* (Palo Alto, CA, Stanford University Press), pp. 221–252. Available at: www.sup.org/book.cgi?id=4189 [7 Nov. 2014].

—. 2006. *GATS, migration, and labour standards*, ILS Discussion Paper 165/2006 (Geneva, ILO). Available at: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_193612.pdf [7 Nov. 2014].

—. 2009. “Sustainable labour migration policies in a globalizing world”, in A. Sobel (ed.): *Challenges of globalization: Immigration, social welfare, global governance* (London, Routledge), pp. 18–42. Available at: <http://www.worldcat.org/title/challenges-of-globalization-immigration-social-welfare-global-governance/oclc/297149195> [7 Nov. 2014].

—. 2011. “Mexico-US migration, NAFTA and CAFTA, and US immigration policy”, in R. Hansen, J. Koehler and J. Money (eds.): *Migration, nation states and international cooperation* (London, Routledge), pp. 75–86.

—. 2012a. “Immigration and farm labour. Policy options and consequences”, in *American Journal of Agricultural Economics*, Vol. 95, No. 2, pp. 470–475.

—. 2012b. “High-skilled migrants: S&E workers in the United States”, in *American Behavioral Scientist*, Vol. 56, pp. 1058–1079. Available at: <http://abs.sagepub.com/content/56/8/1058.full.pdf+html> [7 Nov. 2014].

Martin, P.; Abella, M. 2009. “Migration and development: The elusive link at the GFMD”, in *International Migration Review*, Vol. 43, No. 2, pp. 431–439. Available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1747-7379.2009.00771.x/abstract> [7 Nov 2014].

- Mehrländer, U. 1994. “The development of post-war migration and refugee policy”, in S. Spencer (ed.): *Immigration as an economic asset: The German experience* (Staffordshire, UK, Trentham Books), pp. 15–38.
- Migration News*. 1997. “Labor mobility and social dumping”, Vol. 4, No. 1. Available at: http://migration.ucdavis.edu/mn/more.php?id=1141_0_4_0 [7 Nov. 2014].
- . 2003. *Southern Europe*. Vol.10, No. 4. Available at: http://migration.ucdavis.edu/mn/more.php?id=2955_0_4_0 [7 Nov. 2014].
- . 2005. “Brain waste”, Vol. 12. No. 3. Available at: http://migration.ucdavis.edu/mn/more.php?id=3115_0_2_0 [7 Nov. 2014].
- . 2008. “European Union: Blue cards, minimum wages”, Vol. 14, No. 2. Available at: http://migration.ucdavis.edu/mn/more.php?id=3347_0_4_0 [7 Nov. 2014].
- . 2011. *Labour*, H-1B, J-1, Vol. 18, No. 4. Available at: http://migration.ucdavis.edu/mn/more.php?id=3708_0_2_0 [7 Nov. 2014].
- Miller, M.; Martin, P. 1982. *Administering foreign worker programs* (Lexington, MA, Lexington Books).
- Moses, J.; Letnes, B. 2004. “The economic costs to international labour restrictions: Revisiting the empirical discussion”, in *World Development*, Vol. 32, No. 10, pp.1609–1626.
- Mundell, R. 1957. “International trade and factor mobility”, in *American Economic Review*, Vol. 47, pp. 321–335.
- Nielson, J.; Taglioni, D. 2003. *A quick guide to GATS and Mode 4* (Paris, OECD). Available at: http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/microsites/IDM/workshops/Trade_2004_04051004/related%20docs/quick_guide.pdf [7 Nov. 2014].
- North, D. 2010. *Beware of indirect immigration policy making*, CIS Backgrounder (Washington, DC). Available at: www.cis.org/indirect-immigration-policy-making [7 Nov 2014].
- Ofori, G. 1993. *Foreign construction workers in Singapore*, Sectoral Activities Programme Working Paper 106 (Geneva, ILO).
- Orbeta, A. 2012. *Enhancing labour mobility in ASEAN: Focus on lower skilled workers* (Manila, Philippine Institute of Development Studies). Available at: www.pids.gov.ph/dp.php?id=5153 [7 Nov. 2014].
- . 2013. *Enhancing labour mobility in ASEAN: Focus on lower skilled workers*, Discussion Paper Series No. 2013-17 (Manila, Philippine Institute for Development Studies). Available at: www.pids.gov.ph/dp.php?id=5153&pubyear=2013 [7 Nov. 2014].
- Orbeta, A.; Gonzales, K. 2013. *Managing international labour migration in ASEAN: Themes from a six-country study*, No. 23422 (Canberra, ANU East Asian Bureau of Economic Research). Available at: www.eaber.org/node/23422 [7 Nov. 2014].

- Panizzon, M. *Trade and labour migration. GATS Mode 4 and migration agreements*, FES Paper 47 (Berlin). Available at: <http://library.fes.de/pdf-files/iez/global/06955.pdf> [7 Nov. 2014].
- Pasadilla, G.; Abella, M. 2012. *Social protection for migrant workers in ASEAN*, CESifo Working Paper: Social Protection, No. 3914 (Munich, CESIFO).
- Pholphirul, P. 2012. “Labour migration and economic sustainability in Thailand”, in *Journal of Current Southeast Asian Affairs*, Vol. 3, pp. 59–83.
- Pitsuwan, S. 2009. “Progress in ASEAN economic integration since the adoption of the ASEAN Charter” (Jakarta, ASEAN Secretariat).
- Punpuing, S; Pearson, E. 2006. *The Mekong challenge, underpaid, overworked and overlooked: the reality of young migrant workers in Thailand* (Bangkok, ILO). Available at: <http://zunia.org/post/the-mekong-challenge-underpaid-overworked-and-overlooked-the-realities-of-young-migrant-workers> [7 Nov. 2014].
- Ratha, D.; Shaw, W. 2007. *South-south migration and remittances*, World Bank Working Paper 102 (Washington, DC, World Bank).
- Ruhs, M.; Martin, P. 2008. “Numbers vs. rights: Trade-offs and guest worker programs”, in *International Migration Review*, Vol. 42, No. 1, pp. 249–65. Available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1747-7379.2007.00120.x/abstract> [7 Nov. 2014].
- Samuelson, P. 1948. “International trade and the equalization of factor prices”, in *Economic Journal*, Vol. 58, No. 230. pp. 163–184.
- Tamagno, E. 2008. *Strengthening social protection for ASEAN migrant workers through social security agreements*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper 10 (Bangkok, ILO). Available at: www.ilo.org/asia/whatwedo/publications/WCMS_160332/lang-en/index.htm [7 Nov. 2014].
- Taylor, J.E.; Martin, P. 2001. “Human capital: Migration and rural population change”, in B. Gardener and G. Rausser (eds.): *Handbook of agricultural economics, Volume I* (Amsterdam, Elsevier Science), pp. 457–511. Available at: <http://www.sciencedirect.com/science/article/pii/S1574007201100125> [7 Nov. 2014].
- The Economist*, 2012. “Border follies: Liberalising migration could deliver a huge boost to global output”. 17 Nov. 2012. Available at: <http://www.economist.com/news/finance-and-economics/21566629-liberalising-migration-could-deliver-huge-boost-global-output-border-follies> [7 Nov. 2014].
- United Nations. 2012. “World population prospects: The 2012 revision”. Available at: <http://esa.un.org/unpd/wpp/index.htm> [7 Nov. 2014].
- Urata, S. and Okabe, M. (eds.). 2011. *Towards a competitive ASEAN single market: Sectoral analysis*, ERIA Report 2010-3 (Jakarta, ERIA). Available at www.eria.org/publications/research_project_reports/-towards-a-competitive-asean-single-market-sectoral-analysis.html [7 Nov. 2014].

Vachararrutai, B. 2010. *Domestic workers in Thailand: Their situation, challenges and the way forward* (Bangkok, ILO).

Vaughan, J. 2003. *Be our guest. Trade agreements and visas* (Washington, DC). Available at: <http://cis.org/TradeAgreements-Visas> [7 Nov. 2014].

Walmsley, T.; Ahmed, S; Parsons, C. 2007. *A global bilateral migration database: Skilled labour, wages and remittances* (Purdue, IN, Global Trade Analysis Project, Purdue University).

Walsh, J. 2007. “Labour market issues for the ASEAN region”, in *Journal of Behavioral Science*, Vol. 2, No. 1, pp. 111–131.

Wasem, R. 2007. *Immigration issues in trade agreements*, Congressional Research Service, RL32982 (Washington, DC). Available at: www.au.af.mil/au/awc/awcgate/crs/rl32982.pdf [7 Nov. 2014].

Wickramasekara, P. 2011. *Circular migration: A triple win or a dead end*, ILO-GURN Discussion Paper 15 (Bangkok, ILO).

Winters, A.; Walmsley, T.; Wang, Z.; Grynberg, R. 2003. “Liberalizing temporary movement of natural persons: An agenda for the development round”, in *The World Economy*, Vol. 26, No. 8, pp. 1137–1161.

World Bank. 2005. *Global economic prospects. The economic implications of remittances and migration* (Washington, DC). Available at: http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469372&piPK=64165421&menuPK=64166093&entityID=000112742_20051114174928 [7 Nov. 2014].

Yue, C.S. 2010. “Cross-Border Labour Migration in ASEAN: Issues and Challenges”, in *The Global Economic Crisis: Implications for ASEAN* (Singapore, Institute for Southeast Asian Studies), pp. 195–235. Available at: <https://bookshop.iseas.edu.sg/publication/133> [7 Nov. 2014].

—. 2011. “Free flow of skilled labour in the AEC”, in S. Urata and M. Okabe (eds.): *Towards a competitive ASEAN single market: Sectoral analysis*, ERIA Report 2010-3 (Jakarta, Economic Research Institute for ASEAN and East Asia). Available at: www.eria.org/publications/research_project_reports/-towards-a-competitive-asean-single-market-sectoral-analysis.html [7 Nov. 2014].

Reaping the economic and social benefits of labour mobility: ASEAN 2015

The ASEAN Economic Community (AEC) is moving towards closer economic integration among its Member States, including the free mobility of professionals and highly skilled workers. The freer flow of goods and capital will place path dependence, which encourages firms that already hire migrant workers to expand, in competition with wage convergence, which will reduce incentives for international labour migration. Most current AEC migrants are low skilled and most new migrants are likely to be low skilled. Governments need to acknowledge this reality and develop policies to liberalize and regularize the cross-border movements of labour. They cause mutual recognition agreements to promote the movement of professionals, and regulate the recruitment and employment of migrant workers, to ensure that migrant and local workers are treated equally. Demographic and economic realities suggest international labour migration within the AEC will increase making the implementation of the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers imperative, to ensure that labour migration promotes cooperation rather than conflict between AEC Member States.

ILO Regional Office for Asia and the Pacific

United Nations Building, 11th Floor
Rajdamnern Nok Avenue,
Bangkok 10200, Thailand
Tel.: +66 2288 1234, Fax.: +66 2288 3062
Email: BANGKOK@ilo.org

www.ilo.org/asia

DECENT WORK

A better world starts here.

ISSN: 2227-4405 (web pdf)