



COMPAS-ILO-ITC Course Collaboration

ASEAN regional integration:
challenges and opportunities.

A Senior Executive Seminar



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CONCEPT NOTE

1. Introduction

ASEAN member states have committed to removing all barriers to the cross-border movement of goods and services in the region by 2015. The ASEAN region, which has a combined population of 550 million and GDP of US\$ 2.2 trillion, will become a single market. This will have far-reaching consequences on its economic development, its capital and labour markets, and the structure and competitiveness of its industries. Coordinating policies to facilitate the cross-border movement of the region's skilled workforce, and ensuring adequate social protection for all national and foreign workers is a key challenge. This course aims to facilitate an understanding of the challenges and opportunities likely to be faced in regulating labour migration in the context of economic integration in ASEAN, drawing where appropriate, on the experience of regional harmonization in the European Union.

2. Course aims

- To enhance understanding of the implications of economic integration on migration and labour policies;
- To equip senior government officials working on migration issues in ASEAN countries with analytical skills and knowledge of relevant international experience which can contribute to sound national policies and practices on immigration and emigration;
- To provide participants an opportunity to critically analyse and discuss contemporary labour migration issues in ASEAN countries, and review the appropriateness of current approaches in the light of international experience;
- Sharing experience with peer officials from European institutions dealing with economic integration on migration and labour policies;
- To provide the opportunity for high-level officials to undertake a short, intensive period of study and reflection.

3. Participants

Participation will be open to all 10 ASEAN governments. Participation will be restricted to Senior Ranking Officials (Permanent Secretary, Director, Deputy Director, or equivalent). In addition, the course will bring together regional employers' and workers' organizations and ILO staff.

4. Seminar content

The Seminar will provide an opportunity for participants to attend a range of lectures on contemporary issues in labour migration by leading academics and policy specialists from the EU and ASEAN. These include issues such as: impacts of migration on national and local economies, factors leading to labour demand, migrant workers in irregular situations, gender dimensions, regional integration (skills recognition, employment services, labour shortages) and vulnerable occupations. The teaching will draw on ILO expertise and the multidisciplinary strengths of COMPAS (Oxford University) in this complex field of study, combining political, legal, economic and sociological approaches.



5. Course outline

Day 1 – Fundamental issues in labour migration

Sessions on this opening day will offer high level analysis of social, economic and political issues to be taken into account when considering international labour immigration.

Three sessions will cover:

1. **Enabling mobility, ensuring rights** – This session will make an evaluation of the tradeoffs involved in labour migration and identify the different interests. Is it possible to balance the different interests: that of migrant and national workers, employers, states of origin and destination; to have a rights' based approach to labour migration and have increased mobility? The second part of session 1 will focus on the EU enlargement and labour migration; labour migration of third country nationals, and EC directives on labour migration. What lessons can be drawn for regional integration in the ASEAN?
2. **Lessons to be learnt from EU regional harmonization and its application to ASEAN** – This session will focus on labour market integration, skills recognition, regional employment services and regional economic impacts of labour migration.
3. **Evening reception:** A guest speaker over dinner will cover issues of remittances in Asia.

Day 2 – Labour migration policy and its implementation

This session will focus on labour market integration, skills recognition, regional employment services and regional economic impacts of labour migration.

Four sessions will cover:

4. **Regulating labour immigration** – This session will present evidence around the following questions: what are the effects of labour emigration on origin countries of the region? Is there a tension between states promoting labour emigration and ensuring suitable protections for their citizens abroad? What is the impact of emigration procedures on protection and labour mobility? What are sound practices and how can states of origin and destination cooperate to more effectively regulate recruitment agencies?
5. **Regulating labour emigration** – this will present practical examples around key policy questions such as: what are the effects of labour immigration in labour-receiving countries in Europe? How are these effects shaped by intra EU mobility? How are efforts to link the admission of migrant workers to the needs of the domestic labour market working? What have been the methods and data-sources to assess labour market requirements for foreign workers and generate shortage occupation lists?
6. **Gender perspectives on migration** – This session will focus on the gender dimensions of migration and development, as overseas employment opportunities are often gender specific. What policy responses provide protection to migrants who are in vulnerable situations and occupations?
7. **The road to the ASEAN Community 2015:** the final session will look at the progress towards the ASEAN Community 2015

6. Course dates and length

The two-day seminar will be held on the 9th – 10th July 2014. Participants will arrive on the 8th July and depart on the 11th July.

8th July: Arrival and dinner reception

9th July: Day 1 – All day meeting and Evening Dinner with speaker

10th July: Day 2 – All day meeting, Seminar closing

11th July: Participant departure

7. Venue

The meeting will be held at the J.W. Marriott, Phuket, Thailand.



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CHAPTERS

Chapter 1. Enabling mobility, ensuring rights

Who needs migrant workers? Labour shortages and immigration policy

Bridget Anderson,
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COMPAS

Global Context

According to OECD figures the global stock of international migrants increased from 156 million in 1990 to about 214 million in 2010. About half of these are women, and in 2010 some 8% were refugees, a decrease in proportion from 12% of global migrants in 1990 (Vargas-Silva, 2011). The IOM's World Migration Report 2013 finds that most international migrants originate in the South, and most migration corridors are accounted for by people moving from South to South (Ukraine to the Russian Federation and vice versa, Bangladesh to India, Afghanistan to Pakistan). It also finds that migrants have similar or higher levels of employment as the native born. Most migrants work.

However, it should be recognised that such data are indicative only. Even within single states there is typically no consensus on a definition of 'migrant'. Migrants may be defined by foreign birth or foreign citizenship. The International Passenger Survey (IPS), an important source of data on migration flows, uses the UN definition of Long Term International Migrant: "A person who moves to a country other than that of his or her usual residence for a period of at least a year [...] so that the country of destination effectively becomes his or her new country of usual residence." Under this definition many people returning to their state of citizenship count as 'migrants' (Anderson and Blinder, 2013). Furthermore, there are also long standing debates about what counts as 'work' and when it is included in the labour market. Issues around unpaid care and domestic labour, sex work/prostitution, the informal economy, and paid non-market work (e.g. prison labour, interning) suggest that who is a worker is an even more contested question than who counts as a migrant.

This does not undermine the evidence that migrant labour is important in many states of the world. Often international migrants are concentrated, not only in particular sectors (agriculture, construction, care, domestic labour etc), but in particular types of work within these sectors. How then are we to understand employers' arguments that migrant workers are "needed to fill labour and skills shortage" and/or "to do the jobs that local workers cannot or will not do"?

Labour and skills shortages

The presence of migrant labour in a particular job or sector cannot be straightforwardly interpreted as a response to a 'labour shortage'. There is in fact no universally accepted definition of a labour shortage and crucially the definition of shortage typically underlying employers' calls for migrants to help fill vacancies is that the demand for labour exceeds supply *at the prevailing wages and employment conditions*. Reports of "labour and skills shortages" are often based on surveys that ask employers about hard-to-fill jobs at *current* wages and employment conditions. The obvious counter to this is that the existence and size of shortages critically depend on the price of labour, and that the shortage can be cleared by employers raising wages and improving employment conditions.



In practice, however, employers often respond that even jobs that are classified as 'low skilled', in fact demand a range of soft skills and competences, and that the available non-migrant labour force, does not possess these. This points to the fact that, like 'labour shortage' 'skills' is a very vague term both conceptually and empirically. It is well known that it is socially constructed and highly gendered. It can refer to a wide range of qualifications and competencies whose meaning in practice is not always clear. The limitation of formal qualifications as a measure of skills becomes most apparent when one considers 'soft' skills not captured through formal qualifications. Soft skills are often said to be particularly important in sectors where social relations with customers, clients, and/or service users are important to the delivery and quality of the work. For example, the quality of elder care is affected by the soft skills of those providing care, and older people often actively express a preference for personal qualities over formal qualifications.

At the same time, 'skills' can also be used to refer to attributes and characteristics that are related to employer control over the workforce. Employers may find certain qualities and attitudes desirable because they suggest workers will be compliant, easy to discipline, and cooperative. Any discussion of "skills shortages" needs to be aware that employers play an important role in defining the competencies and attributes that are 'needed' to do particular jobs and in deciding the terms and conditions of the job. In some occupations, the skills and 'work ethic' demanded by employers are partly or largely a reflection of employer preference for a workforce over which they can exercise particular mechanisms of control and/or that is prepared to accept wages and employment conditions that do not attract a sufficient supply of national workers.

Why migrants? Employer demand for migrant labour

A key consideration in assessment of employer demand for migrant workers is that the skills, competencies and attributes required of employees is critically influenced by what employers think they can get from the available pools of labour. The labour supply potentially available to employers is highly diverse, has different expectations and is differently motivated to participate in the labour market. It is easy to see how, faced with a diverse pool of labour, employers can become increasingly demanding of the types of workers they "need". This raises the possibility that employers develop a preference for particular types of migrant workers based on migrants' perceived superior characteristics and attributes. This is in practice reflected in employers' common claims that migrants have superior "work ethic" and "attitude". Importantly these sorts of claims are typically made for relatively new arrivals rather than for foreign born more generally. A number of factors may encourage employers to develop such a preference.

Some employers may prefer migrants because of their lower expectations about wages and employment conditions. Research suggests that employers are typically acutely aware of the economic and other trade-offs that new migrants are willing to make by tolerating wages and employment conditions that are poor by the standards of their host country but higher than those prevailing in their countries of origin, and this is not confined to the lowest-paying occupations and sectors in the labour market. Others may develop a preference for migrants because of the characteristics and restrictions attached to their immigration status. Migrants who are illegally resident may be prepared to take on low waged work in poor conditions because they are desperate and are frightened of deportation. This may also make them less likely to complain and organise. Those who are legally resident are often tied to an employer or subject to other labour market restrictions. Some employers, especially those finding it difficult to retain workers in certain jobs, may prefer workers whose choice of employment is restricted. From the employer's perspective, the employment restrictions associated with particular types of immigration status may make migrants the more 'suitable' and easier to retain in jobs that offer low wages and poor employment conditions.

Their different frame of reference means some migrants are prepared to accept jobs whose skill requirements are significantly below their actual skills, creating 'high quality workers for low-waged jobs', who may well be more attractive employees than the available British workforce. In some cases, employer demand for particular groups of migrant labour may reflect a demand for specified skills or knowledge related to particular countries, including foreign language skills. In a globalized economy, in both high and low-skilled sectors, employers may value the knowledge and contacts migrants bring from their countries of origin. Whether or not these specialized skills which are related to particular countries or can be acquired by local workers, and consequently, whether certain products, trade links, and services can only be provided by workers from particular countries is more contested in low- and medium-skilled occupations than in high-skilled occupations. Furthermore, employers can recruit migrants out of a preference for a 'self-regulating' and 'self-sustaining' labour supply. Employers can use migrant networks to control the flow of labour.

Alternatives to immigration

In theory individual employers may respond to perceived staff shortages by (i) increasing wages and/or improving working conditions to attract more citizen workers, and/or to increase the working hours of the existing workforce; this may require a change in recruitment processes and greater investment in training and up-skilling; (ii) changing the production process to make it less labour intensive by, for example, increasing the capital and/or technology intensity; (iii) relocating to countries where labour costs are lower; (iv) switching to production (provision) of less labour-intensive commodities and services; and (v) employing migrant workers.

Of course, not all of these options will be available to all employers at all times. For example, most construction, health, social care and hospitality work cannot be off-shored. Moreover, the options are not mutually exclusive. An employer's decision on how to respond to a perceived labour shortage will depend in part on the relative cost of each of the feasible alternatives. If there is ready access to cheap migrant labour, employers may not consider the alternatives to immigration as a way of reducing staff shortages. This may be in the short term interest of employers but perhaps not in the best interest of the overall economy. There is clearly the danger that the recruitment of migrants to fill perceived labour and skills needs in the short run exacerbates shortages and thus entrenches the certain low-cost and migrant-intensive production systems in the long run.

It is important to recognise that employers do not make their choices in a vacuum. Employers' incentives and business and recruitment strategies are critically influenced and in many ways constrained by the wider institutional and regulatory framework that is, to a large degree, created by public policies. Moreover it is not sufficient, to tackle labour supply alone. Labour market flexibility and low levels of labour regulation can combine with other policies from training to housing, to contribute to creating a growing *demand* for migrant workers. To take an example from the UK: two thirds of care assistants in London are migrants. The shortages of social-care workers and care assistants are largely due to the low wages and poor working conditions. Most social care in the UK is publically funded, but actually provided by the private sector and voluntary organisations. Constraints in local authority budgets have contributed to chronic underinvestment. Together with the structure of the care sector itself, this approach has resulted in a growing demand for low-waged, flexible workers. Simply cutting benefits, or reducing legal access to migrant workers without addressing the causes of British workers' reluctance to apply for jobs in the sector, is only going to put more pressure on an already creaking system.

Choice or inevitability?

Immigration is often viewed as a discrete area of policy, and the relation between immigration, labour demand, and other policy areas typically remains unexplored in public debates. Reliance on migrant workers is not – as is sometimes argued – simply a consequence of lax immigration controls and neither can it be reduced to 'exploitative employers', 'lazy national workers'. Rather, demand for migrant workers arises from a broad range of institutions, public policies and social relations.

This article is based on Ruhs, M. and Anderson, B. (2010) *Who Needs Migrant Workers? Labour Shortages, Immigration and Public Policy*, Oxford: Oxford University Press.



International Standards for the protection of migrant workers

Miriam Boudraa

ILO's migrant-specific instruments

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migration for Employment Recommendation (Revised), 1949 (No. 86)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Migrant Workers Recommendation, 1975 (No. 151)

ILO standards

Lack of labour protection for migrant workers undermines protection generally for all workers. The many international labour standards adopted over the years by the International Labour Conference of the International Labour Organization (ILO) are important for safeguarding the dignity and rights of migrant workers. In principle, all international labour standards, unless otherwise stated, are applicable to migrant workers. These standards include the eight fundamental rights conventions of the ILO identified in the 1998 ILO Declaration on Fundamental Principles and Rights at Work; standards of general application, such as those addressing protection of wages and occupational safety and health, as well as the governance conventions concerning labour inspection, employment policy and tripartite consultation; and instruments containing specific provisions on migrant workers such as the Private Employment Agencies Convention, 1997 (No. 181), the Domestic Workers Convention, 2011 (No. 189) and social security instruments.

From its very inception, the ILO also resolved to protect “the interests of workers when employed in countries other than their own” (ILO Constitution, 1919, Preamble, recital 2), and has pioneered the development of specific international standards for the governance of labour migration and protection of migrant workers. It has adopted two Conventions, in 1949 and 1975, which are accompanied by two non-binding Recommendations.

In 1999, the ILO Committee of Experts on the Application of Conventions and Recommendations conducted a General Survey on the application of these four instruments on migrant workers, which it submitted to the 87th International Labour Conference. The Committee also issues observations and direct requests to States parties regarding their application of Conventions Nos. 97 and 143, available from the ILO's International System on International Labour Standards (<http://www.ilo.org/dyn/normlex/en/>).

Other standards and mechanisms

In addition to international labour standards, migrant workers and members of their families are protected by the nine UN core international human rights instruments, which apply to all persons irrespective of their nationality. One of these core instruments is the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was adopted by the UN General Assembly in 1990 and entered into force in 2003. This Convention complements the four ILO instruments on migrant workers but is broader in scope going beyond labour issues. It also sets up the Committee on Migrant Workers which is responsible for monitoring the Convention's application by States Parties. The ILO participates, in a consultative capacity, in the meetings of this Committee. There are also other mechanisms within the UN system relevant to the protection of migrant workers, including the special procedures' mandates of the UN Human Rights Council, and most notably the UN Special Rapporteur on the human rights of migrants.

ILO legal instruments

Fundamental Rights Conventions

- Abolition of Forced Labour
 - Forced Labour Convention, 1930 (No. 29)
 - Abolition of Forced Labour Convention, 1957 (No. 105)
- Elimination of Child Labour
 - Minimum Age Convention, 1973 (No. 138)
 - Worst Forms of Child Labour Convention, 1999 (No. 182)
- Trade Union Rights
 - Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
- Equality and Non-discrimination in Employment and Occupation
 - Equal Remuneration Convention, 1951 (No. 100)
 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Selected Conventions and Recommendations of General Application

- Labour Inspection Convention, 1947 (No. 81)
- Labour Clauses (Public Contracts), 1949 (No. 94)
- Protection of Wages Convention, 1949 (No. 95)
- Employment Injuries Benefit Convention, 1964 (No. 121)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Minimum Wage Fixing Convention, 1979 (No. 131)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- Nursing Personnel Convention, 1977 (No. 149)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention, 1985 (No. 161)
- Safety and Health in Construction Convention, 1988 (No. 167)
- Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
- Safety and Health in Mines Convention, 1995 (No. 176)
- Maternity Protection Convention, 2000 (No. 183)
- Safety and Health in Agriculture Convention, 2001 (No. 184)

Selected Conventions and Recommendations containing specific provisions on migrant workers

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- Employment Service Convention, 1948 (No. 88)
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)
- Plantations Conventions, 1958 (No. 110)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Private Employment Agencies Convention, 1997 (No. 181)
- HIV and AIDS Recommendation, 2010 (No. 200)
- Domestic Workers Convention, 2011 (No. 189)
- Domestic Workers Recommendation, 2011 (No. 201)

Additional ILO resources can be found at: <http://www.ilo.org/labourmigration>.



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Intra-regional mobility in the European Union

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The beginning of freedom of movement in Europe is intrinsically linked to the establishment of a common market with the creation of the European Economic Community by the Treaty of Rome in 1957 and its four freedoms for goods, capital, services and persons. It is therefore not surprising that freedom of movement was initially limited to workers. The scope of the beneficiaries of the freedom of movement enlarged progressively with the political will to make the European integration process closer to its citizens. It nowadays includes all those fulfilling minimum conditions and has even been recognised as an attribute of the European Citizenship. These rules that have been adopted in the framework of the internal market will be the object of the first part of the present paper. The second part elucidates to which extent freedom of movement and of residence has been extended by secondary law concerning mainly TCNs. This has actually been done in the framework of another European policy which is called the *Area of Freedom, Security and Justice* that is much younger than the internal market policy.

Part 1: The freedom of movement and of residence in the internal market

1. Content

Freedom of movement of persons started with workers. The Treaty of Rome establishing the European Economic Community (EEC) in 1957 foresaw in article 39 (nowadays article 45 TFEU), §1 that “*Freedom of movement of workers shall be secured within the Union*”. The third paragraph adds that “*It shall entail the right to accept offers of employment actually made*” (point a) and “*to stay in a Member State for the purpose of employment*” (point c). A similar provision recognised a right to establishment to self-employed workers. Freedom of movement relies on the idea that immigration becomes an individual right; the Member States can still limit this right in only exceptional cases and in particular not anymore for economic reasons, any requirement of a work permit being unimaginable within a common market based on a logic of supply of European workers competing with nationals on the labor market rather than of a controlled demand of employers obliged to ask for an authorization to recruit a TCN rather than a national.

Despite these remarkable developments, freedom of movement was still limited to workers. It is in 1992 that the notion European Citizenship appeared formally in the European legal order with the Treaty of Maastricht nowadays under article 20 TFEU. The question has been raised to which extent the creation of a European citizenship is not mainly symbolic. This is not the case when considering the political rights that Europeans got from European citizenship to vote and to be elected at local and European elections in any of the Member State of the EU where they live.

2. Area of free movement

Being a classical policy created by the Treaty of Rome in 1957, the freedom of movement can be exercised by European citizens in all of the 28 Member States of the European Union. The scope is even larger as some third (non-EU) countries are associated to the policy of freedom of movement: this is firstly the case for three states participating to the European Economical Area (EEA), namely Iceland, Norway and Lichtenstein; Secondly, for Switzerland on the basis of a bilateral agreement signed with the EU. In total, the total number of concerned countries forming the area of freedom of movement is thirty-two.

The participation of all Member States seems logical for one of the pillars of the European integration process. The only exception to this principle is the transitional rules for workers that can be adopted in case of enlargement of the EU till new Member States. This has been the case in particular with the enlargement to eight of the ten new Member States of Central and Eastern Europe¹ in 2004 and to Bulgaria and Romania in 2007.

The transitional rules are adopted to prevent problems with too important movement of workers in particular from new to old Member States, that could be the result of differences of economical development and income of persons inside the enlarged EU. The main characteristic of the system is that it is not a general one, but it is tailored made to the situation on the labor market of every Member State. Each of the former (meaning before enlargement) Member States has the possibility to take the necessary measures to limit the income of workers, in particular by imposing work permits that are delivered only after a labor market test. This is possible during the two first years by notifying the concerned measures to the European Commission. Before the end of this first period, the Commission will make a general report to inform the Member States about the evolution of the situation. On this basis, the Member States have the possibility to prolong the transitional measures for three more supplementary years. After these five years, the Member States can still prolong the measures for two more years, but this time only if they prove to the Commission that there are serious disturbances of the labor market of a risk thereof. So, the second characteristic of the system is that it is strictly limited in time for a maximum of seven years divided as explained above into three different sub-periods.

¹ With the exception of Malta and Cyprus with which not difficulties are foreseen due to the small size of their labor market.

3. Beneficiaries

The primary beneficiaries of freedom of movement are of course EU citizens on the basis of EU treaties (3.1.), but they are also important categories of third-country nationals (3.2.) who benefit indirectly in different ways from this right.

3.1. European citizens

Despite the fact that Europeans are nowadays taken into consideration as Citizens, the directive 2004/38 still distinguishes between four different categories. The rules differ only regarding the condition of admission of the persons depending on the object of their stay:

- Firstly workers. Those persons have only to prove their quality by producing either a confirmation of engagement from the employer or a certificate of employment, either a proof that they are self-employed. They enjoy on the labor market the same priority as nationals. It is interesting to notice that job-seekers are also entitled to move in order to find work and cannot be expelled as long as they can provide evidence that they are continuing to seek employment and they have a genuine chance of being engaged following article 14, §4, b) of directive 2004/38. However, there is still an important limit as freedom of movement of workers does not apply to “employment in the public service”, a notion that has been narrowly interpreted by the Court of justice as we will see below.
- Secondly, students. They have to prove that they are enrolled by an accredited public or private educational establishment and have a comprehensive sickness insurance cover in the host Member State. They do not need to prove that they have financial resources and can only sign a declaration certifying that they have sufficient resources not to become a burden on the social assistance system of the host Member State during their period of residence.
- Thirdly, all other persons upon the condition that they have sufficient resources not to become a burden on the social assistance system of the host Member State and a comprehensive sickness insurance cover. This category includes all persons who do not belong to the two previous categories, for instance persons who desire to retire in one of the Member States.
- Fourthly, family members of EU citizens. Freedom of movement would be a limited right if it were not possible for EU citizens to bring with them in their host Member State the members of their family. In order to favor mobility within the EU, the right to family reunification is guaranteed to EU citizens in a generous way contrasting with the possibly severe conditions for family reunification with a third-country national living in the EU regulated by directive 2003/86 in the framework of the immigration policy.

3.2. Third-country nationals

Third-country nationals normally do not benefit from freedom of movement reserved to European citizens. They are nevertheless important categories among those persons who enjoy that right on the basis of family links with a European Citizen, an agreement concluded by their country of origin with the European Union or their work relationship with a company operating in the EU:

- Firstly, reunification with a European citizen has been extended to the family members independently of their nationality following the same logic aiming at facilitating mobility. Europeans would indeed have difficulty to move within the EU if they could not bring with them their family because of their third nationality. Third-country nationals can so benefit from EU law through the citizen that they accompany or join in the case of what can be considered as a case of “mixed” family reunification.
- Secondly, persons coming from a third country signatory of an agreement with the European Union that extends freedom of movement to its nationals.
- Thirdly, persons benefiting from freedom of services.

4. Status of moving persons

Freedom of movement implies non-discrimination to be effective. This principle has been foreseen to encourage European citizens to move by forbidding any discrimination on the basis of nationality. Non-discrimination is also considered as a tool favoring the integration of European Citizens in their host Member State. The Court of justice has reinforced the effects of that provision. Its jurisprudence extended the prohibition of direct discrimination when the criteria of nationality is explicitly used by one legal instrument to indirect discrimination when the criteria appears neutral because it is not based on the forbidden one of nationality but, for instance, on another one like residence that has the same results as nationality. This kind of discrimination is legally forbidden because of its effects in fact rather than in law. The Court goes even further by refusing measures applicable without distinction to all workers (nationals and Europeans from other Member States) but having the effect of making freedom of movement more difficult to exercise, except if they can be justified.



Part 2: The abolition of internal borders in an area of freedom, security and justice

1. Content

The area of freedom, security and Justice has only been created in 1997 by the Treaty of Amsterdam. It is so a policy much younger than the common market created 40 years before, which explains that it is still emerging and less developed than the freedom of movement for EU citizens.

2. Area without internal border controls

Freedom, Security and Justice is one of the areas where what is called “differentiation” (meaning that all the Member States do not follow the same rhythm of integration and do not participate in all EU policies) is experienced. Actually, 3 Member States (UK, Ireland and Denmark) had problems with this new policy. When Schengen was integrated in the EU and also the new immigration and asylum policies were launched by the Amsterdam Treaty, they refused to participate to this new area and were excepted from it on the basis of specific protocols that are excessively complicated.

3. Beneficiaries

The Schengen area is often the object of misunderstandings regarding its added value. Freedom of movement existed of course before Schengen, but only for European Citizens in the framework of the internal market. They therefore got a limited benefit from it. The position of third country nationals is very different.

3.1. European citizens

The benefit of Schengen for EU citizens is the abolition of internal border controls. They acquired indeed the right within that area to cross internal borders without being the subject to any kind of control, with only some limited exceptions. The possibility to travel within the Schengen area - and even to enter it from a third country - on the basis of their national identity card without having to show their passport, reinforces the fact that they move within a common space where they are indeed not anymore really foreigners. Such a context explains that it is almost impossible for EU Member States to pretend to still have an immigration policy within the European Union towards European citizens in law and even towards third country nationals in fact.

3.2. Third country nationals

As it was decided to abolish any kind of control on persons in Schengen, it has been necessary to clarify the situation of third country nationals in that area. The Schengen acquis has done this in a limited way by giving those persons the right to move for only a period limited to three months. The possibilities for third-country nationals to reside in another Member State for more than three months are regulated in the framework of the immigration policy. As those persons do not benefit from freedom of residence on the basis of the treaties like EU citizens, they will only acquire that right often called “mobility” on the basis of a specific legislation. Apart of the special case of long-term residents, such rules have been adopted for 4 categories of persons:

- The first category concerns students under directive 2004/114. They have a quite limited right to move to another Member State in order to follow part of their programme or complete it by related courses if they participate in an exchange programme or have been admitted as a student for already two years.
- The second one is about researchers. A directive has been adopted on 12 October 2005 in order to facilitate the admission of third-country researchers in the EU that is in need of such highly skilled persons. Through an innovative system of hosting agreement that they can conclude with researchers, research organizations take over the responsibility for controlling the object of stay and its financial conditions, with the exception of public policy, public security and public health remaining in hands of immigration authorities. Researchers admitted by one Member State can continue their research work in a second member State on the basis of the hosting agreement already concluded if they will not move more than three months and provided that they have sufficient resources. For stays of more than three months, Member States may require the conclusion of another hosting agreement with one of their research organisations. Following article 13, §4, “the visas or residence permits that may be required for exercising mobility shall be granted in a timely manner within a period that does not hamper the pursuit of the research, whilst leaving the competent authorities sufficient time to process the applications”.
- The third category concerns highly qualified workers² holding what is called a “blue card” regulated by directive 2009/50 of 25 May 2009. Those persons seem to acquire the right to move for the purpose of highly skilled employment after 18 months of legal residence in one Member State. However, following a scheme similar to the long-term resident directive, the reference by article 18, §4, point a), to articles 7 to 14 about first admission giving to Member States the right to do a labor market test and apply priority rules as well as to article 6 about the right of Member States to determine the volume of admission of third-country nationals, undermines the idea of freedom of movement of highly skilled workers in the EU.

² Meaning persons having a degree delivered on the basis of three years of studies (so a Bachelor degree) or five years of professional experience of a level comparable to such a degree.

- A new fourth category appeared very recently with the directive 2014/66 regarding intra-corporate transferees working for multinationals companies established outside the European Union will have been adopted.

4. Status of moving persons

As they do not benefit from the principle of freedom of movement, third country nationals are also not within the scope of the general principle of non-discrimination on the basis of their nationality. However, some immigration instruments contain provisions on non-discrimination of third country nationals that are actually filling more or less the gap between the status of third-country nationals and European citizens. This is firstly the case of directive 2011/98 which aim is precisely to guarantee a common set of rights to all third country nationals working legally in the EU, even if they have been admitted for another purpose than work. The right to equal treatment covers working conditions, freedom of association and affiliation to organisations representing workers or employers, education and vocational training, tax benefits, access to goods and services including procedures for obtaining housing and advice services afforded by employment offices. It is secondly the case of directive 2003/109 guaranteeing equal treatment to long-term residents. The latter instrument extends equality behind the previous directive to study grants as well as social assistance and protection. Moreover, its provisions allowing Member States to restrict equal treatment give them less margin of maneuver.



Chapter 2. Lessons to be learnt from EU regional harmonization and their application to ASEAN

Economic impacts of labour migration in the European Union

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The discussion on the economic impacts of labor migration in the European Union has mostly focused on two types of impacts, labor market impacts and fiscal impacts. This briefing provides an overview of the existing evidence and explores the conceptual and methodological issues related to estimating these impacts.

I. Labor market impacts

Background

The impacts of immigration on labor market outcomes of existing workers depend on whether and to what extent migrants' skills are complements or substitutes to the skills of existent workers, and on how immigration affects the demand for labor.

The impacts of immigration on the labor market depend on the skills of migrants, the skills of existent workers, and the characteristics of the host economy. The effect of immigration on the wages and employment of existent workers depend largely on the extent to which migrants have skills that are *substitutes* or *complements* to those of existent workers.

- *Substitutes*: if the skills of migrants and existent workers are substitutes, immigration can be expected to increase competition in the labor market and drive down wages. The closer the substitute, the greater the adverse wage effects will be. The extent to which declining wages increase unemployment or inactivity among existent workers depends on their willingness to accept the new lower wages.
- *Complements*: if the skills of migrants are complementary to those of existent workers, all workers experience increased productivity which can be expected to lead to a rise in the wages of existent workers.

In addition to expanding labor supply, immigration can also increase labor demand by impacting the demand for goods and services in the economy and leading to more investment. The increase in the demand for labor leads to increased wages and employment in the economy. Therefore, immigration has the potential to increase the number of jobs in an economy. This is contrary to the famous *lump of labor fallacy* which suggests that the number of jobs in an economy is fixed. Immigration can increase competition for existing jobs but it can also create new jobs.

Changes in wages and employment are not the only ways in which an economy responds to immigration. There are at least two other adjustment mechanisms. First, immigration may change the mix of goods and services produced in the economy and thus the occupational and industrial structure of the labour market. For example, the immigration of low-skilled workers may expand the production of certain products and increase provision of particular services that use low-skilled labor intensively. The expansion of the sector will then increase demand and drive wages back up. Similarly, immigration may change the technology used for producing (providing) certain products (services). For example, the immigration of skilled workers may encourage the adoption of more skill intensive technologies which would again affect labor demand.

Measuring impacts

The main task of those studies looking at the impact of immigration on labor markets is to “construct” a counterfactual scenario, which outlines the changes in labor market outcomes that would have taken place had immigration not occurred.

Measuring the impact of immigration on the labor market is not straightforward. It would be ideal to compare the changes in native's labor market outcomes after immigration with the change that would have taken place had immigration not occurred but everything else (e.g. global economic shocks, key policy changes) had. This alternative scenario is called the *counterfactual scenario*. However this counterfactual scenario is not observed.

The main task of researchers looking at the impact of migration on labor market outcomes is to “construct” a counterfactual scenario. This construction requires key assumptions (often called identification assumptions) that vary among studies. The most common estimation technique splits the labor market into sub-groups (across factors such as age, gender or skills) in order to compare labor market outcomes in sub-groups that experienced relative high immigration with outcomes for sub-groups that did not. The outcomes of sub-groups that did not experience as much migration provide something close to a counterfactual scenario.

Existing evidence

Overall, most studies for the EU find that immigration has a small impact on the labor market impact of existing, but results depend on the type of workers and characteristics of the receiving economy.

There is a large literature on the labor market impacts of migration in the EU. The common finding among most studies is that there is a small impact on the labor market impact of existing workers (sometimes positive, other times negative). However, the results depend on the type of worker and the characteristics of the receiving economy. Three broadly consistent results across EU countries are the following:

1. *Low skilled workers lose and medium/high-skilled workers gain:* While the average impact of immigration on wages is small, there are significant impacts along the wage distribution. Typically, the impact of immigration on the wage of low-skilled workers is negative, while the impact on the wages of medium and high-skilled workers is positive.
2. *There is more evidence of a negative effect during economic downturns:* There is little evidence of a negative impact of immigration on employment/unemployment outcomes of existing workers, but results tend to change during economic downturns. During economic downturns there is more evidence of a negative effect of immigration on natives' labor market outcomes. During these periods there is increased competition with natives for jobs given that native unemployment is high and job vacancies are low.
3. *The labor market impacts of immigration are likely to be more pronounced for previous migrants than for natives:* previous migrants are more likely to be closer substitutes with new migrants and more likely to be affected by increasing immigration.
4. *The short-run effects of immigration (often negative) can be offset by the long-run effects (often positive):* in the short-run there is some evidence of immigration decreasing wages of exiting workers, but in the long-run most evidence points to a positive impact. Overall impact remains small.

II. Fiscal impacts

Background

Migrants who are young, skilled and doing highly-paid jobs are likely to make a more positive net fiscal contribution than those with low skills and low labour market participation rates.

Labor markets are not the only way in which labor migration affects the receiving economy. Another impact that has received particular attention in Europe during the last decade is the fiscal impact of migration. The *net fiscal impact* of immigration is typically estimated as the difference between:

1. The taxes and other contributions migrants make to public finances.
2. The costs of the public benefits and services they receive.

Estimating the net fiscal impact of immigration is a challenging task because of the large number of factors affecting it. Among other important factors, estimates must take account of migrants' characteristics such as skill level, age distribution, family composition, health status, fertility patterns, and the temporary versus permanent nature of immigration. Among these characteristics, the skill level of migrants (and its correlation with the other characteristics) is likely to be one of the main determinants of their fiscal impacts in the short run. High-skilled migrants working in highly paid jobs can be expected to pay more taxes than low-skilled migrants in low-wages jobs. At the same time, the participation in welfare programmes tends to decrease with skill level, i.e. higher skilled migrants are less likely to be eligible for means tested welfare transfers than low-skilled migrants.

There are two key assumptions and caveats. First, not all skilled migrants are doing skilled work. Second, some migrants are explicitly excluded from full access to certain types of benefits. In particular, most non-EU nationals are not able to claim most types of benefits in many EU countries.



Measuring impacts

There are two main ways of conducting this analysis: a static approach and a dynamic approach. Both approaches have key limitations.

- *Static approach*: based on a specific year, and simply compares the contributions of migrants to public finances with the services and benefits received for that year. The advantage of this approach is its simplicity and the fact that it uses historical data, while the disadvantage is the lack of a forward-looking perspective given that it is a snapshot at one point in time.
- *Dynamic approach*: computes the net present value of contributions and costs over the entire lifetime of migrants and, in some cases, their children. The advantage of this approach is the forward-looking perspective and the possibility of exploring changes over time in fiscal impacts between natives and migrants. The limitation of the dynamic approach is that it requires strong future assumptions about many factors such as migrant fertility rates, return migration rates, productivity rates, labour market participation rates, tax rates and government spending, among others.

Existing evidence

The evidence suggests that the fiscal impact of migration in the EU is small (less than +/-1% of GDP) and differs by migrant group (e.g. EU migrants vs non-EU migrants, recent migrants vs all migrants).

1. *The fiscal impact of migration in EU countries is small at less than +/-1% of GDP.* Most studies of the fiscal impact of migration for EU countries have been done for Sweden and the UK.
2. *Evidence from different EU countries suggests that higher levels of immigration reduce pressure on government debt over time.* This result is based on the assumption that incoming migrants are more likely to be of working age than the population in general.
3. *Cross-country evidence for OECD countries suggests that in 10 of 27 countries with available data the fiscal impact of immigration exceeds 0.5% of GDP.* The impacts for Switzerland and Luxembourg are particularly large as the fiscal impact of immigration was estimated at close to 2% of GDP. In these two countries the migrant population is large, mostly highly skilled and of working age. On the other hand, immigrants seem to impose a large burden on Germany's public finances. The main reason provided by the large negative impact in Germany was that it has an aging migrant population. About one third of the immigrant households in Germany have a head that is in the 64-75 years of age category, while this figure is 8.5% for Luxembourg and 13.7% for Switzerland.

Briefing note – Regional labour market implications of free movement of persons: learning from the experience of the European Union¹

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Ever since the Treaty of Rome established the European Economic Community in 1958, including the free movement of workers within its borders, the European Union (EU) has been a laboratory for the development and management of policy tools aimed at creating Single EU Labour Market. Progress over the past fifty years has been gradual but often innovative. It has oscillated between a functionalist approach to face unintended or unexpected consequences of free movement; and a finalist political approach based on the vision of an integrated Union with a common set of laws and regulations governing workers' protection. Interestingly, this process has been possible without a substantial transfer of competences from the Member States to the EU institutions so far. It has often involved not only EU Member States, but also the members of the European Economic Area and candidate States, and even certain neighbouring partner countries. This note provides a quick review of the main tools developed to frame this process.

From Free Movement of Workers to Mutual Recognition of Qualifications

The legislative programme enshrined in the Single European Act in 1985 aimed to promote a true Single Market by removing the physical, administrative, fiscal and technical barriers preventing the actual realization of the so-called four freedoms: freedom of movement of goods, services, capitals and persons. In parallel, the signature of the Schengen Treaty between the core EU Member States (later integrated into the EU Community Law) created the conditions for the removal of physical borders (and borders controls) between the European countries.

Facilitating intra-EU mobility through exchange programmes. However, over the years the EU experience has shown that removal of all these barriers is not enough to bring about a significant flow of intra-EU mobility of students and workers for learning and professional experiences abroad. In fact, despite all the efforts to remove barriers to free mobility within the EU only 3.1% of workers in the EU (around 6.6 million) are EU citizens working in another Member State. To promote intra-EU mobility of students and education sector professionals as a lever for personal and professional mobility of people and for more integration across Europe, the EU has established a series of “active labour mobility policies”, programmes and grants. These include Erasmus, Comenius, Leonardo da Vinci, Grundtvig and Youth in Action, all of which have application and financial resource mechanisms operating in all the EU countries. The best known and most successful is without doubt the Erasmus university student exchange programme, which has allowed more than 3 million European students spend at least one semester in a different European country² since its launch in 1987.

The other major lever to promote free movement of labour across the EU was the principle of mutual recognition established in the Single European Act, whereby any degree or qualification granted by a recognized education institution of any Member State should be recognized by all other Member States, thereby admitting its holder for professional practice.

European Qualifications Framework (EQF). To facilitate comparability across very different education systems, the EQF for Life-long Learning is a common European reference framework to better link different national qualifications systems by acting as a translation device for employers and individuals. By helping them to better understand qualifications from different EU countries, it makes it easier to work, study or hire staff abroad³. It compares levels of qualifications between different European countries according to eight reference levels, where level one corresponds to completed basic education and level eight to a PhD degree. By facilitating the recognition of qualifications, it facilitates mobility between countries and lifelong learning. It can also be used to link national qualification systems, thereby making qualifications more portable.

Professional recognition of qualifications. For the recognition of qualifications, there are presently two types of EU directives for EU Member States — sectorial and general. Sectorial directives regulate recognition of degrees for seven professions (doctor, nurse, dentist, midwife, pharmacist, veterinary surgeon and architect) that are automatically recognised across the EU.

¹ I am indebted to Ummuhan Bardak, of the European Training Foundation, for some descriptive information about the tools highlighted in this Note.

² See the main features of Erasmus+, the new breed of the €14.7 billion programme for 2014-2020: http://ec.europa.eu/programmes/erasmus-plus/index_en.htm.

³ See http://ec.europa.eu/education/policies/educ/eqf/index_en.html.



The recognition of other professions is not automatic, and an application has to be made to the authorities in the host country for qualifications to be assessed as equivalent to local qualifications. The authorities are obliged to recognise, conditionally recognise or refuse to recognise the qualifications within a reasonable period of time. The EU Directive 2005/36/EC or “general system” of recognition aims to make it possible for EU nationals who obtained their professional qualifications in one or more Member States to pursue their profession in other Member States. It benefits professionals who are EU nationals wishing to relocate within the EU. Diplomas for non-regulated professions tend to be evaluated at different levels by different universities and a network of national recognition information centres, in a very complex and often non-transparent process. To deal with this, EU Member States, European Economic Area countries and candidate countries provide information concerning the recognition of diplomas and periods of study undertaken and furnish advice on foreign academic diplomas in any country where European Network of Information Centres in the European Region - National Academic Recognition Information Centres in the European Union (ENIC-NARIC)⁴ is established.

From Mutual Recognition of Qualifications to harmonization

It was soon realized that information and mutual recognition is not sufficient enough to facilitate actual free movement of professionals and promote labour market integration. The definition of common standards and harmonized contents for degrees and qualifications was the next natural step.

Bologna Process. In the field of university studies, the Bologna Process was launched in 1999 to harmonise degree structures and quality assurance procedures across higher education systems in the European Higher Education Area⁵. Comparable undergraduate and post-graduate degrees are organised within a three-cycle structure (bachelors, masters and PhDs, with a short cycle within the first cycle). It currently has 46 members and, besides EU Member States, involves many non-EU partner countries in a voluntary cooperation framework aimed at improving quality, transparency and recognition of qualifications in education and training systems. In addition, the European Credit Transfer and Accumulation System (ECTS) provides a common basis for recognising higher education study periods abroad.

Copenhagen Process. Launched in 2002 to enhance cooperation in European vocational education and training (VET), this voluntary cooperation process operates through a single framework for transparency, VET quality assurance, a credit transfer system, validation of non-formal and informal learning and vocational guidance⁶. Its geographical coverage includes the EU Member States and candidate countries. The European Quality Assurance Reference Framework for VET (EQAVET) improves quality through the development of common standards, while the European Credit for VET (ECVET) facilitates the transfer and recognition of learning experiences in Europe, including those outside formal training systems.

EUROPASS. Another tool to increase the transparency of qualifications and the mobility of citizens in Europe is Europass⁷. It consists of five documents (European CV, Language Passport, Europass Mobility, Certificate Supplement and Diploma Supplement) that intend to fully and clearly describe a person's skills and qualifications. However, its complexity and rigidity make it a under-used tool by employers and job-seekers beyond the EU institutions themselves.

From Harmonization to Labour Market Integration

Whereas labour market regulation is still a competence of Member States - and there are 28 different labour markets in terms of wages and labour conditions - over the years the EU has tended to gain some competences in this field and consequently developed some basic framework regulations on EU labour markets. The main landmarks were the following constitutional Treaty provisions:

- The Treaty of Rome (1957), the founding treaty of the EU, included a provision for equal pay between men and women. According to the Treaty, any social policy initiative needed to be adopted by unanimity of all Member States.
- The European Single Act (1987) included for the first time a provision for qualified majority voting on social policy, but only relating to health and safety.
- The Maastricht Treaty (1992) went further and included a Social Chapter. According to it, social partners could negotiate Europe-wide collective agreements and that social provisions in some areas could be adopted by qualified majority voting.
- The Lisbon Treaty (2009) incorporated the Charter of Fundamental Rights into the EU treaties, including provisions on the right to collective bargaining and to strike.

⁴ See <http://enic-naric.net/>, a gateway to recognition of academic and professional qualifications.

⁵ See http://ec.europa.eu/education/policies/educ/bologna/bologna_en.html.

⁶ See http://ec.europa.eu/education/copenhagen/index_en.html.

⁷ See http://europass.cedefop.europa.eu/europass/preview.action?locale_id=1. The web portal includes interactive tools allowing users, for example, to create a CV in a common European format.

The combined effect of these measures is that around 60 directives (EU framework legislation that has to be transposed into the national legislations) have been produced on social and labour market issues. These can be grouped as follows:

- health and safety, including working time (over 40 directives);
- equality among workers in relation to gender, race, religion, and sexual orientation;
- specific provisions on equal treatment for part-time workers, fixed term workers and agency workers;
- a general framework on information and consultation, as well as on mass redundancies, transfer of undertakings and the creation of European works councils;
- the posting of workers in another Member States in the framework of the provision of services, aiming to extend entitlements to workers brought by their employer from one country to another to at least the minimum conditions in the host country.

However, the bulk of labour market regulations are still purely national. As an illustration, minimum wages range from €173 a month in Bulgaria, €309 in the Czech Republic to €752 a month in Spain, €1,430 in France and €1,501 in Belgium, while several countries have not set a minimum wage. Additionally, according to the Treaty of Lisbon, regulation of labour migration is exclusively national as well and does not fall under the competence of the EU, particularly in regards to “volumes of admission of third country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed”⁸. This makes the EU labour market very segmented in practice.

Towards an EU Labour Market Information System?

Of particular interest for other regions engaging into a path of free mobility of persons and regional integration of their labour markets is the spectrum of tools developed as building blocks of an EU Labour Market Information System.

European Employment Observatory⁹, established to contribute to the development of the European Employment Strategy through the provision of information, comparative research and evaluation of employment policies and labour market trends in 33 countries.

European Union Labour Force Survey¹⁰. A quarterly EU-wide Labour Force Survey is carried out in all Member States with a total sample of 1.45 million persons. The Labour Force Surveys are conducted by the national statistical institutes across Europe and are centrally processed by Eurostat using the same concepts and definitions and common classifications and recording the same set of characteristics in each country. On the basis of the EULFS, the European Jobs Monitor produced yearly by Eurofund tracks structural change in European labour markets. It analyses shifts in the employment structure in the EU in terms of occupation and sector and gives a qualitative assessment of these shifts using various proxies of job quality – wages, skill-levels etc.¹¹ Every five years since 1990, Eurofund carries out a European Working Conditions Survey in 34 countries, to assess and quantify working conditions of both employees and the self-employed across Europe on a harmonised basis.¹²

European Vacancy Monitor¹³, an overview of recent developments on the European job market, with data on job vacancies and hiring.

EU Skills Panorama. This database and information access point integrates into one source information and intelligence on skills needs and mismatches from several different national, European and private sources (by occupation, sector, country and skill)¹⁴.

CEDEFOP Skills Forecast¹⁵. A yearly quantitative exercise to forecast medium-term skills needs in Europe by sector, occupation and qualification.

European Job Mobility Portal (EURES). Set up in 1993, EURES is a cooperation network between the European Commission, member states of EU and of European Economic Area (EEA), through public employment services to facilitate mobility across national borders and between labour markets. It provides information, advice, recruitment and placement (job-matching) services for any EU citizen workers and employers. EURES provides information on job vacancies in 31 European countries, CVs from interested candidates and information on living and working conditions abroad¹⁶.

⁸ Lisbon Treaty. Article 79 para. 5.

⁹ <http://www.eu-employment-observatory.net/>.

¹⁰ <http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/lfs>.

¹¹ <http://www.eurofound.europa.eu/emcc/ejm/>.

¹² <http://www.eurofound.europa.eu/surveys/ewcs/>.

¹³ <http://ec.europa.eu/social/main.jsp?catId=955>.

¹⁴ <http://euskillspacepanorama.cedefop.europa.eu/>.

¹⁵ <http://www.cedefop.europa.eu/EN/about-cedefop/projects/forecasting-skill-demand-and-supply/skills-forecasts.aspx>.

¹⁶ See <http://ec.europa.eu/eures/>. Currently more than 1.5 million job vacancies, 1 million CVs and 30,000 employers are registered in EURES, which counts on a network of more than 850 advisers in the Public Employment Services of Member States.



However, it is to be noted that all these Labour Market Information System components do not manage to capture short-term movement of workers within the EU in the absence of physical borders, and we do not know in real time the size of intra-EU migration caused by the economic crisis in the last few years (for instances, figures for migration abroad of Spanish nationals for work purposes between 2008 and 2012 range from 225,000 to 700,000).

Readings:

Giulia Henry and Ferruccio Pastore (2014), The Governance of Migration, Mobility and Asylum in the EU: A Contentious Laboratory, Istituto Affari Internazionali, Rome, http://www.iai.it/pdf/ImaginingEurope/ImaginingEurope_05.pdf

Claire Dhéret, Alex Lazarowicz, Francesco Nicoli, Yves Pascouau and Fabian Zuleeg (2013), Making progress towards the completion of the Single European Labour Market, European Policy Center Issue Paper n° 75, Brussels, http://www.epc.eu/documents/uploads/pub_3529_single_european_labour_market.pdf

Migrant worker skills recognition to support the ASEAN Economic Community

David Lythe

The Mutual Recognition Arrangements (MRAs), ASEAN Qualifications Reference Framework (AQRF), Mutual recognition of workers' skills (MRS), and the ILO Regional Model Competency Standards (RMCS)

Background

During the 12th ASEAN Summit in January 2007, the ASEAN Leaders affirmed their strong commitment to accelerate the establishment of an ASEAN Community by 2015 and signed the Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015. The ASEAN Leaders, therefore, agreed to hasten the establishment of the ASEAN Economic Community (AEC) and transform ASEAN into a region with free movement of goods, services, investments, skilled labour, and freer flow of capital.

Under the AEC, ASEAN will be established as a single market and production base making ASEAN more dynamic and competitive, introducing new mechanisms and measures to strengthen the implementation of its existing economic initiatives; accelerating regional integration in the priority sectors; facilitating movement of business persons, skilled labour and talents; and strengthening the institutional mechanisms of ASEAN.

The ASEAN Community as whole will remain outward looking and the AEC foresees: (a) a single market and production base; (b) a highly competitive economic region; (c) a region of equitable economic development; and (d) a region fully integrated into the global economy. These characteristics are inter-related and mutually reinforcing and will be incorporated into one blueprint to ensure consistency and coherence as well as ensure proper implementation and proper coordination among relevant stakeholders.

To support this further, the ASEAN Leaders in 2010 declared a commitment to:

“Develop national skills frameworks in ASEAN member States through sharing of experiences and best practices as an important strategy to strengthen HRD and management and to enable member States to raise their respective levels of skills standards, as an incremental approach towards an ASEAN skills recognition framework”.

1. The Mutual Recognition Arrangements (MRAs)

A measured approach is being adopted to full implementation of the AEC commitment to the free movement of skilled labour. Hopefully, this approach will mitigate any potentially negative social and employment consequences for member states from a sudden and massive unrestricted increase in the numbers of migrant workers in ASEAN.

Skilled labour mobility is however seen to be essential for effective implementation of services liberalisation as well as a goal in itself for deeper economic integration in the AEC.

As ASEAN countries move up the technology ladder, demand for skills will increase. Foreign talent will be needed to augment the domestic pool, as well as to create the competitive synergy for domestic talents. Strategic actions on the free flow of skilled labour outlined in the AEC Blueprint include: facilitating the issuance of visas and employment passes; mutual recognition arrangements (MRAs) for major professional services; core concordance of services skills and qualifications; and enhancing cooperation among ASEAN universities to increase regional mobility for students and staff.

The MRA is therefore a major instrument for skilled labour mobility in ASEAN. However, recognition of each other's qualifications and experience does not ensure market access. Policies and regulatory frameworks that constrain and impede skilled labour mobility include requirements and procedures for employment visas and employment passes; any constitutional provisions reserving jobs for nationals; policies that close or impose numerical caps on foreign professionals and skills in sectors and occupations; economic and labour market tests that constrain employment of foreigners and requiring to have them replaced by locals within a stipulated period; licensing regulations of professional associations; and language proficiency requirements.

Establishment of MRAs in key areas of professional services

The following MRAs have been agreed:

- MRA on Engineering Services (9 December 2005 in Kuala Lumpur, Malaysia)
- MRA on Nursing Services (8 December 2006 in Cebu, the Philippines)
- MRA on Architectural Services (19 November 2007 in Singapore).
- Framework Arrangement for the Mutual Recognition of Surveying Qualifications (19 November 2007 in Singapore)



- MRA on Medical Practitioners (26 February 2009 in Cha-am Hua Hin, Thailand)
- MRA on Dental Practitioners (26 February 2009 in Cha-am Hua Hin, Thailand)
- MRA Framework on Accountancy Services (26 February 2009 in Cha-am Hua Hin, Thailand)

All ten ASEAN Member States are already participating members of these seven MRAs. Different mechanisms are being established to administer the implementation of MRAs in the services sector to ensure that professionals across the ASEAN region derive tangible benefits from the agreements. The MRAs for engineers and architects provide a coordinating mechanism, while the MRAs for medical and dental practitioners focus on cooperation, with the aim of facilitating the recognition of qualified practitioners in other ASEAN member states. The MRAs on accountancy and surveying services provide a framework of broad principles for further bilateral and multilateral negotiations among ASEAN Member States.

In all seven professions, work is proceeding to promote common competencies so as to encourage the adoption and harmonisation of accepted standards and procedures throughout the ten ASEAN countries.

Establishment of the MRA on Tourism Professionals (MRA-TP)

The MRA – TP aims to facilitate mobility of tourism professionals within ASEAN based on competence-based tourism qualifications, and at the same time, improve the quality of services delivered by tourism professionals.

The ASEAN MRA – TP provides a mechanism for agreement on the equivalence of tourism certification procedures and qualifications across ASEAN. When ASEAN nations mutually recognise one another's qualifications this will encourage a free and open market for tourism labour across the region and boost the competitiveness of the tourism sector in ASEAN nations, while at the same time attracting needed talent to meet local skills shortages. The eligibility to work in a host country will still be subject to the prevailing domestic laws and regulations of the host country.

In order for a foreign tourism professional to be recognised by other ASEAN member states and to be eligible to work in a host country, the professional will need to possess a valid tourism competency certificate in a specific tourism job title as specified in the Common ASEAN Tourism Curriculum, issued by the Tourism Professional Certification Board in an ASEAN member state. There are 32 job titles covered under this MRA, ranging from housekeeping, front office, food and beverage services, and food production for hotel division; to travel agencies and tour operator for a travel division. Qualifications for tourism professionals are at 5 levels (three levels of certificate, followed by two diploma levels).

The MRA on Tourism Professionals is an important driver in raising standards of tourism and improving qualifications of the tourism workforce in the ASEAN region. Tourism and hospitality professionals are being encouraged to review their existing qualifications if they wish to consider working overseas in the future AEC.

2. The ASEAN Qualifications Reference Framework (AQRF)

The AQRF will enable existing qualifications frameworks and training systems at national level to be related to one another. This will increase transparency, support mutual trust, and consequently facilitate the transfer and the mutual recognition of the skills and qualifications of workers, through the acceptance of broad equivalence or comparability of outcomes of national qualifications. ASEAN countries can still adopt the AQRF, in whole or in part, for their own qualifications arrangements. The regional framework will serve as a translation device or grid among the systems of participating ASEAN countries. It will provide a common reference point for member countries as they attempt to compare qualifications and skills of migrant workers. In the interests of further promoting mutual trust in national qualifications, the AQRF will also need to provide guidance in such areas as the setting of standards for skills and wider personal and professional competencies, as well as the quality assurance of training, student assessment and certification. The regional model should make it possible for modules or smaller sets of skills, and not just full qualifications, to be recognised. This will promote the mobility of workers with fair recognition of their competencies. Given the diversity across ASEAN in training structures and organisation, it is the learning outcomes and competencies acquired through training programmes, through structured training in the workplace, in the community, or through experiential learning, that should be regarded as important for determining the comparability of skills and qualifications.

There are several important purposes for an AQRF:

- It will provide a common reference point only, not restraining the diversity of national training and qualifications systems;
- It will strengthen mutual trust and cooperation among ASEAN nations;
- It will support and inform reform in individual countries, providing guidance and promoting good international policy and practice in HRD;
- It will facilitate commonality of qualifications systems among the countries in the region;
- It will accommodate national requirements and not force a standardised system onto all ASEAN countries;
- It will reduce barriers to the mutual recognition of the skills and qualifications;
- It will promote labour market mobility with fair recognition of competencies.

3. The mutual recognition of workers' skills (MRS)

The MRAs do not promote movement of workers with technical and vocational skill sets (except for tourism/hospitality). ASEAN member states benefit from and need to employ moderately skilled migrant workers. Skilled workers with full technical and vocational qualifications or a small skill set (eg tiling, fish processing) can have their skills recognised through the MRS process and the AQRF.

The ILO has been working with senior officials and with employers to identify priority skill areas for ASEAN skills recognition. The draft schedule will be finalised at a workshop in Jakarta in August 2014, to be hosted by the ILO. Subsequently it is planned that there will be support for member states so that, at least in the priority sectors, some skills recognition can be achieved by 2015.

4. The ILO Regional Model Competency Standards (RMCS)

The RMCS have been designed to assist both employers and workers and can be used to make the recognition of the skills of returning migrant workers an easier and more achievable process. The RMCS are simple and flexible and can be customised to suit the skills recognition systems in different countries. Receiving countries can use the RMCS to specify clearly their skill requirements and migrant workers returning home are able to use them to describe their new skills and knowledge.

The RMCS define the essential skills required to work in a particular industry or sector, providing a flexible framework that can be used by all enterprises, regardless of location or size.

The following RMCS will be available progressively from August 2014:

- Domestic work
- Welding
- Core generic skills
- Agriculture/aqua culture
- Mechanical services
- Construction

All the final RMCS will be available in the ILO's Asia-Pacific Skills and Employability website (<http://apskills.ilo.org/>).

5. Recommended additional reading

Specifications for the ASEAN Qualifications Reference Framework, ASEAN Secretariat, Draft for Consultation, May 2013

Key Issues of Labor Mobility in ASEAN, Giovanni Capannelli, ADB Institute, 2013

Recognition of Qualifications and Competencies of Migrants, International Organisation for Migration, 2013

Soft, Scarce and Super Skills: Sourcing the next generation of migrant workers in Europe, European Policy Centre, 2008



Chapter 3. Regulating labour emigration

Measuring the impacts of labour migration policies

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 COMPAS

It is important for policy makers to find out if the policies and programs they adopt and implement are producing the intended results or impact. These can vary from one policy to another but in the area of immigration policy objectives usually include meeting labour shortages which hinder faster economic growth, minimizing displacement of local workers or depression of their wages, preventing trafficking in persons and labour exploitation, avoiding marginalization of immigrants in society, and related social objectives. In the case of countries of origin the intended policy outcomes would usually include placing workers in decent jobs abroad, minimizing recruitment abuses, and increasing remittances. What information will throw light on how far these intended results are being attained can cover a multitude of observable phenomena, in most instances limited only by the skill of the observers and the resources available for gathering information.

This session aims firstly to discuss some of the objectives behind typical labour migration policies in countries of employment and in countries of origin, and secondly, to illustrate some of the indicators or measures that may be applied to show how far these objectives are being realized.

Policy objectives

Foreign employment policy pursued by labor sending countries typically focus on three objectives:

1. maximizing *employment* abroad subject to domestic needs;
2. *protecting* migrants against recruitment abuses and exploitative conditions of employment, and
3. maximizing the potential contribution of migration to development especially in the form of *remittances* and the knowledge and skills gained by migrants abroad.

On the other hand, the policies of destination countries are usually aimed at:

1. raising economic productivity by giving local industries access to foreign workers of the required skills only if native workers are not available at prevailing wages;
2. admitting foreign workers through regular or legal channels and regulating recruitment and working conditions according to national labour standards;
3. minimizing any possible adverse social consequences of immigration; and
4. increasing the pool of highly skilled workers in countries that admit permanent settlers.

Indicators of impact

In receiving countries the economic consequences of international migration is usually monitored by looking at four aspects: (i) at macro level, the impact on GDP; (ii) at micro levels, the impact on firm profitability and competitiveness; (iii) impact on labor markets, specifically on wages and employment of host country workers; and finally, (iv) technological development.

A review of practice reveals that very few governments actually relate trends in these economic indicators to labour immigration.

Most governmental bodies responsible for labour immigration programs are pre-occupied with tracking “processes” rather than “impacts”. Their reports mainly come from administrative processes about numbers of work permits issued, number of workers admitted, number of irregular workers caught and deported, etc. Some governments do monitor vacancies reported by employers to be “hard to fill” or how long vacancies have remained vacant for different industries, but there are no comparisons made of the performance of firms which employ foreign workers vs firms which do not, and hardly any attempt is made to relate wage trends in different occupations to the admission of foreign workers.

The impact of policies on working conditions of migrant workers is another area that deserves more attention. What little information exists are generally “ad hoc” and thus difficult, if not inappropriate, to use as basis for assessing overall conditions and trends.

The degree to which admission of foreign workers contributes to policy objectives appear to depend heavily on two factors: First, whether migrant workers complement or substitute native workers. Second, whether native workers move on to other more skilled and productive occupations when migrant workers take up occupations they no longer want. Greater flexibility also enables capital markets to adjust and promote new investments in expanding areas and exit from contracting areas.

In sending countries, attempts to assess policy impact are also constrained by the very limited kinds of indicators developed. These usually take the form of reports on numbers of migrant workers registering their contracts of employment, numbers by occupational groups going to different destinations, complaints received from workers in destination countries, and remittances sent home by the migrants. While some countries have policies aimed at raising the skills of workers sent abroad, they seldom assess how far they are succeeding with their programs. The impact of programs to protect workers is understandably more difficult to assess but even simple indicators such as trends in wages (an item in every contract registered) never appear in official reports.

Improving assessment of policy impact

The ASEAN TRIANGLE Project, funded by the Canadian Department of Foreign Affairs, Trade and Development, has developed a Manual intended to serve as a guide for policy administrators in assessing the impact of their policies and programs. It explains the complex relationships between migration and changes in conditions in the labour market, how policies affect employer and worker behavior, and offers examples of the types of information essential to understanding what impact migration policies can have on the types of workers enterprises seek to bring in, under what conditions, on the employment or dislocation of local workers, on relative wages and productivity, on competitiveness through its effects on the cost of producing “non-tradeables” like infrastructure, on GDP growth and income distribution, on working conditions, and on incentives to save on labour in production.

Improving assessment of policy impact should allow administrators to seek answers to the following questions:

- How responsive is the Government to industry demand for workers?
- How responsive is domestic labor supply?
- Is the Government succeeding in making industries less dependent on foreign workers?
- How do different forms of control such as quotas and foreign worker levy impact on employment of and reliance on foreign labor?
- Does labour immigration have social consequences?



Chapter 4. Regulating labour immigration

Definitions, data sources and methods to assess labour market requirements

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The labor market requirements of a country are often examined in light of the evidence of particular skills shortages. This briefing provides an overview of the conceptual and methodological issues related to identifying skill shortages.

Background:

Shortages and skills are difficult to define. There is no universally accepted definition of a “labor” or “skills” shortage, and the definitions used by workers, employers and the government often differed.

In the traditional textbook example of a competitive labor market, labor demand and labor supply are determined by wages (i.e. the price of labor). A shortage occurs when the demand for labor at a given wage is higher than the supply of labor. In this case, a shortage will lead to an increase in labor supply and/or a reduction in labor demand which increases the wage and eliminates the shortage. In such example shortages are temporary. There are several reasons for which the textbook example may not work in reality. For instance, wages can be “sticky” and may not respond immediately to economic conditions. This could happen if workers have long-term contracts, there are union agreements, etc.

This textbook definition of a shortage as a temporary occurrence is different from what many employers’ have in mind when calling for more migrants to help fill vacancies. Often the employers’ are referring to a situation in which the demand for labor exceeds supply at the *prevailing* wages and employment conditions.

The concept of “skills” is also difficult to define. Skills can be defined in regards to individual characteristics or in regard to occupations. Moreover, “soft” skills, such as creativity, communications skills, or empathy, may have an important role to play in many jobs, and therefore in many hiring decisions, but are difficult to measure and quantify. Employers play a key role in defining the attributes that are “needed” to do particular jobs and these attributes may include multiple aspects which may not be necessarily consider “skills” (e.g. depending on a visa attached to the employer).

Measuring shortages and skills:

There is no single measure of shortages and skills and it is useful to use a range of indicators in order to ensure appropriate estimation. There are at least four useful metrics to assess the skill level of an occupation (salary, qualifications, occupational classification, and required innate ability), but all four measures have limitations.

1. *Salary*: one possibility is to look at the salary of people in that occupation. This is a very good indicator, but may also reflect other factors associated with the occupation. For example, a dangerous low-skilled job may pay a high salary. Likewise, a low salary does not necessarily indicate that a job is low skilled.
2. *Qualifications*: it is also possible to look at the qualifications of people in that occupation. Sometimes it is harder to obtain information for entry level qualifications.
3. *Classification*: another possibility is to look at something like the Standard Occupational Classification (SOC) of the occupation. The SOC classifies jobs in many countries in terms of their skill level and skill content. The classification takes into account required training and experience. It may provide limited information as employers’ may have very specific skills in mind that do not correspond to occupational categories.
4. *Innate ability*: a final possibility is to look at the need for innate ability (i.e. skills that cannot be taught or learnt). Innate ability is difficult to measure and relies on employers’ judgment.

There are at least five indicators (salary growth, vacancies, unemployment, vacancies/unemployment ratio, employer views) that are useful metrics to consider when deciding if an occupation is experiencing a shortage.

1. *Salary growth*: rising wages in an occupation are generally an indication of a shortage. However, as explained above, wages can be sticky. Hence, absence of rising wages does not discard the possibility of a shortage.
2. *Vacancies*: a large number of vacancies in a particular sector may suggest that employers are having a hard time filling jobs. However, a high number of vacancies may indicate a high turnover ratio in the sector.
3. *Unemployment*: low levels of unemployment in an occupation are indicators of a low supply of labor relative to demand. However, unemployment measures in a particular occupation depend on information about previous

occupations or sought occupation by unemployed workers. Many workers could be searching for jobs that they do not have the skills to do.

4. *Vacancy/unemployment* ratios: a high vacancy/unemployment ratio is particularly useful indicator of a labor market shortage. The high ratio indicates a high labor demand and a low labor supply.
5. *Employer views*: there are many surveys that ask employers about the challenges they face, including particular skills shortages. Employers are likely to over-report shortages and it is not clear that they will all have the same definition of a shortage.

Readings:

Key readings:

Migration Advisory Committee (2008) "A Review of Labour Shortages, Skills Shortages and Skill Gaps", London, UK: Home Office.

Other optional readings:

Australian Government (2005) Skill Shortages: Concepts, Definitions and Indicators , Working document prepared by Department of Employment and Working Relations, March.

Boswell C., Stiller, S. and Straubhaar T. (2004) Forecasting Labour and Skills Shortages: How can Projections Better Inform Labour Migration Policy, Paper prepared for the European Commission DG Employment and Social Affairs, July.

Marchante, A.J., Ortega, B. and Pagan, R. (2006) "Determinants of skills shortages and hard-to-fill vacancies in the hospitality sector", *Tourism Management*, 27, pp 791-802

Shah, C. and Burke, G. (2005) "Skill shortages: concepts, measurement and policy responses", *Australian Bulletin of Labour*, 31, 1, pp 44-71.

Veneri, C. M. (1999) "Can Occupational Labour Shortages be Identified using Available Data?", *Monthly Labor Review*, March.



Expert Commissions and Labor Market Testing

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Highlights

Most labour migration is employer-led in the sense that employers ask governments for permission to fill jobs with foreign workers. Administering labour migration policy means that government agencies respond to these employer requests.

The spectrum of government responses ranges from attestation or trust of the employer at one end, to certification or monitoring of employer efforts to first try to find local workers, at the other. Trust-the-employer attestation is most common for highly skilled workers.

Some governments rely on expert commissions to assess labour market and demographic data and determine whether employers in particular industries, occupations, and areas face labour shortages and thus should have easy attestation access to migrant workers.

Responding to employer requests

Admitting migrant workers is associated with economic growth, so labour migration is normally an economic good that benefits migrants, employers, and most residents of migrant-receiving countries. Managing labour migration generally means spending money to review employer requests for migrants and to enforce laws against irregular or unauthorized migration, that is, to keep migration lower than it otherwise would be.

There are two major approaches to admitting migrant workers: relying on supply and/or demand. The supply approach often involves point systems that award immigrant visas to foreigners based on their personal characteristics, such as youth, education, and knowledge of the local language, as in Australia and Canada. The demand approach used in the US and most European countries relies on local sponsors to request particular foreigners, as with an employer who asserts that (1) local workers are not available to fill a vacant job and (2) that the foreigner is uniquely qualified to fill the job.

Supply approaches yield well-educated immigrants who can change jobs, but some may not find jobs that use their skills, an example of brain waste. Demand approaches ensure that migrants have jobs, but can make foreigners dependent on a particular employer, especially if the foreigner is already employed as a temporary worker.

Demand is the most common way to admit temporary or migrant workers, most of whom are tied to one employer. Within the employer-led or demand approach, governments can allow employers to (1) attest their need for migrant workers or (2) monitor employer efforts to find local workers before certifying their need for migrants:

- Attestation means that the employer submits documents to government agencies with assurances that the job is genuine, the employer is offering at least the prevailing wage, there is no strike etc. The government approves without checking, but reserves the right to check after migrant workers arrive.
- Certification means that government agencies monitor employer efforts to find local workers, check the housing offered to migrants, and certify the employer's need for migrants, that is, enforcement is up-front.

Attestation is most common for the admission of highly skilled workers in economically critical fields, such as IT and health care. The US H-1B and the EU Blue Card program are examples of attestation guest worker programs that generally do not require employers to first try to recruit local workers and result in work visas for the foreigners specified by the employer *if* the foreigner has particular educational credentials (generally a Bachelor's degree or more) and is paid the prevailing wage. The government control on attestation programs is usually a cap on the number of visas available.

Certification is most common for low-skilled workers because governments want to protect domestic workers similar to migrants. When employers ask for migrant workers to fill 3-D jobs (dirty, dangerous, and difficult), they often say that local workers refuse such jobs and that, without migrants, these employers will go out of business. Unions and advocates may counter that there is no shortage of local workers, only a shortage of wages. They say that employers want migrants who will work "hard and scared" because, if migrants lose their jobs, they lose the right to be in the higher-wage country.

The bedrock principle of ILO conventions is equal treatment, that is, pay migrants the same wages and offer them the same benefits as local workers. Protecting migrants protects local workers by avoiding a "race to the bottom" that may occur if employers hire migrants because they are cheaper.

To protect local workers from “unfair” migrant worker competition, government agencies often monitor employers who request low-skilled workers. This monitoring can be contentious if local workers believe employers prefer to hire migrants and NGOs say that vulnerable migrant workers are exploited. Governments are often in the crossfire if migrants are fired—do they deport the foreigners, since they no longer have jobs, or shelter them until they can testify about their firing?

Expert commissions

Neither trust-the-employer attestation nor monitor-employer certification systems have functioned smoothly for all parties, prompting proposals for expert commissions to advise governments on whether there are labor shortages that should be filled by migrants. Commissions examine wage, unemployment and other labor market data for evidence of labor shortages and, if they find labor shortages, governments normally give employers easy attestation access to migrant workers.

Britain’s Migration Advisory Committee (MAC) is an example of an expert commission. Its charge is to provide “independent, evidence-based advice to government on specific sectors and occupations in the labour market where shortages exist which can sensibly be filled by migration.” The MAC’s answers 3-S questions, viz, is the occupation for which employers are requesting foreign workers *skilled*, are there labour *shortages*, and is admitting foreign workers a *sensible* response.

The MAC examines 12 top-down labour market indicators to determine if a particular occupation in which employers say there are labour shortages should be put on the shortage list, including:

- three price-based indicators, such as the growth in wages in the occupation;
- four volume-based indicators, such as the growth in employment or the unemployment rate in the occupation;
- three employer-based indicators, such as employer reports of labour shortages; and
- two other indicators, including job vacancy data.

The MAC considers an indicator to suggest a labour shortage if the indicator passes a “median plus 50 percent of the median” test. For example, if the median wage increase in all occupations is two percent, the median increase in a shortage occupation must be at least three percent (2+1) to suggest a shortage. If at least half of the 12 top-down indicators satisfy the 50+50 test, the MAC can conclude there is a “potential lab or shortage.”

Top-down analysis of labour market data rarely finds labour shortages. For example, Veneri defined a labour-short occupation in the US as one in which:

- employment increased at least 50 percent faster than the average of all occupations;
- wages rose at least 30 percent faster than average; and
- the occupation in question had an unemployment rate at least 30 percent below average.

She found few labour shortage occupations in the US at the height of the 1990s economic boom. The 50+30+30 test was satisfied by seven of 62 occupations between 1992 and 1997, but only one, special education teachers, had both top-down and bottom-up evidence of shortages. Notably, computer-related occupations did not satisfy the 50+30+30 test despite rapid employment growth and low unemployment rates because wages did not rise at least 30 percent faster than overall wage growth.

Similarly, MAC analysis of top-down indicators finds few labour-shortage occupations. However, the MAC also considers bottom-up evidence from employers, unions, and others to decide whether there is a labour shortage in a particular occupation, and this bottom-up evidence has been decisive in most cases where the MAC has determined that there are labour shortages.

The MAC has since 2007 had three major effects on the British debate about the need for migrant workers. First, the MAC has earned a reputation for careful analysis of the data and evidence on which it bases its recommendations, which has helped it to win credibility both with the government and the public. Second, even if the MAC concludes there is a labour shortage, it does not always recommend that migrant workers be admitted, deciding that it is not sensible to import military leaders even if there is a shortage. Third, a MAC shortage finding can trigger governmental actions to reduce labour shortages in the future, such as more education and training.

Lessons

Labour migration is employer-led in the sense that governments respond to employer requests for migrant workers. Most governments are not well equipped to assess employer claims of labour shortages that require migrant workers. Defining and measuring shortages is not easy, especially in small geographic areas, but the cost of bad decisions can be high. Restricting employer access to foreign workers can adversely affect particular industries and may slow economic growth. On the other hand, if local workers are left jobless by an influx of migrants, or if employers delay the productivity-



increasing changes necessary to remain competitive in a globalizing world because migrant workers are available, the economy may become less competitive over time.

Expert commissions can improve decisions on whether to admit foreign workers. In Britain, the MAC helped to steer the debate over whether migrant workers are “needed” from competing assertions about whether labour shortages were due to faster job than labour force growth or a poor “work ethic” and attitudes of British workers to an analysis of labour market data. Careful analysis of both top-down labour market indicators and bottom-up evidence provided by employers, unions, and other stakeholders raised the quality of the debate over whether some employers or sectors need foreign workers, and whether employers should continue to have easy access to such workers in the future.

Expert commissions can make the trade-offs that underlie competing migration policy objectives clearer. For example, there is often a trade-off between the goals of (1) protecting local workers from “unfair” competition and (2) giving employers easy access to foreign workers they prefer. Labour migration generates uneven benefits, and migration policy making ultimately requires a balancing of competing interests. Deciding whether the optimal response to employer labour shortage complaints is the admission of migrant workers, higher wages, or some other option is an inherently political decision.

Chapter 5. Gender perspectives on migration

Gender and structural vulnerabilities: the case of migration and domestic work

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Introduction: gender and structural vulnerabilities

Too often 'gender' is used to simply acknowledge women, as if men are not gendered but disembodied beings. All migration and all work is gendered and construction is as gendered as domestic labour. The equation of 'gender' with women has many consequences, of which the most problematic is the continuing assumption of the male as the normal or typical person and the female as somehow exceptional. This is the same process that has resulted in the marginalisation of women and social reproductive labour. While domestic labour is often viewed as exceptional because it often does not fit the conventional models of employment and contract that underpin the way waged labour is organized, cooking, cleaning and caring have been done by humans for millennia. In this respect domestic labour is not exceptional at all. Arguably what is surprising is that we tolerate social arrangements that have such difficulty in accommodating care relations and social reproduction more broadly. Domestic and care work precede normal employment, but this has been forgotten as wage labour has become normalized and regulated, and the (male) wage earner constituted as the normalized subject. This process does not only marginalize domestic workers, but unpaid female labour, the unemployed, the informal worker and other figures outside the domain of conventional political economy. Thus it is important to recognise that the vulnerability of female migrants is not because of a natural feminine vulnerability, but rather it is constructed by multiple factors including assuming that the male migrant is the 'normal' migrant.

Domestic labour and migration

Paid domestic labour is a globally important labour sector. While it acknowledges there are many difficulties with counting domestic workers and aggregating what is often very poor data, the ILO's 2013 report "Domestic Workers across the world" estimates at least 52.6 million people working in domestic service, accounting for 3.6% of all waged employment. Forty one percent of those workers were in Asia where the domestic work sector accounts for nearly 8% of all women in paid employment. Women predominate in the sector all over the world, but approximately 17% of domestic workers are male, often working as chauffeurs, gardeners and guards, sometimes as part of an employed couple. Domestic labour is also linked to internal and international migration. International migration may be transcontinental but is more often within a region. Thus in Asia, women migrate to the Middle East and beyond, but also within the region from Myanmar to Thailand, from Indonesia to Malaysia, from the Philippines to Hong Kong and so on. Globally people have long moved to work in the households of others to do housework and care labour. Female and child migration from rural to urban areas to work in the households has characterised many regions of the world. In Europe, life cycle service, when young people moved in to other households to undertake agricultural and home based work as a transition to setting up their own family was a part of life for centuries. In the face of these comparisons, one must be wary of making claims about a shift in the scale of migration for domestic and care labour. There are multiple types of mobility for household labour. Some are continuous with long practices, while others, like mobility for care labour in institutionalised settings, are new phenomena. Moreover, the use of non-citizens means that the ways in which domestic and care labour is subordinated in capitalist societies have multiplied.

The numbers of women in domestic service has often been analysed as the market emancipating some women from domestic and care labour without requiring a rebalancing of the gendered division of labour. The arrangement of care and domestic labour in the private household is a powerful indication of the divisions between women across multiple axes. However, in Europe and the US public service retrenchment and the centralising of work to being able to access citizenship rights such as social welfare, are pushing women into the low waged service sector without providing support for family care. Employers are not necessarily middle class and indeed domestic workers themselves can often employ live in carers to look after relatives in their countries of origin. In this context international migration has been an integral part of the restructuring of care in different national contexts. In Spain for example migrant women have constituted the primary source of labour in the expansion of care work in private households.

Domestic labour and constructed vulnerabilities

The difficulties and often suffering endured by domestic workers in private households are considerable and have been elucidated principally at national level. Very low wages, excessive hours, physical, mental and sexual abuse have often characterised the position of domestic workers. There is a tendency in the media coverage for this to be presented in terms of morally reprehensible female employers. While there is no excuse for abusing a domestic worker however it is



important to understand how it is that some employers can abuse workers with impunity, and why it might be so prevalent in this sector. One key factor is that domestic work is one of the least protected sectors in national labour legislation. In their 2013 report the ILO estimated that about 10% of the world's domestic workers are fully included in national labour legislation, and 30% are completely excluded from national labour laws, with just under half partially included or covered by specific regimes. In Asia the situation is weighted towards exclusion, with 61% of domestic workers outside labour legislation, though with important exceptions (Hong Kong, and Sri Lanka). Their research found that coverage of domestic workers is particularly problematic with regard to working hours, inclusion in social security schemes and health and safety measures (ILO, 2013).

One reason for this is that contractual relations are premised on employment taking place in the public sphere. Relations in the home are usually structured by status such as family membership and family position rather than contract. Domestic labour and care work is treated as an unproductive 'labour of love', rather than work requiring regulation and demanding regulation. The home is a setting that is difficult to regulate and is often understood as a space that should be free from state intervention. These factors combine to make the relationship between employer and domestic worker are often difficult to contractualize and when it is so contractualised protections can be difficult to regulate. Furthermore it is almost always regarded as unskilled and as therefore worth little as it is able to be done by 'anybody' (or perhaps better, any woman). This work is often performed by women who belong to groups that are discriminated against along the lines of race, caste, religion or ethnicity adding another element to its undervaluation and low status.

These problems are exacerbated when the domestic workers are migrants. Migrants are particularly likely to live in, which is a type of employment relation which brings particular vulnerabilities as employers often have access to the private spaces and times of their workers. They also can face particular practical problems such as language, and lack of knowledge of rights. But often most pressingly there are immigration challenges. These may be that the worker is an illegal resident and is reluctant to complain or report an employer because of understandable fears of deportation, or they may be tied to a particular employing family and lose their status if they leave them, or they may be temporary residents and relying on the family to renew their visa, again making them reluctant to demand any rights that they have. That is, for migrants, even if they are in a state where domestic work is better covered in labour law, in practice they can often find it difficult to access effective protection.

Policy responses to vulnerabilities domestic labour

The vulnerabilities associated with domestic labour have resulted in it being designated as a major site of 'trafficking'. However this has sometimes led to a policy response that further illegalises female migration in an attempt to protect them. Gender specific bans on migration such as banning Nepali women from travelling to the Gulf States) have been justified on the basis of trafficking prevention and there is also a problem of detention for protection, with residents in shelters involuntarily held in 'protective custody' and a lack of judicial oversight. These have troubling consequences, including increasing vulnerability of female migrants through pushing them into more vulnerable routes and dependence on more organised groups.

ILO Convention 189, the Domestic Workers Convention sets an important normative framework for addressing some of the problems of both local and migrant domestic workers. They have set new international labour standards, and states have started to review their current law and practice. It is a significant leap forward in the global governance of domestic work. Although international norms are generally characterized by weak enforcement mechanisms, as Mundlak and Shamir point out C189 contains mechanisms such as lodging complaints and inquiries with international agencies that suggest the potential for change on the ground.

Convention No. 189 – Decent work for domestic workers

Miriam Boudraa
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Domestic work is work. Domestic workers are, like other workers, entitled to decent work.

On 16 June 2011, the International Labour Conference of the International Labour Organization adopted the Convention concerning decent work for domestic workers, which is also referred to as the Domestic Workers Convention, 2011 (No. 189).

What is Convention No. 189?

What is a Convention of the ILO?

A treaty adopted by the International Labour Conference, which is made up of government, worker and employer delegates from the 183 member States of the ILO.

What is Convention No. 189 about?

Convention No. 189 offers specific protection to domestic workers. It lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers.

What does it mean to ratify a Convention?

When a country ratifies a Convention, its government formally makes a commitment to implement all the obligations provided in the Convention, and to report periodically to the ILO on the measures taken in this regard.

Recommendation No. 201 – how is it related to the Convention?

Domestic Workers Recommendation No. 201, also adopted by the International Labour Conference of 2011, supplements Convention No. 189. Unlike the Convention, Recommendation No. 201 is not open for ratification. The Recommendation provides practical guidance concerning possible legal and other measures to implement the rights and principles stated in the Convention.

How is the Convention to be implemented?

The Convention may be implemented by extending or adapting existing laws and regulations or other measures, or by developing new and specific measures for domestic workers. Some of the measures required under the Convention may be taken progressively.

Who is covered by Convention No. 189?

What is domestic work?

Convention No. 189 defines domestic work as “work performed in or for a household or households”.

This work may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, even taking care of household pets.

Who is a domestic worker?

Under the Convention, a domestic worker is “any person engaged in domestic work within an employment relationship”.

A domestic worker may work on full-time or part-time basis; may be employed by a single household or by multiple employers; may be residing in the household of the employer (live-in worker) or may be living in his or her own residence (live-out). A domestic worker may be working in a country of which she/he is not a national.

All domestic workers are covered by Convention No. 189, although countries may decide to exclude some categories, under very strict conditions.



Who is the employer of a domestic worker?

The employer of a domestic worker may be a member of the household for which the work is performed, or an agency or enterprise that employs domestic workers and makes them available to households.

In implementing the Convention, will workers and employers be consulted?

The provisions of the Convention are to be implemented in consultation with the most representative workers' and employers' organizations (Article 18).

In addition, the Convention requires Governments to consult with the most representative organizations of employers and workers and, where they exist, with organizations that represent domestic workers and organizations that represent employers of domestic workers on four particular matters: (i) identifying categories of workers who would be excluded from the scope of the Convention; (ii) measures on occupational safety and health; (iii) measures on social security; and (iv) measures to protect workers from abusive practices by private employment agencies (Articles 2, 13 & 15).

What can domestic workers do to enjoy the protections offered by Convention No. 189?

Convention No. 189 affirms the fundamental rights of domestic workers. It sets minimum labour standards for domestic workers.

Domestic workers can:

- organize & mobilize support for the ratification and implementation of the Convention by their Governments;
- use the provisions of the Convention and the Recommendation to influence changes in laws and improve the working and living conditions of domestic workers, regardless of whether or not the country in which they work has ratified Convention No. 189.

What are the minimum standards set by Convention No. 189 for domestic workers?

Basic rights of domestic workers

- Promotion and protection of the human rights of all domestic workers (Preamble; Article 3).
- Respect and protection of fundamental principles and rights at work: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of all forms of forced or compulsory labour; (c) abolition of child labour; and (d) elimination of discrimination in respect of employment and occupation (Articles 3, 4, 11).
- Effective protection against all forms of abuse, harassment and violence (Article 5).
- Fair terms of employment and decent living conditions (Article 6).

Information on terms and conditions of employment

- Domestic workers must be informed of their terms and conditions of employment in an easily understandable manner, preferably through a written contract (Article 7).

Hours of work

- Measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave (Article 10).
- Weekly rest period of at least 24 consecutive hours (Article 10).
- Regulation of stand-by hours (periods during which domestic workers are not free to dispose of their time as they please and are required to remain at the disposal of the household in order to respond to possible calls) (Article 10).

Remuneration

- Minimum wage if a minimum wage exists for other workers (Article 11).
- Payment of wages must be paid in cash, directly to the worker, and at regular interval of no longer than one month. Payment by cheque or bank transfer – when allowed by law or collective agreements, or with worker's consent (Article 12).
- In-kind payment is allowed under 3 conditions: only a limited proportion of total remuneration; monetary value is fair and reasonable; the items or services given as in-kind payment are of personal use by and benefit to the workers. This means that uniforms or protective equipments are not to be regarded as payment in kind, but as tools that the employer must provide to the workers at no cost to them for the performance of their duties (Article 12).
- Fees charged by private employment agencies are not to be deducted from the remuneration (Article 15).

Occupational safety and health

- Right to safe and healthy working environment (Article 13).
- Measures are put in place to ensure workers' occupational safety and health (Article 13).

Social security

- Social security protection, including maternity benefits (Article 14).
- Conditions that are not less favourable than those applicable to workers generally (Article 14).

Standards concerning child domestic workers

- Requirement to set a minimum age for entry into domestic work (Article 4).
- Domestic workers aged 15 years old but less than 18 years old – their work should not deprive them of compulsory education, or interfere with their opportunities for further education or vocational training (Article 4).

Standards concerning live-in workers

- Decent living conditions that respect the workers' privacy (Article 6).
- Freedom to reach agreement with their employers or potential employers on whether or not to reside in the household (Article 9).
- No obligation to remain in the household or with its members during their periods of rest or leave (Article 9).
- Right to keep their identity and travel documents in their possession (Article 9).
- Regulation of stand-by hours (Article 10).

Standards concerning migrant domestic workers

- A written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment (Article 8).
- Clear conditions under which domestic workers are entitled to repatriation at the end of their employment (Article 8).
- Protection of domestic workers from abusive practices by private employment agencies (Article 15).
- Cooperation among sending and receiving countries to ensure the effective application of the provisions of the Convention to migrant domestic workers (Article 8).

Private employment agencies

Measures to be put in place (Article 15):

- regulate of the operation of private employment agencies;
- ensure adequate machinery for the investigation of complaints by domestic workers;
- provide adequate protection of domestic workers and prevention of abuses, in collaboration with other Members where appropriate;
- consider concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices.

Dispute settlement, complaints, enforcement

- Effective access to the court, tribunals or other dispute settlement mechanisms, including accessible complaint mechanisms (Article 17).
- Measures to be put in place to ensure compliance with national laws for the protection of domestic workers, including labour inspection measures. In in regard, the Convention recognizes the need to balance domestic workers' right to protection and the right to privacy of the households' members (Article 17).

**For more information, please contact us,
or the nearest International Labour Office in your country or region.**

Full text of Convention No. 189 is available at: <http://www.ilo.org/ilolex/english/convdisp1.htm>
Full text of Recommendation No. 201 is available at: <http://www.ilo.org/ilolex/english/recdisp1.htm>

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Chapter 6. The road to the ASEAN Community 2015

Trade and Migration: Lessons for AEC 2015

Philip Martin

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 Integration Program*

Highlights

Trade, the production of a good or service in one country for consumption in another, is expanding rapidly, and reached US\$22 trillion in 2012 (goods US\$18 trillion and services US\$4 trillion) or a quarter of global GDP of US\$85 trillion at PPP. Total remittances of US\$500 billion were less than one percent of global GDP.

Freer trade promises faster economic growth and benefits for most people in trading countries in the form of lower-priced goods and more jobs as economies grow faster because of a reallocation of capital and labour to where it is most productive, economies of scale in production, and competition that lowers prices.

Integrating economies at similar levels of economic development is associated with more temporary migration of business travellers. Integrating richer and poorer countries increases temporary business-related migration but can also lead to the displacement of low-skilled workers that increases migration, the migration hump.

Trade and migration: NAFTA

Economic theory normally assumes that trade and migration are substitutes, so that freer trade between countries with different wage levels should reduce economic incentives for migration as wages in the trading countries converge. This so-called factor-price equalization theorem suggests that freer trade is a substitute for migration.

However, theory and experience suggest that trade and the migration of professionals are often complements, meaning that the movement of professionals often *increases* with more trade and investment. The reasons for more temporary business migration range from the sale of complex goods that require buyers to be educated and airplanes and similar goods to be serviced to the spread of multinationals that move managers and technical experts to the countries in which they invest and trade.

Migration of low-skilled workers can also *increase* with freer trade, especially if imports displace workers in poorer countries faster than FDI creates jobs and (1) the FDI that accompanies economic integration creates jobs far away from where workers are displaced or (2) creates jobs for workers who are different from those displaced.

NAFTA, the first FTA between an industrial and developed country, provides an example. When NAFTA went into effect in 1994, wage differences between Mexico and the US were about 1 to 8 and the migration of labour was more important than trade in goods. NAFTA locked Mexico's new free-trade and welcome-FDI policy into an international treaty and became a model FTAs signed by the US with 20 countries.

The purpose of NAFTA was to free up trade and investment between Canada, Mexico and the US, three countries that accounted for a third of global GDP in the early 1990s. It succeeded. Mexico-US trade rose more than five times between 1993 and 2013, and Canada-US trade doubled.

NAFTA led to a burst of optimism in Mexico in 1993-94 that was soon followed by a devaluation and severe recession in 1995-96. The result was migration hump or more Mexico-US migration from the mid-1990s through 2007. Mexico-US migration surged, peaking at over 500,000 a year, meaning that five percent of Mexican residents and 10 percent of Mexican workers moved to the US, mostly illegally, in some years (many worked seasonally in the US and returned for holidays). Mexico-US migration continued at high levels until 2008, when a combination of US recession, tighter controls on the Mexico-US border, and an improving Mexican economy slowed Mexico-US migration.

NAFTA's has limited migration provisions. Chapter 16 allows professionals with a BA or more in 70+ occupations who have a job offer in another member state to arrive at the border, show their qualifications and job offer, and receive an indefinitely renewable visa. In recent years, about 70,000 Canadians and 20,000 Mexicans a year have entered the US with NAFTA-TN visas.

Most labour migration within ASEAN is low-skilled, and much of it is irregular, similar to Mexico-US migration before NAFTA. If freer trade displaces e.g. small farmers in Indonesia or Myanmar, and FDI creates jobs in the border areas of these countries to avoid infrastructure bottlenecks, and these new jobs go primarily to young recent graduates rather than displaced small farmers, the result could be increased internal and international labour migration. The changes that accompany integration soon convince rural youth, and sometimes their parents, that they face limited economic prospects on small farms.

Trade and migration: EU, GATS

Freedom of movement of goods, capital, workers and services was a founding principle of the then-European Economic Community (EEC) in 1957, which provided for free labor mobility for employees in Articles 48-51 of the Treaty of Rome and for the self-employed in Articles 52-58. EU citizens are entitled to:

- Move to another EU country to seek a job and, if they find one, the host country must issue any necessary work and residence permits.
- Be treated equally with citizen workers in access to private-sector employment in wages, working conditions and benefits.
- Have their family members join them in another EU country, and these family members may access schooling, health care etc on the same terms as local citizens.

EU nationals employed at least five years continuously in another member state automatically acquire the right to permanent residence in that state.¹

Old EU member states may restrict freedom of movement for citizens of “new member states,” generally for up to seven years. The EU approach to trade and migration is to implement free trade *before* free migration in the hope that when free migration begins, there will be relatively little. During accession negotiations and the migration-transition-period, EU aid helps to improve the infrastructure of new member states so that private firms invest and create jobs, limiting outmigration when free movement is allowed.

This trade-and-aid before-migration approach worked well when poorer countries such as Greece, Portugal, and Spain joined the EU, that is, there was relatively little additional migration when Greeks and Spaniards got freedom of movement rights. However, when the so-called A8 countries of Central Europe joined the EU in 2004, Ireland and the UK elected *not* to restrict the migration of Poles and others, relying in part on studies that concluded that up to 15,000 migrants may arrive under freedom of movement. Instead, over 1 million A8 migrants moved to the UK, and “too many migrants” contributed to the defeat of the Labor government in 2010.

Today, there are 20 million intra-EU migrants among the EU’s 500 million residents, meaning that four percent of EU nationals have moved to from one of the EU’s 28 member states to another. Over 10 percent of intra-EU migrants are Romanians, 2.3 million, followed by almost 10 percent Poles, 1.9 million, and Italians, 1.7 million.

EU leaders would like to encourage more intra-EU migration, using policies that range from having worker credentials recognized via Mutual Recognition Agreements to standardizing education and training standards across all EU member states via the Bologna Process and encouraging more youth to study abroad. The intra-EU migration of youth is relatively limited and not controversial, but labour migration from poorer to richer EU countries is controversial.

¹ The European Free Trade Association (EFTA), established in 1960 by seven then-non-EEC countries, today has four members, Iceland, Liechtenstein, Norway, and Switzerland. There is freedom of movement between the EU and EFTA countries, but 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. EFTA and the EU combined are called the European Economic Area.



One controversial intra-EU labour migration mechanism involves hiring workers in a poorer EU country and “posting” them to jobs in a richer EU country, as when a Polish staffing agency sends its Polish workers to a German construction site or factory to work. Posted workers are considered employees of their home country, raising two questions:

1. What wages and benefits must be paid to posted workers while they are working in another EU country?
2. Which government collects payroll taxes on posted workers’ earnings?

If the host country has a minimum wage, posted workers must receive that minimum wage, a rule that is encouraging EU member states without minimum wages to adopt them. However, since Polish workers in Germany are considered Polish employees, their payroll taxes flow to the Polish government under the theory that they will receive pension and other benefits in Poland.

The EU experience demonstrates the complexity of implementing freedom of movement even when (1) wage and other differences between countries are relatively small and (2) intra-EU migration is encouraged. Relatively few professionals move from one EU country to another, but free movement from poorer to richer countries and using employment agencies to post workers from poorer in richer EU countries are controversial issues. The fear that there will be “too much migration” from Turkey, which will surpass Germany in population before 2020, is one reason why Turkey’s bid to join the EU is controversial.

The General Agreement on Trade in Services (GATS) aims to liberalize movements of service providers among WTO member states. There are four major modes or ways to provide services across national borders:

- cross-border supply, as when customers use call centers in another country, that is, the service but neither the provider nor the customer cross national borders
- consumption abroad, as when a patient travels to another country for medical services, so only the customer crosses borders
- foreign direct investment (FDI) or commercial presence, as when a multinational establishes a subsidiary abroad and moves managers and other professionals over borders to provide services to local customers and
- Mode 4 or the temporary movement of “natural persons,” meaning the service provider crosses national borders to the customer

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 on-line (Mode 1) rather than by sending an accountant abroad to audit financial statements (Mode 4), or the client can travel to the country where the service provider is located to receive accounting 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).

Migrant-sending countries want GATS to liberalize Mode 4 movements of service providers by obtaining commitments from migrant-receiving countries in four major areas:

- Eliminate economic needs tests to determine if foreign workers are needed by e.g. requiring potential employers of GATS service providers to first search for local workers. These employers receive permission to hire GATS service providers only if local workers are not available.
- Expedite the issuance of visas and work permits to GATS service providers, preferably via one-stop shops that include appeals procedures if the visa is denied.
- Facilitate recognition of credentials earned abroad so that GATS service providers can obtain any licenses and certificates required to work abroad.
- Exempt migrant service providers from participating in work-related benefit programs financed by payroll taxes so that their lower labor costs make GATS service providers more attractive to employers.

Ideally, migrant-sending countries would like a GATS service provider visa that would allow freedom of movement among WTO member states. This is unlikely to occur anytime soon, and GATS negotiations have made little progress in freeing up trade in services except in expediting intra-company transfers.

Many Mode 4 GATS service provider issues have a numbers versus rights element, as illustrated by the debate over minimum wages. A bedrock principle ILO conventions is equality of treatment, that is, equal wages for migrant and local workers. Some Indian economists argue that requiring GATS service providers to be paid minimum or equal wages could reduce the number that employers would hire. They say “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” on the number that employers hire.

AEC 2015

The ASEAN Economic Community (AEC) aims 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 10 member states.

The AEC is liberalizing freedom of movement in a top-down fashion, beginning with skilled workers such as accountants and nurses whose numbers are limited and whose presence is rarely controversial. Experience shows that the major issues involving migrant professionals, generally defined as persons with at least a first university degree, are getting credentials earned abroad recognized in the new country and persuading employers to hire foreigners with no local experience or references.

The one exception to non-controversial professionals may be Singapore, where there are complaints from some local students and workers that the government's open-door policy has denied them access to good university slots and jobs. In response, the government now requires employers seeking permission to hire foreign professionals on Employment Passes to post their job ads on a new jobs bank (www.jobsbank.gov.sg) for at least 14 days so that Singaporeans have a chance to apply.

Most of the migration occurring within ASEAN involves low-skilled workers moving into Malaysia, Thailand, and Singapore. This migration has been occurring for decades, creating strong networks between some employers and migrant areas of origin. If freer trade displaces workers in these migrant-sending areas, and if new jobs created go to local residents in areas far from where workers are displaced, the result may be a migration hump, as occurred with Mexico-US migration. Note that displacement is more often youth in a migrant-sending area realizing that traditional farming, fishing, or other activities does not promise a viable future, not necessarily a factory closing.





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COURSE FACULTY

Manolo ABELLA, is an economist and former Director of ILO's International Migration Programme, also for many years headed ILO's technical cooperation programme in Asia on labour migration, currently member of Consortium Advisory Group, World Bank Project *Migrating out of Poverty*; Senior Research Associate of COMPAS; author of many publications on labour migration. He has been actively involved in international efforts to develop a multilateral framework for the management of labour migration and spent many years writing and rendering advice to governments on policies and best practices. He is currently helping COMPAS to develop short courses in Asia.

Bridget ANDERSON, is Professor of Migration and Citizenship and Deputy Director at COMPAS, primarily working on projects in the Citizenship and Belonging, Labour Markets and Welfare clusters. She has a DPhil in Sociology and previous training in Philosophy and Modern Languages. She is the author of 'Us and Them: the Dangerous Politics of Immigration Controls' (OUP, 2013) and 'Doing the dirty work? The global politics of domestic labour'. She co-edited 'Who Needs Migrant Workers? Labour Shortages, Immigration and Public Policy with Martin Ruhs (2010) and 'The Social, Political and Historical Contours of Deportation' with Matthew Gibney and Emanuela Paoletti (2013).

Nilim BARUAH, has been working on migration issues since 1998 and earlier in the development field. Before assuming his current responsibilities as Senior Migration Specialist at the ILO Regional Office for Asia and the Pacific in Bangkok in 2011, he was the Chief Technical Adviser (CTA) of ILO technical cooperation labour migration projects in Southeast Asia and Eastern Europe/Central Asia. Earlier he headed IOM's (International Organization for Migration) Labour Migration Division in Geneva from 2002-2007. He has extensive experience concerning labour migration issues and labour migration governance as well as several publications on labour migration and remittances. He is co-author of the OSCE-IOM-ILO Handbook on Establishing Effective Labour Migration Policies (2006) which has been published in several languages. Prior to the IOM, Nilim Baruah worked with OXFAM as the Country Representative in Yerevan and Regional Representative in Bhubaneshwar. He studied Development Studies at Carleton University, Ottawa, where he obtained a Master's Degree in International Affairs.

Harry van den BERG, is a specialist on European labour mobility and working for the public employment services in Amsterdam / the Netherlands. He is member of the EURES network, which aims at a better connection between labour market parties in the different countries, united in the European Economic Area (EEA).

Miriam BOUDRAA, responsible at the International Training Centre of ILO for the Labour Migration component since 2006. Her main area of expertise is on migration and labour and human rights, gender and migration as well as social and professional reintegration of returnees. She is also responsible for the training course on Domestic Work. Prior joining the ITC-ILO she worked for the European Commission, first in Brussels "EuropeAid" office and then in Burkina Faso and Algeria for the Delegation of the EC. She holds a master degree in European law and political science from Robert Schuman University, Strasbourg, France as well as an advanced degree in international relations, with a specialisation in European Union law and policy on immigration and asylum, from the Institute for European Studies in Brussels.

Philippe de BRUYCKER, Jean Monnet Chair for European Law on Immigration & Asylum and Professor in the European University Institute (EUI) of Florence, the Institute for European Studies and the Law Faculty of the Université Libre de Bruxelles (ULB) as well as Sciences Po-Paris. He is Deputy Director of the Migration Policy Centre of the EUI. In 1999 He founded the "Academic Network for Legal Studies on Immigration and Asylum in Europe" with the support of the Odysseus programme of the EU. The "Odysseus Academic Network" organises yearly since 2001 a Summer School "EU Law and Policy on immigration and Asylum" and in 2006 launched a post-graduate certificate in the same field. From 2001-03, he was adviser at the European Commission in the DG Home Affairs. In 2004 -05, he advised the IOM in Tirana for the National Strategy on Migration of the Albanian Government. He works as an expert and trainer for different institutions (European Parliament, UNHCR, IOM, ICMPD,...) and is at the origin of the European Asylum Curriculum (EAC) used by the EU to train asylum case officers. After having extensively published on issues of constitutional and administrative law as Head of the Centre for Public Law in ULB till 1999, his books and articles now focus on Immigration and Asylum Law with a special emphasis on its EU dimension.



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Manuel IMSON, Chief Technical Adviser, ILO ASEAN TRIANGLE Project, over 30 years with Philippine Government serving in various capacities including as Administrator, Philippine Overseas Employment Administration, Labour Attaché with the Philippine Mission to the United Nations in Geneva, and in Washington, DC ; Masters in International Business Management , John Hopkins University.

David LYTHER, is a specialist in policy evaluation and development for technical and vocational education and training, including national qualifications and quality assurance systems. He has completed a study of the readiness of ASEAN member states for skilled worker mobility through the forthcoming ASEAN Economic Community (AEC); and a study of industry leadership of national human resources development in Myanmar. Currently he is involved in Human Resource Development and international skills recognition projects in Bangladesh and Tajikistan, as well as continuing to support ASEAN member states as they prepare for the AEC.

Thetis MANGAHAS, appointed in September 2010 as Deputy Regional Director for Policy and Programmes of the Regional Office for Asia and the Pacific, Thetis has worked in the ILO in many different capacities. Coming from a high level government position in the Philippine Overseas Employment Administration, Asia's largest overseas employment office, Thetis joined the ILO in 1991 as CTA of the UNDP-Canada-Swiss funded "Return and Rehabilitation of Migrant Workers from the Gulf States", an emergency assistance program for the mainly female Sri Lankan domestic workers returning from the 1st Gulf War. She has also served as national program manager of the Philippine child labour program in 1995, then eventually as the IPEC sub-regional adviser on child labour based in Bangkok. Thetis joined the DECLARATION in Geneva in 2001 to help set up the Special Action Programme on Forced Labour as its human trafficking specialist. From 2003-2008, Thetis assumed the post of CTA of the TICW Project, a large (US\$15 million) project to combat trafficking in children and women. She was appointed as the Senior Migration Specialist of the ILO Regional Office for Asia and the Pacific in 2008. Thetis is a graduate of the University of the Philippines and the London School of Economics and Political Science.

Ivan MARTIN, Iván Martín is an economist. He is currently Part-Time Professor at the Migration Policy Centre of the European University Institute and Associate Research Fellow at the Instituto Complutense de Estudios Internacionales (Madrid, Spain). After teaching for fifteen years at different American Universities programmes in Spain and then at the Universidad Carlos III de Madrid, he worked, from 2006, as Director of the Socio-Economic Forum of Casa Árabe (Arab House) and its International Institute for Arab and Muslim World Studies in Spain. In the 2010-2011 academic year, he worked as Research Administrator at the College of Europe, Natolin Campus (Poland) on European Neighbourhood Strategies. He has taught Master courses in the Universidad Autónoma de Barcelona, Universidad Pompeu Fabra, Universidad Complutense de Madrid, Universidad de Granada, Université de Montpellier and Universidad Autónoma de Paraguay and since 2010, he has worked as consultant on labour migration, youth employment and skills development for the International Organization for Migration, the International Labour Organization, the European Commission (DG DEVCO), the European Training Foundation, the Anna Lindh Foundation for the Dialogue between Cultures and the Union for the Mediterranean Secretariat. He was also the Project Coordinator of the study Labour Markets Performance and Migration Flows in Arab Mediterranean Countries: Determinants and Effect, carried out by the Robert Schuman Center for Advanced Studies of the EUI for the European Commission (2009-2010). His research interests focus on Euro-Mediterranean relations and the European Neighbourhood Policy, employment and employment policies in Arab Mediterranean countries and labour migration.

Phil MARTIN, Professor of Agricultural Economics, University of California-Davis; chair of the University of California's Comparative Immigration and Integration Program, served in various capacities to advise on immigration policy in the US, internationally known migration scholar with extensive publications on migration and development including on Turkey, Malaysia, and Thailand; founder and editor of the monthly Migration News and the quarterly Rural Migration News (<http://migration.ucdavis.edu>)

Carlos Vargas SILVA, Economist and senior researcher at COMPAS and a member of the Migration Observatory team, primarily working on projects in the Labour Markets cluster. He is also a member of Kellogg College. His research interests include the economic impact of immigration on migrant receiving countries and the link between migration (including forced migration) and economic development in migrant sending countries. Carlos has been a consultant in migration related projects for several international and policy agencies including the Asian Development Bank, European Commission, the Inter-American Development Bank, World Bank, UK Home Office and the United Nations University. He is an Associate Editor of the journal Migration Studies.



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ANNEXES

Agenda

Tentative agenda as of July 4 2014

8th July 2014: Arrival of participants

18.30 - Reception at Lotus Pavilion, JW Marriott Hotel

9th July 2014: Day 1 – Fundamental issues in labour migration

Summary: Sessions on this opening day will offer high level analysis of social, economic and political issues to be taken into account when considering international labour immigration.

8.30am	Registration
9.00 – 9.30	Opening ceremony <i>Thetis Mangahas</i> , Deputy Regional Director, International Labour Organization, Regional Office for Asia and the Pacific <i>Bridget Anderson</i> , Deputy Director, Centre on Migration, Policy and Society (COMPAS, Oxford University) <i>Miriam Boudraa</i> , Programme Officer, International Training Centre of the ILO – Turin
9.30 – 10.30	Session 1: Enabling mobility, ensuring rights Moderator: Nilim Baruah, Senior Migration Specialist, Regional Office for Asia and the Pacific, International Labour Organization Summary: This session will make an evaluation of the tradeoffs involved in labour migration and identify the different interests. Is it possible to balance the different interests: that of migrant and national workers, employers, states of origin and destination; to have a rights' based approach to labour migration and have increased mobility? Speakers: Who needs migrant workers? Labour shortages and immigration policy , <i>Bridget Anderson</i> , Deputy Director, COMPAS International standards on the protection of the rights of migrant workers , <i>Miriam Boudraa</i> , Programme Officer, International Training Centre of the ILO– Turin Question and Answer
10.30 – 11.00	Coffee and tea break
11.00 – 12.00	Session 1: Enabling mobility, ensuring rights [continued] Moderator: Nilim Baruah, Senior Migration Specialist, Regional Office for Asia and the Pacific, International Labour Organization Summary: This part of session 1 will focus on the development of free movement of European workers from its origin in the Economic Community till citizenship in the European Union, including the problematic of intra-EU mobility of third-country nationals, their rights in comparison with European citizens as well as the emergence of a common immigration policy for legal migration of a limited category of workers covered by specific directives. It will underline what made freedom of movement of workers possible in Europe without ignoring the current difficulties in order to try to draw some lessons for regional integration in the ASEAN. Speaker: Intra-regional mobility in the European Union: which rights for EU citizens and third-country nationals? , <i>Philippe De Bruycker</i> , Deputy Director, Migration Policy Centre Question and Answer



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12.00 – 13.30	Group photo Lunch break at Cucina Restaurant
13.30 – 14.45	Session 2: Lessons to be learnt from EU regional harmonization and their application to ASEAN Moderator: <i>Miriam Boudraa, Programme Officer International Training Centre of the ILO–Turin</i> Summary: This session will focus on labour market integration, skills recognition, regional employment services and regional economic impacts of labour migration. Speakers: Economic impacts of labour migration in the European Union, <i>Carlos Vargas Silva, COMPAS, Senior Researcher, Migration Observatory</i> Regional labour market implications of free movement of persons: learning from the experience of the European Union, <i>Ivan Martin, Professor; Migration Policy Centre of the European University Institute</i> Question and Answer
14.45 – 15.15	Coffee and tea break
15.15 – 16.30	Session 2: Lessons to be learnt from EU regional harmonization and their application to ASEAN (continued) Moderator: <i>Miriam Boudraa, Programme Officer, International Training Centre of the ILO–Turin</i> Speakers: Labour market information systems: European employment and job mobility services, <i>Harry van den Berg, Policy Advisor and Deputy Manager NCO / EURES, The Netherlands</i> Regional Model Competency Standards, Mutual Recognition Agreements and the ASEAN Qualifications Reference Framework, <i>David Lythe, Consultant to the ILO</i> Question and Answer
16.30	Close of Day 1
18.30	Evening reception at Ballroom 1 Remittances in Asia: Implications for the fight against poverty and the pursuit of economic growth, <i>Carlos Vargas Silva, COMPAS, Senior Researcher, Migration Observatory</i>
10th July 2014: Day 2 – Labour Migration policy and its implementation Sessions on Day 2 will deal with more specific questions of how to regulate labour migration in and to a single market and in the national context.	
8.30am	Registration
9.00 – 10.15	Session 3: Regulating labour emigration Moderator: <i>Nilim Baruah, Senior Migration Specialist, Regional Office for Asia and the Pacific, International Labour Organization</i> Summary: this session will present evidence around the following questions: what are the effects of labour emigration on origin countries of the region? Is there a tension between states promoting labour emigration and ensuring suitable protections for their citizens abroad? What is the impact of emigration procedures on protection and labour mobility? What are sound practices and how can states of origin and destination cooperate to more effectively regulate recruitment agencies? Speakers: Regulating labour emigration, <i>Manuel Imson, Senior Project Coordinator, ILO Regional Office for Asia and the Pacific</i> Measuring the impacts of labour migration policies, <i>Manolo Abella, Senior Research Associate, COMPAS</i> Question and answer
10.15 – 10.30	Coffee and tea break

10.30 – 11.45	Session 4: Regulating labour immigration Moderator: <i>Manolo Abella</i>, Senior Research Associate, COMPAS Summary: this session will present practical examples around key policy questions such as: what are the effects of labour immigration in labour-receiving countries in Europe? How are efforts to link the admission of migrant workers to the needs of the domestic labour market working? What have been the methods and data-sources to assess labour market requirements for foreign workers and generate shortage occupation lists? Speakers: Definitions, data sources and methods to assess labour market requirements, <i>Carlos Vargas Silva</i>, COMPAS, Senior Researcher, Migration Observatory Expert panels and labour market tests, <i>Phil Martin</i>, Professor of Agricultural Economics, University of California-Davis; chair of the University of California's Comparative Immigration and Integration Program, Question and answer
11.45 – 13.00	Lunch at Marriott Café
13.00 – 15.00	Session 5: Gender perspectives on migration Moderator: <i>Thetis Mangahas</i>, Deputy Regional Director, International Labour Organization, Regional Office for Asia and the Pacific Summary: This session will focus on the gender dimensions of migration and development, as overseas employment opportunities are often gender specific. What policy responses provide protection to migrants who are in vulnerable situations and occupations? This session will also address the specific case of migrant domestic workers, the specific ILO legal standards covering them as well as examples from some EU countries on the existing framework which protect them. Speakers: Gender and structural vulnerabilities: the case of migration and domestic work, <i>Bridget Anderson</i>, Deputy Director, COMPAS ILO international standard Convention No.189 Domestic Workers Convention, 2011, and integration of Migrant Domestic Workers in Europe, <i>Miriam Boudraa</i>, Programme Officer, International Training Centre of the ILO – Turin Group activity Question and answer
15.00 – 15.15	Coffee and Tea break
15.15 – 16.30	Session 6: The road to the ASEAN Community 2015 Moderator: <i>Manuel Imson</i>, Senior Project Coordinator, ILO Regional Office for Asia and the Pacific Summary: the final session will look at the progress towards the ASEAN Community 2015. Speakers: Migration and trade, <i>Phil Martin</i>, Professor of Agricultural Economics, University of California-Davis; chair of the University of California's Comparative Immigration and Integration Program, ASEAN Community: towards better facilitation of labour migration, <i>Mega Irena</i>, Assistant Director/Head of Social Welfare, Women, Labour and Migrant Workers Division Question and answer
16.30	Close of seminar
11 th July 2014	Participant departure

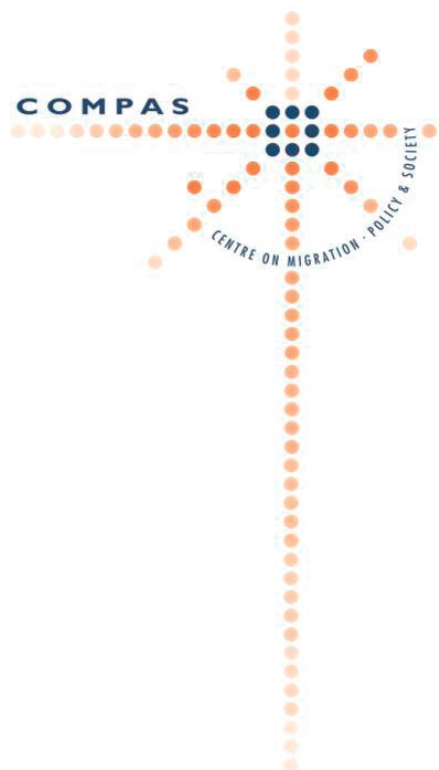


Presentations PPT

Session 1. Enabling mobility, ensuring rights

Who needs migrant workers? Labour shortages and immigration policy (*Bridget Anderson*)

Slide 1

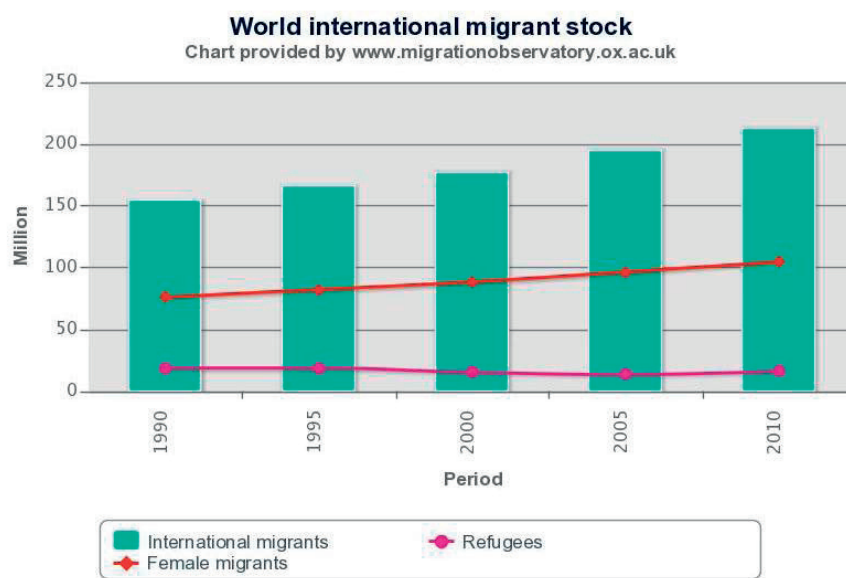


Slide 2

Structure

- Global overview
- Examining definitions: migrant and work
- Challenges in regulating labour migration
- A critical examination of employer demand for migrant labour
- Implications for debate and policy

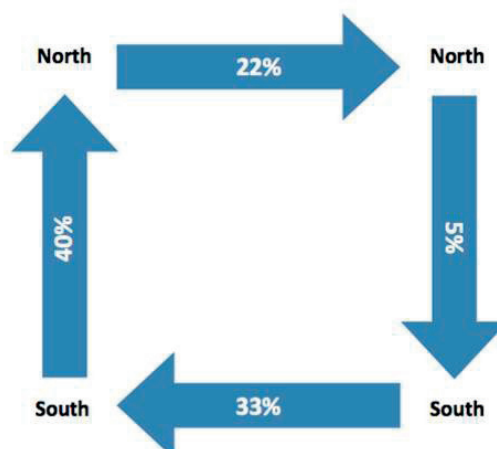
Slide 3



3

Slide 4

Global Migration Pathways



4



Slide 5

International migrant populations by major area of origin and destination, 2013 (millions)

2013		Origin							Retention by destination (%)
Destination		Africa	Asia	Europe	LAC	NAM	Oceania	Various	
	Africa	15.3	1.1	0.8	0.0	0.1	0.0	1.4	18.6
	Asia	4.6	53.8	7.6	0.7	0.6	0.1	3.4	70.8
	Europe	8.9	18.6	37.8	4.5	0.9	0.3	1.3	72.4
	LAC	0.0	0.3	1.2	5.4	1.3	0.0	0.2	8.5
	NAM	2.0	15.7	7.9	25.9	1.2	0.3	0.0	53.1
	Oceania	0.5	2.9	3.1	0.1	0.2	1.1	0.1	7.9
	TOTAL	31.3	92.5	58.4	36.7	4.3	1.9	6.4	231.5
	Retention by origin (%)	49	58	65	15	28	58		

Source: UN Dept of Economic and Social Affairs

Slide 6

Care with Data: Definitions of 'Migrant'

- Migrant in Data
- Migrant in Law
- Migrant in public debates

These do not all count the same individuals.

Migrant in Data and Migrant in public debates are not all affected by immigration policies.

Slide 7

Migrant in Data

- Country of birth (foreign born): A person who is residing in a state that is not their country of birth.
- Foreign national: A person who is residing in a state that is not their state of citizenship.
- Long Term International Migrant ('LTIM') UN definition : "A person who moves to a country other than that of his or her usual residence for a period of at least a year [...] so that the country of destination effectively becomes his or her new country of usual residence." Based on respondents' intentions rather than recording what they actually do.

These do not all count the same individuals.

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Slide 8

Migrant in Law

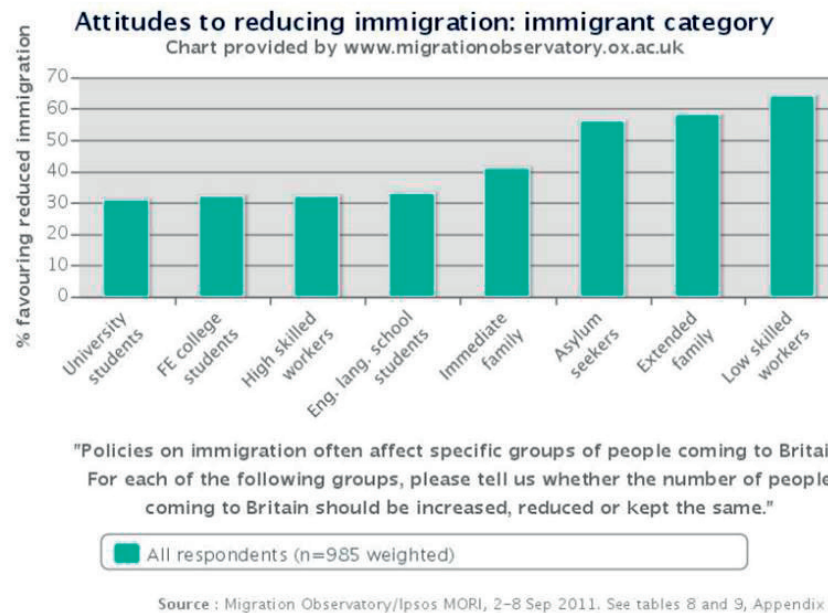
- A non-citizen?
- But not all non-citizens are subject to immigration controls (e.g. permanent residents; EU nationals in the EU)
- Some national minorities are not citizens.
- The Migrant in Law is different from the Migrant in Data: a citizen who has been residing abroad and is returning to their state of citizenship for a year or more will count as a migrant for the purposes of datasets using the LTIM definition, but clearly they are not legally a 'migrant'.

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Slide 9

Migrant in Public Opinion



Slide 10

Care with Data: Definitions of 'Work'

- Fundamental contestations about when work is to be counted in the (informal) labour market. When is labour 'Work'?
- Sex work/prostitution; domestic labour
- EU definition: must be 'genuine and effective'
- Internships, prison labour, labour in detention...

Slide 11

Regulating labour immigration:

Martin Ruhs' questions:

- Numbers: how open?
 - e.g. quotas, labour market tests, employer-led, etc.
- Selection: what type of migrant workers?
 - E.g. by skill, nationality, sector, age, marital status
- Rights after admission
 - e.g. visa renewal, tied to employer/sector/region, social rights, naturalisation, family reunion, etc.
- Could also: not regulate, attempt to halt (two can go together), use other flows (e.g. refugee, student etc)
- The importance of DEMAND, and of labour market context.

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Slide 12

Managing migration: in whose interests?

State management of migration must typically negotiate:

- Popular participation ('the people', 'the voters')
- Constitutional requirements (rule of law)
- Capitalism
- Nationhood
- International requirements and pressures (bilateral and multi-lateral)
- Material and bureaucratic challenges

The relation between states, nations, governments and bureaucrats complex. Each have their own sets of interests

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Slide 13

Managing migration: in whose interests?

Receiving state:

- Economic efficiency: e.g. growth, competitive, fiscal efficiency.
 - Is migration good or bad for business? What business? What employers? What kind of migration?
- Distribution: e.g. minimum adverse impacts on lowest paid.
 - Migration as facilitating employment (e.g. domestic workers)? Citizens or residents?
- Political concerns: social responses
 - National identity? Public order? Risks of symbolic politics

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Slide 14

Managing migration: in whose interests?

Sending state:

- Remittances: households, health, poverty
- Positive and negative social consequences
- Protection of emigrants (forced labour concerns – making and unmaking of labour bans)

Migrants:

- Economic and social motivations

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Slide 15

Different national “policy spaces” for regulating labour immigration (Ruhs 2013)

- States decide on openness, selection and rights to achieve variable set of policy objectives
 - Constraints and institutional factors mediate how the pursuit of objectives translates into policies
 - Labour immigration policy as “choice under constraints”
 - “policy space” for regulating labour immigration differs across countries and over time
- ➔ international comparisons useful and important but need to be aware of different contexts
- ➔ Importance of symbolic politics

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Slide 16

Do employers know best?

Employers claim:

There is a need for more migrant workers to ‘fill labour and skills shortages’ and ‘to do the jobs that local workers cannot or will not do’.

Policy challenge:

- ➔ How to evaluate this claim?
- ➔ How to respond?



Slide 17



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Slide 18



Slide 19



Slide 20





Slide 21



Slide 22



Slide 23



Slide 24

The problem with “skills” and “shortage” (see Anderson and Ruhs 2012)

Skills:

- Conceptually and empirically ambiguous
- Credentialised vs non-credentialised; experience; “hard skills” vs “softs skills”
- Demand for employees with specific personal characteristics and “attitudes” (good “work ethic”; “compliant” and “cooperative”)

Shortages:

- No universal definition; employers’ demand for more workers at prevailing wages
- Why not let wages rise?

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Slide 25

Why do some employers prefer migrants?

- ‘what employers want’ depends on what ‘they think the can get’ from the available pools of labour → “picky employers”
- “variable hiring queue” based on e.g. nationality of workers
- Preference for migrant workers can be due to:
 - Expectations about wages and employment conditions
 - Immigration status
 - High quality workers for low-skilled jobs
 - Self-regulating and self-sustaining labour supply

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Slide 26

System Effects

- System effects stem from the institutional structure and regulatory framework of the labour market and other public policies
- Some systems encourage the emergence of ‘shortages’ e.g. the construction sector in the UK

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Slide 27

Consequences

- Is it possible to change recruitment patterns without changing the wider institutional context?
- How much does immigration policy really matter if the employment of migrant workers is symptomatic of issues that do not derive from immigration policy?

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Slide 28

Alternatives to immigration

- Alternatives
 - Increase wages, improve working conditions; training
 - make production process less labour intensive
 - relocate to countries where labour costs are lower;
 - switch to production (provision) of less labour-intensive commodities and services;
- How do employers decide?
 - Relative cost matters
 - System effects and path dependenceno going back?



Slide 29

Some implications for debates and policy

- Employers are key but their arguments must be critically evaluated
 => need to **manage employer demand** for migrant workers
- Discussions need to include “shortages” and “alternatives”
- Need to have effective mechanisms for protecting domestic workers (challenges!)
- No ‘single best response’ to labour shortage; highly normative question → public debates about objectives and trade-offs
- Demand for migrant labour critically depends on the underlying economic and social model
- Demand for migrant labour arises from broad range of public policies and institutions that go beyond immigration policy; so debate needs to include wider public policy issues incl. labour market policies, social policies etc. → **Immigration and public policy**

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Slide 30

Discussion Points

State management of

- Popular participation (‘the people’, ‘the voters’)
- Constitutional requirements (rule of law)
- Capitalism
- Nationhood
- International requirements and pressures (bilateral and multi-lateral)
- Material and bureaucratic challenges

Why and when does immigration policy matter?

International Standards for the protection of migrant workers (Miriam Boudraa)

Slide 1



A Rights-based approach on Labour Migration : The international legal standards protecting Migrant workers

www.itcilo.org International Training Centre of the ILO 1

Slide 2



**Why specific protection and policies?
Violations of migrant workers' rights**

- Why do migrant workers need protection?
- The need for a normative framework
- ILO and International Labour Standards
- The broader normative context
 - ❑ International Convention on Migrant Workers
 - ❑ Regional Instruments
- Multilateral Framework on Labour Migration



Slide 3

Why specific protection and policies? Violations of migrant workers' rights



- At risk of exploitation in recruitment process
- Non-citizens and rarely benefit from full equal treatment
- Often low-skilled precarious employment
 - Agriculture, domestic work, construction
- Multiple discriminations, especially women MW
- Particular risks for migrants
 - Example: rates of occupational injury and death double for foreign workers than citizens where data obtained
- More at risk if in an irregular situation

Slide 4

Rights of Migrant Workers ILO MANDATE



The protection of **human rights** of men and women migrant workers and:

the promotion of their **equal treatment and opportunity** are enshrined in the:

- ❑ ILO Constitution (1919)
- ❑ Declaration of Philadelphia (1944)
- ❑ Declaration of Fundamental Principles and Rights at Work (1998)

The Social Justice Declaration (2008) reaffirms the role of ILS and states that **gender and non-discrimination should be cross-cutting**

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Slide 5

ILO Mandate and Applicable International Labour Standards



In principle, ILS cover all workers irrespective of nationality and immigration status unless otherwise stated

State prerogative to regulate access to territory and labour market

Slide 6

Applicable International Labour Standards



International Labour Conventions:

All International Labour Conventions, including the eight fundamental ones, under the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, apply to migrant workers

Eight Fundamental Labour Conventions

- Forced Labour Convention, 1930 (No. 29) - **177**
- Abolition of Forced Labour Convention, 1957 (No. 105) - **174**
- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) - **153**
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98) - **164**
- Equal Remuneration Convention, 1951 (No. 100) - **171**
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111) - **172**
- Minimum Age Convention, 1973 (No. 138) - **167**
- Worst Forms of Child Labour Convention, 1999 (No. 182) - **179**



Slide 7

ASEAN countries and ILO fundamental conventions

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FORCED LABOUR

- C29: Cambodia- Indonesia - Lao PDR- Malaysia- Myanmar- Philippines- Singapore- Thailand- Viet Nam
- C105: Cambodia- Indonesia - Malaysia- Philippines- Singapore- Thailand-

COLLECTIVE BARGAINING AND FREEDOM OF ASSOCIATION

- C87: Cambodia- Indonesia - Myanmar- Philippines-
- C98: Cambodia- Indonesia - Malaysia- Philippines- Singapore-

EQUALITY OF TREATMENT AND ANTI-DISCRIMINATION

- C100: Cambodia- Indonesia - Lao PDR- Malaysia- Philippines- Singapore- Thailand- Viet Nam
- C111: Cambodia- Indonesia - Lao PDR- Philippines- Viet Nam

CHILD LABOUR

- C138: Brunei Darussalam - Cambodia- Indonesia - Lao PDR- Malaysia- Philippines- Singapore- Thailand- Viet Nam
- C182: Brunei Darussalam Cambodia- Indonesia - Lao PDR- Malaysia- Myanmar(into force Dec 2014) Philippines- Singapore- Thailand- Viet Nam

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Slide 8

Applicable International Labour Standards

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International Training Centre

ILO Governance standards (examples)

C81	Labour Inspection Convention	1947
C122	Employment Policy Convention	1949

ILO Conventions particularly applicable to migrant workers

C19	Equality of Treatment (Accident Compensation) Conv'n	1925
C102	Social Security (Minimum Standards) Convention	1952
C118	Equality of Treatment (Social Security) Convention	1962
C157	Maintenance of Social Security Rights Convention	1982
C181	Private Employment Agencies Convention	1997

Slide 9

Applicable International Labour Standards

ILO Instruments of general application particularly relevant to migrant workers

C95	Protection of Wages Convention	1949
C131	Minimum Wage Fixing	
C183	Maternity Protection Convention	2000
C121	Employment Injury Benefits Convention	1964
R200	HIV and AIDS Recommendation	2010
C189 P29	Domestic Workers Convention (&R201) Protocol to the Forced Labour Convention	2011 2014

Slide 10

Applicable International Labour Standards

Specific ILO standards in reference to migrant workers

Migration for Employment Convention (Revised), 1949 (No. 97)

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

- Basic components of a comprehensive labour migration policy
- Measures to facilitate migration movements
- Promote equality of treatment and opportunity for migrants and nationals



Slide 11

Applicable International Labour Standards

- **Instruments on labour migration and protection of migrant workers**
 - C97 Migration for Employment Convention (Revised), 1949**
 - C143 Migrant Workers (Supplementary Provisions) Convention, 1975**
 - R86 Migration for Employment Recommendation (Revised), 1949
 - R151 Migrant Workers Recommendation, 1975

Slide 12

Migration for Employment Convention (Revised), 1949 (No. 97)

- **Historical context**
 - Facilitate the movement of surplus labour
- **Purpose**
 - Protect migrant workers from exploitation and discrimination
- **Scope**
 - Migrant workers and their families regularly admitted to the country of employment
- **Categories of workers excluded**
 - Frontier workers, seafarers, members of liberal professions and artists entering on a short-term basis

Slide 13

Convention No. 97: Structure



- Regulation of conditions in which labour migration takes place
- General protection provisions
- Non-discrimination and equality of treatment between migrants and nationals



Slide 14

Convention No. 97: structure



- **Regulation of conditions in which migration for employment must occur e.g.:**
 - exchange of information, cooperation between government services (a.1)
 - Fight misleading propaganda (a.3)
 - Facilitate departure, journey and reception (a.4)
 - Maintenance of appropriate medical attention (a.5)
- **General protection provisions, e.g.**
 - Right of migrants to transfer their earnings and savings (a.9)
 - Prohibits expulsion of migrant workers admitted on a permanent basis in the event of incapacity of work (a.8.1)



Slide 15

Convention No. 97: structure



• **Equality of treatment between migrant workers with regular status and nationals as regards laws and administrative practices on (a. 6.1) :**

- Living and working conditions
- Remuneration
- Social security (but special provisions may be made)
- Employment taxes
- Access to justice

Slide 16

C 97: Cooperation



- Whenever necessary or desirable, conclusion of agreements to regulate migration for employment in cases where numbers of migrants are sufficiently large
- Recommendation No. 86 (Annex): model bilateral labour migration agreement

Slide 17

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)



➤ Historical context

- Increased incidences of abusive irregular migration
- Oil crisis

➤ Aims

- Facilitate and regulate labour migration flows
- Suppress activities of organizers of clandestine movements of migrant workers
- Provide minimum protection to all migrant workers

➤ Structure: Flexible instrument

- Part I – Migrations in abusive conditions (Articles 1-9)
- Part II – Equality of opportunity and treatment (Articles 10-14)

Slide 18

C143 – Part I: Migration in abusive conditions – Minimum standards



- Basic human rights of all migrant workers
- Protects regular status of migrant worker when loss of employment
 - But distinguished from “a right to stay”
- Migrants in an irregular situation:
 - ✓ Equal treatment in respect of rights arising out of past employment (e.g. remuneration, social security)
 - ✓ Access to legal proceedings
 - ✓ No costs on expulsion
 - ✓ Possibility of regularization



Slide 19

C. 143, Part I: Migration in abusive conditions



Measures to address clandestine movements

- Adopt measures to determine and suppress clandestine movement and the illegal employment of migrant workers
- Adopt laws to detect illegal employment and punish organizers of clandestine movements and against employers, and those assisting
- Exchange information amongst States
- Prosecute labour traffickers

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Slide 20

C143 – Part II: National policy on equality of opportunity and treatment



- ✓ Employment and occupation (some limitations)
- ✓ Social security (some limitations)
- ✓ Trade union rights
- ✓ Cultural rights
- ✓ Individual and collective freedoms

Excluded categories from Part II: frontier workers; artists and members of the liberal professions entering on a short-term basis, seafarers, **trainees, persons on specific temporary duty assignments**

Slide 21

Consultation with social partners



- Recommendation No. 86, Para. 4(2):
 - Consultation on all general questions concerning migration for employment
- Convention No. 143, Art. 7:
 - Consultation on laws and regulations and other measures designed to prevent and eliminate migration abuses

Slide 22

Ratifications ILO migrant workers' instruments



Convention No. 97 (1949) ➤ 49 ratifications Africa: Algeria, Burkina Faso, Cameroon, Kenya, Madagascar, Malawi, Mauritius, Nigeria, Tanzania (Zanzibar), Zambia Americas and Caribbean: Belize, Bahamas, Barbados, Brazil, Cuba, Dominica, Ecuador, Grenada, Guatemala, Guyana, Jamaica, Saint Lucia, Trinidad and Tobago, Uruguay, Venezuela Asia and Pacific: Hong Kong (China SAR), Kyrgyzstan, Malaysia (Sabah), New Zealand, Philippines, Tajikistan Europe: Albania, Armenia, Belgium, Bosnia and Herzegovina, Cyprus, France, Germany, Israel Italy, The former Yugoslav Republic of Macedonia, Moldova, Montenegro, Netherlands, Norway, Portugal, Serbia, Slovenia, Spain, United Kingdom Middle East: Israel	Convention No. 143 (1975) ➤ 23 ratifications Africa: Benin, Burkina Faso, Cameroon, Guinea, Kenya, Togo, Uganda Americas and Caribbean: Venezuela Asia and Pacific: Philippines, Tajikistan Europe: Albania, Armenia, Bosnia and Herzegovina, Cyprus, Italy, The former Yugoslav Republic of Macedonia, Montenegro, Norway, Portugal, San Marino, Serbia, Slovenia, Sweden
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Slide 23

C 97 and C 143 Key features



- **Do not affect** the prerogative of States to determine admission for employment
- Relevant for both countries of destination and origin
- Taken together, C97 and C143 recognize that
 - Migrant workers, including those in an irregular situation, have basic human and labour rights
 - Once admitted to employment, regular migrant workers should enjoy equal treatment with nationals
 - The social consequences need to be addressed
 - E.g. facilitation of family reunification (C143 and R151)
 - The labour migration process needs to be regulated within a rights-based rule of law framework

Slide 24

UN Convention on the protection of the rights of all migrant workers and members of their families : 1990



- Basic idea of non-discrimination and identifies human rights of all migrants
- More detailed provisions and broad protection
- many provisions similar to those of ILO Conventions
- Wider definition of family
- Some rights provided under C.143 not specified in UN Convention
- Is not based on tripartism
- Covers all migrant workers (includes self-employed)
- Gives a broader definition of the family
- Extends the rights of workers without regular status

Slide 25

1990 Convention on Migrant Workers Key features



- Comprehensive instrument
- Does not affect right of State Party to establish criteria governing admission of migrant workers and members of their families (Part VII, Art. 79)
- Protects basic rights of all migrant workers and their families on the basis of equality with nationals (Part III)
- Grants regular migrants additional rights on the basis of equality with nationals (Part IV)
- States must cooperate in promoting sound equitable, humane and lawful migration conditions (Part VI)
- Monitoring mechanism – Committee on Migrant Workers (Part VII)

Slide 26

UN Convention on Migrant Workers, 1990 Application – Committee on Migrant Workers



- 20 sessions since March 2004 (upcoming in Sept 2014 and April 2015)
- States parties to submit initial report (after 1 year) and periodic reports (after 5 years)
 - Concluding Observations (25 so far)
 - Optional individual and inter-State complaint mechanisms
 - Individual complaints (Art. 77) not yet in force
- General Comments
 - General Comment No. 1 on Migrant Domestic Workers (February 2011)
 - Second General Comment on the rights of migrant workers and their families in an irregular situation adopted at April 2013 session

<http://www2.ohchr.org/english/bodies/cmwl/>



Slide 27

UN Convention on Migrant Workers, 1990 Ratifications

Ratifications

➤ 47 States parties

Africa Algeria, Burkina Faso, Cape Verde, Egypt, Ghana, Guinea, Lesotho, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Seychelles, Uganda

Americas and Caribbean Argentina, Belize, Bolivia, Chile, Colombia, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Peru, St. Vincent and the Grenadines, Uruguay

Asia and Pacific Bangladesh, Kyrgyzstan, **Indonesia**, **Philippines**, **Sri Lanka**, Tajikistan, Timor-Leste

Europe Albania, Azerbaijan, Bosnia and Herzegovina, Turkey

Middle East Syria

Signatories

➤ 17 States

Africa: Benin, Cameroon, Chad, Comoros, RDCongo, Gabon, Guinea-Bissau, Liberia, Sao Tome and Principe, Sierra Leone, Togo

Americas and Caribbean: Haiti, Venezuela

Asia and Pacific: **Cambodia**

Europe: Armenia, Montenegro, Serbia

Slide 28

Multilateral Framework on Labour Migration

A set of non-binding principles, guidelines and best-practices for Governments, organizations of employers and workers to pursue a rights-based approach to labour migration. The Framework aims to foster cooperation in order to assist in the implementation of effective policies on labour migration.

Based on significant international instruments, an analysis of policy, and the mandate of the ILO

Nine (9) sections, 15 principles and about 120 guidelines:

- Decent Work for All
- Governance
- Protection of Migrant Workers
- Migration and Development
- International Development
- Annex: Examples of best practices, corresponding to the principles, drawn from all regions.

Slide 29

Multilateral Framework on Labour Migration



- Need for new tools and clear rules for governance of labour migration in light of expansion and increasing complexity of international migration
- Some countries reluctant to ratify legally binding Conventions
- Risk of lowering existing standards
- New developments
 - ✓ Greater role of private sector and private employment services
 - ✓ Feminization of labour migration
 - ✓ Growth of irregular migration
 - ✓ Proliferation of temporary labour migration schemes
 - ✓ Emphasis on relationship between migration and development

Slide 30

Multilateral Framework on Labour Migration



- Identified in Plan of Action for migrant workers adopted by ILC, June 2004
- Objective in PoA: develop “a non-binding multilateral framework for a **rights-based approach** to labour migration, which takes account of labour market needs”
- Framework drawn up by Tripartite Meeting of Experts and approved by ILO GB in March 2006
 - international principles and guidelines illustrated by 132 “best practices” in 9 areas
 - http://www.ilo.org/public/english/protection/migrant/download/multilat_fwkc_en.pdf



Slide 31

Multilateral Framework on LM Follow-up



- Framework translated, widely circulated and publicized
- Efforts mobilized to support PoA and Framework
- The Framework has been used as guide for developing national labour migration policies in Bangladesh, Kenya, Nepal, Nigeria, Sri Lanka, Zimbabwe and other countries
- Principles and guidelines incorporated into ILO DWCPs and TC projects
- Work with trade unions, employers and civil society to promote Framework implementation
- The MLF offers a comprehensive, relevant and useful guide for elaboration of law and policy in PNG

Slide 32

Conclusion



- Greater awareness of application of human rights to all migrant workers and their families
 - ☐ “Migrants’ rights are human rights”
 - ☐ Enhanced work of Human rights treaty bodies and the ILO supervisory bodies
 - ☐ UN Special Rapporteur
 - ☐ Focus of Trade union concern
 - ☐ CSO and NGO action
 - ☐ Migrant organizing
- Steady progress in acceptance of international standards on Migrant Workers
- Importance of regional legal frameworks and case law

Intra-regional mobility in the European Union (*Philippe De Bruycker*)

Slide 1



INTRA-REGIONAL MOBILITY IN THE EUROPEAN UNION: PAST & CURRENT DRIVERS & OBSTACLES

Philippe DE BRUYCKER
Deputy Director of the
Migration Policy Centre (MPC-EUI)



Slide 2



OUTLINE

1. HISTORICAL EVOLUTION OF FREEDOM OF MOVEMENT OF PERSONS (FMP)
2. SPACES OF FMP
3. BENEFICIARIES OF FMP
4. SCOPE OF NEGOTIATIONS ON FMP



Intra-regional mobility in the European Union (Philippe De Bruycker)



Slide 3






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1. EVOLUTION OF FMP

- Treaty of Roma (1957):
 - FM as a legal objective (teleological interpretation)
 - For workers but only Europeans (economic logic?)
 - Abolition of work permits (no national priority anymore)
 - Achieved in 1968 (deadline was 1970) in a decade!
 - Decision making rule in EEC in 1968: simple majority

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MPC



Slide 4






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1. EVOLUTION OF FMP

- 3 directives in 1990 for categories of students, pensioners and all other persons
- 11 years of debates because of unanimity
- Recognition of European citizenship in 1992: new political rights and unifying directive 2004/38
- **Exclusion of TCNs because of nationality (despite residence)**

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Slide 5



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1. EVOLUTION OF FMP

- Immigration (and also Asylum) Policy launched by Amsterdam Treaty in 1999:
 - Large policy aiming at covering all migrants
 - permanent right to stay after 5 years with status of Long Term Residents (LTR)
 - Labor migration most difficult issue approached through categories: highly-skilled workers (2009), seasonals and ICTs (2014)

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Slide 6



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1. EVOLUTION OF FMP

- FM extended to a certain degree to TCN by secondary EU law on basis of categories:
 - Students
 - Researchers
 - HSW: false Blue Card!
 - ICT: 1st implementation of principle of mutual recognition
 - LTR: good principle but poor use (with sub-categories)
- No uniform right to move in EU (still margin of MS)

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Slide 7



1. EVOLUTION OF FMP

- Ongoing complex process with difficult and limited progresses because distrust between MS and public opinion
- **Open question**: which link between FM for inside TCNs and external immigration policy?



Slide 8



2. SPACES OF FREE MOVEMENT

- Most complex question because of superposition of 3 different spaces: FMP, Schengen and Immigration Policy
- **FMP in internal market**: nowadays EU of 28 Member States – Croatia
 + 4 associated States (EEA + Switzerland)
 = 31 countries in total



Slide 9



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2. SPACES OF FM

- Origin of FM: EEC with 6 founding States (Germany, France, Benelux and Italy)
- Italian request despite opposition of other MS
- Not negotiable for new MS but imposition of transitional period of 7 years for workers

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Slide 10



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2. SPACES OF FM

- « Schengen » (short stay visas & borders) and Immigration Policy (long stays and integration) in Area of Freedom, Security and Justice
 - Abolition of controls at internal borders
 - For all persons but with different effect depending on quality of:
 - European Citizens (EC)
 - Third-Country Nationals (TCN)

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Slide 11





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2. SPACES OF FM

- Schengen and Immigration Policy are smaller and larger than EU:
 - UK & Ireland (differentiation for islands)
 - Special case of Denmark
 - Bulgaria, Romania, Croatia and Cyprus out of Schengen but in FM and Immigration Policy
- + 4 third associated States to FM and Schengen

= 25/26 countries in total

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Slide 12





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2. SPACES OF FM

- Origin of Schengen: between 5 MS (France, Germany and Benelux) in 1990 outside EU but integrated inside in 1999
- Enlargement:
 - Not negotiable in principle (but exception of Schengen refused by 2 MS)
 - conditioned for new MS regarding:
 - Common Control of external borders
 - Common Policy for Schengen visas (less than 3 months)

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Slide 13



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3. BENEFICIARIES OF FM

REGARDING STATES:

- Labour market: easier adjustment? (disinterest of business & opposition of TU at beginning)
- Limited impact on economic growth
- Winners: Italy at beginning but less in 1968, new Eastern MS after 2004, change with crisis?
- Losers: States with control on internal migration and end of freedom to recruit abroad
- Brain (and even persons) drain for certain MS

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Slide 14



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3. BENEFICIARIES OF FM

REGARDING INDIVIDUALS:

- Paradox: FM is rare right but few used by EC: 12 on 480 millions (2,5%) for 20 millions TCNs
- TCNs are less equal than EC
- Lost for nationals: more competition on market
- Current situation of Bulgarians and Romanians exploited as a problem in some MS
- Curious referendum against FMP in Switzerland

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Slide 15



3. BENEFICIARIES OF FM

CURRENT LIMITS:

1. Public administrations (but in strict sense!)
2. Lots of right in case of inactive persons without resources OR sickness –insurance for long stays
 - But expulsion only if unreasonable burden for social assistance of host MS (some financial solidarity between MS)
3. Exclusion still possible for reasons of public order, security and health (under control of CJ)



Slide 16



4. SCOPE OF NEGOTIATIONS

- For FM of EC in economic market based on 4 freedoms: persons but also products + services and capital (support of request of Italy about FMW in Treaty of Roma by Germany)
- For Schengen and Immigration policies: focus on migration issues which hinders bargaining and makes compromises more difficult



Slide 17



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CONCLUSIONS

1. Institutional framework: supranational (majority, Commission & CJEU, precise legal framework and deadlines)
2. Spaces of FMP: Small is beautiful for FM and Schengen (reverse prove: Immigration)
3. Beneficiaries of FMP: winning and losing States; economic impact depends on markets; EU paradox with growing tensions
4. Scope of negotiations: Large is beautiful!

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MPC

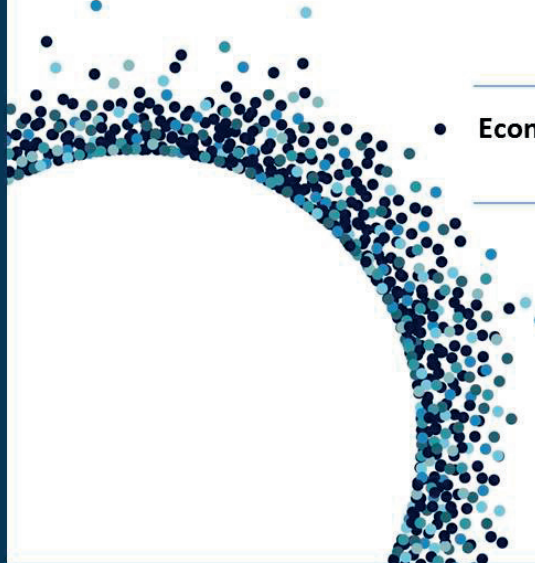




Session 2. Lessons to be learnt from EU regional harmonization and their application to ASEAN

Economic impacts of labour migration in the European Union (*Carlos Vargas Silva*)

Slide 1







• **Economic Impacts of labour migration in the European Union**

Dr Carlos Vargas-Silva

ASEAN Regional Integration:
 Challenges and Opportunities A
 Senior Executive Seminar
 9 July 2014

Slide 2

Outline

- Labour migration: implications of definitions
- Labour market impacts
 - Determinants of labour market impacts
 - Measuring labour market impacts
 - Evidence on labour market impacts
- Fiscal impacts
 - Determinants of fiscal impacts
 - Measuring fiscal impacts
 - Evidence on fiscal impacts



Slide 3

Labour migration: implications of definitions

- Visa regime:
 - Number of work visas.
 - Number of visa switchers.
- Bit more complicated in a free movement area:
 - **Main activities:** Look at what they are doing (working, studying, etc.)
 - **Reasons:** Ask migrants.
 - **Administrative information:** registrations, new insurance numbers etc.



Slide 4

Activities and reasons vary for the same country over time

- Three examples about migration to the UK.





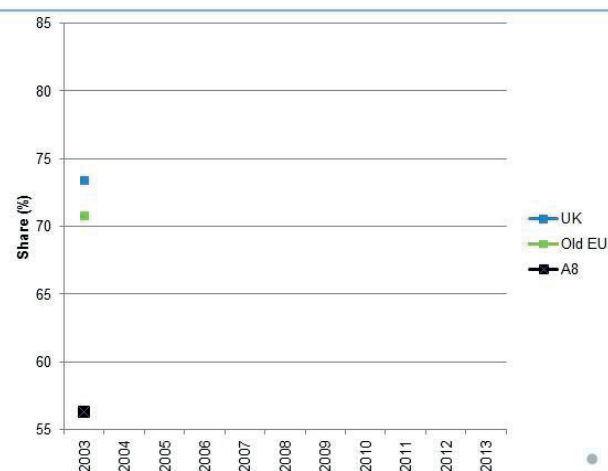
Slide 5

Example 1 – Employment rates

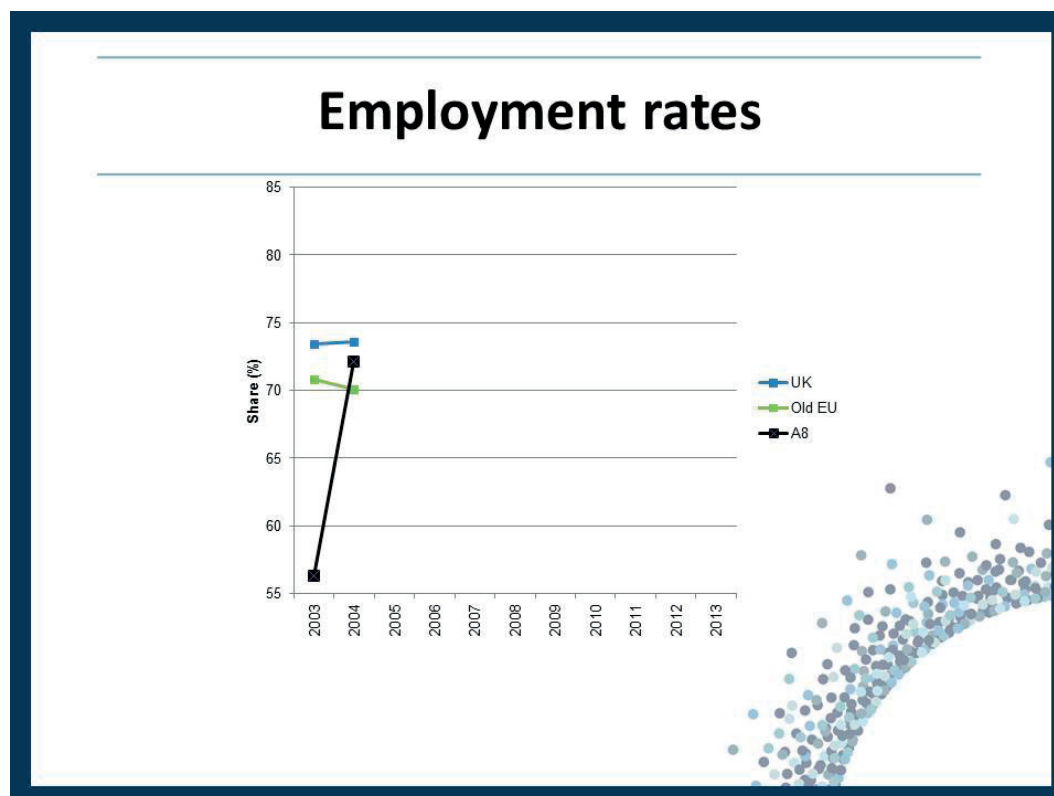
- May 2004 accession of 8 countries (A8) to the EU.
- The accession agreements allowed the 15 pre-existing EU member states to impose restrictions on the employment of A8 nationals for a maximum of 7 years.
- The UK (along with Ireland & Sweden) opened its labour markets to A8 workers immediately upon accession.

Slide 6

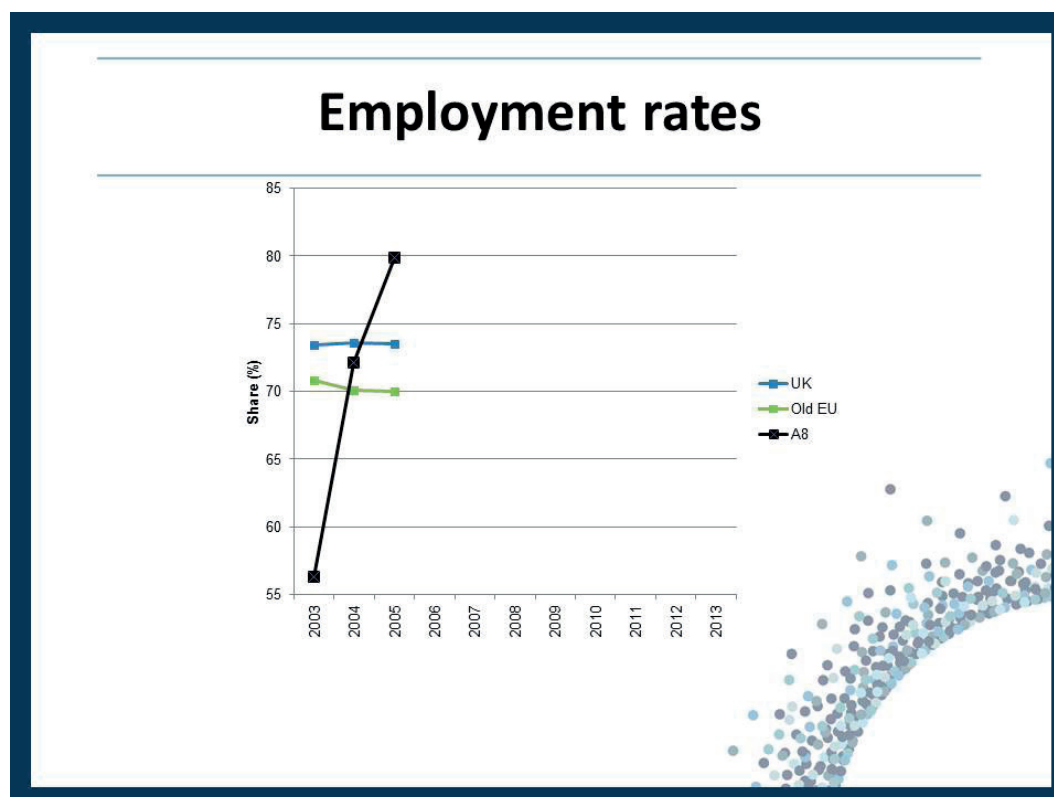
Employment rates



Slide 7

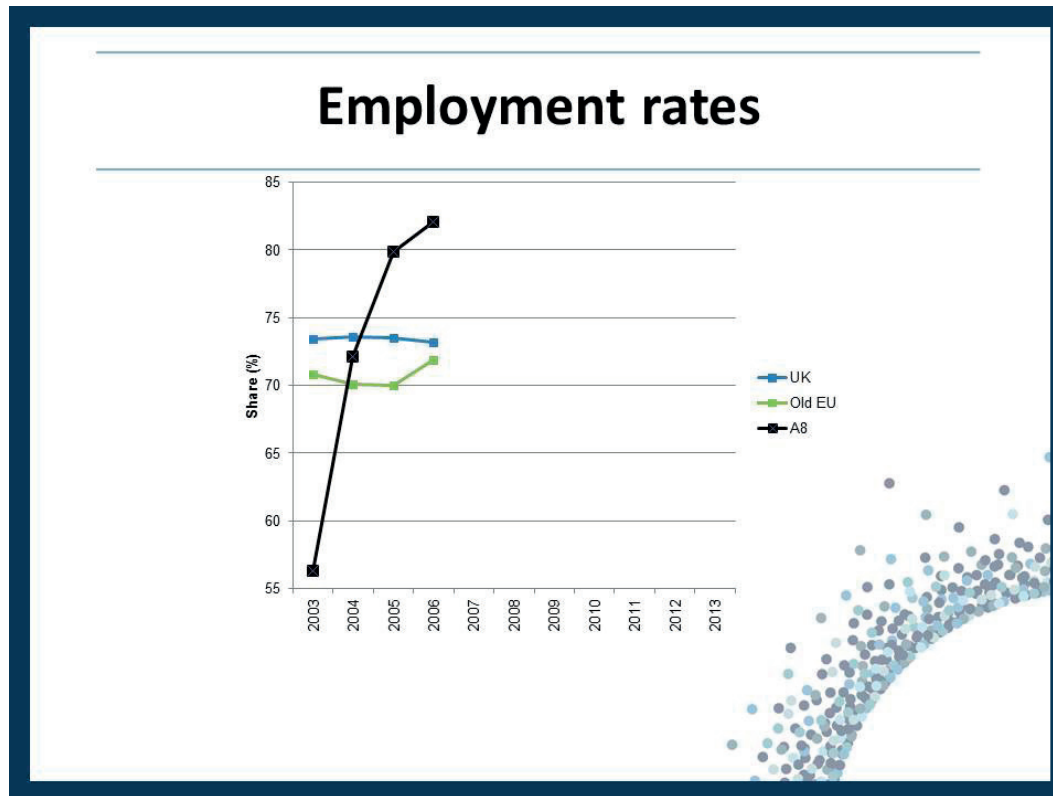


Slide 8

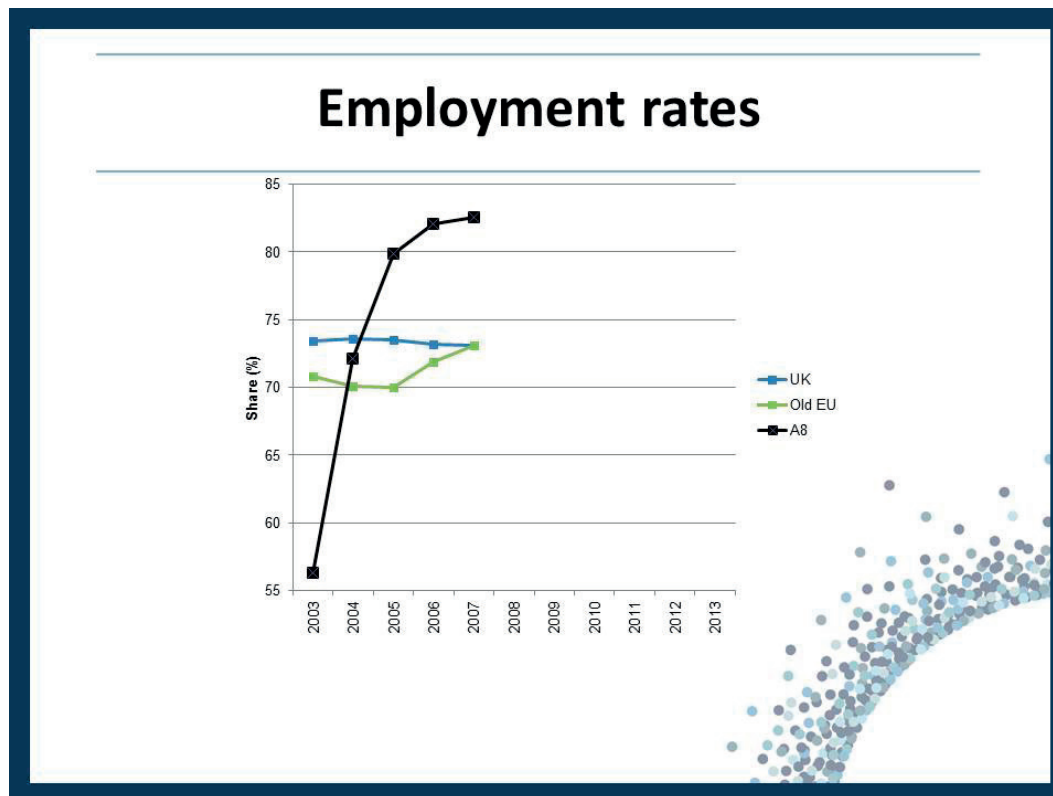




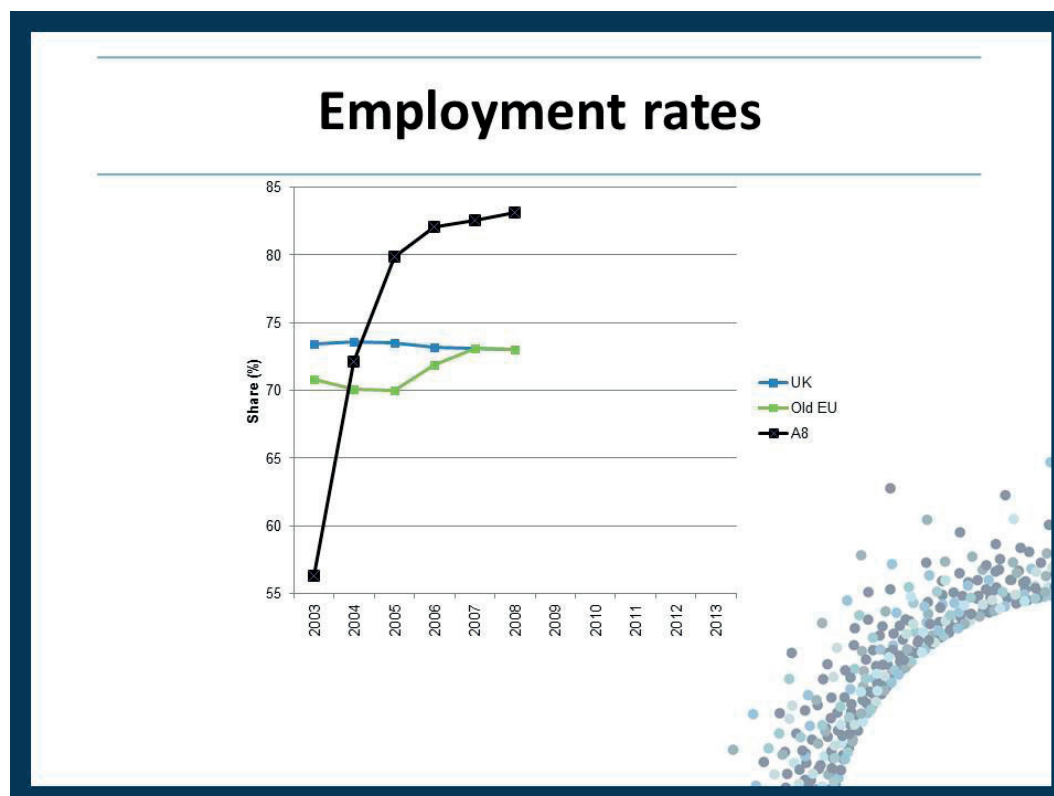
Slide 9



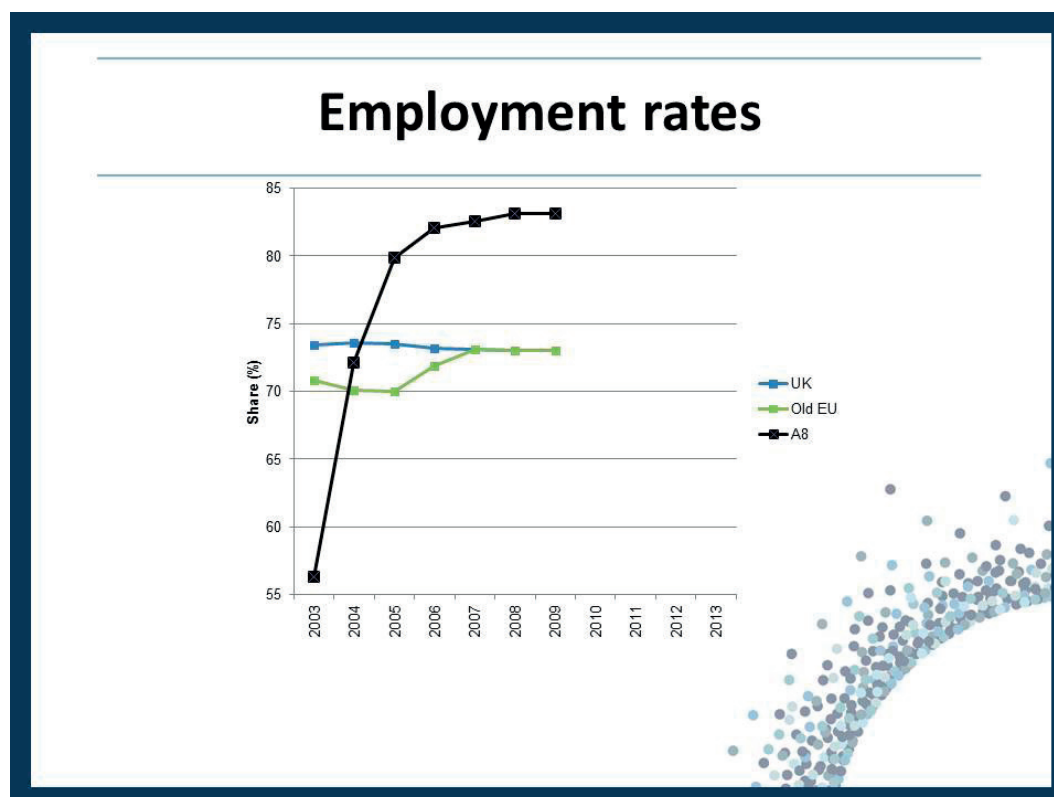
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Slide 11

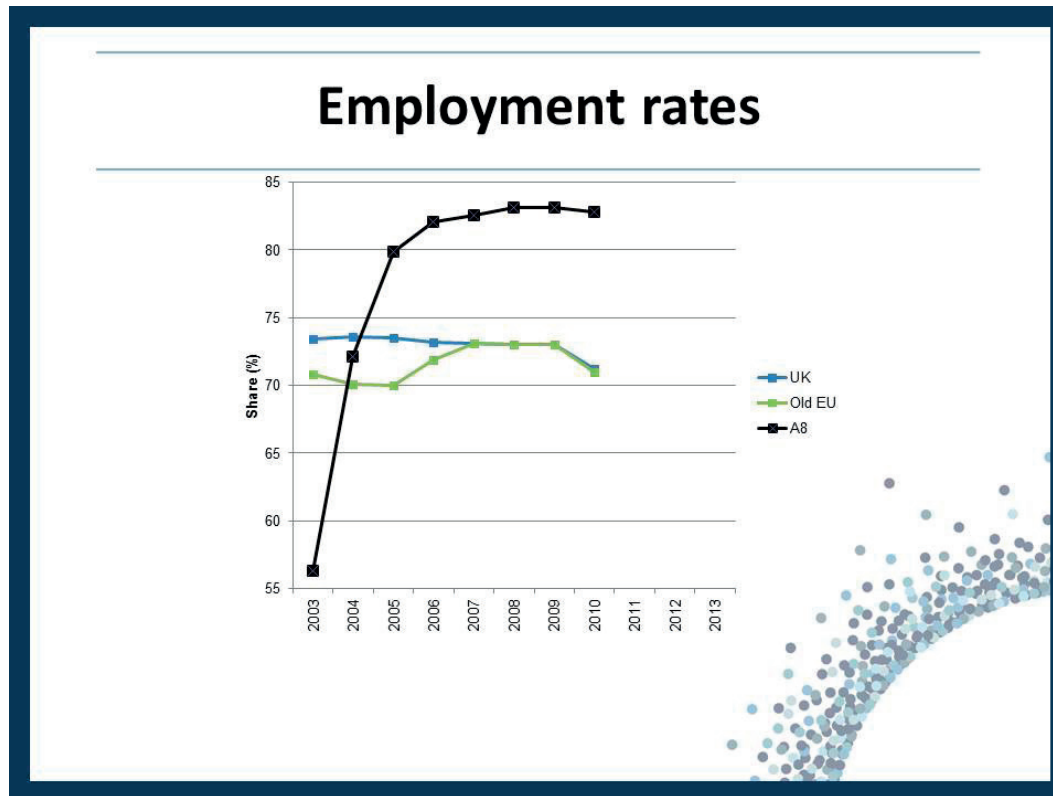


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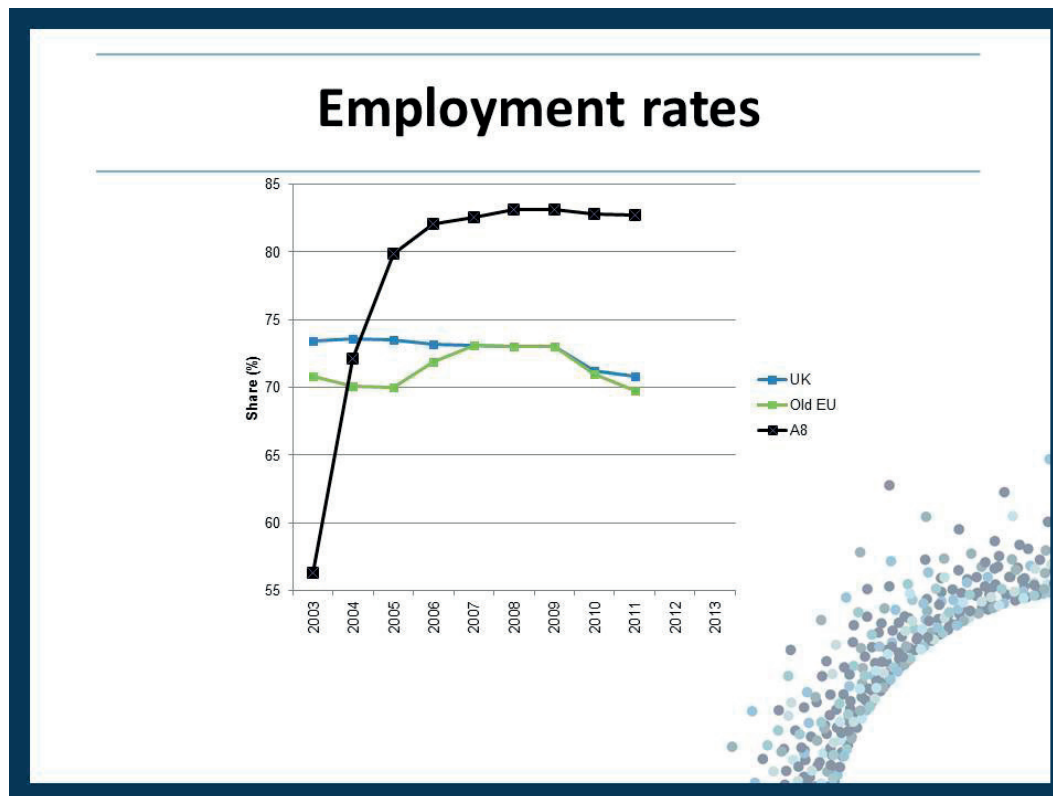




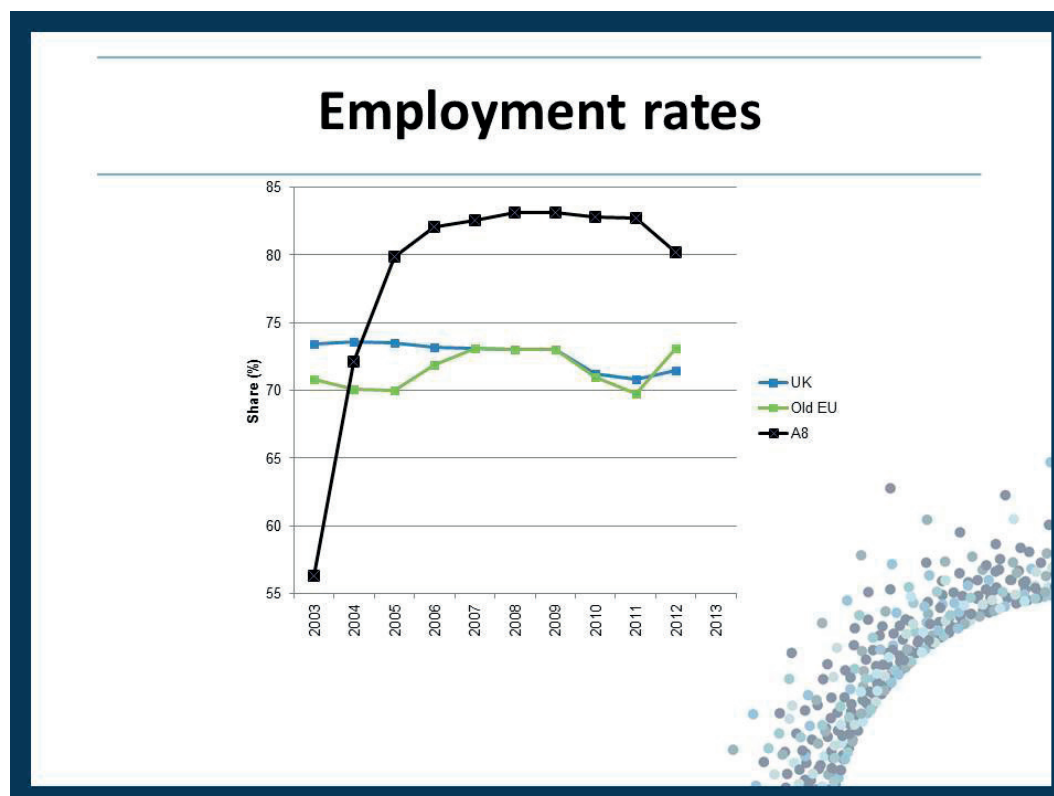
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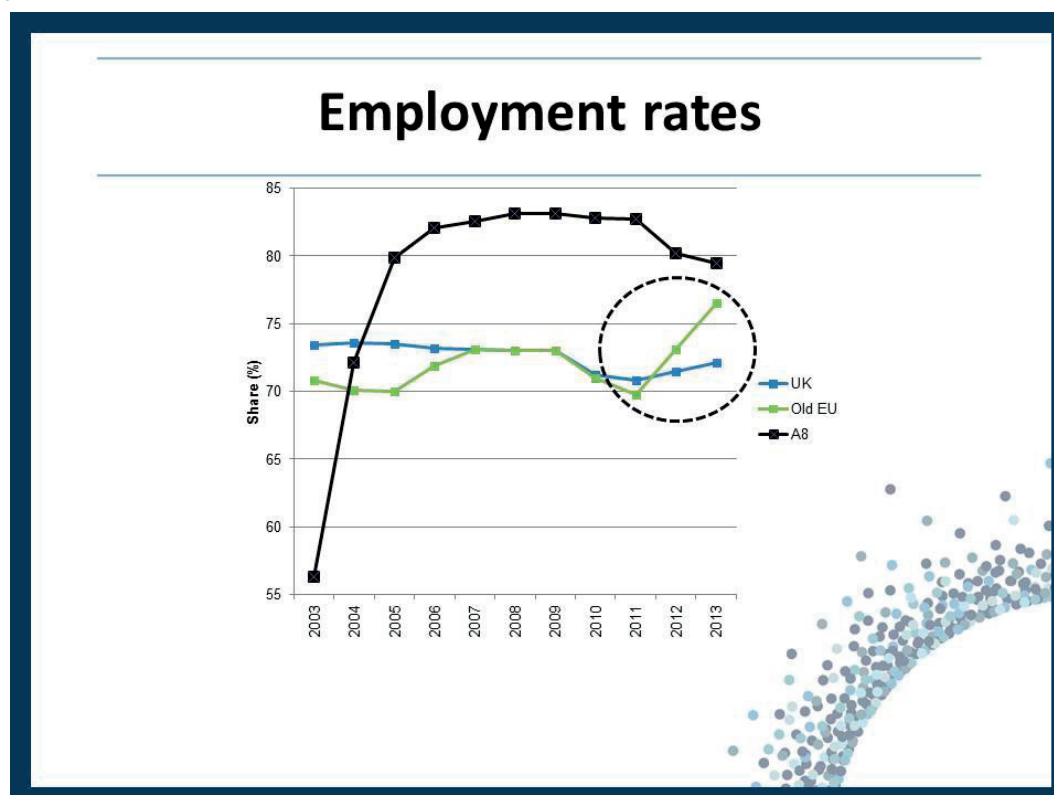
Slide 14



Slide 15



Slide 16





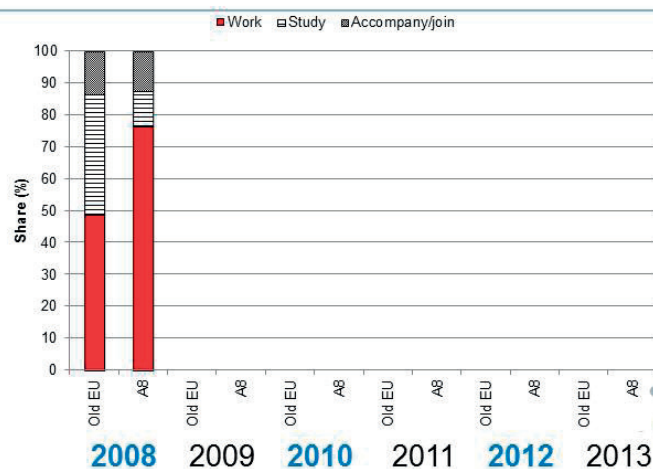
Slide 17

Example 2 – Reasons for migration

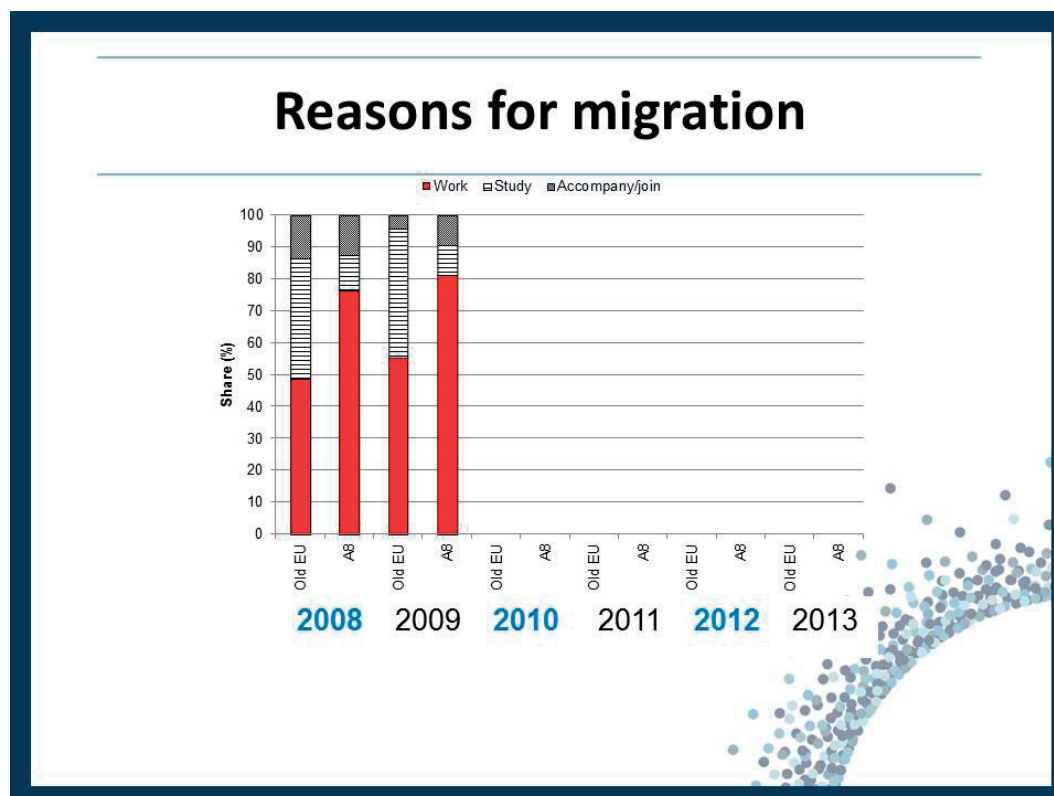
- Since 2010 many countries in the Eurozone (e.g. Greece, Italy, Portugal, Spain) have experienced high levels of unemployment.
- E.g. unemployment rate Spain over 20%.

Slide 18

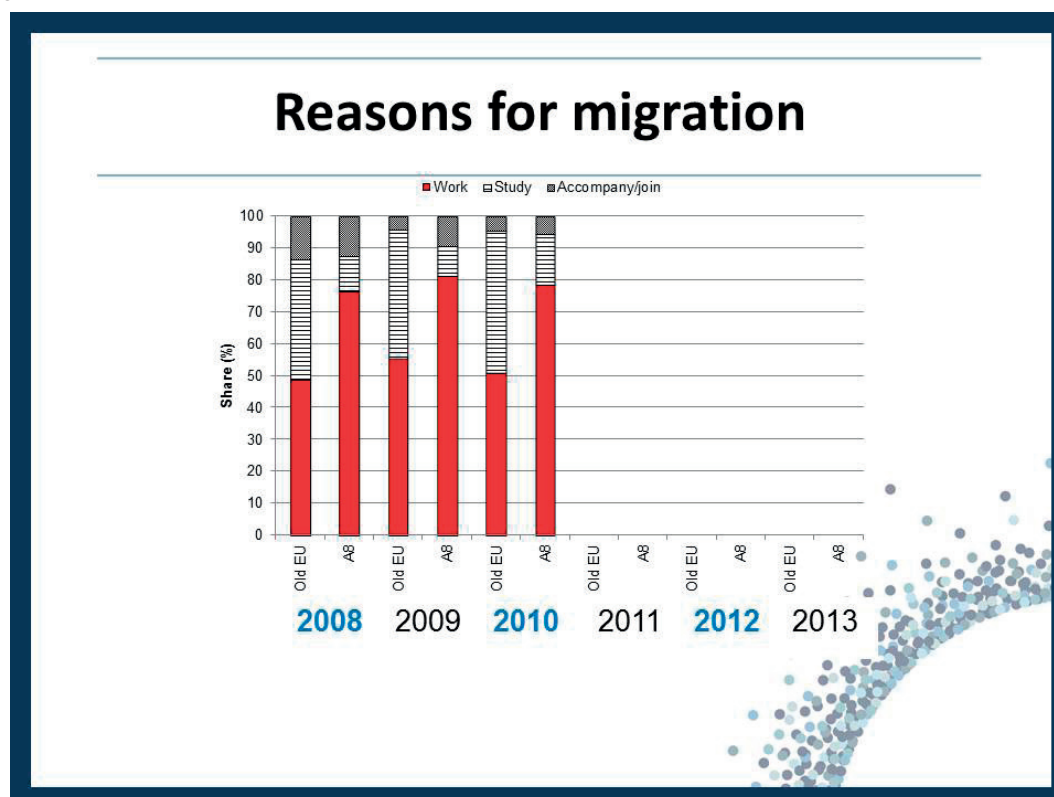
Reasons for migration



Slide 19

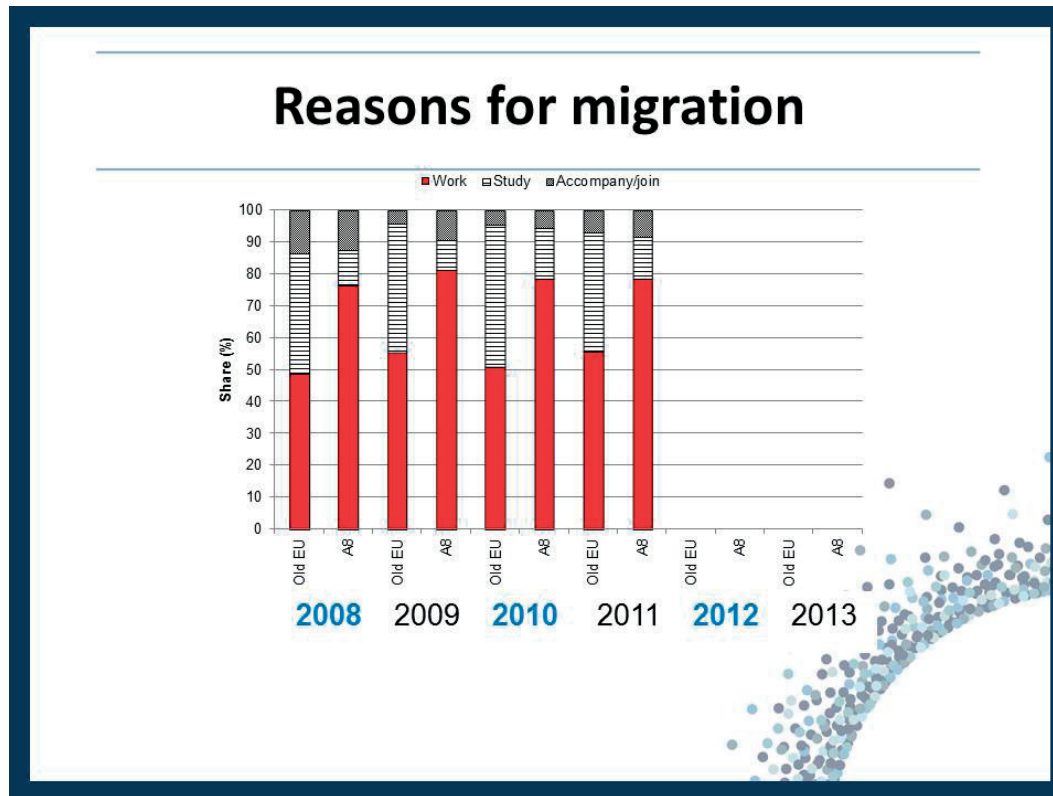


Slide 20

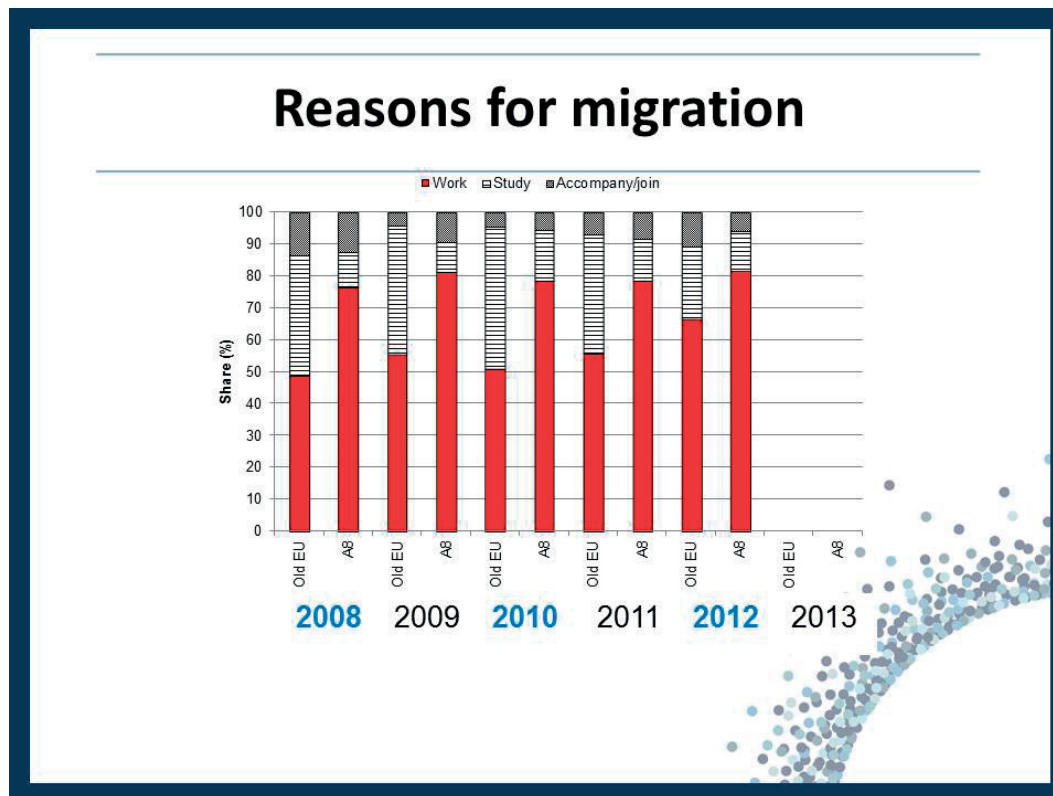




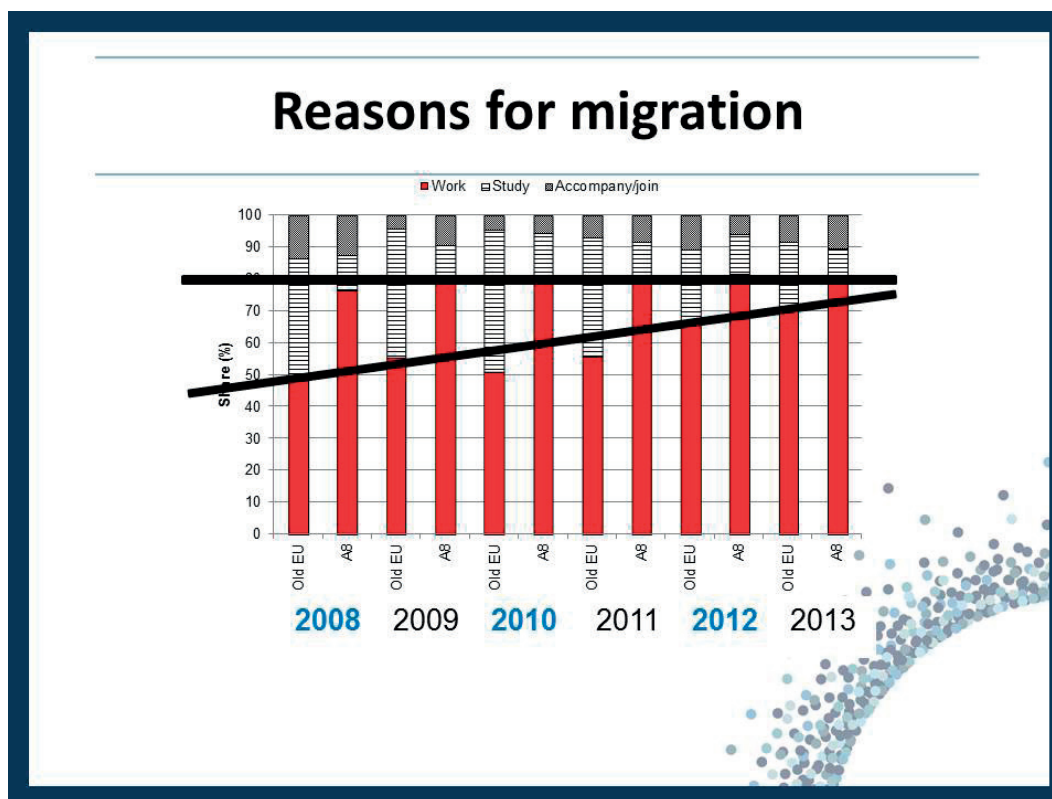
Slide 21



Slide 22



Slide 23



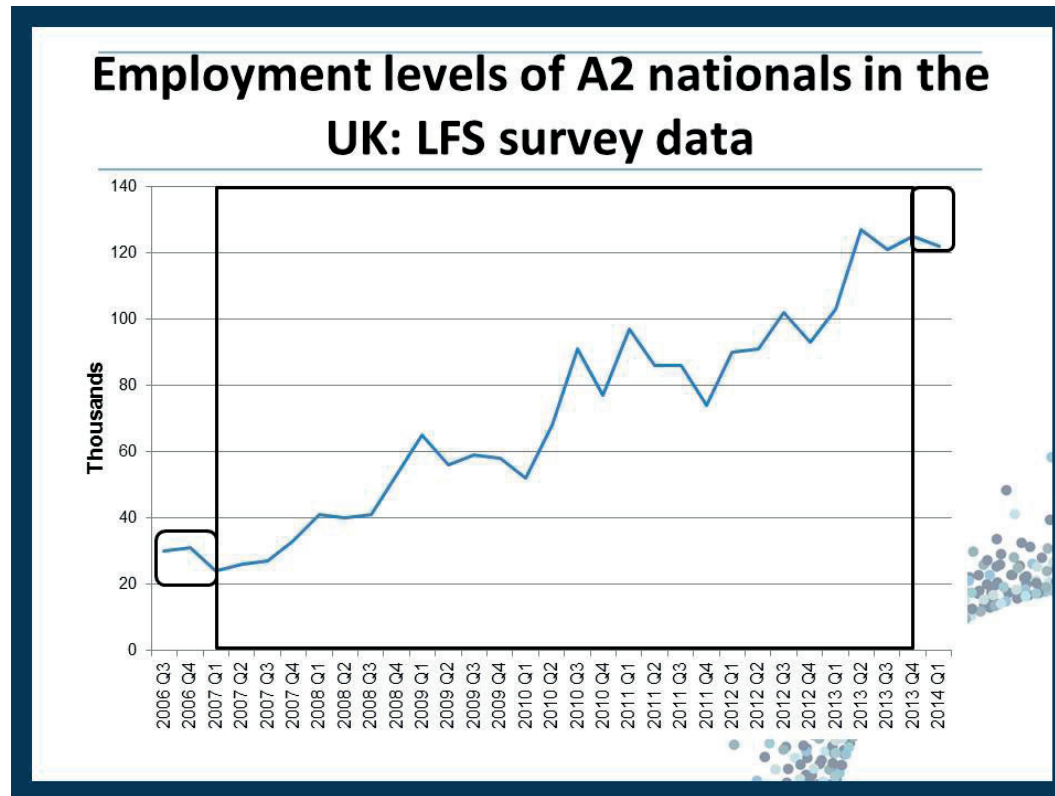
Slide 24

Example 3 – Administrative vs survey data

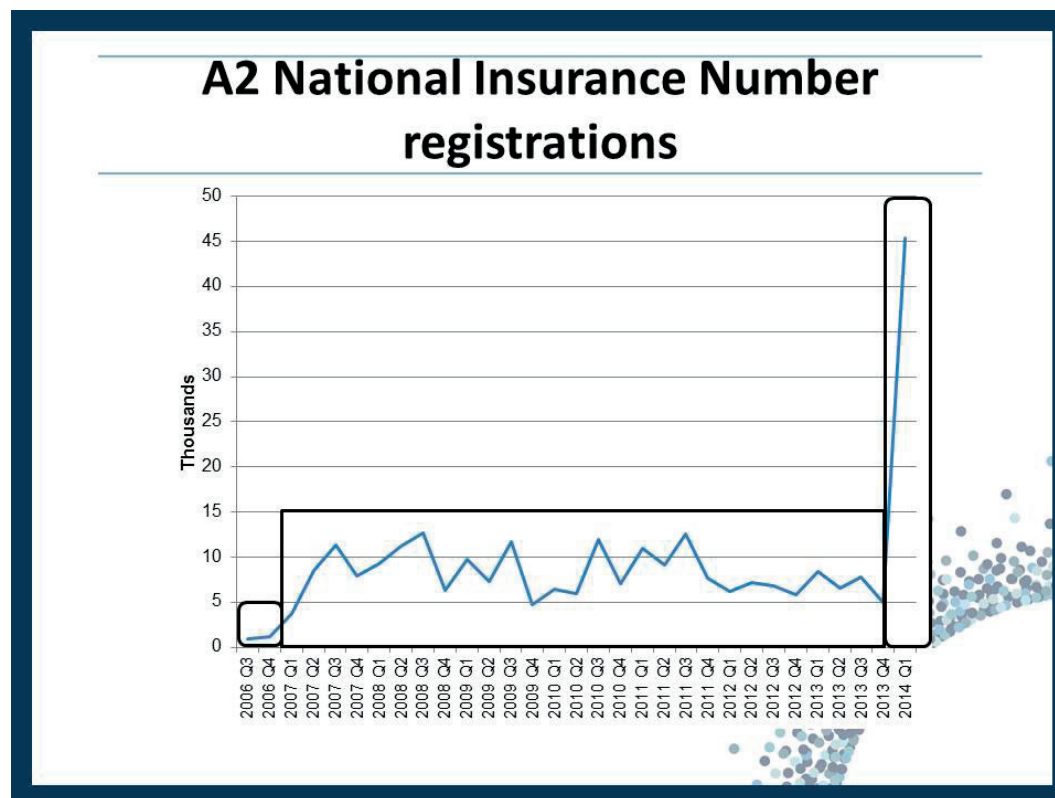
- Bulgaria and Romania (A2) joined the EU in 2007.
- Not able to freely take up employment in the UK upon accession.
- Could work as self-employed.



Slide 25



Slide 26



Slide 27

Labour market impacts

- Determinants of labour market impacts.
 - *Substitutes*: immigration increases competition in the labor market and drives down wages.
 - *Complements*: all workers experience increased productivity which leads to a rise in the wages of existent workers.
- 

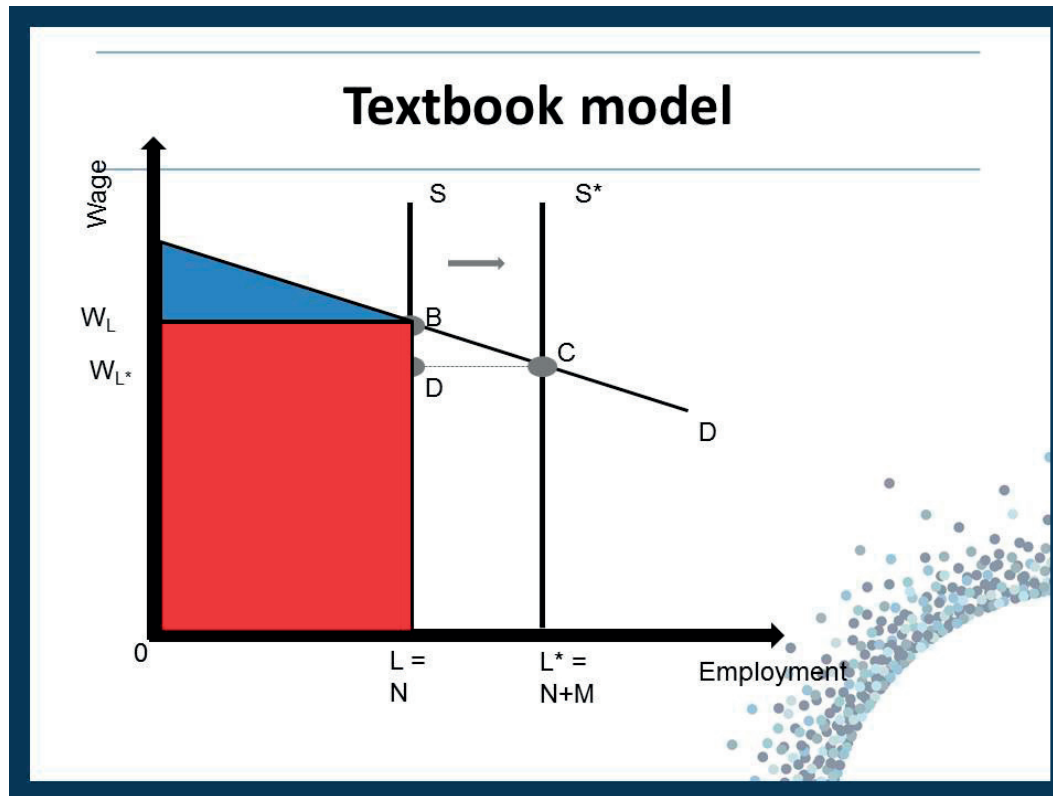
Slide 28

Labour market impacts

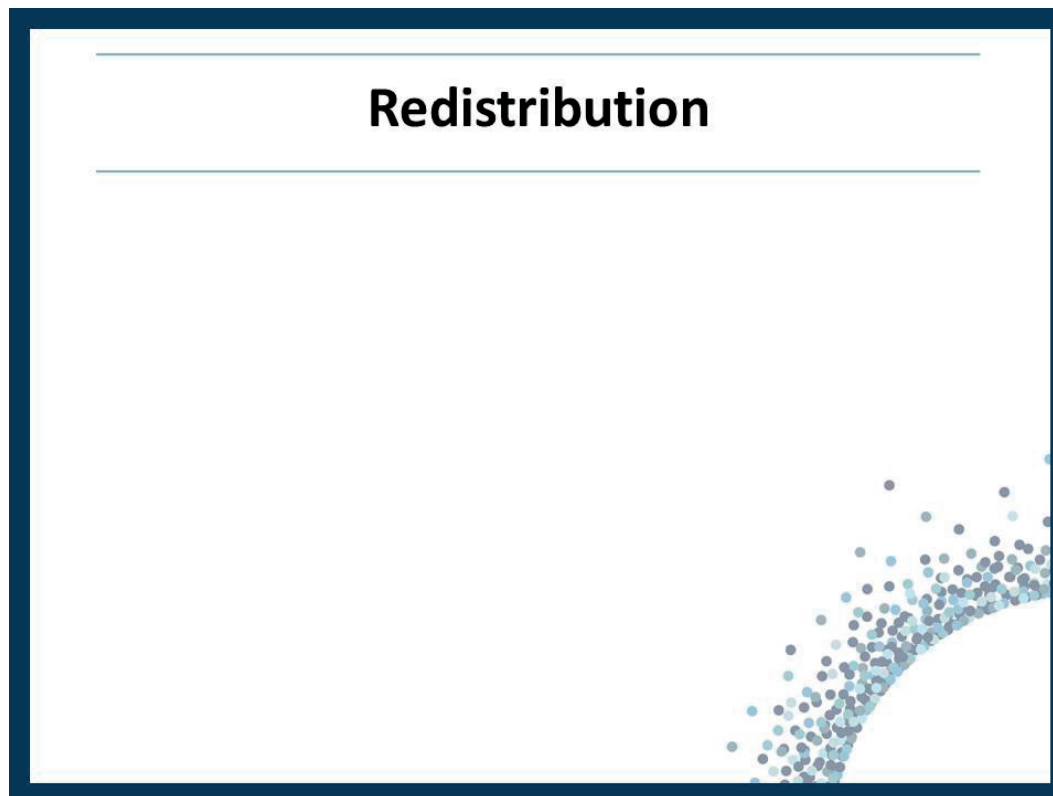
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- 



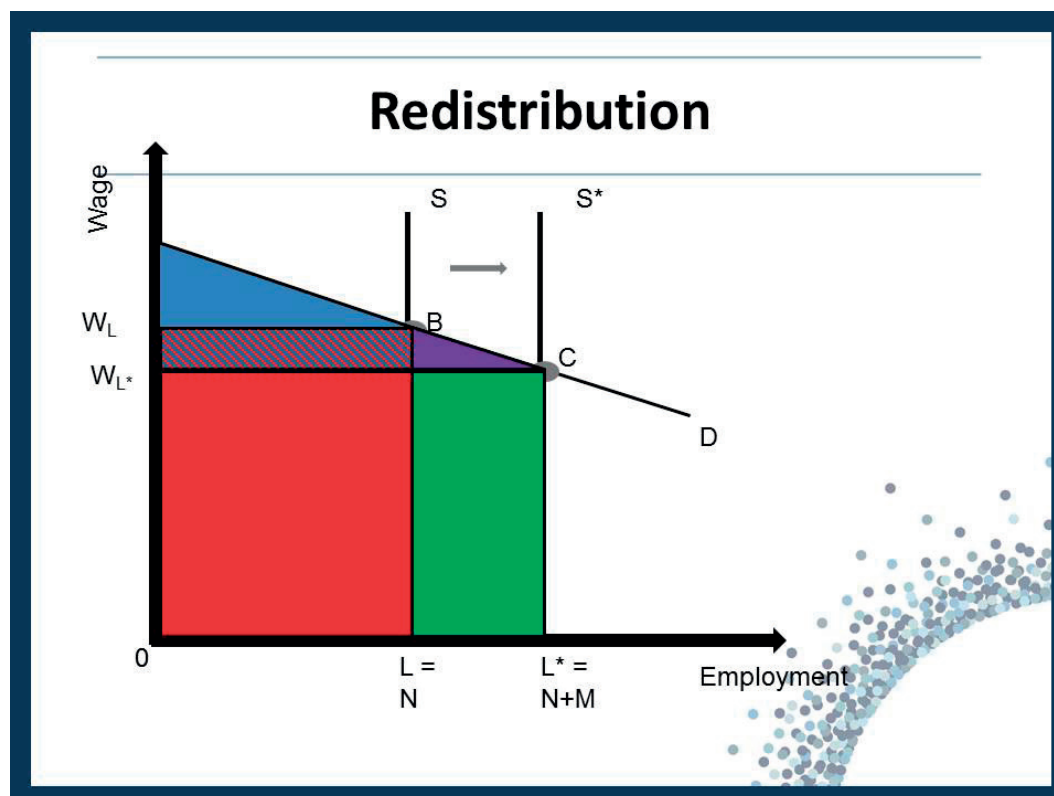
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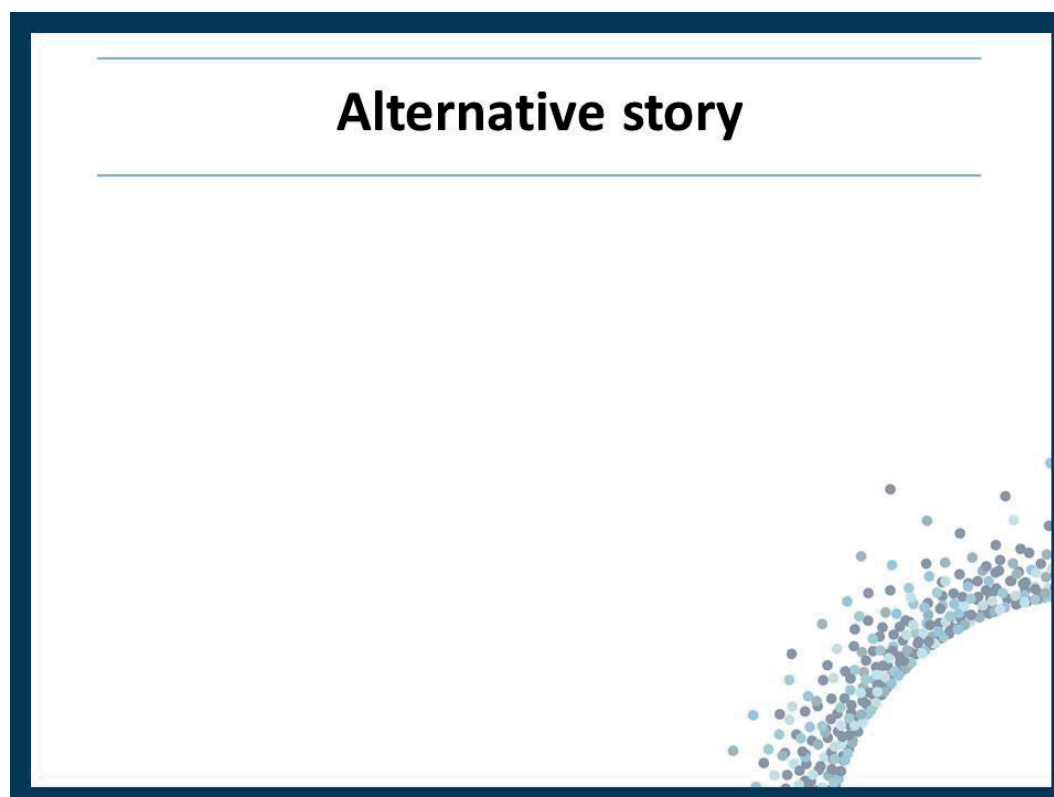
Slide 30



Slide 31

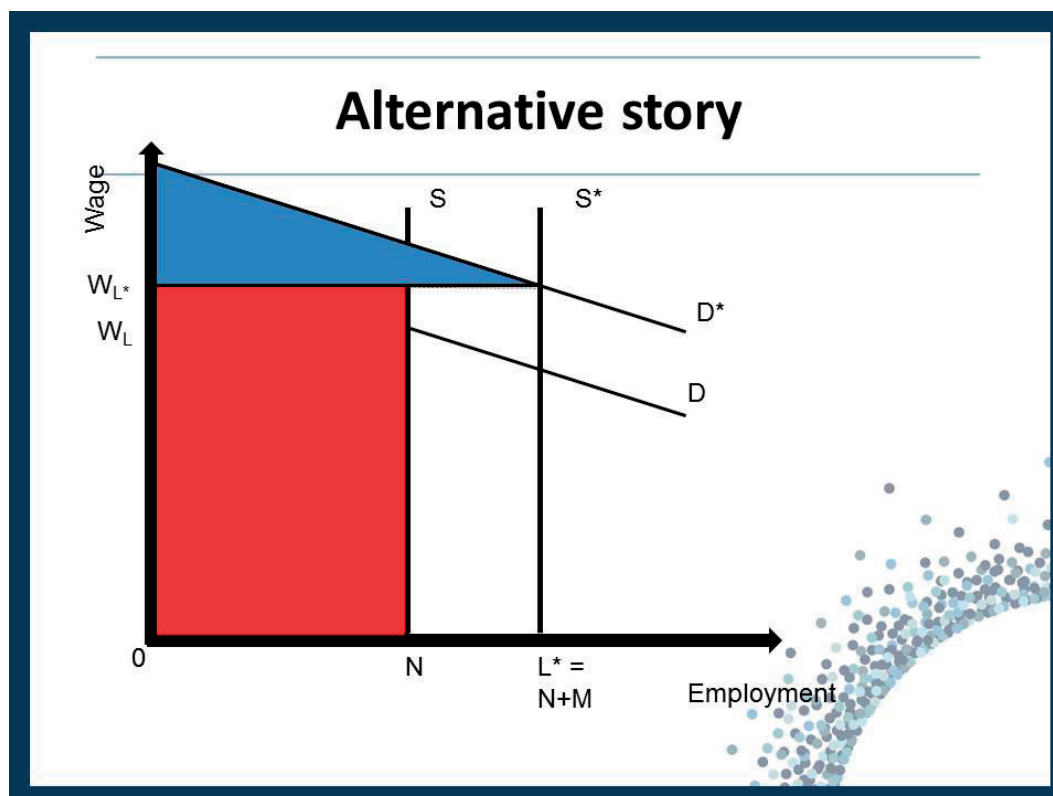


Slide 32





Slide 33

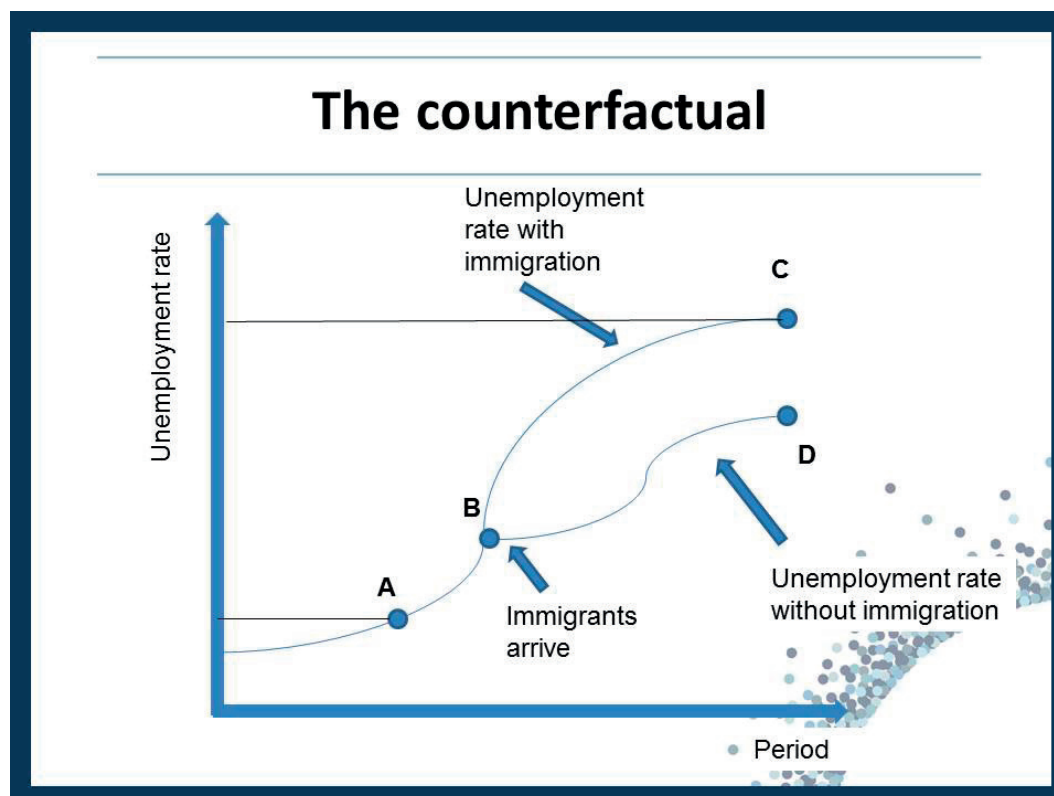


Slide 34

Measuring impacts

- **The challenge:** the counterfactual

Slide 35



Slide 36

This is where the magic comes in ...

- Typically:
 - Split the labor market into sub-groups across factors such as age, gender, skills, occupations.
 - Compare labor market outcomes in sub-groups that experienced relative high immigration with outcomes for sub-groups that did not.
 - Outcomes of sub-groups that did not experience as much migration provide something close to a counterfactual scenario.



Slide 37

The evidence

1. Impact is small.

A decorative graphic in the bottom right corner consisting of a cluster of small, semi-transparent blue and grey dots arranged in a curved, fan-like shape.

Slide 38

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution*: Low skilled workers lose and medium/high-skilled workers gain.

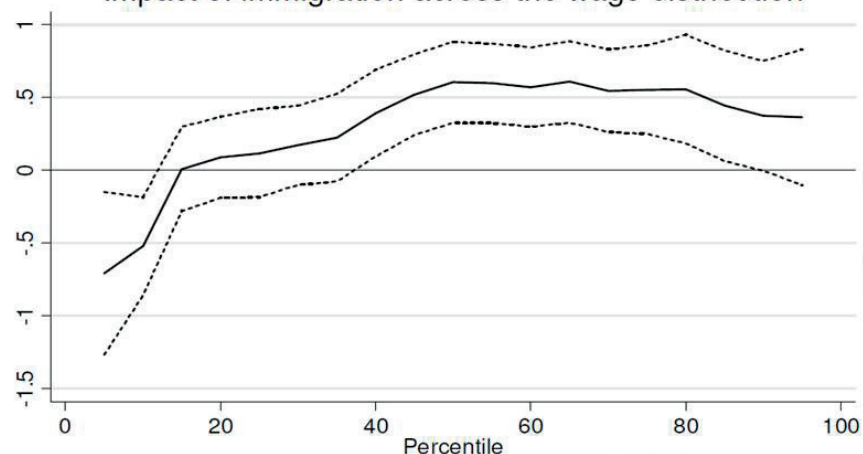
A decorative graphic in the bottom right corner consisting of a cluster of small, semi-transparent blue and grey dots arranged in a curved, fan-like shape.

Slide 39

Dustmann and others (2013) for the UK

- 1 percent increase in the immigrant/native working age population ratio.

Impact of immigration across the wage distribution



Slide 40

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution*: Low skilled workers lose and medium/high-skilled workers gain.



Slide 41

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution*: Low skilled workers lose and medium/high-skilled workers gain.
3. *More evidence of a negative effect during economic downturns*: increased competition with natives for jobs.

Slide 42

MAC (2012) for the UK

Table 4.1: MAC estimates for the associations between 100 additional working-age migrants and native employment

Migrant group	1975-2010	1975-1994	1995-2010	Positive output gap (economic upturn)	Zero or negative output gap (economic downturn)
All foreign-born migrants	0(-)	0(-)	-23**	0(-)	-30*
Non-EU born migrants only	0(-)	0(-)	-23**	0(-)	-27*
EU (exc. British) migrants only	0(-)	0(-)	0(-)	0(-)	0(-)

Slide 43

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution:* Low skilled workers lose and medium/high-skilled workers gain.
3. *More evidence of a negative effect during economic downturns:* increased competition with natives for jobs.



Slide 44

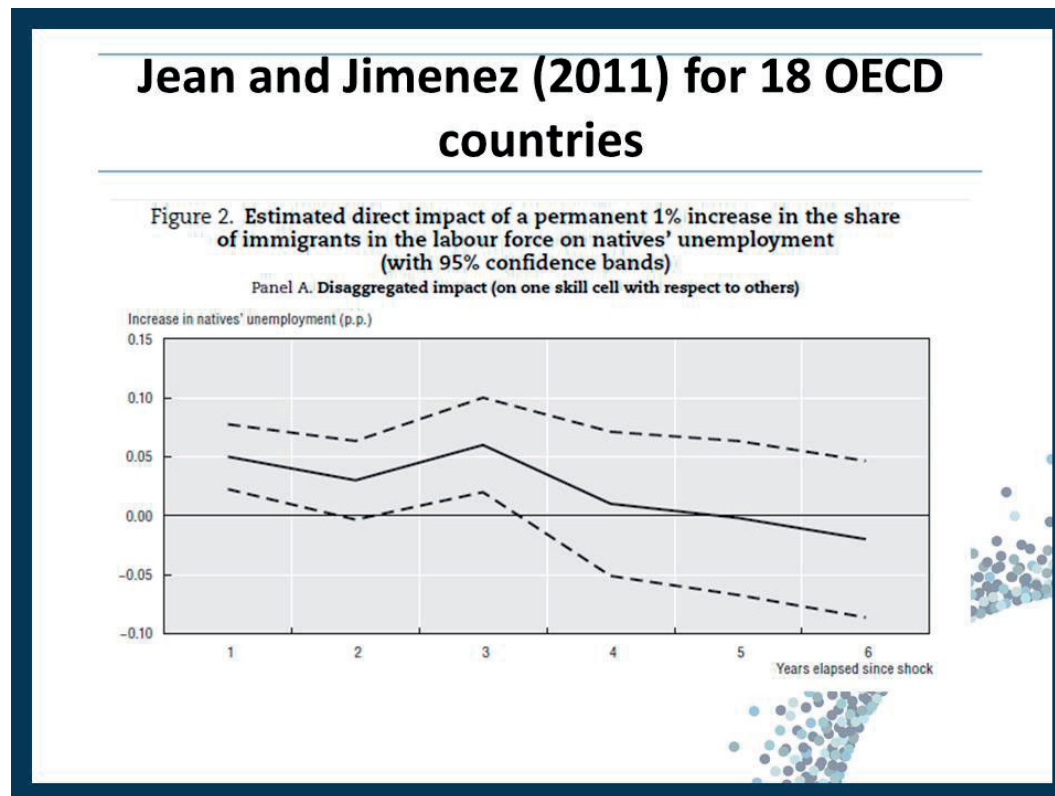
The evidence

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2. *Significant impacts along the wage distribution:* Low skilled workers lose and medium/high-skilled workers gain.
3. *More evidence of a negative effect during economic downturns:* increased competition with natives for jobs.
4. *The effect is temporary:* The short-run effects of immigration (often negative) can be offset by the long-run effects (often positive)





Slide 45



Slide 46

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution*: Low skilled workers lose and medium/high-skilled workers gain.
3. *More evidence of a negative effect during economic downturns*: increased competition with natives for jobs.
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Slide 47

The evidence

1. Impact is small.
2. *Significant impacts along the wage distribution*: Low skilled workers lose and medium/high-skilled workers gain.
3. *More evidence of a negative effect during economic downturns*: increased competition with natives for jobs.
4. *The effect is temporary*: The short-run effects of immigration (often negative) can be offset by the long-run effects (often positive).
5. *Impact likely to be stronger for previous migrants than for natives*: previous migrants are more likely to be closer substitutes with new migrants.



Slide 48

Fiscal impacts

Taxes & other contributions



Government



Benefits & Services

Which one is bigger  or  ?





Slide 49

Several reasons to expect migrants to be net contributors

1. Migrants are more likely to be of working age and children are very expensive for the state.



Slide 50

Several reasons to expect migrants to be net contributors

2. Migrants have in many cases less access to social benefits and welfare.



Slide 51

Several reasons to expect migrants to be net contributors

3. Many migrants are temporary and will not claim age related benefits (e.g. pensions).



Slide 52

However not all migrants are equal

- Highly-skilled migrants working in highly paid jobs can be expected to pay more taxes than low-skilled migrants in low-wages jobs.
- Participation in welfare programmes also tends to decrease with skill level.



Slide 53

Measuring impacts

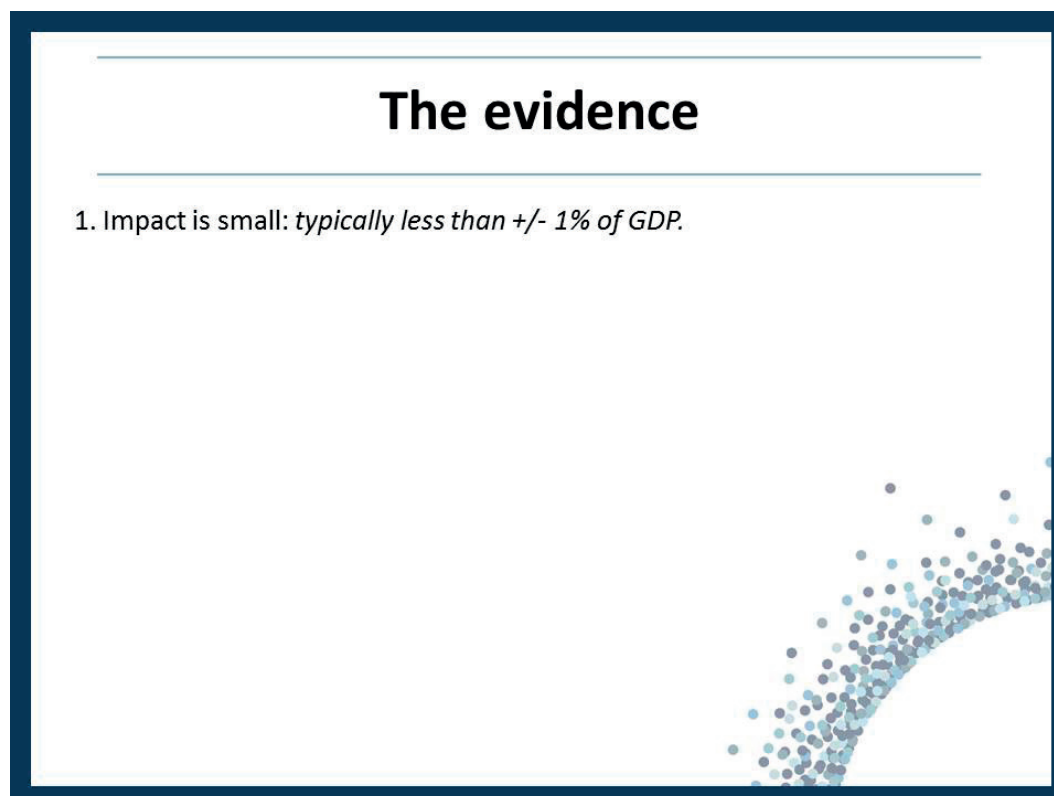
- *Static approach*: based on a specific year.
 - E.g.  and  for 2014.
- Limitations:
 - Increase in school-age immigrants = Extra expenditures in schools. Yet, the future taxes paid by these same children in their adulthood might more than compensate.
 - Increase in the working-age migrant population = less pressure on the pension system. Yet, these migrants will eventually retire and many will obtain benefits from the same system.

Slide 54

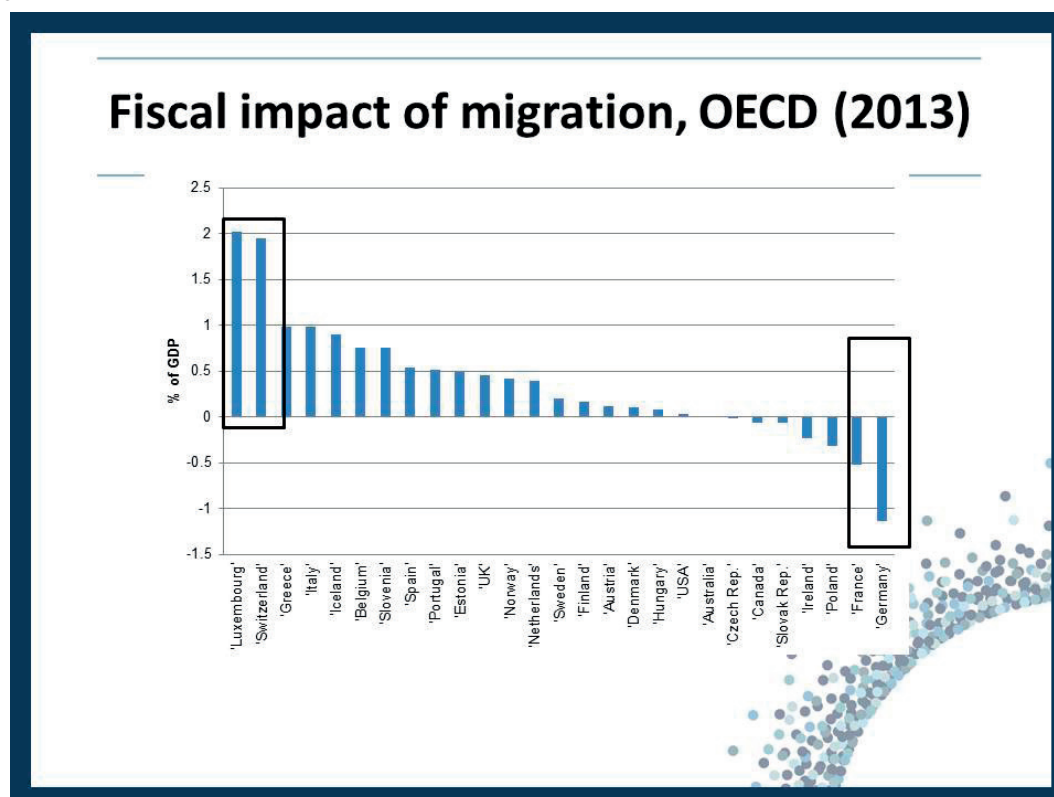
Dynamic approach

- The net present value of contributions and costs over the entire lifetime of migrants and their children.
- It requires future assumptions about many factors (e.g. fertility rates, return rates, tax rates and government spending)

Slide 55

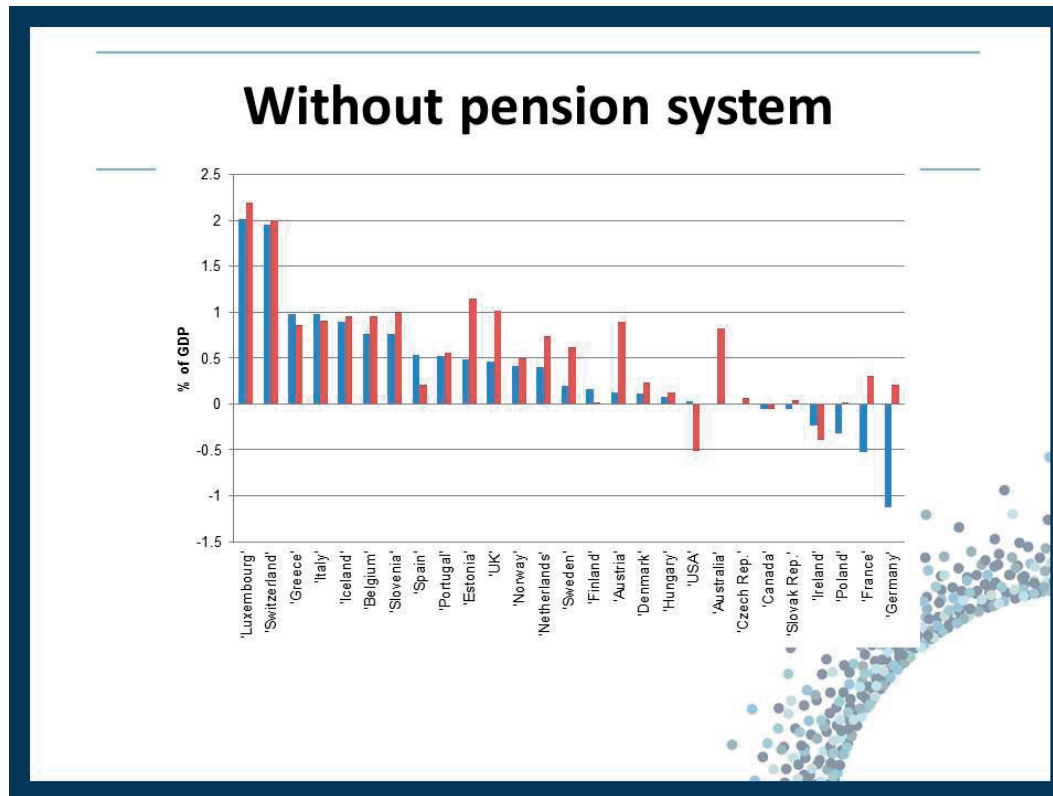


Slide 56





Slide 57



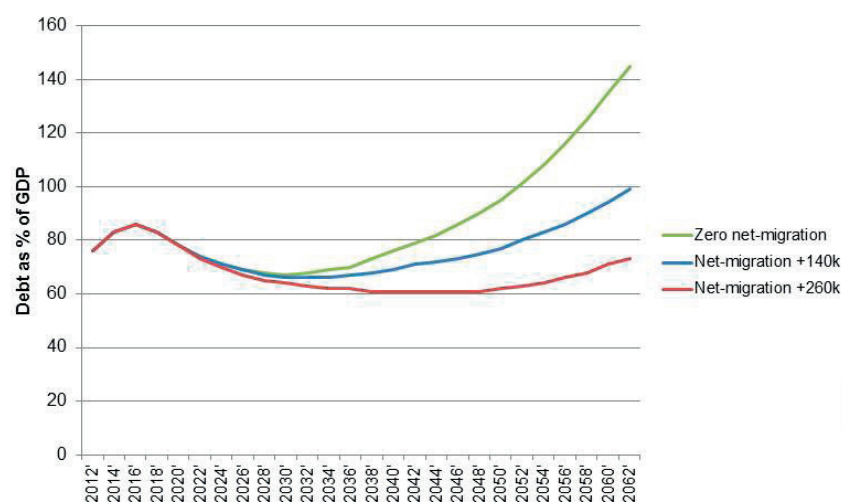
Slide 58

The evidence

1. Impact is small: *typically less than +/- 1% of GDP.*
2. *Higher levels of migration decrease the pressure on government debt over time:* based on the assumption that incoming migrants are more likely to be of working age.

Slide 59

Debts as % of GDP different net-migration levels, UK OBR (2013)



Slide 60

The evidence

1. Impact is small: *typically less than +/- 1% of GDP.*
2. *Higher levels of migration decrease the pressure on government debt over time:* based on the assumption that incoming migrants are more likely to be of working age.
3. *A low wage does not necessarily correspond to a negative contribution:* this is particularly the case if employment rates are high.



Slide 61

Let's go back to the example A8 nationals in the UK

	British nationals	All foreign nationals	A8 nationals
Hourly wage (£)	13.1	12.7	8.5
Employment rate (%)	70.8	67.8	82.3
Social housing (%)	16.6	18.0	13.6

Dustmann et al. (2010): in the four fiscal years after 2004, immigrants to the UK from A8 countries made a positive contribution to public finances.

Slide 62

Questions/comments

carlos.vargas-silva@compas.ox.ac.uk

Briefing note – Regional labour market implications of free movement of persons: learning from the experience of the European Union (*Iván Martín*)

Slide 1



COMPAS-ILO-ITC/IO Course Collaboration
ASEAN regional integration: challenges and opportunities
 A Senior Executive Seminar
 Supported by the ASEAN TRIANGLE Project, funded by the Canadian Government Department of Foreign Affairs, Trade and Development
 Canada

Phuket, Thailand, 9-10 July 2014
Regional Labour Market Implications of Free Movement of Persons: Learning for the Experience of the European Union
 Iván Martín
 Migration Policy Center
 (European University Institute)

Slide 2

The EU Single Market: From Free Movement of Workers to Mutual Recognition of Qualifications

- **European Exchange Programmes**
 - Erasmus (university students, 3 millions 1987-2013)
 - Comenius (schools: pupils, teachers, administrators, local authorities)
 - Leonardo da Vinci (Vocational Education and Training)
 - Grundtvig (teachers, trainers, staff, and adult learners)
 - Youth in Action (European Voluntary Service...)
- **Professional recognition of qualifications**
 - European Qualifications Framework (EQF) for Life-long learning (http://ec.europa.eu/eqf/home_en.htm)
 - Sectoral directives (seven professions :doctor, nurse, dentist, midwife, pharmacist, veterinary surgeon and architect)
 - EU Directive 2005/36/EC



Slide 3

From Mutual Recognition of Qualifications to Harmonization

- **Bologna Process/**

- European Area of Higher Education**

- http://ec.europa.eu/education/policy/higher-education/bologna-process_en.htm

- Three cycle system/Credit system
- Quality Assurance system
- Recognition of qualifications by period of studies (European Credit Transfer System – ECTS)

- **Copenhagen Process** on vocational education and training

- **EUROPASS** (<https://europass.cedefop.europa.eu/en/home>)

Slide 4

From Harmonization to Labour Market Integration

- **EU Labour Law (around 60 Directives)**

- **Working conditions** (working hours, part-time and fixed-term jobs, transfer of undertakings)
- **Posting of workers in the framework of the provision of services** (Directive [96/71/EC](#))
- **Informing and Consulting Workers** (European Work Councils)

- **Employment Strategy (Europe 2020)**

- **Employment Guidelines, Joint Employment Report, National Reform Programmes, Country-specific recommendations**
- **“Employment Package”/Youth Employment (Youth Guarantee)**
- **New Skills for New Jobs**

Slide 5

EU Labour Market Information System

- **European Employment Observatory:**
<http://www.eu-employment-observatory.net/>
- **European Union Labour Force Survey:**
<http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/lfs>
- **European Vacancy Monitor:** <http://ec.europa.eu/social/main.jsp?catId=955>
- **EU Skills Panorama (occupation, sector, country, skills):**
<http://euskills Panorama.cedefop.europa.eu/>
- **CEDEFOP Skills Forecast:** <http://www.cedefop.europa.eu/EN/about-cedefop/projects/forecasting-skill-demand-and-supply/skills-forecasts.aspx>
- **EURES, European Job Mobility Portal**
<https://ec.europa.eu/eures/page/homepage?lang=en>
 - But internal short term labour flows remain largely unrecorded

Slide 6

From 28 national labour markets to one EU Single Labour Market?

- **28 different regulations**
(EU only sets minimum standards in some fields)
- **Recognition of qualifications** largely national affair
- **Labour migration regulation** remains national
(volume and conditions of admission)
 - segmentation
 - 28 labour markets (wages),
- No real job- and skills-matching across the EU
but a common labour “catching area”



Slide 7

Towards an ASEAN regional Labour Market Information System

MODELS:

- **EU LMIS**
- **Database on Immigration in the OCDE** (bilateral data based on census data on country, country of birth, duration of stay, sex, education and labour force status + occupation and sector of activity if employed, emigration rate)
- **OAS SICREMI**
- **MED-HIMS**

Labour Market Information Systems EURES (Harry van den Berg)

Slide 1



Slide 2

The EURES experience

European Employment Services
Working apart together

Harry van den Berg
8 - 7 - 2014





Slide 3

Logo EURES



The EURES Experience

3

Slide 4

What's in it?



- **The EURES network**
- **The EURES portal:**
 - Jobseekers , Employers
- **Connections with PES**
 - Information, Vacancies, Policy and Money
- **Daily practice - expected developments**

The EURES Experience

4

Slide 5

The EURES Network (1)



- European Union
 - Legal base
 - EURES charter
- EURESco (European Commission):
 - Policy based on Regulations and Decisions
 - Planning/financing in cooperation with PES
 - Training and supporting EURES Advisers
 - Development / maintenance of the EURES portal



The EURES Experience

5

Slide 6

The EURES Network (2)



- 32 Countries – approximately 900 EURES Advisers
 - Working for different organisations
 - EURES manager / Manager NCO
 - Crossborder partnerships
- Importance of the network:
 - Oil in the machine of European labour mobility



The EURES Experience

6



Slide 7

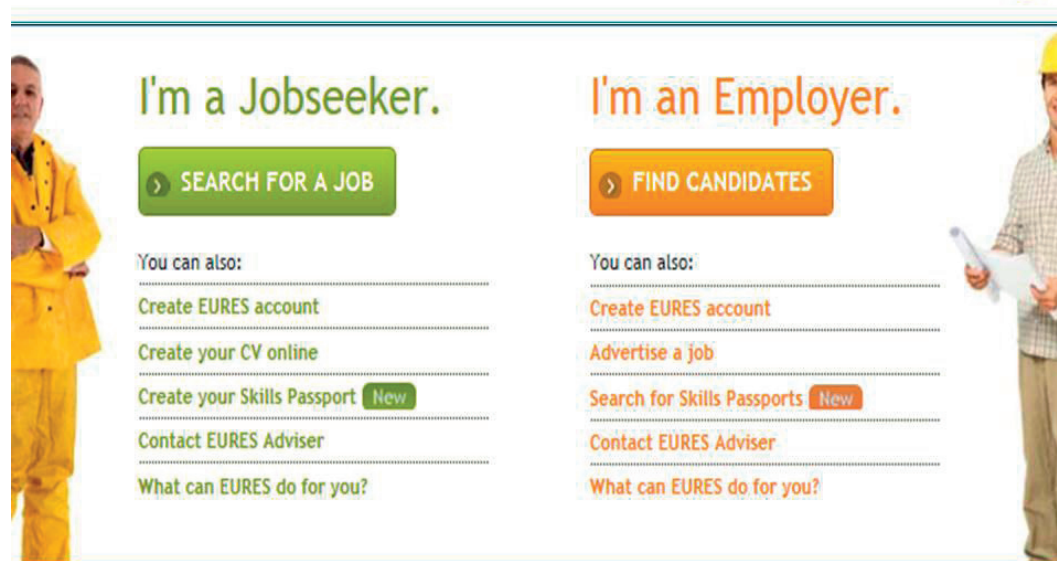


The EURES Experience

7

Slide 8

Part of the homepage EURES



The EURES Experience

8

Slide 9

Connections with PES



- Policy:
 - Translation/embedding EC policy on national level
 - Input policy Heads of PES
- Transfer of all published vacancies (webservices)
 - Open market, flagged vacancies
- Providing information
 - Living and Working, Labourmarket
- Subsidised activities conform planning and report model
- Reporting of existing obstacles in mobility

The EURES Experience

9

Slide 10

Daily practice and future developments



- Daily practice
 - Projects - labourmarket proof - save money
 - Activity starts at national level
 - Customer Care / e-services
- Future developments
 - Concept New Regulation EURES
 - Online European matching

The EURES Experience

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Slide 11



Migrant worker skills recognition to support the ASEAN Economic Community (David Lythe)

Slide 1



MIGRANT WORKER SKILLS RECOGNITION TO SUPPORT THE ASEAN ECONOMIC COMMUNITY

Slide 2



1 The ASEAN Mutual Recognition Arrangements (MRAs)

2 The ASEAN Qualifications Reference Framework (AQRF)

3 The mutual recognition of workers' skills (MRS)

4 The Regional Model Competency Standards (RMCS)

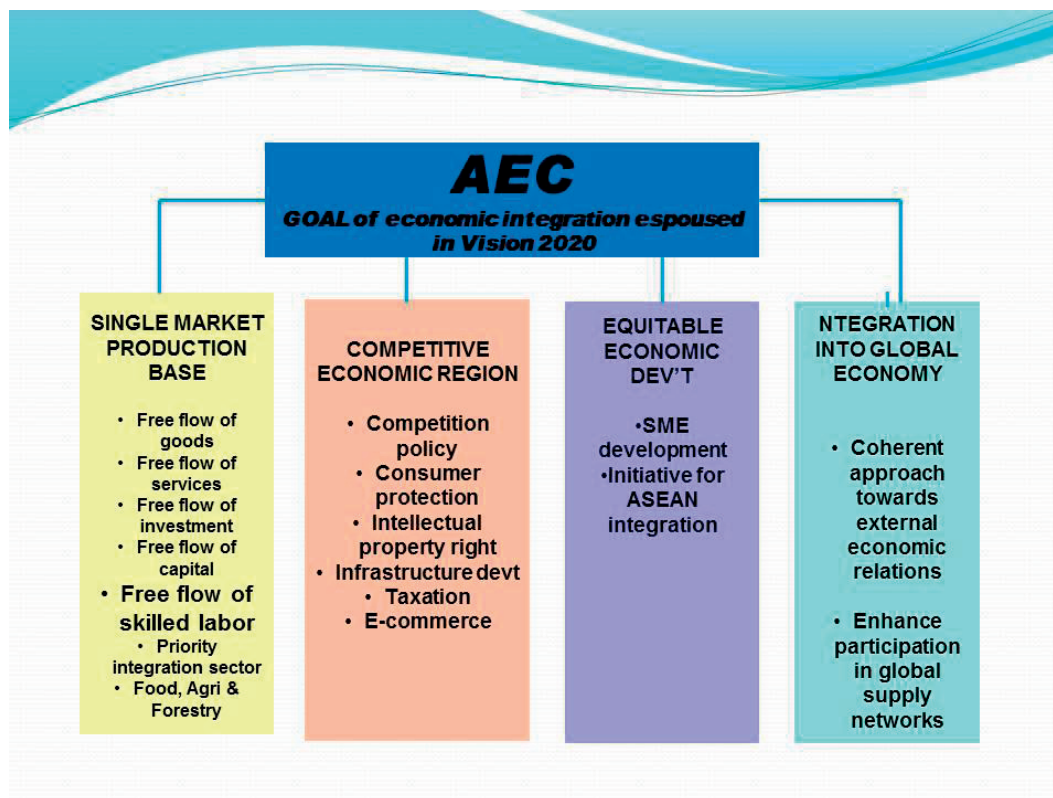
SKILLS



Slide 3

The ASEAN Economic Community (AEC) will transform ASEAN into a region with free flow of goods, free flow of services, free flow of investment, free flow of capital, and free flow of skilled labour

Slide 4



Slide 5

OBJECTIVES AND BENEFITS

Competitive region with higher skills

Single labour market

Quality workforce reputation

Investor attractiveness

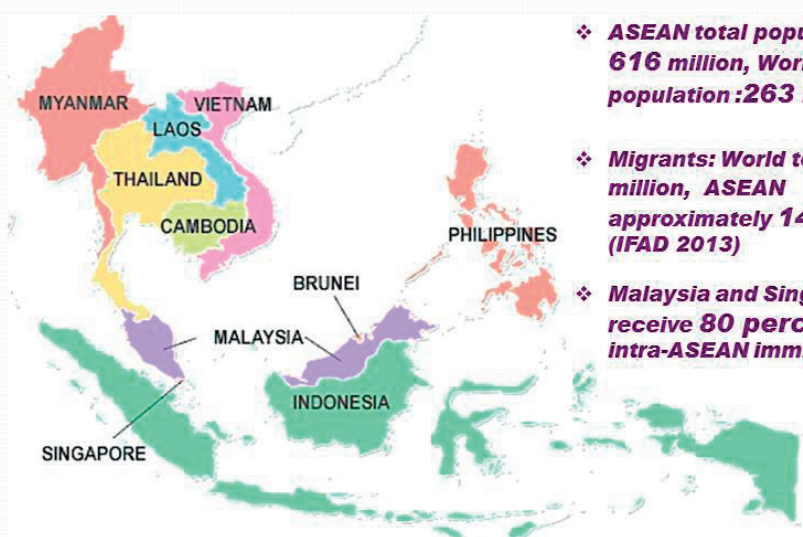
Target international industries

Fair remuneration and remittances

Supporting decent work

Slide 6

ASEAN MIGRANT WORKERS



❖ **ASEAN total population: 616 million, Working population :263 million;**

❖ **Migrants: World total 232 million, ASEAN approximately 14 million (IFAD 2013)**

❖ **Malaysia and Singapore receive 80 percent of intra-ASEAN immigration**

Source: ASEAN Statistics 2013



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1 Mutual Recognition Arrangements (MRAs) in key areas of professional services

The following MRAs have been agreed:

- **MRA on Engineering Services (2005)**
- **MRA on Nursing Services (2006)**
- **MRA on Architectural Services (2007)**
- **Framework Arrangement for the Mutual Recognition of Surveying Qualifications (2007)**
- **MRA on Medical Practitioners (2009)**
- **MRA on Dental Practitioners (2009)**
- **MRA Framework on Accountancy Services (2009)**

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ASEAN Mutual Recognition Arrangements



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The MRA on Tourism Professionals (MRA-TP):

There are 32 job titles covered under this MRA, ranging from housekeeping, front office, food and beverage services, and food production for hotel division; to travel agencies and tour operator for a travel division.

Qualifications for tourism professionals are at 5 levels (three levels of certificate, followed by two diploma levels).

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The MRAs: A Labour Mobility Tool

The Mutual Recognition Arrangements:

a key tool enabling qualifications of professional services suppliers to be mutually recognised by signatory Member States, thus facilitating easier movement of professional services providers in ASEAN

The MRAs aim to:

- **Promote the mobility of skilled professionals**
- **Attract regional talent to meet staffing shortages**
- **Boost regional competitiveness**
- **Improve the quality of services throughout ASEAN**



Slide 11

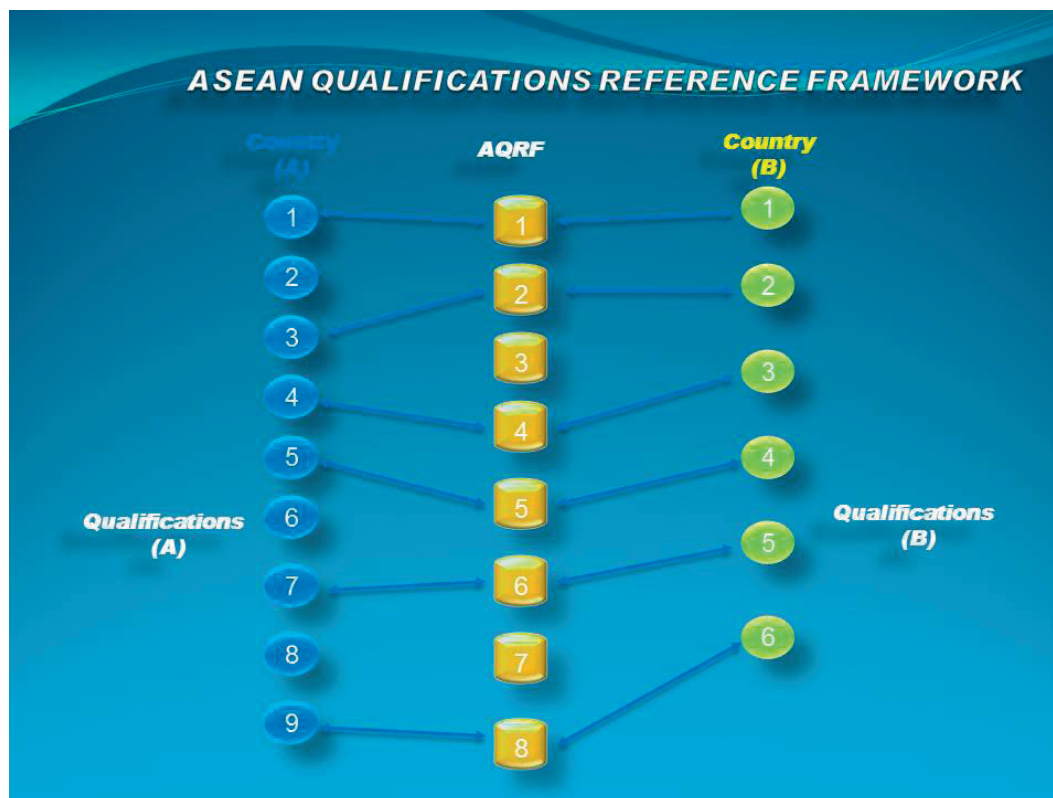
2 ASEAN Qualifications Reference Framework

The AQRF will be a translation device to enable existing frameworks and training systems at national level to be related to one another

The 8 level AQRF has been designed and agreed among all 10 member states

Currently members are strengthening their own national systems and planning benchmarking to the AQRF

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Slide 13

Draft mapping of qualifications structures from level descriptors

SINGAPORE WDA	PHILIPPINES
Graduate Certificate/ Diploma	
Specialist Diploma	
Diploma	Diploma
Advanced Certificate	Certificate IV
Higher Certificate	Certificate III
Certificate	Certificate II

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The AQRF will

- provide a common reference point only, not restraining the diversity of national training and qualifications systems;
- strengthen mutual trust and cooperation among ASEAN nations;
- support and inform reform in individual countries, providing guidance and promoting good international policy and practice in HRD;
- facilitate commonality of qualifications systems among the countries in the region;
- accommodate national requirements and not force a standardised system onto all ASEAN countries;
- reduce barriers to the mutual recognition of the skills and qualifications;
- promote labour market mobility with fair recognition of competencies.



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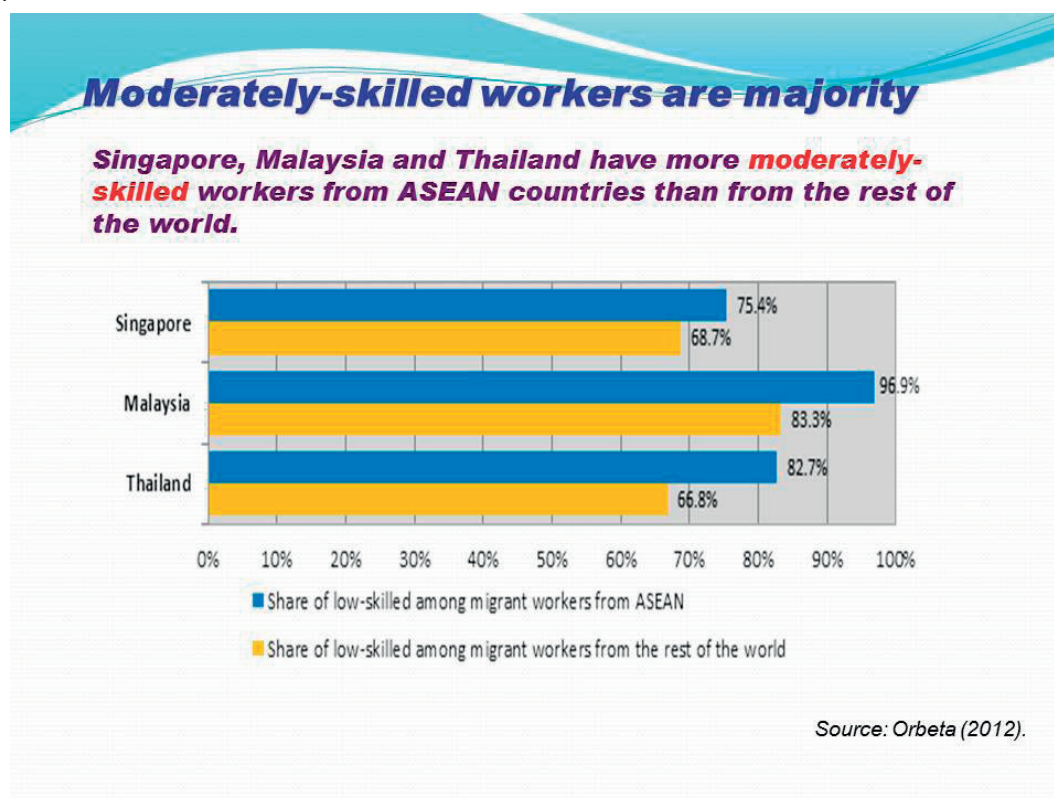
READINESS OF ASEAN MEMBER STATES FOR REGIONAL SKILLS RECOGNITION	
Can be ready for recognition for many occupations	Malaysia; Philippines
Can be ready for recognition for some occupations	Brunei Darussalam; Viet Nam; Singapore; Indonesia; Thailand
With support, can be ready for recognition for key migrant worker occupations	Cambodia; Lao PDR; Myanmar

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3 Mutual Recognition of Skills (MRS)

- **The MRAs do not promote movement of workers with technical and vocational skill sets (except Tourism/Hospitality)**
- **ASEAN member states benefit from and need to employ moderately skilled migrant workers**
- **Skilled workers with full technical and vocational qualifications or a small skill set (eg tiling, fish processing) can have skills recognised through the MRS and the AQRF**

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Draft MRS Action Plan

Country	Priority skills areas	Proposed collaborating states
Brunei	Services sector -barista	ASEAN Member States
Cambodia	Construction sector - Building - Electrical sector - Wiring	Golden/ Silver/ Brown Medal Countries in ASEAN Skills Competition
	Services sector -cook	
Indonesia	Construction sector -bricklaying, tilling, plastering, plumbing, welding, carpenter, beackasting	Singapore, Malaysia and Brunei
	Tourism & Hospitality -House keeping, cooking, tour guide, ticketing	Singapore, Malaysia
	ICT -Electronic	Singapore, Malaysia
	Services Sector -Domestic work, caregiver	Singapore, Malaysia and Brunei
	Agriculture -harvester palm oil	Malaysia



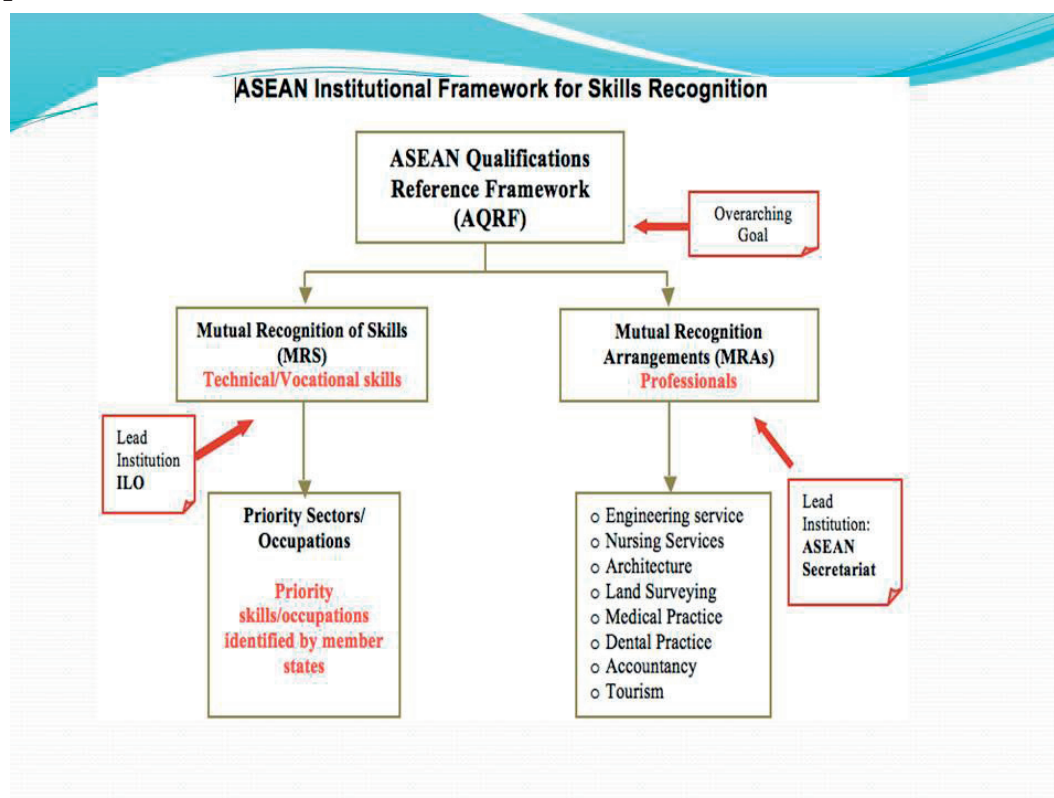
Slide 19

Draft MRS Action Plan		
Country	Priority skills areas	Proposed collaborating states
Lao PDR	Tourism sector -housekeeping	Thailand and Vietnam
	Construction sector -Electrical Installation	Thailand
Malaysia	Tourism & Hospitality -Masseuse -Chef	Thailand
Myanmar	Construction Sector -Welding Garment Sector - Sewing -M/C operator	ASEAN Member states (esp. Singapore, Malaysia, Indonesia and Viet Nam)
Philippines	Construction Sector -Steel Reinforcement Work -Systems Formwork (combined Metal and Timber Formwork) - Plastering -Tile Setting -Brick Laying -Concrete Block Laying -Structural Steel Work -Lifting Equipment -Heavy Equipment/ Earth Equipment	Indonesia Malaysia Singapore Thailand Vietnam

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Draft MRS Action Plan		
Country	Priority skills areas	Proposed collaborating states
Thailand	Construction sector -- laying, plastering, and tile-setting	Myanmar, Lao PDR and Cambodia
Viet Nam	Tourism and hospitality Automotive technology Welding	Thailand, Laos, Cambodia and Myanmar

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4 Regional Model Competency Standards (RMCS)

The RMCS have been designed by the ILO to assist both employers and workers; and can be used to make the recognition of the skills of returning migrant workers an easier and more achievable process.

The RMCS are simple and flexible and can be customised to suit the skills recognition systems in different countries.



Slide 23

Receiving countries can use the RMCS to specify clearly their skill requirements and migrant workers returning home are able to use them to describe their new skills and knowledge.

The RMCS define the essential skills required to work in a particular industry or sector, providing a flexible framework that can be used by all enterprises, regardless of location or size.

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Benefits of RMCS

Speed up development process

Provide basic standards for industry groups to modify

Potential for future shared development of resources for:

- **teaching**
- **learning**
- **assessment**

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RMCS are being edited now in

- Domestic work**
- Welding**
- Core generic skills**
- Agriculture/ Aquaculture**
- Mechanical services**
- Construction**

**The RMCS will be available progressively
from August 2014 on the ILO Asia-
Pacific Skills and Employability website**

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Session 3. Regulating labour emigration

Regulating labour migration (Manuel Imson)

Slide 1







Establishing regional approach for labour migration: Regulating labour migration

Senior Executive Seminar – International Labour Migration
 8-10 July 2014
 Phuket, Thailand

Manuel Imson
 Senior Programme Officer
 ILO Regional Office for Asia and the Pacific
 Bangkok, Thailand



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Outline



- Part 1: Labour Migration Landscape
 - a. Labour migration landscape: Global
 - b. Labour migration landscape: Asia/ASEAN
- Part 2: Admitting Foreign Workers
- Part 3: Recruitment
 - i. Recruitment intermediaries
 - ii. Recruitment mechanisms
 - iii. Government objective
 - iv. Measures to regulate recruitment
- Part 4: Regulating Migrant Workers' Conditions

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Part 1: Labour Migration Landscape

a. Global trend



- **232 million** international migrants in 2013 – the number is expected to double to over **400 million by 2050** (UN)
- **Half of the migrants** in the world are in the labour force of the destination state
- **48%** of the world's migrants are female (in north, this figure becomes as 52%)
- **15%** of the world's migrants are under the age of 20
- UN estimates that there are about **20 million irregular migrants**
- Half of the international migrants live in 10 countries: US, Russia, Germany, Saudi Arabia, UAE, UK, France, Canada, Australia, Spain

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Patterns of migration



South-South migration

- Migration between developing countries
- The largest flow of migrants is seen in this pattern of migration (74 million: 34%)

South-North Migration

- Migration from a developing country to a developed country
- The second largest flow of migration: 73 million (34%)

North-North Migration

- Migration between developed countries
- 26% of international migrants (55 million)

North-South Migration

- Migration from a developed country to a developing country
- 6% of international migrants (13 million)

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Labour Migration Landscape b. Regional trend



Asia

- Asia hosts **30%** of the global migrants (70 million)
- **Japan, China and Indonesia** have very few migrant workers while Gulf countries such as Qatar rely on migrant workers for all sectors of work
- Almost **20%** of Chinese live away from where they are registered – prevents them from having access to government services

ASEAN

- In 2010, almost **13 million** workers from ASEAN left the region while **4.1 million** migrated to another ASEAN country
- **3 countries** host **80 percent** of intra-ASEAN migrants – Thailand, Malaysia and Singapore; **3 countries** account for **70 percent** of the total emigration stock from ASEAN – Philippines, Indonesia and Viet Nam

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ASEAN Migration Stocks 2010



ASEAN Migration Stocks, 2010

	Intra-ASEAN Migration		Total Migration	
	Emigration	Immigration	Emigration	Immigration
Brunei D.	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

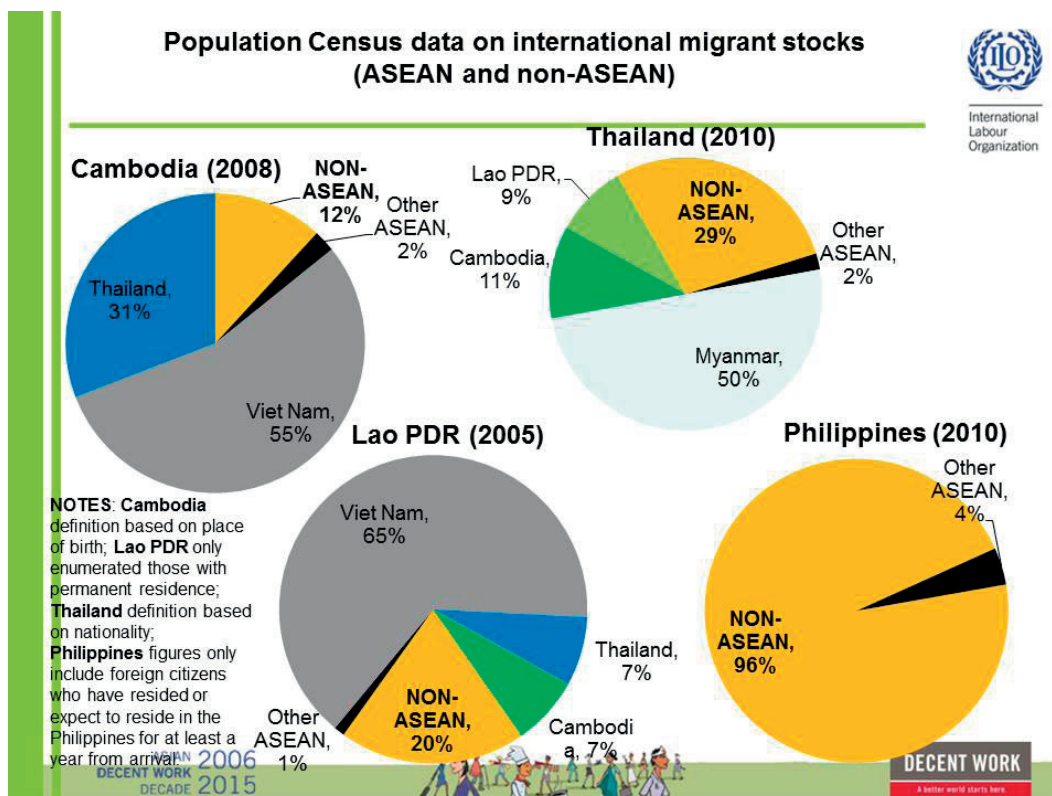
Source: World Bank, <http://go.worldbank.org/JITC7NYTTO>

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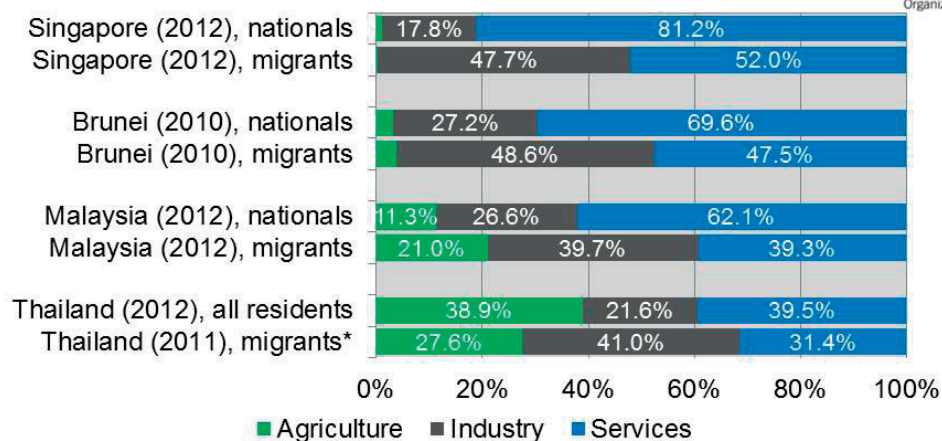


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Receiving Countries: Migrant stock by broad sector of employment (%)



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NOTES: Data are based on ISIC, Rev. 4, divided into agriculture (A), industry (B-F) and services (G-U). **Singapore** 'agriculture' includes ISIC sections B, D and E; migrants refer only to temporary residents. **Brunei Darussalam** includes only private sector employees; migrants refer to all non-nationals. **Malaysia** covers only those residing in private living quarters; migrants include all non-nationals. **Thailand** based on administrative records of registered migrants.

Sources: **Singapore** – Ministry of Manpower, *Singapore Yearbook of Manpower Statistics 2013*; **Brunei Darussalam** – Labour Department, Ministry of Home Affairs, *Statistical Yearbook 2011* (Table 2.9); **Malaysia** – Department of Statistics Malaysia, *Labour Force Survey 2012*; **Thailand** – National Statistical Office, *Labour Force Survey 2012* and *Department of Employment, Ministry of Labour, based on administrative records.

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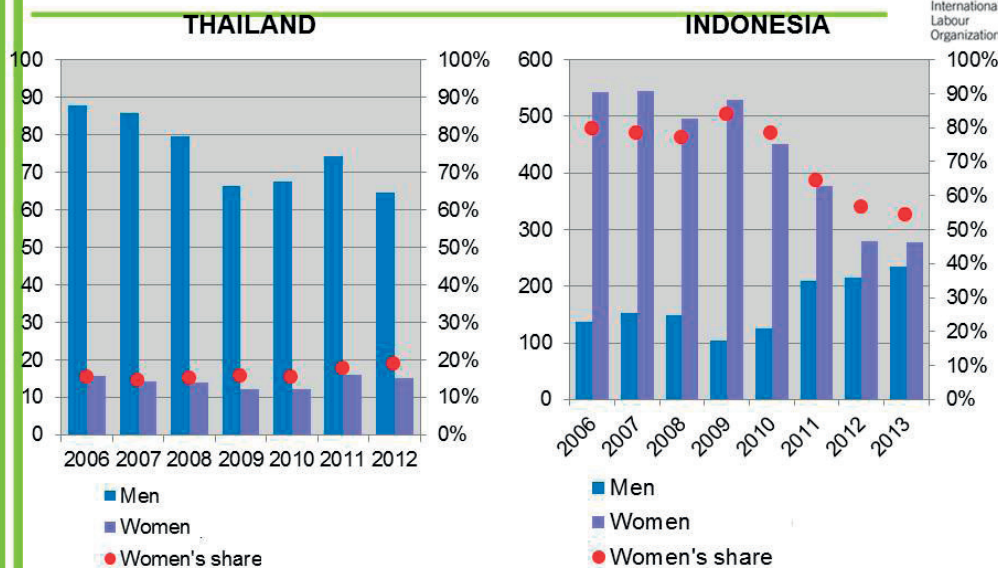
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Sending Countries: Flow of workers abroad by sex ('000)



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Sources: **Indonesia**, administrative records of the National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI); **Thailand**, administrative records of the Department of Employment, Ministry of Labour, including all registered workers.

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Part 2: Process of Admitting Migrant Workers



Position by **employers**

- Facing tightening labour markets at home, willing to look for external source for labour
- Pressuring governments to relax regulations on labour migration

Position by **governments**

- Aware of the necessity in admitting migrant workers to sectors where there is a labour shortage

Challenges identified by governments:

- Difficulty in ensuring that local workers are not displaced
- Wants to avoid “overdependence” on migrant workers
- Wants to minimize unauthorized migration

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Admission of foreign workers – goals and strategies



Policy Goal	Issues	Strategies & Instruments
Full employment of national workers	• Do foreign workers displace local workers? Or do they complement them? • Are foreign workers needed for industries to be competitive? • Has the admission of foreign labor contributed to faster economic growth and expanded overall employment? • Are admission mechanisms in place? • Is the admission of foreign labour politically acceptable?	• Gov't controls admission thru quantitative quotas and levies • Gov't pre-identifies/prioritizes skills in short supply • Gov't tests for LM shortage before granting employers' request • Gov't requires employers to attest to prioritizing local workers
Increased productivity and higher wages	• Do industries get the qualified workers they need? • Do industries invest in upgrading technologies to save on labor? • Does immigration lead to depressing wages?	• Liberal policy for admission of talents/highly skilled • Liberal quotas for strategic sectors • Foreign worker levy differentials by occupation

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Reasons for Admitting Migrant Workers



Reason	Explanation
Complementarities	Admit migrant workers to create or preserve jobs for local workers
Non-tradable	Admit migrant workers to hold down costs and prices
Training	Demand for workers can increase faster than supply if training is required
Essential 3-D Jobs	Local workers shun some jobs as education etc levels rise, but govts agree with employers that these jobs are essential



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Admission of high skilled and low skilled workers



- **Labour market or economic needs test (ENTs)**
 - Government requests ENTs to be fulfilled by employers in order to show that they made sufficient efforts in finding local workers but were not successful
- **Employer-driven migrant workers systems**
 1. Employers request permission such as from the Ministry of Labour to hire foreign workers to fulfil skills shortage
 2. Unless the government has already pre-determined that there is a shortage in that particular occupation sector, employers are required to try to recruit local workers first
 3. Once the authority is satisfied that employers made enough effort in recruiting local workers but it was unsuccessful, followed by labour market test, the authority approves the work permits to be granted to foreign workers

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Admission of high skilled and low skilled workers



- **“Trust-the-employer” approach**
 - Common in Asia
 - The procedure of accepting foreign workers are less formal and the government allow employers to employ foreign workers if the sector was already determined as a sector with a skills shortage and as long as employers pay a levy for each foreign employees (in particular, in Singapore and Malaysia)
- High skilled workers – easier to migrate
 - E.g. Singapore encourages highly skilled workers to migrate to Singapore while strictly controlling the immigration of low skilled workers by setting quota

Realities

1. Employer “path dependence” on migrants
2. Europe makes it hard for low-skilled migrants to enter but, once inside a European country, it is hard to get low-skilled migrants to leave
3. In Asia, it is relatively easy for low-skilled migrants to enter but becomes harder for them to stay (migration is at a temporary basis)

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Part 3: Recruitment a. Recruitment intermediaries



- Recruitment intermediaries are used because employers face difficulties in finding foreign workers (language barriers, unfamiliarity with other countries' skills and qualifications framework, unfamiliar with the work ethics)
 - It is also cost effective to recruit directly in labour-sending country
 - Recruiters can find workers more cheaply than if employers recruit workers themselves



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Recruitment intermediaries



For-profit recruiters

- Decline in the role of public employment services (PES): publicly funded employment exchange service. Provide free service to both workers and employers
- Increase in the domination of private and for-profit recruiters
- For high skilled workers, often employers pay some or all the costs for recruitment
- For low skilled workers, often workers themselves often pay the recruiters
- Four elements in recruitment process
 1. Employers in the destination country seek help from local recruiters
 2. Local recruiters being contacted by employers then get in touch with recruiters located in the capital of the labour sending state
 3. Recruiters located in the capital of the sending state get in touch with sub-agents who are located in rural areas
 4. Sub-agents find workers (sub agents are paid on the basis of the number of willing workers they can bring to a recruiters' office)

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Recruitment intermediaries



Problems

- Due to many layers of the recruitment process via using a number of intermediaries, this type of recruitment can often cause miscommunications and wrong information to be provided to workers
 - E.g. over exaggeration of wages of the benefits. Lack of information provided on the quality of the service and work requested by the employers

Results

- Gap between employer and worker expectation, leading to disappointment and conflicts



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Part 3: Recruitment

b. Other recruitment mechanisms



- In some countries, an employment of staffing agency can be both the recruiter of workers and their sole employer at the workplace
- Some employers organizations that recruit workers and act as the co-employer of the workers they recruit in the workplace



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Part 3: Recruitment

c. Government objectives in regulation



Destination states

1. To enhance the efficiency of the labour market in matching workers to jobs
2. To prevent fraud, misinformation, and various practices related to people smuggling and trafficking
3. To protect workers and encourage agencies to follow good practices

Sending states

1. To protect job-seekers against fraudulent job-offers, misinformation, and becoming victims of trafficking
2. To regulate fees that recruiters charge workers for their services
3. To expand job-markets abroad for national workers
4. To shield local agencies against unfair competition from abroad

Both

- To promote efficiency in recruitment
 - E.g. migrant sending countries get jobs for workers who may be unemployed while migrant-receiving countries fill jobs and accelerate economic growth

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Part 3: Recruitment
d. Measures to regulate recruitment



1. Efficiency

Objective	Key elements of strategy/ intervention	Regulations measures/instruments
1. Efficiency	- Inform to avoid "mismatch" especially about availability of skills and about jobs offered; - Encourage healthy competition - Motivate recruiters to follow good practice.	- Adopt standard occupation nomenclature, classification and trade testing (e.g. ILO ISCO) - negotiate mutual recognition of skills agreements - operate employment exchanges - register/license qualified recruiters; require training to qualify to recruit - Adopt rating and ranking systems for recruiters

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Part 3: Recruitment
d. Measures to regulate recruitment



2. Protection

Objective	Key elements of strategy/ intervention	Regulations measures/instruments
2. Protection	- Inform public to avoid fraud and other abuses; - Impose stiff penalties vs human traffickers and smugglers - Selectively grant license to recruit - Apply labor standards to migrants - Regulate fees/ban charges to workers - Engage in widespread anti-illegal recruitment campaign	- Register/approve contracts and give pre-departure briefing - blacklist bad employers/unreliable workers - check job-offers/ employers - require prior approval of job ads - disallow or limit worker-paid recruitment fees - require licensed agencies to put up performance bonds or guarantees - conduct inspections - cancel or suspend licenses and impose stiff penalties against trafficking & violation of regulations - Mobilize use of local government units

- Many Asian governments have established maximum recruitment fees
- In many countries, laws limit recruitment licenses to be given to companies owned (or majority-owned) agencies

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Part 3: Recruitment

d. Measures to regulate recruitment



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3. Employment

Objective	Key elements of strategy/ intervention	Regulations measures/instruments
3. Employment	- Open recruitment business to more companies including foreign-owned ones - Allow direct recruitment by foreign employers - Use incentives to promote best practice and development of specialized market niches	- Clear entry criteria, transparent, efficient procedures for licensing - One-stop service centers for approval of contracts - Special facilities for recruiters in good standing - Allocate quotas under labor supply agreements

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Part 3: Recruitment

d. Measures to regulate recruitment



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4. Competition

Objective	Key elements of strategy/ intervention	Regulations measures/instruments
4. Competition	- Market reserved for local recruiters - promote specialization - hold recruiters jointly liable with foreign employer	- Limit ownership & management of recruitment agency to citizens - organize licensed recruiters into associations & adopt code of ethics

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Part 4: Regulating Migrant workers conditions



ILO Conventions and Recommendations

Migrant workers are entitled to the same rights as national workers and are covered by the following convention unless specifically excluded

Fundamental Conventions

- Freedom of Association and Protection of the Rights to Organize Convention 1948 (no. 87), Rights to Organize and Collective Bargaining Convention 1949 (No. 98), Forced Labour Convention 1930 (No. 29) and Abolition of Forced Labour Convention 1957 (No. 105), Equal Remuneration Convention 1951 (no. 100), Discrimination (Employment and Occupation) Convention 1958 (No. 111), Minimum Age Convention 1973 (no. 138), Worst Forms of Child Labour Convention 1999 (No. 182).

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Convention specified for migrant workers



Migration for Employment Convention (Revised), 1949 (No. 97):

Equal treatment of migrant workers in respect of remuneration, hours of work, holidays, apprenticeship and training, membership in trade unions, accommodation, most branches of social security, employment taxes and in legal proceedings.

Migrant Workers (Supplementary Provisions) Convention in 1975 (No.143):

Requires states to suppress clandestine movement and illegal employment of migrant workers. Also requires states to guarantee equal treatment of migrant workers and to support and facilitate unification of families of migrant workers

Convention on the Rights of Migrant Workers and Members of their Families (1990):

Regardless of the legal status of migrant workers, this Convention requires states to respect the basic human rights of migrant workers.

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Ratification of Conventions in the ASEAN region										
	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
ILO Equality of Treatment (Accident Compensation) Convention			1950		1957	1927	1994	1965	1968	
ILO Forced Labour Convention		1969	1950	1964	1957	1955	2005	1965	1969	2007
ILO Freedom of Association and Protection of the Right to Organise Convention		1999	1998			1955	1953	2012		
ILO Migration for Employment Convention (Revised),					1964*		2009			
ILO Right to Organise and Collective Bargaining Convention		1999	1957		1961		1953	1965		
ILO Equal Remuneration Convention		1999	1958	2008	1997		1953	2002	1999	1997
ILO Abolition of Forced Labour Convention		1999	1999		1958(d)		1960	1965(d)	1969	
ILO Discrimination (Employment and Occupation) Convention		1999	1999	2008			1960			1997



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Ratification of Conventions in the ASEAN region										
	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
ILO Equality of Treatment (Social Security) Convention							1994			
ILO Minimum Age Convention	2011	1999	1999	2005	1997		1998	2005	2004	2003
ILO Migrant Workers (Supplementary Provisions) Convention							2006			
ILO Private Employment Agencies Convention										
ILO Worst Forms of Child Labour Convention	2008	2006	2000	2005	2000		2000	2001	2001	2000
ILO Domestic Workers Convention							2012			
Palermo Protocol on Trafficking 2000		2007	2009	2003 (a)	2009(a)	2004(a)	2002		2001 (s)	2012(a)
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families		2004(s)	2012 (a)				1995			



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Working conditions: Objectives and Measures



	Policy objective	Regulatory measures
Compensation	Country or employment-pay according to productivity Country of origin - obtain highest wage possible	Grant of work permit conditional on paying equal wage Check provisions/register contract Labor inspection to check/curb violations Provide complaints mechanism/access to labor court Allow membership in trade unions
Hours of work	Protect health of workers	Labor inspection to check/curb violations Prohibit making worker serve more than one employer
	Enhance productivity	
Health & safety	Prevent industrial accidents that cause injuries or even death, and production losses.	Site inspections to check on conditions/safety programs and measures taken by enterprises; Training programs for safety officers; Require medical and hospitalization insurance; Cover migrant workers with workmen compensation.

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Working conditions: Objectives and Measures



Other working conditions	Prevent all forms of physical and sexual harassment	Establish SOS centers and hotlines; provide labor attaché services Impose stiff penalties against employers found guilty.
Job-security	Security but only for duration of contract	Authorize migrants laid off due to bankruptcy to find another job.
Housing	Provide decent housing	Check on housing facilities prior to approving job offers or applications for work permits; Periodically inspect housing
Mobility in labor market	Discourage job-hopping	Require worker to obtain prior approval if changing employers;
Dispute resolution	Promote industrial peace	Provide services of conciliators and arbitrators
		Enable migrants to join trade unions and be covered by collective agreements

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Thank you



For more information, please contact:

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ASIAN 2006
DECENT WORK
DECADE 2015



DECENT WORK
A better world starts here



Measuring the impacts of labour migration policies (*Manolo Abella*)

Slide 1



Slide 2



Slide 3



Usual goals of labour migration policy

In origin countries

- To provide citizens more employment opportunities
- To protect rights of migrant workers
- To reduce poverty, raise incomes of all

Slide 4



In destination countries

- to meet shortages of labour and increase productivity of capital
- to increase employment by enhancing complementarities while avoiding substitution
- to reduce the cost of building infrastructure and supporting vital services



Slide 5



Slide 6



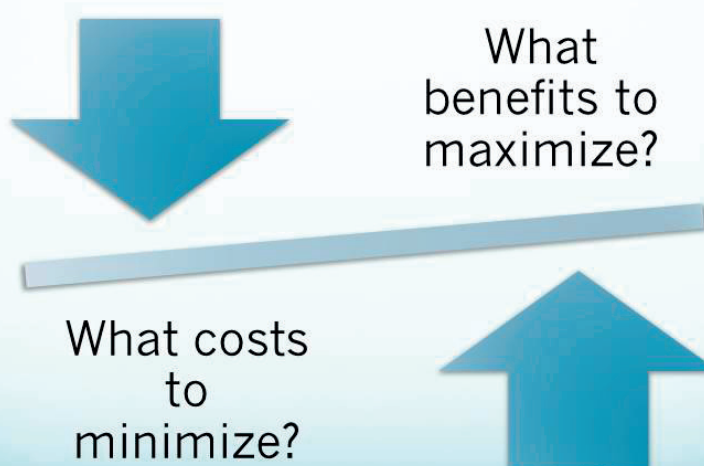
Slide 7

Conflicts between goals are not easy to resolve

- Policy makers do not indicate how “trade-offs” between goals are to be decided
- Affected interests not equally represented in decision-making processes
- Limits to sovereignty – effective application often depend on cooperation of destination states
- Lack of information - impacts of alternative measures not monitored or known

Slide 8

What needs to be measured?

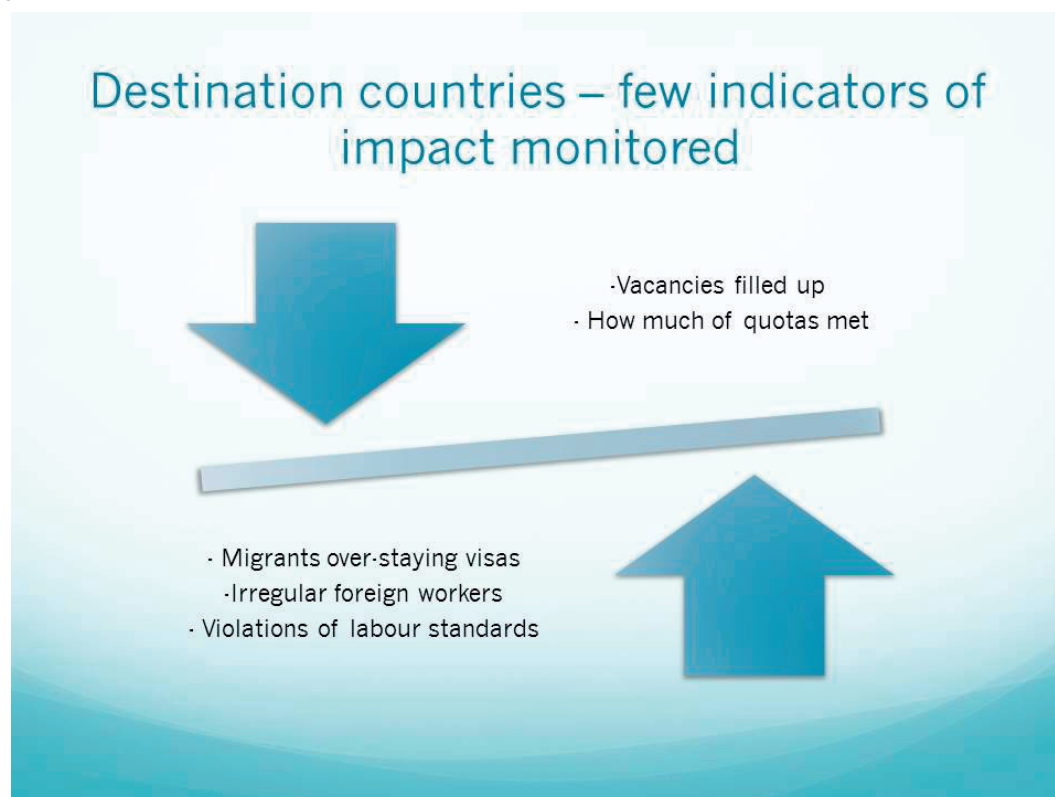




Slide 9



Slide 10



Slide 11

Often neglected issues

Origin countries

- What do workers actually pay to recruiters ?
- What wages do workers receive? Have wages gone down?
- Workers land in jobs they were recruited for?
- Skills in short supply at home

Destination countries

- Do migrants depress wages in occupations filled by migrants?
- Are enterprises employing migrants less productive than others? Are they more profitable?
- Does increase in foreign worker levy reduce demand for foreign workers?

Slide 12

Are some basic questions being addressed?

Policies aim to get better jobs, but are available information organized to show

☐

Job at home vs Job abroad

☐

Contract wages in 20__ vs 20__

☐

Workers going to better destinations

Policies aim at making recruitment fair and efficient but is comparison made

☐

Recruitment fees of local vs foreign recruiters

☐

Cost if allow direct hiring by foreign employers

☐

Worker paid fees



Slide 13

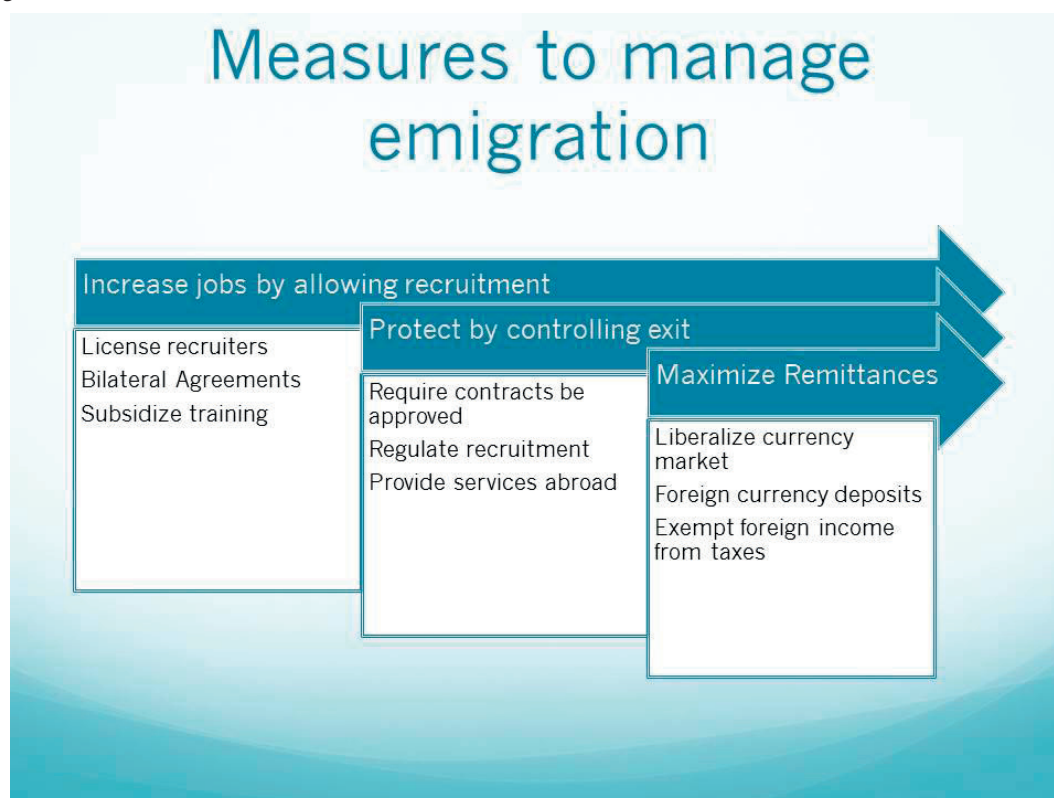
Important impacts are harder to measure

- Movers become more productive - increases in incomes; gains particularly large for highly skilled
- Migrants' households suffer less from "shocks" due to calamities, conflicts, loss of export markets, etc
- Health effects - Statistics show decline in infant mortality rates among rural-urban migrants
- Higher educational attainment of children

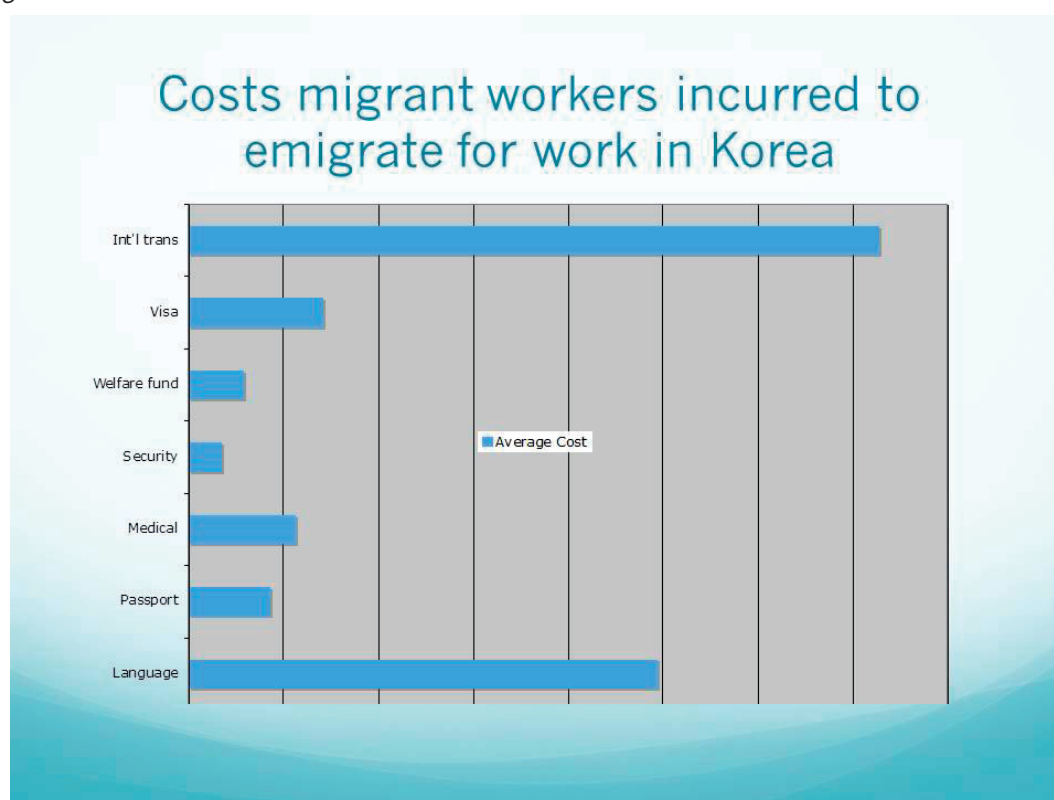
Slide 14

How successful are origin countries in pursuing their goals?

Slide 15



Slide 16





Slide 17

Recruitment costs paid by workers going to Korea – KNOMAD Survey

From	Vietnam		Thailand		Indonesia	
	US\$	in Mo. Wage	US\$	in Mo. Wage	US\$	in Mo. Wage
Workers	45		31		36	
Average	1,231	1	1,466	1.3	1,506	1.2
Median	630		1,551		1,302	
Mode	630		1,551		1,302	
Min	320		620		130	
Max	6,000		1,861		2,604	
SD	1,383		346		468	

Slide 18

Recruitment costs paid by workers going to Korea under EPS – KNOMAD Survey

From	Bangladesh		India		Sri Lanka		Egypt	
	US\$	in Mo. Wage	US\$	in Mo. Wage	US\$	in Mo. Wage	US\$	in Mo. Wage
Workers	20		31		19		30	
Average	3136	9	1248	2.5	352	1	2979	4.9
Median	2642	10.6	1161	2.5	253	0.8	2845	4.8
Mode	4768	22.4	1659	3.1	115	0.4	3556	6.7
Min	1675		199		38		287	
Max	5154		3816		995		4800	
SD	1224		823		302		1065	

Slide 19

Countries of origin seldom monitor trends in wages of migrant workers, but some receiving countries do

Slide 20

KOREA monitoring relative wages and productivity of migrant – local workers

	2001 Survey		2003 Survey		2007 Survey	
	Korean	Foreigner	Korean	Foreigner	Korean	Foreigner
Wage (hourly rate)	4833	3183	5600	4000		
Relative wages						
Foreigner/Korean	65.9		71.4		86.7	
Relative Productivity						
Foreigner/Korean	76.4		87.4		89	



Slide 21

Is the contribution of migrant workers to destination countries small?

- In Singapore it appears to be very large - the contribution of foreign workers to GDP growth has been a robust 37 percent (World Bank estimate).
- In Malaysia Kanapathy estimated that a 10 percent net increase in low-skilled workers causes an increase in real GDP at factor cost by only 1.1 percent..
- In Thailand removing all foreign workers from Thailand estimated to cause real GDP to fall by only 0.48 percent (Sussangkarn (1996)).

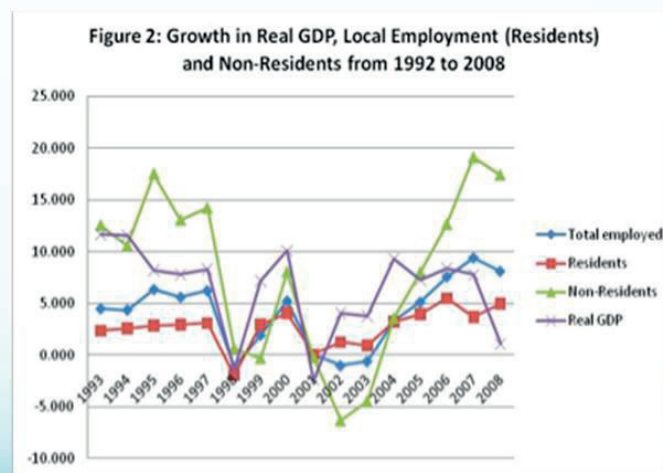
Slide 22

Most studies show very small impact but measuring impact is very problematic. Useful to remember that

- In labor constrained economies, where the marginal productivity of migrant labor is higher than the wages they receive, the addition of migrant workers to the work force will lead to an increase in GDP.
- If profits in these economies rise as migrant workers are employed, and profits finance investment, then investment rates should also increase.
- This, in turn, should lead to an increase in labor productivity in the medium term.

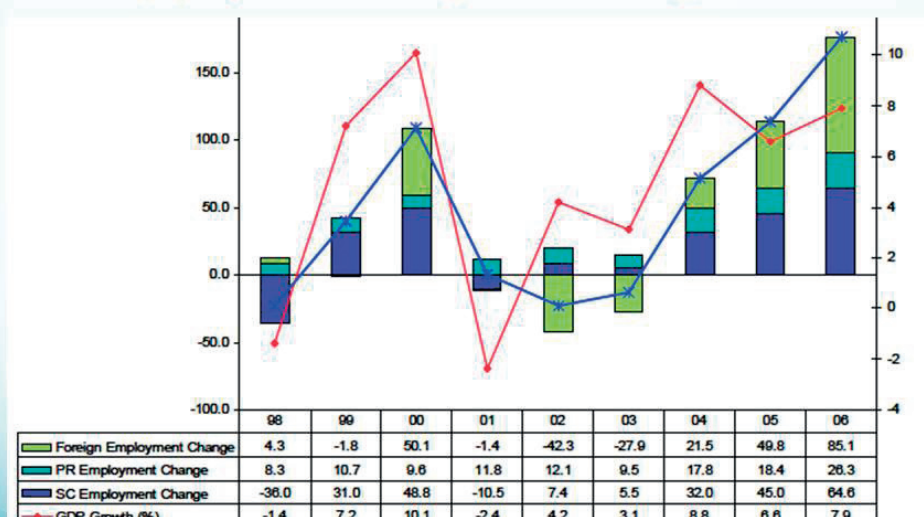
Slide 23

Singapore: GDP & Immigration



Slide 24

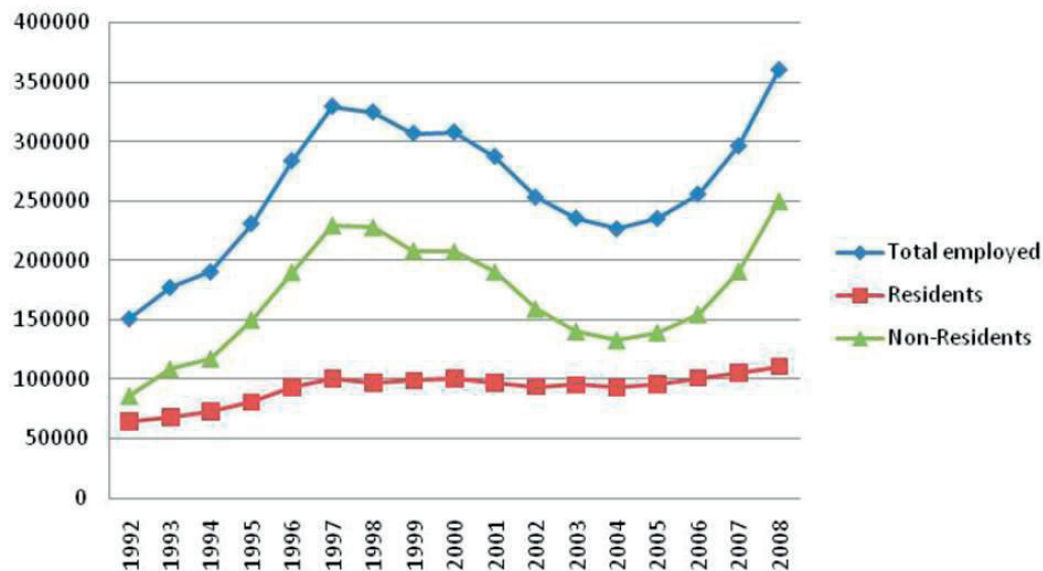
Singapore: creating flexible supply through immigration





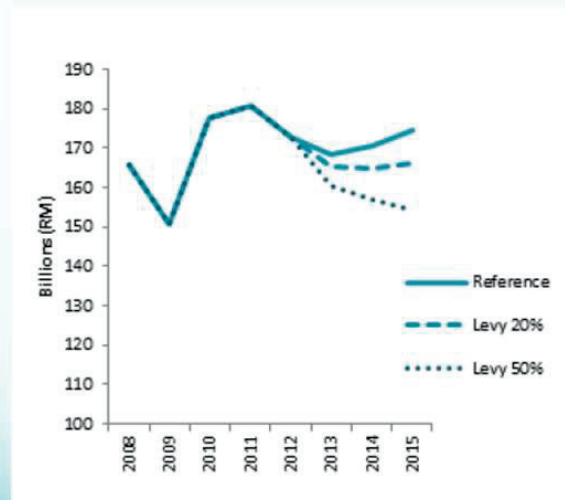
Slide 25

Figure 5A: Construction Sector Employment by Resident and Non-Resident Labour Force: 1992-2008



Slide 26

Will increasing the foreign worker levy decrease dependence on foreign workers? Estimates for Malaysia



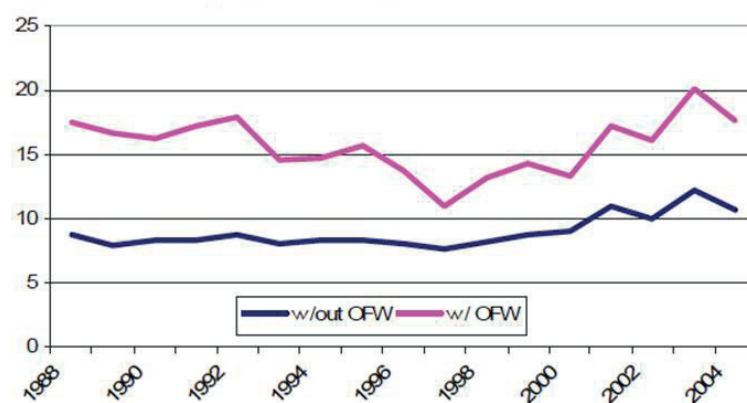
Slide 27

Some argue that remittances
alter behaviour –
e.g. lower participation in
labour force

Slide 28

Philippines: migration affects HH behaviour?

Figure 4.5. Unemployment Rate by Presence of OFW in Household, exc. OFW



Source: LFS 1988-2004; Annex Table 4



Slide 29

How do remittances affect migrant behaviour?

Mixed findings by researchers

- Tullao & Cortes found lower LFPR of migrants' HH compared to non-migrants' HH
- Yang (2008) found more hours spent by members of migrants' HH on self-employment
- Cabegin (2006) found wives of migrants with school age children more likely to be unemployed
- Ducanes and Abella found that if school age group in working age population are netted out migrants' HH have higher LFPRs than non-migrants' HH

Slide 30

What about the impact of remittances on poverty?

Several studies now available on Philippines

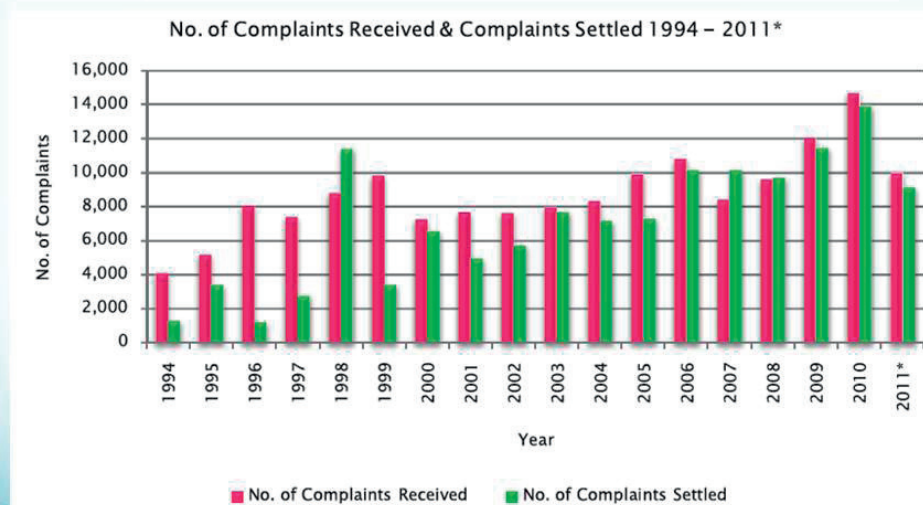
- Ducanes & Abella found using panel data from FIES that HH which had no migrants in 1997 but had one in 1998 rose by 6 percentile points in income/expenditure distribution. Poverty incidence dropped by 3 percentile points = 10,500 to 19,000 HH able to move out of poverty in a year! Or up to 850,000 people over a decade!
- Yang & Choi (2008) Yang & Martinez (2005) found that a 10 % favorable change in exchange rates led to a 0.6 % decline in poverty incidence among migrants' HH, not counting spill-over effects.
- Tullao, Cortez and See (2007) found remittance receiving HH spend more on education,
- Tabuga (2007) found positive impact on spending for health and medical care

Slide 31

Example of process indicators of impact

Slide 32

Process indicator: Conditions of migrant workers Sri Lanka





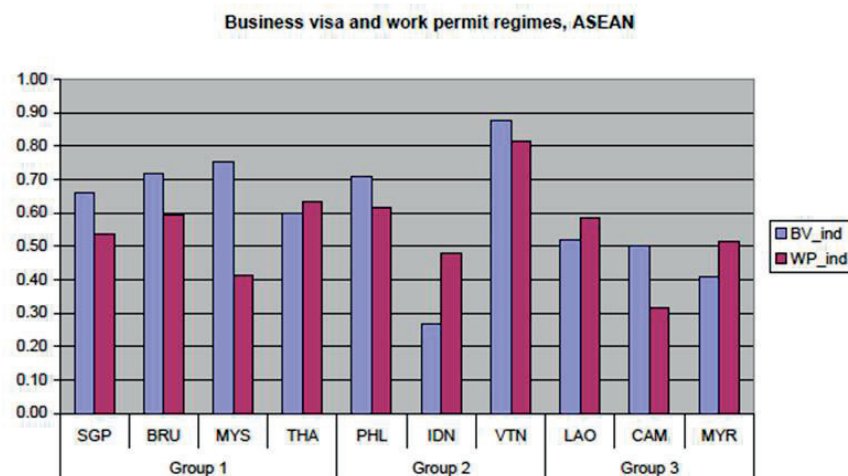
Slide 33

Among ASEAN countries

- How accommodating are policy regimes to greater mobility of workers?
- How accommodating are current policies to greater mobility of professionals? Especially medical workers? IT Professionals?
- Different demographics suggest greater future liberalization of movements
- Especially the liberalization of professionals like medical workers

Slide 34

Figure 6. Comparison of immigration regimes for business (non-immigrant) visa (BV) and Work permits (WP) in ASEAN countries

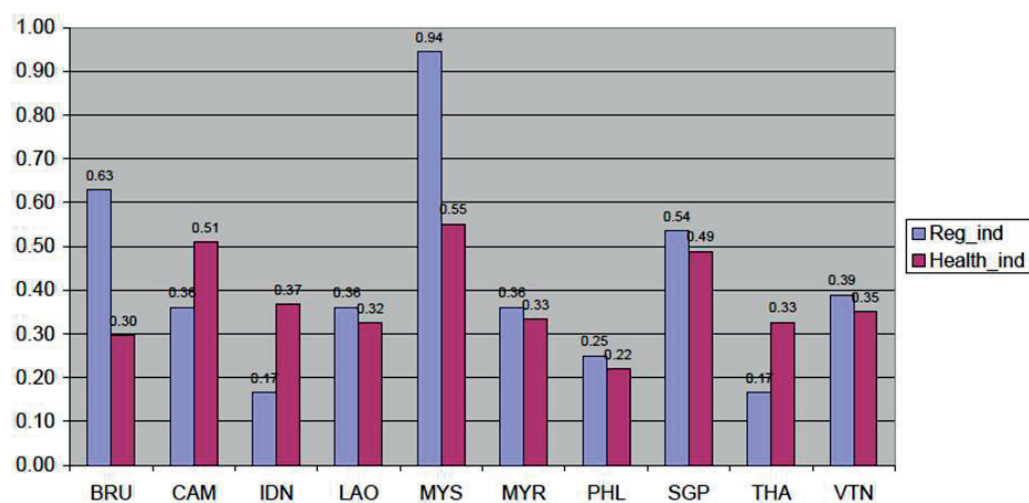


Source: Index constructed using the Manning and Bhatnagar (2004) data

Slide 35

Figure 12. Inward mobility of health professionals: policy and registration indices, ASEAN

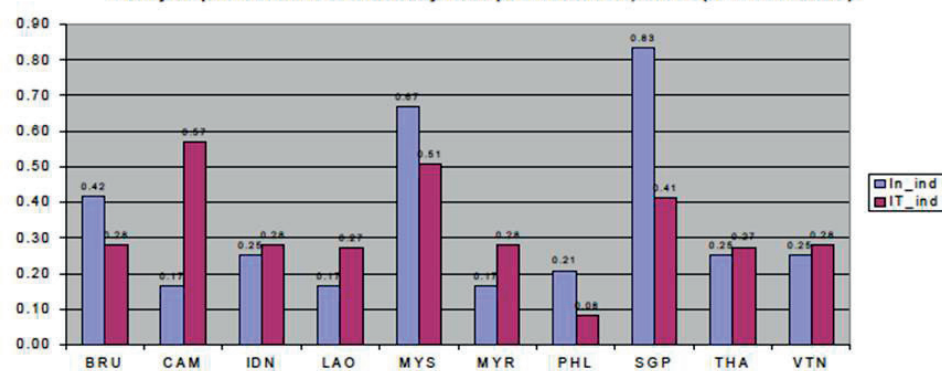
Policy with respect to inward mobility of health professionals, ASEAN Index (1=most liberal)



Slide 36

Figure 13. Inward mobility of IT professionals: policy indices, ASEAN

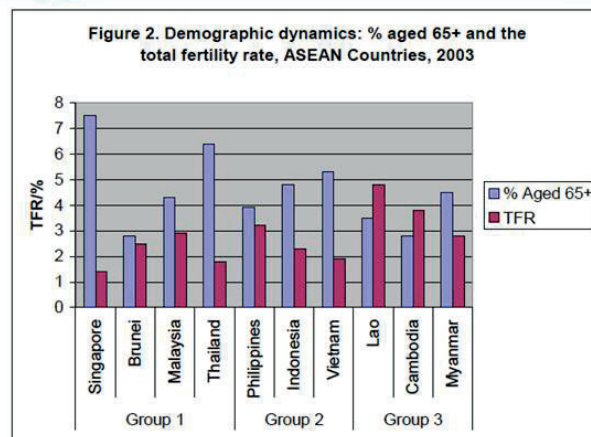
Policy to promote inward mobility of IT professionals, Index (1=Most liberal)





Slide 37

Ageing and declining fertility rates suggest future liberalization



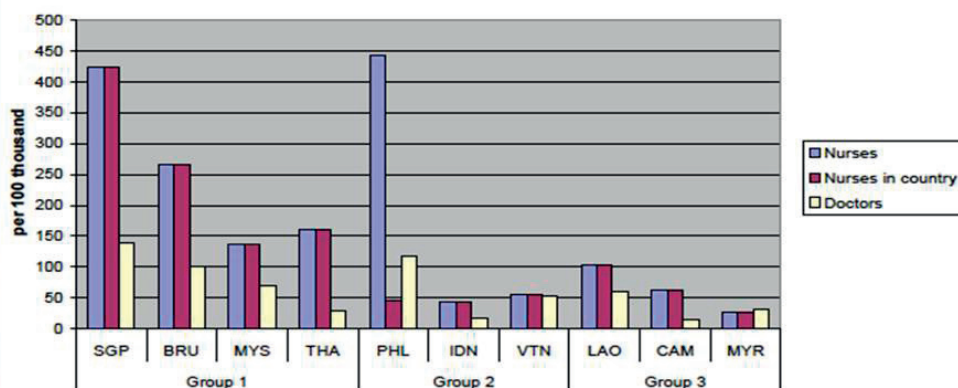
Source: Asian Development Bank, Leading Indicators of Development 2004; World Bank, World Development Indicators 2004 (for Brunei).

Slide 38

Large disparity in workforce endowment bound to lead to greater movements

Figure 3. Medical workforce endowment in ASEAN, 2002

Medical workforce endowment in ASEAN (doctors and nurses)
 per 100 thousand population



Source: WHO Global Atlas 2004 data, and Country Report, Philippines

Slide 39

Modes of adjustment when faced with labour shortage: Industry

- overtime work;
- regularized temporary workers;
- sub-contracting;
- increased wages;
- off-shored labour-intensive operations;
- employed foreign workers;
- automation by large firms

Slide 40

Thailand: Estimated gains & losses from immigration

Years	Percentage in Relation to Real GDP		
	Labour losses	Capital gains	Net gains
1996	-0.014	0.030	0.016
1997	-0.015	0.031	0.016
1998	-0.016	0.040	0.024
1999	-0.017	0.044	0.027
2000	-0.017	0.034	0.017
2001	-0.017	0.038	0.021
2002	-0.016	0.039	0.023
2003	-0.016	0.039	0.023
2004	-0.016	0.039	0.023
2005	-0.016	0.048	0.033
2006	-0.015	0.051	0.036
2007	-0.015	0.051	0.036



Session 4. Regulating labour immigration

Definitions, data sources and methods to assess labour market requirements (*Carlos Vargas Silva*)

Slide 1

Slide 1 features a decorative background of blue and black dots forming a curved shape on the left. At the top, there are three logos: the University of Oxford, COMPAS (Centre for Migration Policy & Research), and The Migration Observatory at the University of Oxford. The main text is centered and reads:

- Definitions, data sources and methods to assess labour market requirements

Below the list, the presenter's name and seminar details are listed:

Dr Carlos Vargas-Silva
ASEAN Regional Integration:
Challenges and Opportunities A
Senior Executive Seminar
10 July 2014

Slide 2

Slide 2 has a decorative background of blue and black dots forming a curved shape on the right. The title "Outline" is centered at the top. Below it, the following bullet points are listed:

- Definitions: “shortages” and “skills”
- Measuring issues:
 - Shortages
 - Skills

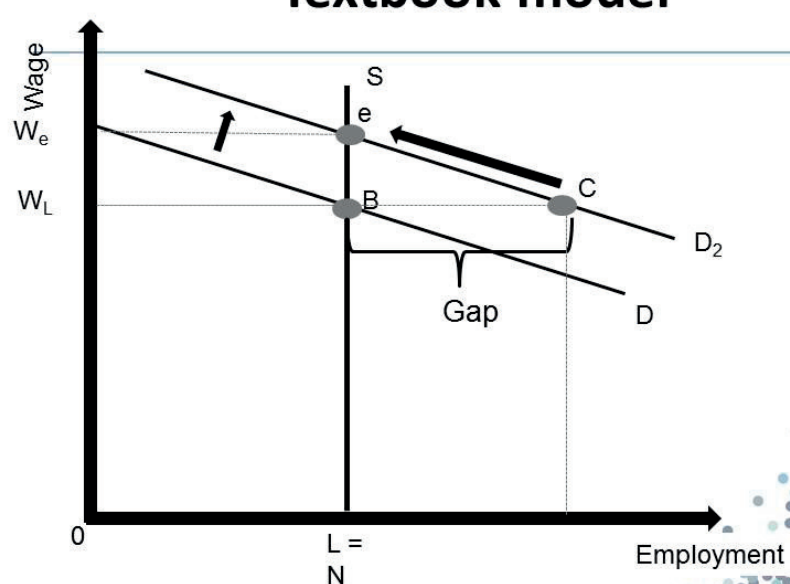
Slide 3

What is a shortage?

- Textbook model.
- Employers perspective.

Slide 4

Textbook model





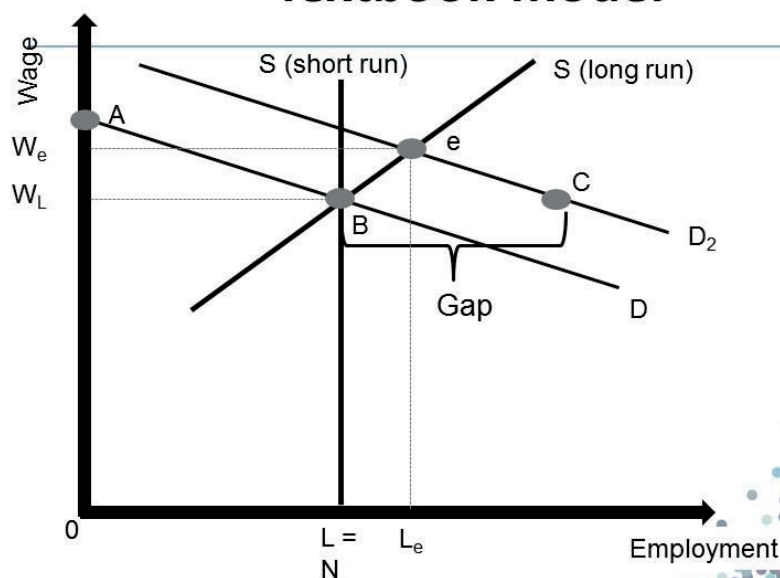
Slide 5

Textbook model

- In this example shortages are temporary and are offset by a wage increase.
- Often employers have something like point C in mind when claiming that there are shortages.
- In the long term, supply can increase: training of additional workers, etc.

Slide 6

Textbook model



Slide 7

Wages are “sticky”

- Do not respond immediately to economic conditions. Reasons:
 - Long-term contracts.
 - Prevalence of unions.
 - Less likely on the up side.
 - Not completely clear.
- 

Slide 8

What are skills?

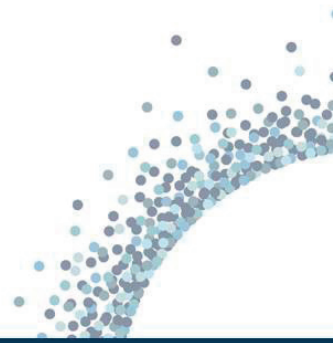
- Possible to define in regards to *individual* characteristics or *occupations*.
 - “Soft” skills (e.g. creativity, communications skills) important role in many jobs, and hiring decisions, but difficult to measure.
 - Employers define the attributes that are “needed” to do particular jobs - may not consider “skills” (e.g. depending on a visa attached to the employer).
- 



Slide 9

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:

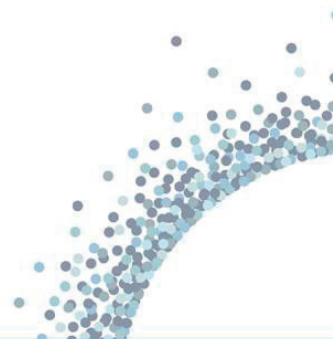


Slide 10

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:

1. Salary



Slide 11

Salary

- Obvious measure as it reflects the market value.
- Easy to estimate. Most labour force surveys have information on pay.
- But may also reflect other factors associated with the occupation: a very dangerous low-skilled job may pay a high salary.
- Likewise, a low salary does not necessarily indicate that a job is low skilled.

Slide 12

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:

1. Salary



Slide 13

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:
 1. Salary
 2. Qualifications

Slide 14

Qualifications

- Very good measure as it should correlate strongly with skills.
- Labour force surveys include educational attainment measures.
- But careful:
 - Often based on the host country educational system and may fail to accurately reflect migrants' qualifications.
 - Many highly educated migrants are not doing highly skilled jobs - downgrade upon their arrival.

Slide 15

Measuring issues: skills

- Focus more on occupations.
 - No single measure is good enough. Four possibilities:
 1. Salary
 2. Qualifications
- 

Slide 16

Measuring issues: skills

- Focus more on occupations.
 - No single measure is good enough. Four possibilities:
 1. Salary
 2. Qualifications
 3. Classification
- 



Slide 17

Classification

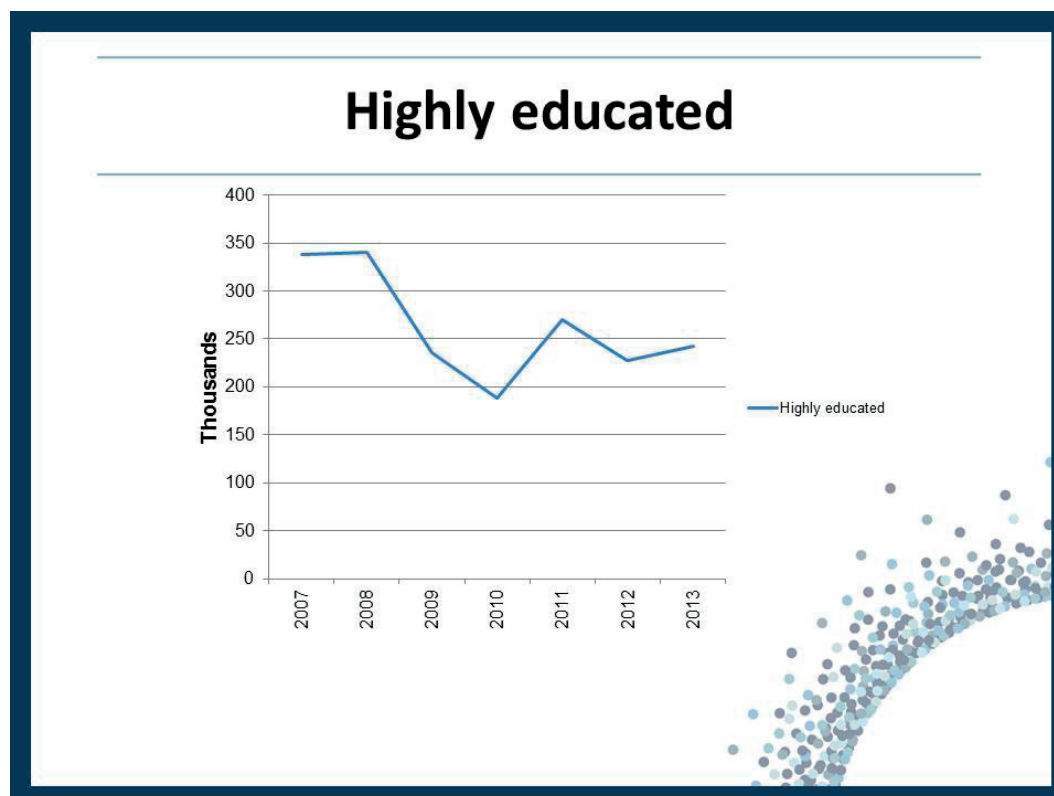
- The Standard Occupational Classification (SOC) classifies jobs in many countries in terms of their skill level and skill content.
 - The classification takes into account required training and experience.
- It may provide limited information as employers' may have very specific skills in mind that do not correspond to occupational categories.

Slide 18

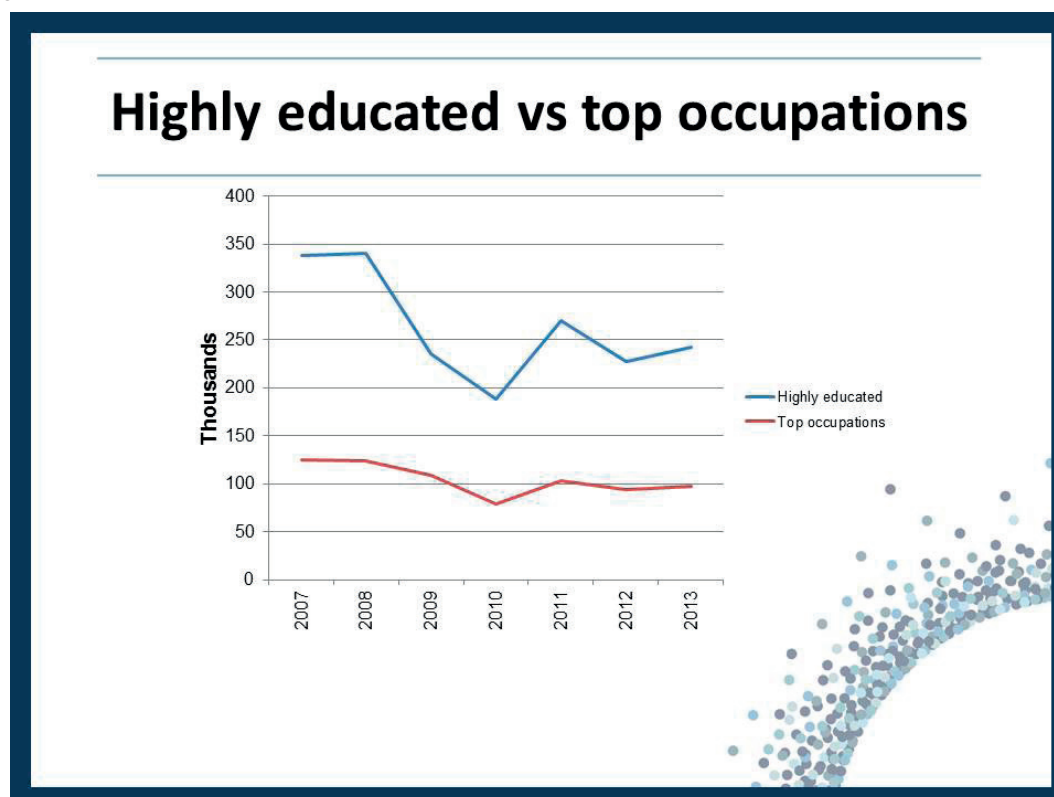
Example

- Recently, estimated the number of new highly skilled migrant workers in the UK.
- Not one definition of highly skilled, so used several measures:
 - Education: 21 years of age or more.
 - Classification in top jobs: 'Managers, Directors and Senior Officials' or 'Professional Occupations'.
 - Salary: over £40,000.

Slide 19

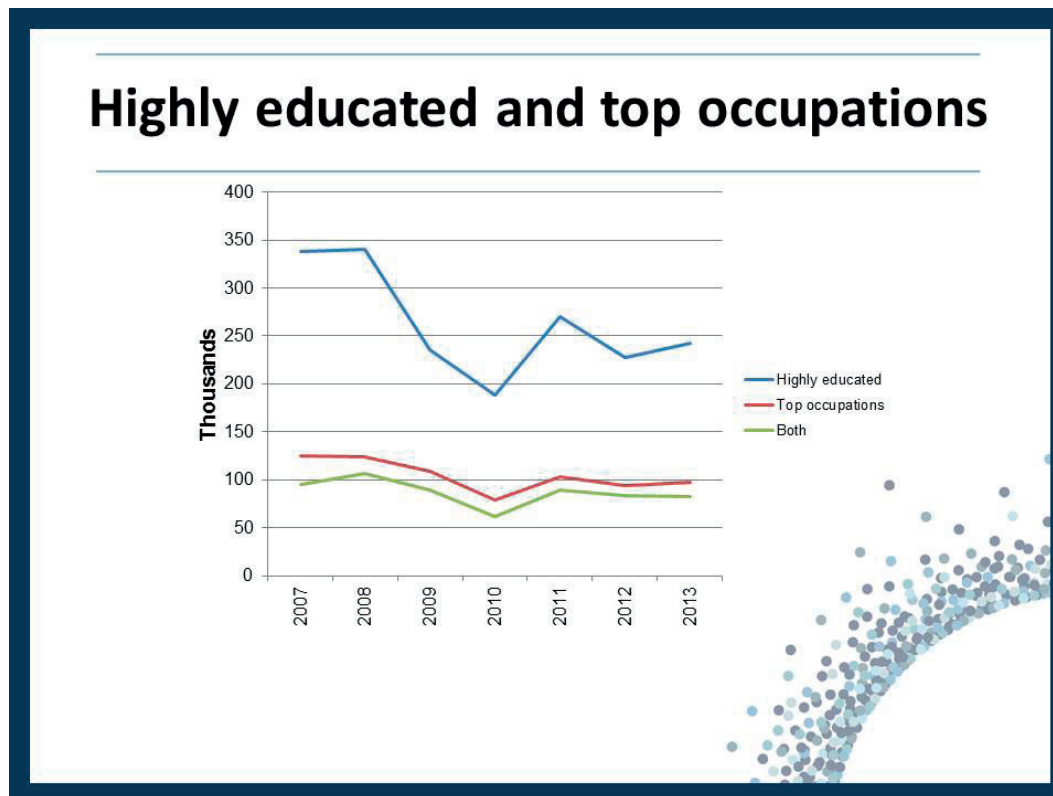


Slide 20





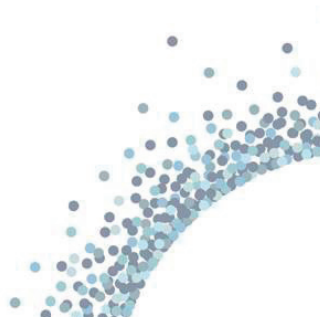
Slide 21



Slide 22

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:
 1. Salary
 2. Qualifications
 3. Classification



Slide 23

Measuring issues: skills

- Focus more on occupations.
- No single measure is good enough. Four possibilities:
 1. Salary
 2. Qualifications
 3. Classification
 4. Innate ability

Slide 24

Innate ability

- Skills that cannot be taught or learnt.
- Sometimes difficult to measure.





Slide 25

Measuring issues: shortages

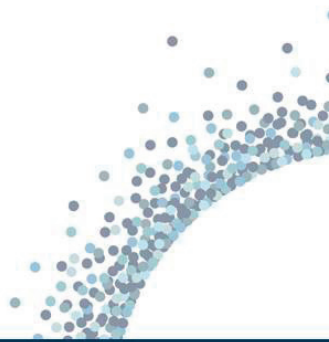
- No single measure is good enough. Five possibilities:

A decorative graphic in the bottom right corner consisting of a cluster of small, semi-transparent dots in various shades of blue and grey, arranged in a curved, fan-like pattern.

Slide 26

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth

A decorative graphic in the bottom right corner consisting of a cluster of small, semi-transparent dots in various shades of blue and grey, arranged in a curved, fan-like pattern.

Slide 27

Salary growth

- Generally an indication of a shortage.
- Available from labour force surveys.
- But wages can be sticky.
- Hence, absence of salary growth does not discard the possibility of a shortage.

Slide 28

Measuring issues: shortages

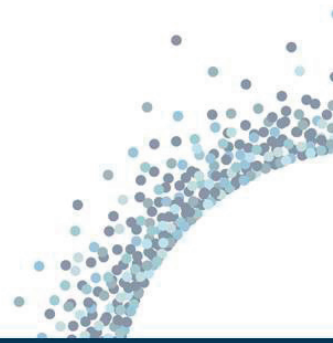
- No single measure is good enough. Five possibilities:
 1. Salary growth



Slide 29

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth
 2. Vacancies



Slide 30

Vacancies

- A large number suggest that employers are having a hard time filling jobs.
- Need administrative data on job openings.
- However, a high number of vacancies may indicate a high turnover.



Slide 31

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth
 2. Vacancies

Slide 32

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth
 2. Vacancies
 3. Unemployment



Slide 33

Unemployment

- Low levels of unemployment is an indication of low supply relative to demand.
- Difficult in practice. Need information about previous occupation or sought occupation.
- Could be looking for jobs that they do not have the skills to do.

Slide 34

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth
 2. Vacancies
 3. Unemployment

Slide 35

Measuring issues: shortages

- No single measure is good enough. Five possibilities:
 1. Salary growth
 2. Vacancies
 3. Unemployment
 4. Vacancies/unemployment ratios

Slide 36

Vacancy/unemployment ratios

- Most useful to combine to measures.
- The high ratio indicates a high labour demand relative to supply.
- It has the problems of the two components.



Slide 37

Questions/comments

carlos.vargas-silva@compas.ox.ac.uk



Expert Commissions and Labor Market Testing (*Philip Martin*)

Slide 1

Expert Commissions and Labor Market Testing: The Labor Shortage Issue

Philip Martin
July 10, 2014



Slide 2

Highlights

- Labor migration = employer-led. Employers request permission to employ migrants. Governments respond
- Attestation versus certification:
 - **Attestation**: trust-the-employer. IF employers requests migrants, migrants must be needed
 - **Certification**: monitor employers to ensure jobs are genuine & local workers are not available
- Expert commissions: analyze **top-down** labor market data & **bottom up** submissions from employers, unions, & NGOs. Make migrant labor trade offs clearer



Slide 3

Migration = Economic Good

- Migration expands employment and GDP. Main winners = migrants who earn higher wages. **Net** economic benefit triangle to host society residents <1% of GDP; mostly to capital
- But: spillover benefits from migrants to complementary local workers, spending multipliers, benefits & costs of diversity; costs to substitute workers, path dependence, prody?
- Managing migration generally means spending tax monies to restrict migration—to hold migration below “natural” levels

Slide 4

Supply vs Demand Admissions Systems

- **Supply:** use point systems to select newcomers who add human capital; award points for youth, education, job offers, language
 - Immigrants to Canada have more education than native-born adults, but potential brain waste (doctors drive taxis)
- **Demand:** employers request visas for particular “needed” foreigners
 - Ensures that immigrants have jobs, but could be low-skilled immigration (cooks in family restaurants)
 - Employers may “reward” good temporary workers with immigrant visas

Slide 5

Supply = Points

Selection Factor	Points
<u>Education</u>	Maximum 25 points
<u>Ability in English and/or French</u>	Maximum 24 points
<u>Experience</u>	Maximum 21 points
<u>Age</u>	Maximum 10 points
<u>Arranged employment in Canada</u>	Maximum 10 points
<u>Adaptability</u>	Maximum 10 points
Total	Maximum 100 points
Pass mark	67 points



Points System Chart for Skilled Worker (Independent)

EDUCATION	SCORE
PhD or Master's and at least 17 years of full-time equivalent study	25
PhD or Master's and less than 17 years of full-time study	22
Two or more university degrees at the bachelor's level and at least 15 years of full-time equivalent study	22
Two to four-year university degree and at least 14 years of full-time equivalent study	20
One-year university degree and at least 13 years of full-time equivalent study	15
Three-year diploma, trade certificate of apprenticeship and at least 15 years of full-time equivalent study	22
Two-year diploma, trade certificate of apprenticeship and at least 14 years of full-time equivalent study	20
One-year diploma, trade certificate of apprenticeship and at least 13 years of full-time equivalent study	15
One-year diploma, trade certificate of apprenticeship and at least 12 years of full-time equivalent study	12
Secondary School Educational Credential	5
	25 (Max)
LANGUAGE	
First Language per ability (Speaking, Listening, Reading, and Writing)	
High proficiency (per ability): IELTS 7.0-9.0	4
Moderate proficiency (per ability): IELTS 5.0-6.9	2
Basic proficiency (per ability): IELTS 4.0-4.9	1 (max 2)
No proficiency: IELTS less than 4.0	0
	16 (max)

Slide 6

H-1B: Global war for talent or loyal workers?

- US H-1B: No cost for employers to apply via internet; DOL approves 99% within seconds
 - 1990: 65,000 H-1B visas were 3x the 20,000/year employer requests
 - Theory: give employers easy access until IT training
 - Reality: 1997: employers first requested 65,000 visas. Requests kept rising, & now >150,000/year
 - New employers: outsourcers & body shops
- Lessons: economics works—Employers respond to incentives & technology & out-source. Model: 20% H-1B workers in US to serve client; 80% of work done in India



Slide 7

Certification: Monitor Employer Recruitment

- No cap, but employer must prove to govt that local workers are not available
 - Law assumes employers can usually find US workers
 - Employers are certified to hire foreigners IF they cannot find US workers at govt-set wages
 - 95% of employer requests are approved, but employers complain—why must I look for locals?
- Government in the middle:
 - Unions: no shortage of workers, only a shortage of wages
 - Employers: local workers do not really want our jobs. They look only to get UI benefits

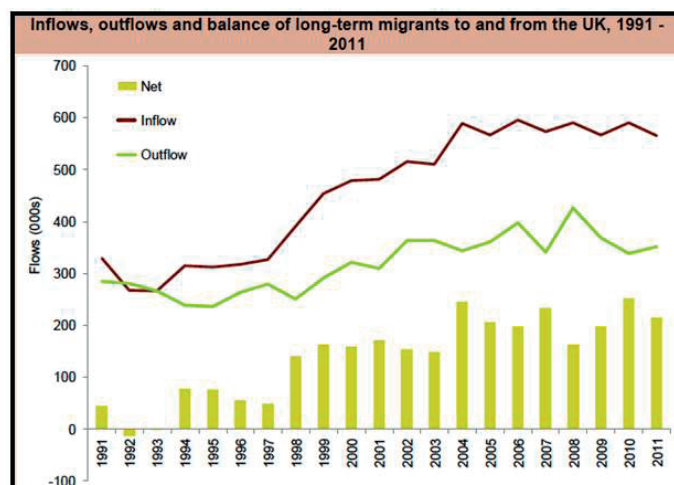
Slide 8

British Migration Advisory Committee

- Context: 1997-2007, Labor govt put no restrictions on A8 migrants after 2004; estimate: 15,000; reality >800,000
- Govt: reduce entry channels from 80 to 5, create MAC to provide advice on labor shortages
- Tier 1: highly skilled, **supply** or points approach
- Tier 2: skilled with British job offer—**demand & certification** (usual) or attestation (shortage)
- Tier 3: low skilled (closed)
- Tier 4: foreign students (>200,000)
- Tier 5: other temporary migrants (WHMs)

Slide 9

MAC: expert commission = part of govt effort to reduce upsurge in net migration



Name of tier	Immigrant groups covered by tier
Tier 1	Investors, entrepreneurs, and exceptionally talented migrants.
Tier 2	Skilled workers with a job offer in the UK.
Tier 3	Low-skilled workers needed to fill specific temporary labour shortages. Tier 3 has never been opened.
Tier 4	Students.
Tier 5	Youth mobility and temporary workers. This route is for those allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.

Slide 10

MAC and Tier 2: employers seeking migrants

- Employers request non-EU migrants (mostly with BAs):
 - IF job in labor-short occup = no labor market test
 - Other jobs: first try to find British or EU workers
 - Intra-company transfers (salary test)
- Labor-shortage test: 12 **top-down indicators**
 - Three price-based indicators, e.g. wage growth
 - Four volume-based indicators, e.g. growth in employment or the unemployment rate
 - Three employer-based indicators, e.g. employer reports of labor shortages
 - Two other indicators, including job vacancy data



Slide 11

Interpreting the Indicators

- MAC: does the indicator pass a “median plus 50 percent of the median” test
 - Median wage increase for all occupations = 2%
 - Median wage increase for IT = 3.5%
 - IT passes one of the 12 top-down indicators
- Labor-short occupation has 6 or more indicators showing shortage
- Bottom up: consider evidence submitted by employers, unions, others
- Most labor shortage determinations are based on bottom-up evidence

Slide 12

Top-down indicators: Red = fail 50+50 test

Top-down data								
2213 Pharmacists/pharmacologists								
Skilled in top-down analysis (as calculated for our September 2008 report)								
Skilled	4			Median hourly pay for all employees	£18.01			
SOC skill level classification	4							
Percentage of employees with NVQ3+	92.6							
Excluding NESS, occupation passes 4 out of 12 valid indicators								
Shortage indicators								
Indicators	Apr 09	Sept 09	Spring 10	Indicators (continued)	Apr 09	Sept 09	Spring 10	
P1 Annual percentage change of median hourly pay for all employees	2.3	2.3	11.1	V2 Annual percentage change in employment estimates	-10.4	-12.0	-8.6	
P2 Annual percentage change of mean hourly pay for all employees	3.6	3.6	14.8	V3 Annual percentage change of median total paid hours	0.0	0.0	0.0	
P3 Return to occupation, given NQF3, with age and region controls	0.41	0.76	2.09	V4 Absolute change in proportion working for employer under 1 year	-0.02	-0.05	-0.03	
I1 Absolute change in median vacancy duration	2.2	20.3	-8.2	E1 SSVs as a percentage of all vacancies	16	x	10.7	
I2 Live unfilled vacancies/unemployment by sought occupation	0.36	0.36	1.07	E2 SSVs as a percentage of hard-to-fill vacancies	100	x	55.5	
V1 Annual percentage change in unemployment by sought occupation	17.9	55.8	48.5	E3 SSVs as a percentage of total employment	0.09	x	0.1	
Sensible indicators	Apr 09	Sept 09	Spring 10		Apr 09	Sept 09	Spring 10	
Percentage of workforce born non-EEA	12	13	20	Percentage of workforce trained in past 13 weeks	50	54	62	

Slide 13

US: top-down indicators = no labor shortage

- Veneri (1999 MLR): Labor-short occupation IF:
 - Employment growth in the occupation was >50% of average employment growth in all occupations
 - Wage increase is >30% more than for all occupations
 - Unemployment rate is at least 30% below average for all occupations
- 68 occupations (1992-97):
 - 7 of 68 occupations satisfied the 3 top-down indicators, but only 1, special ed teachers, satisfied top-down & bottom up evidence
 - Computer occupations, nurses, construction crafts did NOT satisfy the 50+30+30 criteria

Slide 14

US occupations that satisfy 50+30+30 test, 1992-97 Special ed teachers satisfied top-down test & bottom up. Why? Court decision requiring more teachers

Table 1. Occupations with above-average employment growth, above-average increase in earnings, and below-average unemployment for the 1992-97 period

[Numbers in thousands]

Occupation	Employment data from the Current Population Survey (cps) ¹							National Industry-Occupation Employment Matrix Time Series ²	CPS ¹	
	1992	1993	1994	1995	1996	1997	Percent change, 1992-97	Percent change, 1992-96	Median weekly earnings (current dollars)	Unemployment rate
Total, all occupation	108,182	109,656	112,232	114,262	116,040	118,874	9.9	9.8	13.0	5.1
Management analysts	132	141	176	205	218	242	83.3	7.8	17.9	1.8
Teachers, special education	267	284	308	310	340	384	43.8	13.9	24.2	1.6
Dental hygienists	73	76	95	94	94	105	43.8	23.2	19.6	1.1
Managers, marketing, advertising, and public relations	505	482	554	654	644	702	39.0	9.5	19.8	2.3
Airplane pilots and navigators	93	97	103	113	117	117	25.8	30.7	21.9	1.1
Purchasing agents and buyers, n.e.c.	218	256	225	256	247	266	22.0	1.9	17.7	2.5
Mechanical engineers	299	291	334	324	346	347	16.1	.8	18.3	1.6

¹ The Current Population Survey (cps) is a nationwide household survey, conducted each month by the Bureau of the Census for the Bureau of Labor Statistics.

² The National Industry-Occupation Employment Matrix Time Series is based on data from the Occupational Employment Statistics (oes) survey, a periodic mail survey of nonfarm establishments that collects occupational employment data on workers by industry.

NOTE: Data are for all wage and salary workers; earnings data are for full-time wage and salary workers only.



Slide 15

IT occupations did NOT satisfy 50+30+30 test, 1992-97. Why not? slow wage growth

Table 2. Employment, wage rates, and unemployment rates for selected occupations for which anecdotal evidence suggests a shortage, 1992-97
[Numbers in thousands]

Occupation	Employment data from the Current Population Survey (cps) ¹							National Industry-Occupation Employment Matrix Time Series ²	CPS ¹	
	1992	1993	1994	1995	1996	1997	Percent change, 1992-97		Median weekly earnings (current dollars)	Unemployment rate
Total, all occupations	108,182	109,656	112,232	114,262	116,040	118,874	9.9	9.8	13.0	5.1
Computer systems analysts and scientists	663	726	867	882	1,033	1,175	77.2	38.2	13.3	1.4
Computer programmers	537	565	523	533	541	609	13.4	2.2	22.6	1.7
Registered nurses	1,785	1,844	1,936	1,961	1,971	2,043	14.5	7.8	7.3	1.5
Carpenters	844	867	902	928	908	1,015	20.3	15.3	13.4	10.9
Electricians	605	610	607	670	702	722	19.3	11.8	13.5	5.0
Plumbers, pipefitters, and steamfitters	368	366	435	434	484	476	29.3	9.5	17.8	7.3

¹ The Current Population Survey (cps) is a nationwide household survey, conducted each month by the Bureau of the Census for the Bureau of Labor Statistics.
² The National Industry-Occupation Employment Matrix Time Series is based on data from the Occupational Employment Statistics (oes) survey, a periodic mail survey of nonfarm establishments that collects occupational employment data on workers by industry.
Note: Data are for all wage and salary workers; earnings data are for full-time wage and salary workers only.

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MAC ever fewer shortage occupations: 1 mil in 2008, 180,000 in 2013

Table 3.2: Our key criteria for assessing bottom-up evidence when assessing whether it is sensible to fill shortages with immigration

Key criteria for sensible	What change might indicate sensible?	Bottom-up examples
Alternatives to employing immigrants: What feasible alternatives to immigration have been considered? Are there obstacles for employers in pursuing alternatives to migration?		
Recruitment efforts	High or increased spending and investment in recruitment	Spending on advertising, using different channels, using different labour pools e.g. unemployed, part-time workers
Attractiveness of employment package	Increased incentives for the current workforce to remain in occupation and for new recruits to enter the labour market	Holiday allowances, bonuses, other benefits
Increased working hours	Increased working hours of current workforce	
Capital substitution	Increased investment in technology to make production less labour or skill intensive	Installing labour-saving machinery
Changing production methods	Changed production methods to make production less labour or skill intensive	Restructuring the production line
Outsourcing or off-shoring	Increased use of contracting in or of overseas sites	Evidence that employers are doing this
Current use of immigrants	High use of immigrants may mean it is difficult to respond to shortage in other ways, but may also mean employers aren't doing enough to upskill UK resident workers.	Current use of immigrants

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Expert Commission Lessons

- Expert commissions
 - Can do careful analysis of data & evidence
 - Can consider top-down and bottom-up evidence
- Debate over labor shortages
 - 3 S' s: Skilled, shortage & **Sensible** allows MAC to find a labor shortage but **not** recommend more migration(military officers)
 - Make policy trade offs explicit: taxes versus wages for London care givers
- MAC finding can trigger other govt actions, including more training in labor-short occupations

Slide 18

Conclusions

- Labor migration is employer-led; govts respond to employers seeking migrants
 - Supply approaches: add human capital, but the newcomers selected via points may get jobs that do not use their skills, thus brain waste
 - Demand approaches: admit the migrants employers want to hire. Migrants do get jobs
- Expert commissions can:
 - Develop definitions and measures of shortages
 - Clarify the trade offs involved in migration policy
- But: migration trade offs are political. Care givers: wages versus taxes



Slide 19

What trade off between high-quality care & taxes in cities?



Slide 20

Hurricane Mitch (1998) & El Salvador earthquake (Jan 2001): TPS



Slide 21

2014: 4,000/month, or 100 women & children per day



Slide 22

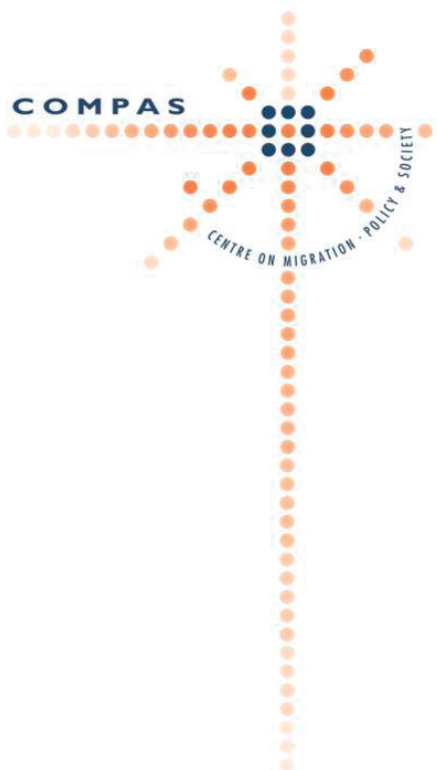
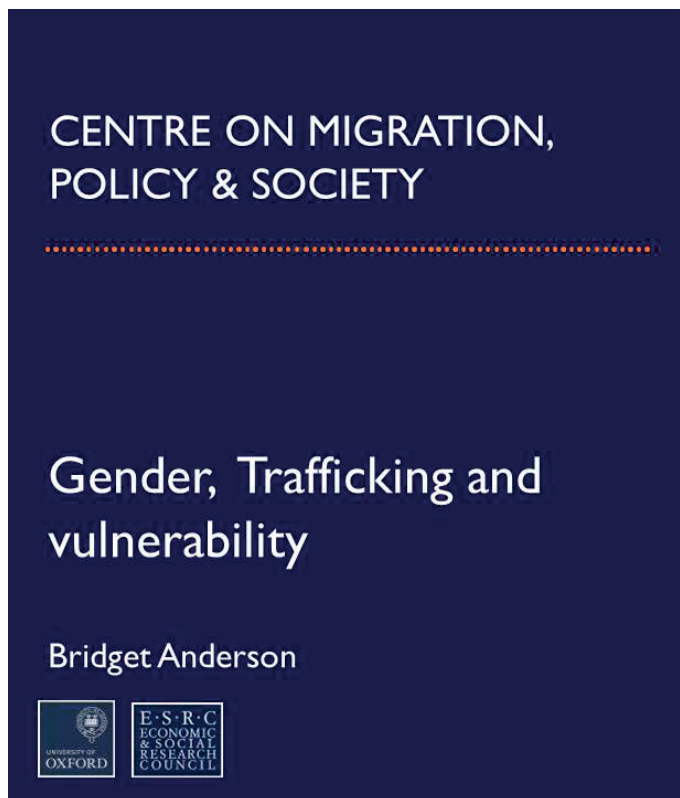




Session 5. Gender perspectives on migration

Gender and structural vulnerabilities: the case of migration and domestic work (Bridget Anderson)

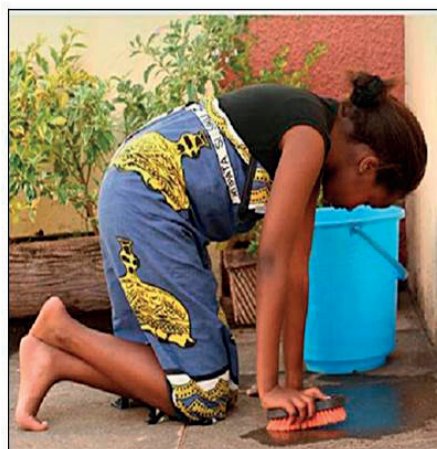
Slide 1



Slide 2

Gender and Migration

Gender ≠ Women



Slide 3

Who is the Worker?

Work $\neq$ Men



Slide 4

What is 'Domestic Work'?





Slide 5

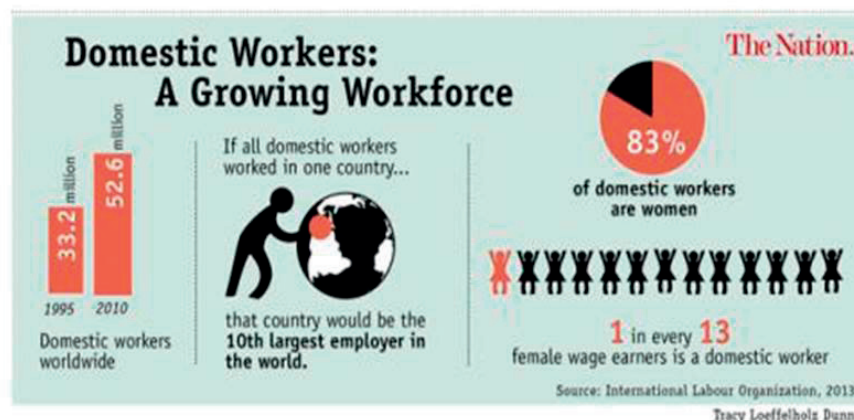
Equality for domestic workers

- Other migrant workers
- National domestic workers
- National workers
- Family members

?

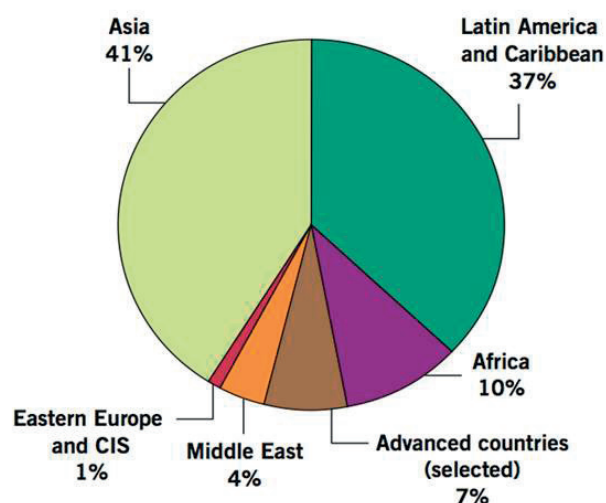
Slide 6

Importance of Domestic Work Sector



Slide 7

Concentration of Domestic Workers



Slide 8

Women and ambivalent allegiances

- The structuring power of the patriarchal family
- Wife and servant are the same. Only differ in the name?
- Connections between paid and unpaid domestic labour





Slide 9

Constructed Vulnerabilities (I)

- Domestic labour not really work
 - 'women's work' naturalised
 - Love not money
- Domestic labour not a 'proper job'
 - Home not governed by contract
- Domestic labour 'unskilled'
 - Anyone can do it if they have the time

Slide 10

Constructed Vulnerabilities (II)

- Exclusion from national labour legislation
- Partial coverage
- ILO report 3 key areas:
 - Working time
 - Minimum Wage
 - Maternity coverage

Slide 11

Constructed Vulnerabilities (III)

- Difficulty of accommodating domestic labour within a highly regulated migrant labour regime
- Demand for domestic work met outside the migrant labour regime (sometimes formally e.g. au pairs)
- Irregular and informal work
- Dependence on employing family for visa renewals or to not report
- Ambivalent nature of household as less subject to state intervention
- The case of Mrs Wang

Slide 12

Trafficking: Beyond Protection

- Domestic labour as major site of 'trafficking'
- Labour bans and illegalising mobility
- Consequences of 'protection': the case of the UK



Slide 13



Slide 14

Organising domestic workers: challenges

- Effective access to remedies difficult:
 - Insecurity of residence
 - Fear of deportation
 - Lack of proof
 - Ignorance of rights
 - State access to households
- Segmentation by race, nationality and religion
- Professionalisation and a multi-tiered system

Slide 15

Organising domestic workers: challenges

- In many states there are no employers' organisations.
- Employers are parliamentarians, trades union organisers, journalists etc
- The personalised relationship between employer and worker
- These problems exacerbated for migrants
- These problems exacerbated for those who live-in



Convention No. 189 – Decent work for domestic workers (Miriam Boudraa)

Slide 1

PROMOTING THE
INTEGRATION OF
MIGRANT
DOMESTIC
WORKERS
IN EUROPE

C189 & R201: scope and main provisions

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 International Training Centre

Slide 2

PROMOTING THE
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DOMESTIC
WORKERS
IN EUROPE

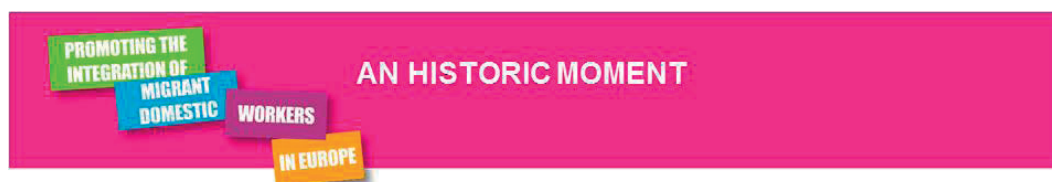
Domestic workers: Facts and figures

- There are over **50 million domestic workers** worldwide. That's equivalent to the entire population of South Korea
- 83 per cent are women**. That means one in every 13 female wage earners are employed in domestic work
- There are **more than 20 million** domestic workers in Asia Pacific alone They represent **41 per cent** of domestic workers — that's equivalent to the population of Sri Lanka. The number of domestic workers in the region nearly doubles between 1995 and 2010
- 8 billion US\$** of profits are made each year from domestic workers who are trapped in forced labour

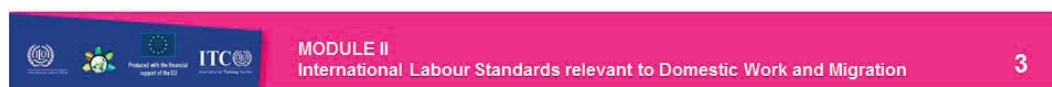
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International Labour Standards relevant to Domestic Work and Migration

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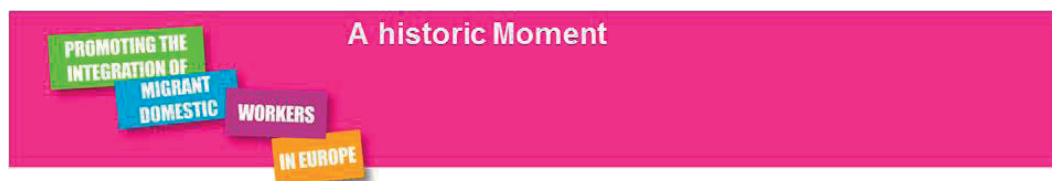
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Progress is being made. In June 2011 the **first Convention recognizing the rights of domestic workers** was adopted by the ILO's member States. In doing this the international community finally and positively affirmed that "domestic work is work".

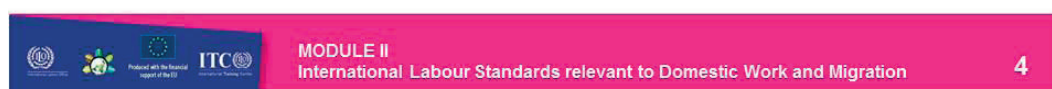


Slide 4



"We need effective and binding standards to provide decent work to our domestic workers, a clear framework to guide governments, employers and workers."

- **Halimah Yacob from Singapore, the Workers Vice-Chair at the 100th Session of the International Labour Conference**



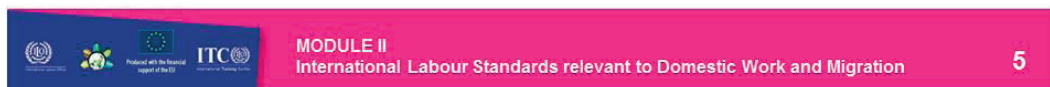


Slide 5



- *"The instruments before us are robust, practical and human and they hold tremendous potential for bringing domestic workers out of the shadows. They give faces to these workers who have been invisible for so long, barely even counted in the statistics until recently and they provide for domestic workers to be streamlined into the Decent Work Agenda"*

- **Toni Moore, worker delegate from Barbados, at the 100th Session of the ILC on behalf of the Worker Vice-Chairperson of the Committee on Domestic Workers**

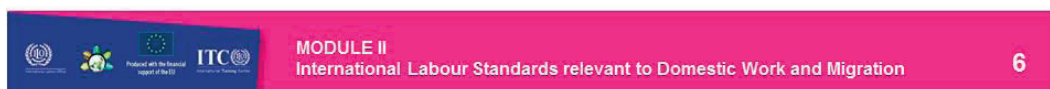


Slide 6



"We all agree on the importance of bringing domestic work into the mainstream and responding to serious human rights concerns. All employers agree there are opportunities to do better by domestic workers and the households and families for whom they work".

- **Paul MacKay from New Zealand, the Employers Vice-Chair at the at the 100th Session of the International Labour Conference**



Slide 7



- *"I believe that this Convention can provide guidance to the sending and host governments to protect migrant domestic workers. [...] Those domestic workers who work within their own countries must also be given the same protection. Thus, this Convention will help us formulate effective national legislation and regulations for this purpose."*
- **Susilo Bambang Yudhoyono, President of the Republic of Indonesia, at the 100th Session of the International Labour Conference**



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International Labour Standards relevant to Domestic Work and Migration

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C189 & R201: summary

- **Convention No. 189**
 - Sets minimum standards
 - Binding on ratifying States
 - In force since 5 Sept 2013
- **Recommendation No. 201**
 - Non-binding
 - Guidance for strengthening national laws, policies and practice
 - To be read in conjunction with Convention



MODULE II
International Labour Standards relevant to Domestic Work and Migration



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RATIFICATION BY COUNTRIES (14 countries)

- Argentina
- Bolivia
- Colombia
- Costa Rica
- Ecuador
- Germany
- Guyana
- Italy
- Mauritius
- Nicaragua
- Paraguay

- Philippines
- South Africa
- Uruguay



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 International Labour Standards relevant to Domestic Work and Migration

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Scope of ILO C189 & R201

- All domestic workers
- Under strict conditions, possible exclusions:
 1. Workers with higher or equivalent protection
 2. Workers in respect to which application of Convention's provisions poses serious problems

C.189, Art. 2



MODULE II
 International Labour Standards relevant to Domestic Work and Migration

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Scope - Definitions

- What is “domestic work”?
 - *“Work performed in an for a household or households”*
- Who is a “domestic worker”?
 - *“any person engaged in domestic work within an employment relationship”*
- Not a domestic worker:
 - *“a person who performs domestic work only occasionally or sporadically and not on an occupational basis”*

C. 189, Art. 1



MODULE II

International Labour Standards relevant to Domestic Work and Migration

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Scope - Definitions (continued)

- ***the employer of a domestic worker***
 - *The employer of a domestic worker may be a member of the household for which the work is performed, or an agency or enterprise that employs domestic workers and makes them available to households.*



MODULE II

International Labour Standards relevant to Domestic Work and Migration



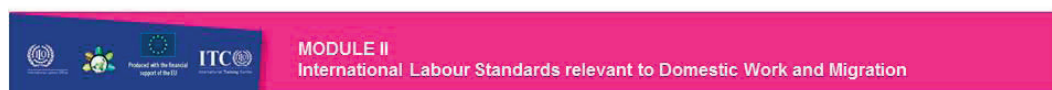
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C189 & R201: A rights-based approach

- Two overarching, inter-related obligations:

1. Effective promotion and protection of the human rights of all domestic workers
2. Measures to ensure fair terms of employment and decent working and living conditions
 - Protection against abuse, harassment & violence
 - Right to be informed on terms and conditions of employment

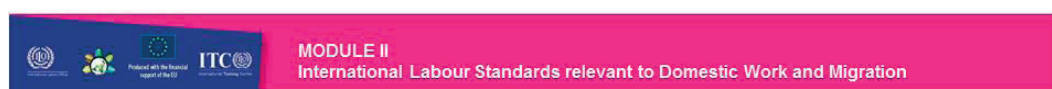
C.189, Art. 3 and 6



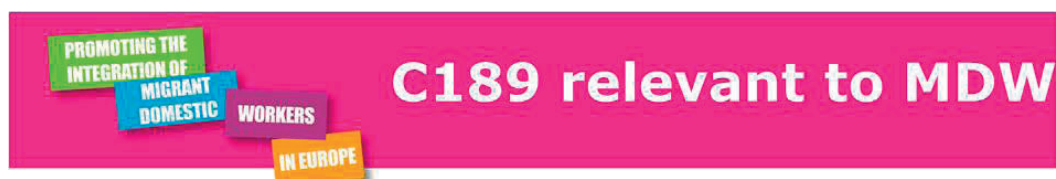
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C189 – global coverage

- The convention provides practical provisions touching upon the following subject matters:
 - Fundamental rights at work (article 3)
 - Protection against abuse, harassment and violence (article 5)
 - Protection of particular groups, children, live-in workers and migrant workers (respectively articles 4, 6 and 9, 8 and 15)
 - Fair terms of employment, decent working and living conditions (article 6)
 - Privacy (articles 6, 17)
 - Information on terms and conditions of employment, written contracts (article 7)
 - Working time (article 10)
 - Remuneration (articles 11 and 12)
 - Occupational safety and health (article 13)
 - Social security (article 14)
 - Private employment agencies (art.15)
 - Dispute settlement, complaints, enforcement (art.17)



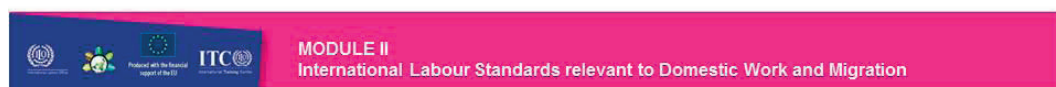
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Additional provisions specific for protection of migrant domestic workers

- Written job offer or contract before travelling to country of employment
 - Exception: workers enjoying freedom of movement for employment
- Conditions for repatriation to be specified
- Emphasis on cooperation between ILO Members

C.189, Art.8
R.201, Para. 20(2), 21, 22, 23, 26

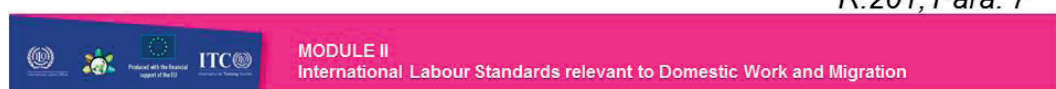


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- Protection of domestic workers from abusive practices by private employment agencies (Article 15).
- &
- Effective protection against all forms of abuse, harassment and violence
 - Including: physical, moral, sexual, & discriminatory (based on sex, gender, ethnicity, religion etc.)
- Right to be informed of terms and conditions of employment
 - In an appropriate, easily understandable, and verifiable manner
 - Preferably written contracts

C.189, Art. 5
R.201, Para. 7





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PROMOTING THE INTEGRATION OF MIGRANT DOMESTIC WORKERS IN EUROPE

C189 provisions relevant to MDW: Live-in domestic workers

**Face specific risks and issues.
 Migrant workers particularly concerned.**

- Key principles:
 - Decent living conditions respecting worker's privacy
 - Freedom to reach agreement on live-in requirement
 - No obligation to remain in household during daily and weekly rest, annual leave
 - Right to keep personal documents
- Access to third-party assistance and effective protection in case of dispute or abuse (R.201)

*C.189, Art. 6 and 9
 R.201, Para. 3, 17, 18*



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 International Labour Standards relevant to Domestic Work and Migration

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PROMOTING THE INTEGRATION OF MIGRANT DOMESTIC WORKERS IN EUROPE

C189 provisions relevant to MDW: Ensuring compliance

- Compliance with laws and regulation protecting domestic workers:
 - Crucial to make the Convention effective
- A combination of means
 - Effective and accessible complaints mechanisms
 - Develop and implement measures for labour inspection, enforcement and penalties
- Balancing the right to equal protection with the privacy of the home

*C.189, Art. 17
 R.201, Para. 7, 21, 24*



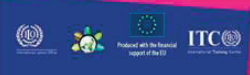
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 International Labour Standards relevant to Domestic Work and Migration

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C189 provisions relevant to MDW: Means of implementation

- A range of means:
 - Laws and regulations
 - Collective agreements
 - Additional measures
 - Arbitration awards, bilateral & multi-lateral agreements, policies and programmes, model contracts, codes of conduct provision of information, hotlines, outreach etc.
- Depending on the circumstances:
 - Extending or adapting existing measures to cover domestic workers
 - Development of specific measures
- In consultation with social partners



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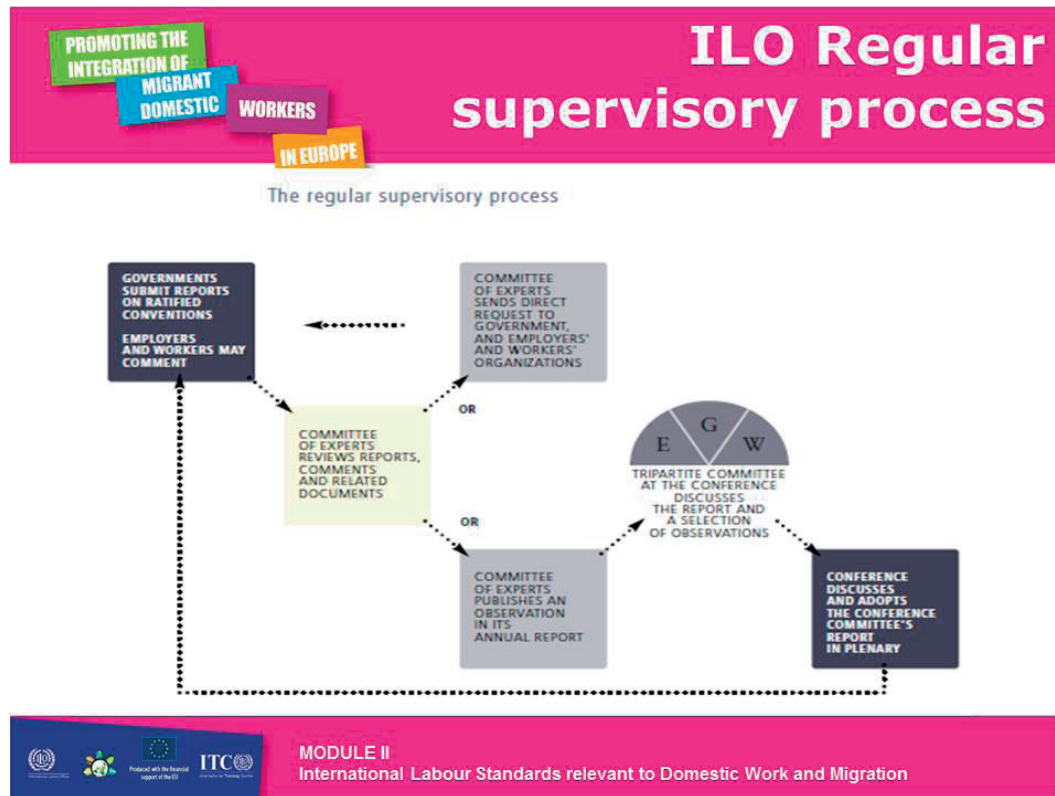
5. How the supervision of labour standards works and its contribution to the protection of (Migrant) Domestic Workers



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International Labour Standards relevant to Domestic Work and Migration



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The CEACR on Domestic Work: comments on Fundamental Conventions

PROMOTING THE INTEGRATION OF MIGRANT DOMESTIC WORKERS IN EUROPE

Article 2 of the FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE Convention, 1948 (ILO Convention No. 87), applies to all "workers and employers, without distinction whatsoever."

- The Right to Organise and Collective Bargaining Convention, 1949 (No. 98), seeks to ensure that workers enjoy adequate protection against interference in the establishment, functioning and administration of their representative organizations.
- The CEACR has consistently interpreted Conventions 87 and 98 as requiring that legislative provisions concerning freedom of association, including the right to organize, be extended to domestic workers and that these legislative provisions be applied in practice.

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International Labour Standards relevant to Domestic Work and Migration

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PROMOTING THE INTEGRATION OF MIGRANT DOMESTIC WORKERS IN EUROPE

The CEACR on Domestic Work: comments on Fundamental Conventions

The fundamental principles OF NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY reflected in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951 (No. 100), also apply to domestic workers.

- The CEACR has drawn attention to the vulnerability of these workers, in particular migrant domestic workers, to multiple forms of discrimination and abuse due to the individual employment relationship, lack of legislative protection, stereotyped thinking about gender roles and undervaluing of domestic work.
- laws or measures designed to promote equality of opportunity and treatment in employment and occupation that exclude domestic workers from their scope are contrary to these Conventions.
- domestic workers are often affected by wage disparities between men and women and has cautioned against undervaluing domestic work when fixing minimum wages.




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International Labour Standards relevant to Domestic Work and Migration

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PROMOTING THE INTEGRATION OF MIGRANT DOMESTIC WORKERS IN EUROPE

The CEACR on Domestic Work: comments on Fundamental Conventions

In its 2007 General Survey on the eradication of forced labour (ILO Conventions 29 & 105), the CEACR recalled that the prohibition of the use of forced or compulsory labour was a peremptory norm of modern international human rights law.

- The CEACR has addressed the important issue of trafficking of women, to which migrant domestic workers can be particularly vulnerable.
- In its 2001 general observation on Convention No. 29, the CEACR asked Members to ensure that those responsible for the exaction of forced labour from legal or illegal migration, inter alia in domestic work, are actually punished, and that trafficking in persons be suppressed.




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International Labour Standards relevant to Domestic Work and Migration



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PROMOTING THE
 INTEGRATION OF
 MIGRANT
 DOMESTIC

WORKERS
 IN EUROPE

The CEACR on Domestic Work: comments on Fundamental Conventions

The CEACR has been very active in responding to the problem of child labour in domestic work, when examining implementation of the Worst Forms of Child Labour Convention, 1999 (No. 182), a crucial source of guidance on the setting of standards to combat child domestic labour, and the minimum age convention (No.138).

- The CEACR has repeatedly called upon member States to take effective action to prevent child domestic labour, highlighting the traditional practice of entrusting young children (often distant relatives) to the care of adults – such as the *restavek* system in Haiti that has led children into forced labour.

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 International Labour Standards relevant to Domestic Work and Migration

Session 6. The road to the ASEAN Community 2015

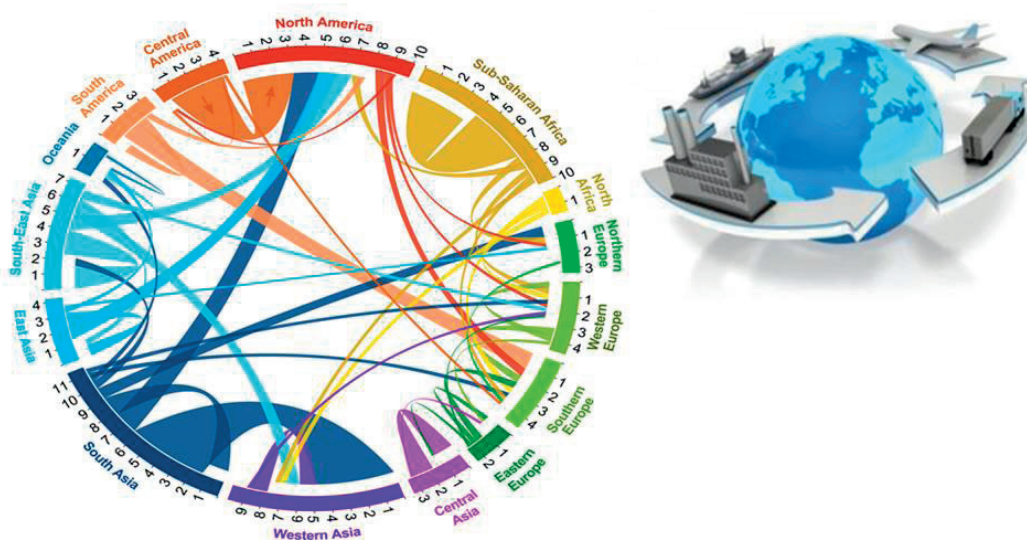
Trade and Migration: Lessons for AEC 2015 (Philip Martin)

Slide 1

Migration and Trade

Philip Martin

July 10, 2014



Slide 2

Highlights

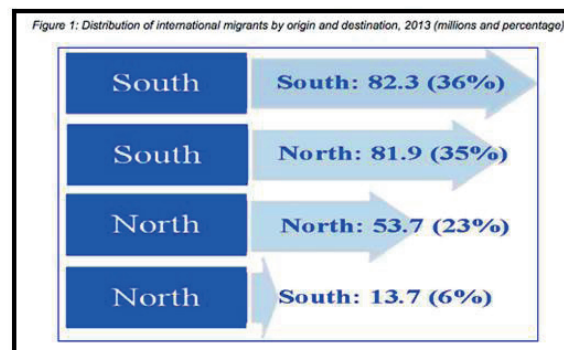
- Free trade = free lunch in economics. MOST people benefit from comparative advantage, specialization, & more jobs & lower prices
- More trade & FDI = MORE **temporary** migration of business people. Why? complex goods, FDI, intra-comp transfers
- More trade CAN = more migration of low-skilled, **migration hump** from poorer-richer
- ASEAN 2015, only high-skilled. Expect few migrants because of language differences, few credential MRAs, little path dependence



Slide 3

Key Trade & Migration Facts

- World trade: \$22 trillion in 2012 (82% goods).
 Trade = 1/4 of \$85 trillion global GDP. Trade up & down in 2-1 ratio with GDP (GDP up 2%, trade up 4%)
- 1990-2013: Global pop up 34% (5.3 bil to 7.1 bil);
 global migrants up 50% (155 million to 232 million); remittances to ldc's up 1200% (\$31 bil to \$414 bil)



Slide 4

Trade & Migration 1

- **Normal:** trade = substitute for migration.
 Export tomatoes from Mexico to US or tomato pickers. Trade in goods leads to convergence in wages & less migration
- **But:** trade & migration can be complements, that is, increase together:
 - Professionals (BS or more): complex goods may require seller to educate buyer about machinery, airplanes etc, & service after sale
 - FDI means movement of investors, managers, technical staff etc
 - Professional migrants: limited #s, uncontroversial

Slide 5

Trade & Migration 2

- Low-skill migration from poorer to richer countries = big numbers & controversy
- How can freer trade increase low-skilled migration?
 - Displace workers in traditional sectors OR youth in ag, fishing etc realize that, to get ahead, they must change occupations & area
 - FDI creates new jobs, but they can be (1) near ports & borders (infrastructure) & (2) go to local youth with sec school education
 - IF networks connect displaced workers with foreign jobs, trade & migration increase together

Slide 6

NAFTA 1994 (Canada-US FTA 1989)

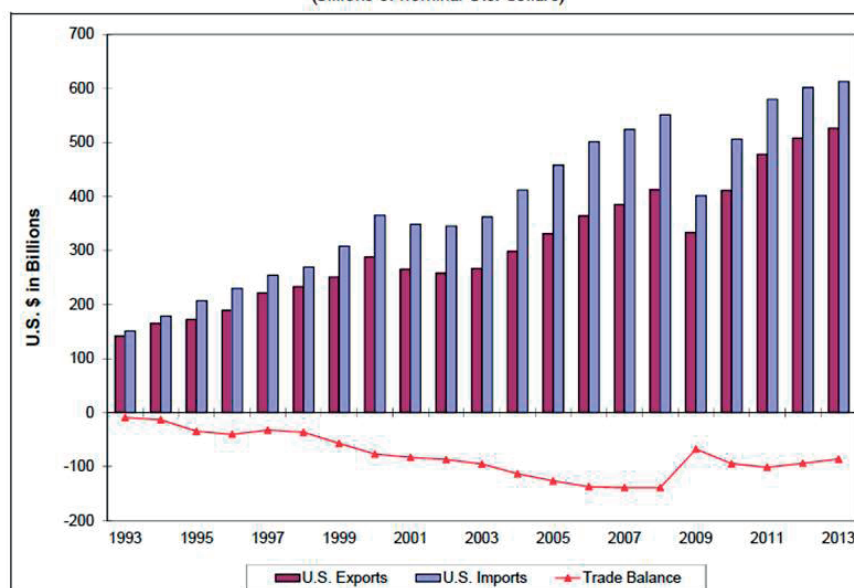
- NAFTA: free up trade & investment between Canada, Mexico, & US (not EU)
 - Canada: economy smaller than California
 - Mexico: economy smaller than Los Angeles
 - Most NAFTA adjustments & benefits in Mexico
 - Mexico: locks new econ policies in int'l treaty
- 1994: major relationship between Mexico & US was migration. Average wage diff = 8-1
- NAFTA = success: trade & migration up sharply. Mexico attracted FDI. Auto industry restructured along I-35



Slide 7

NAFTA: Mexico-US trade up 5x 1993-2013; Canada-US up 2x
US deficit with NAFTA partners disappears if oil, 1/6 of total trade, is removed

Figure 1. U.S. Merchandise Trade with NAFTA Partners: 1993-2013
 (billions of nominal U.S. dollars)



Source: Compiled by CRS using trade data from the U.S. International Trade Commission's Interactive Tariff and Trade Data Web, at <http://dataweb.usitc.gov>.

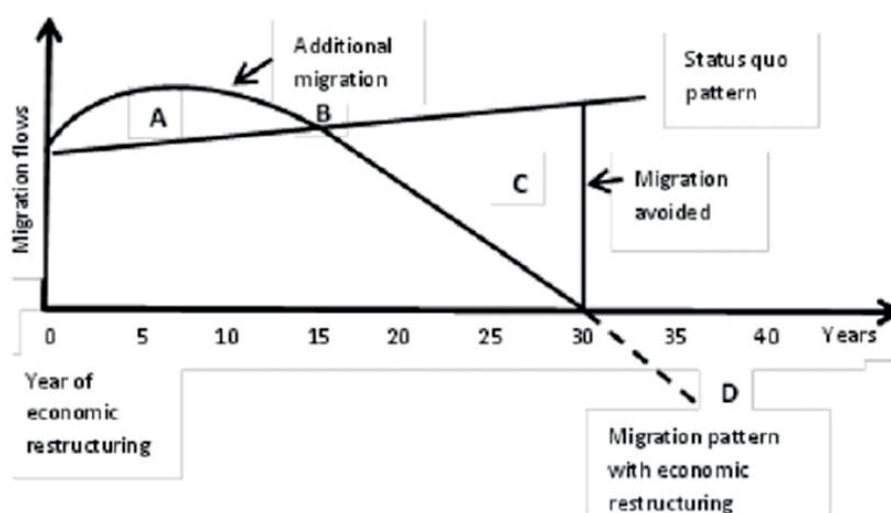
Slide 8

But trade & low-skilled migrants up together

- Trade & FDI up: (1) Mexico has low wages & (2) is closer than Asia (4 days by truck, 4 weeks by ship)
- NAFTA investments concentrated in border-area maquiladoras
- 1994: 1/3 of Mexicans employed in agriculture, & 50% produce corn on small dryland plots
- US state of Iowa produced 2x more corn than all of Mexico, & at half the price
- After NAFTA, rural Mexican youth with better education realize there was no future in small-scale ag, and some moved within Mexico & to the US
- Any potential for similar story in ASEAN rice?

Slide 9

Mexico-US Migration Hump: 1994-2008



Slide 10

NAFTA: Freer trade in corn made small Mexican farmers realize they had no future: some migrate



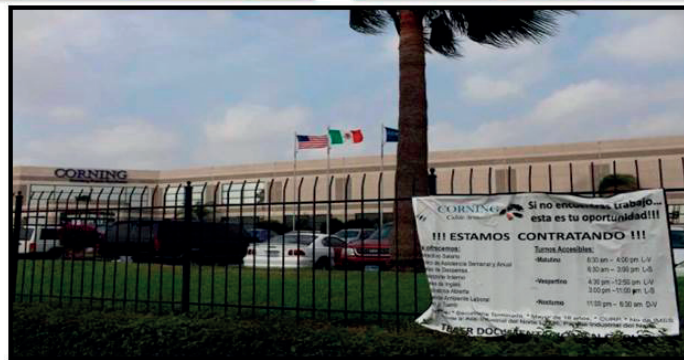
Iowa produced twice as much corn as Mexico in the early 1990s, and at half of the price. Exports of US corn to Mexico rose & Mex-US migration up





Slide 11

**NAFTA: Millions of new factory jobs for young women who finished sec school.
Vertical supply chains—materials into Mexico, assemble into goods, & export**



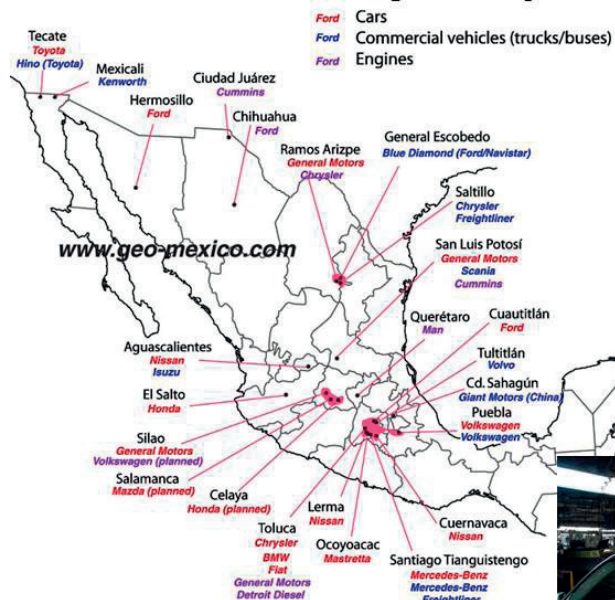
Slide 12

NAFTA: Specialization & economies of scale. Mexican exports to the US = 40% US content, Canada imports = 25 % US content, Chinese imports = 4% US content



Slide 13

Mexico: world's 8th largest vehicle producer, 4th largest exporter

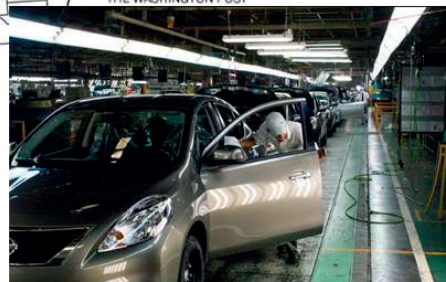


Mexico's automobile boom

Mexico produced a record 3 million vehicles in 2012, placing eighth in the world. Output is projected to spike in the next three years as new plants open and production ramps up.

	Total production, 2012	Change over 2011
China	19.2 million	+4.6
U.S.	10.3	+19.4
Japan	9.9	+18.4
Germany	5.6	-10.5
S. Korea	4.5	-2.1
India	4.1	+5.6
Brazil	3.3	-1.9
Mexico	3.0	+12.0
Thailand	2.8	+90.9
Canada	2.5	+15.4

Sources: Mexican Auto Industry Association; Int'l Organization of Motor Vehicle Manufacturers
THE WASHINGTON POST



Slide 14

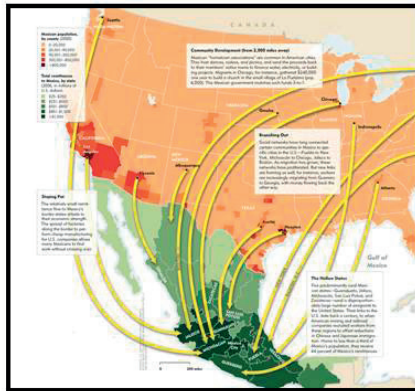
NAFTA Superhighway: links northern Mexico with US Midwest & Ontario





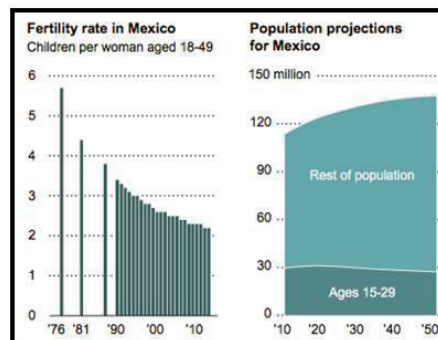
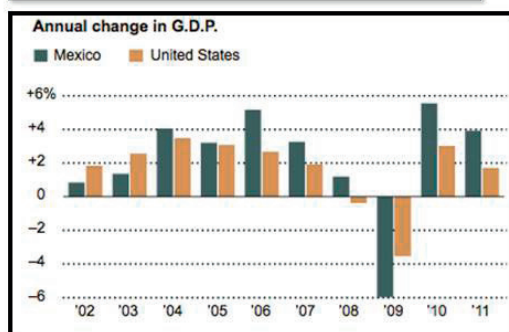
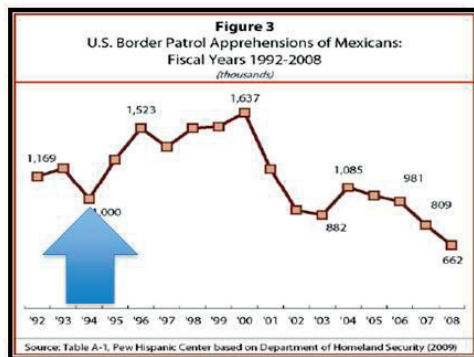
Slide 15

**Mexico-US migration: small farmers and their children migrate to the US illegally
(NAFTA did not deal with migration)**



Slide 16

Mexican apprehensions peaked at 1.6 million in 2000 (4,400/day)



Slide 17



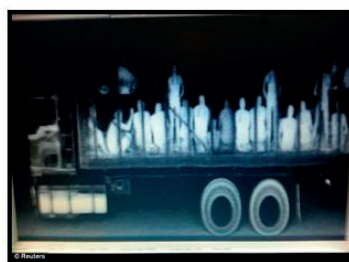
Slide 18

US response: wall on Mexico-US border to reduce Mexico-US migration



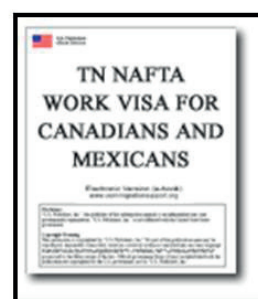
Slide 19

Moving freight, regular (left) & “trusted” (right) trucking at Laredo border crossing



Slide 20

NAFTA-TN visas: about 70,000 Canadians & 20,000 Mexicans in the US

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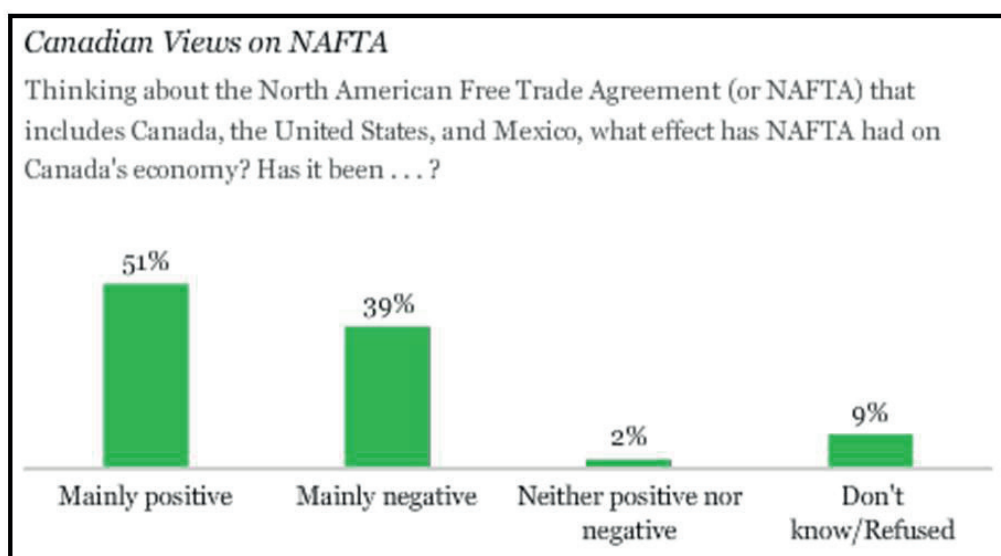
Slide 21

Freer trade can INCREASE low-skilled migration

- Small Mexican corn farmers need to change occupation & area. Move within Mexico or to US?
- **Path dependence:** Better US infrastructure means Mexican workers are *more productive in US* than in Mexico. Some US firms expand with Mexican workers in US, not Mexico (shoe production)
- Other reasons for migration hump:
 - Missing markets: after emergency in rural Mexico, fastest way to repay high-interest loan is to migrate to US
 - Faster growth in Mexico enables people who were too poor to pay smuggles etc to migrate

Slide 22

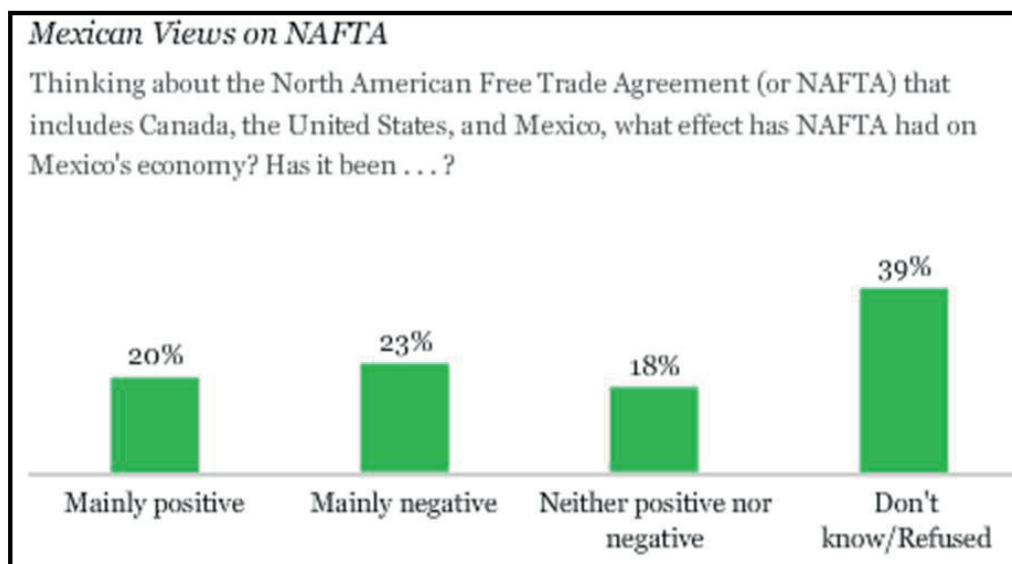
NAFTA controversial: Canada, 2008: 51% say NAFTA positive for Canada's economy





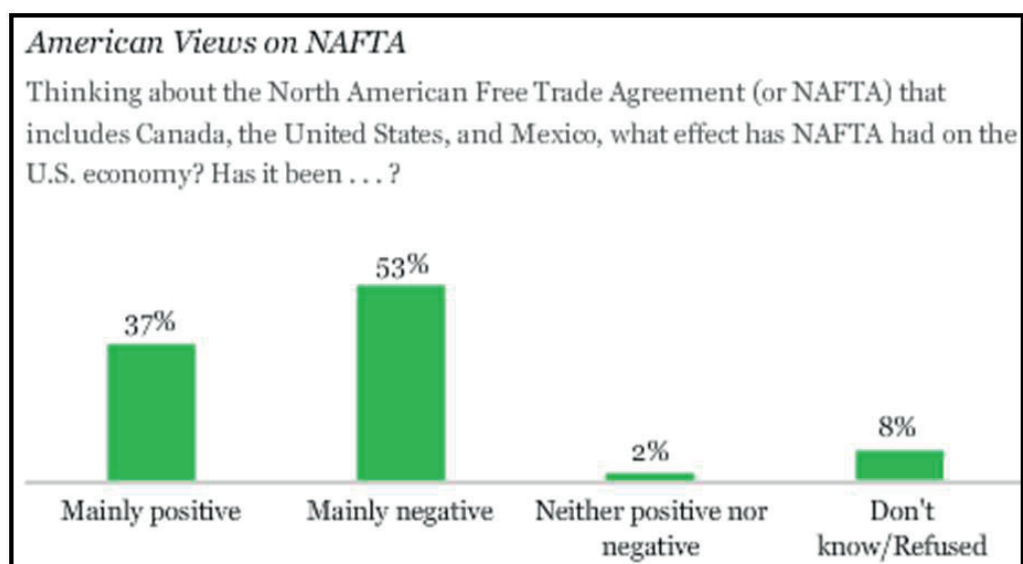
Slide 23

Mexican Views of NAFTA, 2008: 20% say NAFTA positive for Mexico's economy



Slide 24

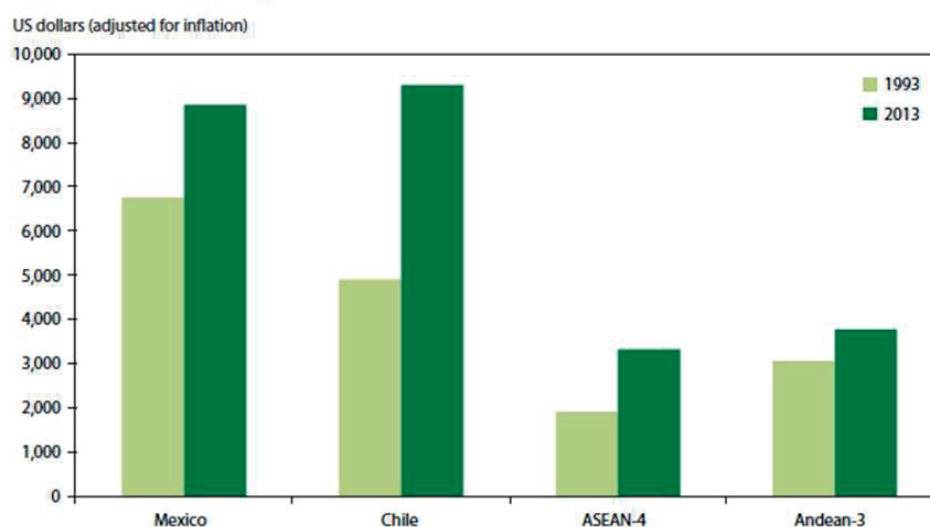
US Views of NAFTA, 2008: 37% say NAFTA positive for US economy



Slide 25

Mexican growth slow. 1993-2013: Mexican real GDP/capita up 31%
Chile up 90%; ASEAN 4 up 75%; Andean 3 up 24%. Why? Mexican drug violence, poor education & infrastructure, oligopolies & high prices

Figure 4 Real GDP per capita levels for select countries



Note: ASEAN-4 consists of Indonesia, Malaysia, the Philippines, and Thailand. Andean-3 consists of Bolivia, Ecuador, and Venezuela.

Source: ERS baseline dataset, US Department of Agriculture.

Slide 26

ASEAN AEC 2015 & Migration

- 10 countries, 600 million people, 300 million workforce; Big 3 = 70%, Indo 40%, Phil 16%, Viet 15%
- Why AEC 2015: freer trade & invest = comparative advantage, specialization, & economies of scale
- Hanoi 1998: promote a “freer flow of skilled labor and professionals in the region”
- Today: most intra-ASEAN **skilled** labor flows are into SIN, smaller into Malaysia, & Thailand
- But: most migrants moving within ASEAN are low-skilled, e.g. Indonesians to Malaysia or Burmese to Thailand. Generally unilateral TFWPs, that is destination makes regulations, or bilateral (Thai MOUs)



Slide 27

ASEAN: 600 million people, almost \$2 trillion GDP, average per capita \$3,100, but range from <\$1,000 to >\$40,000, and 40:1 income differences provide economic incentives to migrate

	Population (million, 2010)	GDP Size (US\$ billion, 2010 prices)	GDP per capita (US\$, 2010 prices)
Brunei Darussalam	0.41	12.4	30,173.2
Cambodia	15.27	11.2	733.5
Indonesia	234.18	708.0	3,023.3
Lao PDR	6.28	6.5	1,035.0
Malaysia	28.91	238.8	8,260.1
Myanmar	60.16	43.0	714.8
Philippines	94.01	189.3	2,013.6
Singapore	5.08	223.0	43,897.6
Thailand	67.31	318.7	4,734.8
Viet Nam	86.93	107.7	1,238.9
ASEAN	598.54	1,858.6	3,105.2

Slide 28

ASEAN 2010: 4 net in-migration countries, 6 net out-migration

	Population ('000)	Labor Force ('000)	Outward Migration ('000)	Inward Migration ('000)	Net Migration Flow ('000)
Singapore	5,184	2,632	297	1,967	1,670
Malaysia	28,251	12,250	1,481	2,358	876
Thailand	63,878	38,977	811	1,157	346
Brunei Dar.	414	202	24	148	124
Cambodia	14,953	8,050	350	336	(15)
Lao PDR	6,437	3,179	367	19	(348)
Myanmar	61,187	27,337	515	98	(417)
Indonesia	237,641	117,578	2,504	397	(2,107)
Viet Nam	88,257	47,936	2,226	69	(2,157)
Philippines	94,010	39,639	4,276	435	(3,840)
ASEAN	600,212	297,780	10,626	6,915	(3,710)

Source: World Bank. Bilateral Estimates of Migrant Stocks in 2010

Slide 29

ASEAN Migrants to OECD = mostly highly skilled (but not SE Asian refugee flows and family unification)

Stock	Emigrants 15+ ('000)	% men	Low educated (%)	High educated (%)	15-24 (%)	65+ (%)
PHI	2,502.3	38.6	13.7	51.9	9.5	12.2
VIE	1,757.7	48.6	33.5	27.7	8.4	9.9
THA	346.9	32.6	30.6	33.4	20.8	3.3
INO	336.0	45.4	17.9	41.9	10.9	24.6
LAO	256.1	49.4	41.1	19.7	3.5	9.1
CAM	254.5	46.9	45.4	19.7	6.2	10
MAL	245.9	44.3	11.6	58.4	17.5	7.6
SIN	119.3	45.7	16.3	52.7	17.1	6.5
MYA	78.4	48.2	25.3	44.3	9.8	18
BRU	9.8	47.6	17.8	51.2	23.6	2.7

Slide 30

ASEAN AEC 2015: Top-down freedom of movement. 8 occupations: accountants, architects, dentists, doctors, engineers, nurses, surveyors and tourism industry workers





Slide 31

High-skilled migration = up with FTAs, but how much?

- More trade and investment = more movement of investors & entrepreneurs. What options to explore business opportunities?
- Multi-nationals move professionals between subsidiaries: **short term** until local workers are trained or **long-term** to rotate managers
- Complex goods often tailored to the needs of particular buyers (airplanes, heavy machinery) & seller must educate buyer before the sale, service after the sale
- Professionals: self-limiting numbers; few integration issues

Slide 32

Thinking about labor migration

- Labor migration: a process to be managed, not a problem to solve
 - Goal: a world with few barriers to migration, and little unwanted migration
 - The best way to protect local workers from “unfair” competition is to protect migrants; avoid a race to the bottom
 - Promoting professional migrants: long road via student exchanges, MRAs etc
 - Migration hump: more low-skilled migration & controversy

Slide 33

CARI CAPTURES • ISSUE 180

05 ECONOMISTS: ASEAN A 'RELUCTANT ECONOMIC BLOC'



While ASEAN nations are working on their 2015 vision in creating a single market and an integrated economy that allows free flow of business within its ten member nation, a harsh reality is that there are still restrictions exist as per Paulius Kuncinas, Asia regional editor of the Oxford Business Group on June 26, "ASEAN is a very efficient and very ambitious trading bloc but it somehow got stuck in the path of reaching a full economic integration".

- ▶ A factor that may potentially hamper ASEAN's aspiration in becoming a fully integrated economy by 2015 is "cultural divergence" and "development ranges" between the member countries, according to economists; the different economy sizes within ASEAN in addition to its wide-ranging GDP values will make the integration hard to achieve
- ▶ Another major challenge faced by the ASEAN nations is their incompetency in the global market; in which the economists agreed that the five strongest ASEAN members should come up with their respective flagship products to be marketed globally
- ▶ Ralph Sorenson, director of Whole Foods Market and professor at the College of Business and Administration at the University of Colorado specified the strengths of the five nations: Indonesia 's rich natural resources, Thailand with automobile and assembly, Singapore with banking, Malaysia with rubber and the Philippines' business process outsourcing
- ▶ Head of clients and corporate finance of Asia ING Bank, Manuel Salak III highlighted the importance of small and medium enterprises (SMEs) in the ASEAN integration, as he said that the SMEs "form the backbone of the economy of the ASEAN region"

ASEAN is a very efficient & ambitious trading block, but it somehow got stuck on the path to reach full economic integration. Why? Development differences
 Flagship exports
 Indo: nat resources
 Thai: vehicles
 Malaysia: palm & rubber
 Phil: business process outsourcing



ASEAN Community towards better facilitation of labour migration (Mega Irena)

Slide 1

THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

COMPAS-ILO-ITC Senior Executive Seminar
ASEAN Regional Integration: Challenges and Opportunities
9-10 July 2014, Phuket, Thailand

Mega Irena
 Head, SWWLMW Division
 The ASEAN Secretariat



one vision
 one identity
 one community

Slide 2

AEC pillar: Facilitation of Mobility of Skilled Labour

- MRAs on Eight priority professions:
 - Engineering services, Architectural services, Accountancy services, Surveying qualifications, Nursing services, Medical practitioners, Dental practitioners, Tourism professionals
- ASEAN Qualification Reference Framework
 - *Different scope and level of NQFs, some AMS do not have NQF yet*
 - *Readiness of NQFs for referencing: mutual confidence needs to be built, strengthening institutional capacity*
 - *Buy-in of employers and professional bodies*
 - *Role of AQRF amidst labour markets trends?*
 - *Labour supply from home countries vs. labour demand / labour shortage in destination countries*
 - *Qualification recognition vs. fair remuneration*

Slide 3

APSC pillar: Facilitation of Movement of ASEAN Citizens

- ASEAN Framework Agreement on Integration of Priority Sectors (2004)
 - Commits AMS to provide visa exemption for intra-ASEAN travel of ASEAN citizens
- ASEAN Framework Agreement on Visa Exemption (2006)
 - AMS to provide visa exemption for no more than 14 days of visit of ASEAN citizens.
 - This Agreement shall not affect AMS' bilateral agreements on visa exemption (higher preferential)
- ✓ *Challenge in curbing flow of undocumented migrant workers as ASEAN integrates*

Slide 4

APSC pillar: Combating and Response to Trafficking in Persons (TIPs)

- ASEAN Declaration Against TIPs Particularly Women and Children (2004)
 - SOMTC's Working Group on TIPs: exchange of information and experiences on TIP issues; strengthening regional and international cooperation to prevent and combat TIP; facilitating donor coordination and cooperation vis-a-vis TIPs.
 - ASEAN Standard Operating Procedures for the Investigation of TIPs Cases
 - ASEAN Practitioners' Guidelines on Effective Criminal Justice Responses to TIPs
- ASEAN Leader's Joint Statement in Enhancing Cooperation Against TIPs in Southeast Asia (2011)
- On-going development of an ASEAN Convention on Trafficking in Persons (ACTIP) and a Regional Plan of Action to Combat Trafficking in Persons (RPA) → SOMTC
- ASEAN Human Rights Declaration
- ✓ *Addressing labour dimension of trafficking in persons*
- ✓ *Human rights protection and labour laws*



Slide 5

ASCC pillar: Protection and Promotion of the Rights of Migrant Workers

- Finalisation of the ASEAN instrument by end-2014
- Legality of the ASEAN instrument
- ✓ 88 legally-binding ASEAN documents across the three pillars (APSC: 14, AEC: 66, ASCC: 8) as available in <http://agreement.asean.org>.
 - Ratification by AMS
 - A dispute settlement mechanism
 - Monitoring mechanism
- ✓ *Impact of legality of the instrument to AMS*
- ✓ *Relation of the ASEAN instrument and existing bilateral MOUs*
- ✓ *Creating a favourable environment within ASEAN: impact to long-term trend of outflow migrant workers within ASEAN and leaving ASEAN*

Slide 6

Challenges and opportunities

- Policy coherence across pillars
- Comprehensive response:
 - Better understanding on inter-linkages of migration issues
 - Data availability
 - Inter-pillar dialogue and coordination

Slide 7

Thank you!

www.asean.org