

International Migration Programme

Policies and practices of highly skilled migration in times of the economic crisis

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Contents

	<i>Page</i>
Preface.....	v
Acronyms	vii
1. Introduction	1
2. National and regional approaches of highly skilled immigration policies before and during the crisis	5
2.1 Asia	6
Malaysia.....	6
The Republic of Singapore	6
2.2 Australasia.....	7
Australia.....	7
New Zealand.....	8
2.3 European Union	9
Blue Card Scheme	9
Czech Republic.....	10
Ireland.....	11
United Kingdom	12
2.4 Middle East.....	13
United Arab Emirates	13
2.5 North America.....	14
Canada	14
United States.....	15
3. Implications of the crisis on highly skilled migration and adjustments of immigration policies..	17
4. Comparison of changes in policies towards highly skilled and low-skilled workers.....	21
5. ILO's role and conclusions.....	24
Conclusions.....	25
Bibliography.....	29
Labour Ministries or Equivalent.....	35
International Migration Papers.....	37
Perspectives on labour migration	47

Preface

The current global financial and economic crisis has brought on an unprecedented rise in global unemployment, underemployment and informal work. Migrant workers are particularly vulnerable in times of economic downturn, often being the first to suffer from job cuts, in addition to facing shrinking employment opportunities and deteriorating working conditions. Highly skilled migrant workers, though usually benefiting from more favourable legal migration opportunities and working conditions relative to low skilled migrants, have nonetheless been affected by the implications of the crisis.

In this paper, Lucie Cerna examines the impact of the crisis on highly skilled immigration policies in five regions: Asia, Australasia, Europe, the Middle East, and North America. Until recently, destination countries have favoured policies seeking to attract highly skilled workers from abroad. With the onset of the crisis and increasing pressure to ‘protect’ native-born workers from rising unemployment, many governments have introduced restrictions on highly skill migration.

Yet, as the paper indicates, restrictions seem to result from tightening admissions criteria, not from changes in policies as such. This may be indicative of a possible return to more relaxed criteria when economies recover. A select number of countries have resisted introducing any restrictions to the admissions of highly skilled workers, on the basis that continuing to attract different skills can enhance their economies competitiveness, thus contributing to the solution for the way out of the crisis. Overly restrictive policies can have long term negative consequences on labour markets, making it difficult to attract workers back to meet demand as economies begin to recover. Highly skilled workers bring with them specialised skills, training and experience not easily replaced in the short term. They often fill persistent gaps in the labour market that continue even in times of crisis, and have an impact on countries’ long-term economic perspectives. Effective migration policies are those which consider short, medium and long term needs and offer flexibility in the face of changing economic contexts.

Countries seeking to formulate effective and fair labour migration policy responses to the crisis may find guidance in the Migration for Employment Convention, 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). In addition, both the non-binding ILO *Multilateral Framework on Labour Migration* and the *Global Jobs Pact* set forth principles and specific policy options highly relevant to the period ahead.

The main purpose of the ILO working paper series, *International Migration Papers*, is to disseminate the results of research on relevant and topical issues, among policy makers, administrators, social partners, civil society, and the media and the research community. We hope that this paper will contribute to the efforts of constituents to better analyze the implications of the process of labour migration for development, and support them in the design and implementation of policies and programmes that serve to maximise the development benefits of migration.

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Acronyms

APEC:	Asia-Pacific Economic Cooperation
ASEAN:	Association of Southeast Asian Nations
EU:	European Union
FY:	Financial Year
GCC:	Gulf Cooperation Council
GDP:	Gross Domestic Product
HSI:	Highly Skilled Immigration
HSMP:	Highly Skilled Migrant Programme
ICT:	Information and Communication Technologies
ILO:	International Labour Organization
IMF:	International Monetary Fund
IOM:	International Organization for Migration
IT:	Information Technology
MAC:	Migration Advisory Committee
MERCOSUR:	Mercado Común del Sur
MPI:	Migration Policy Institute
MSL:	Minimum Salary Level
NAFTA:	North-Atlantic Free Trade Agreement
OECD:	Organization for Economic Cooperation and Development
TARP:	Troubled Assets Relief Programme
TFW:	Temporary Foreign Workers
UAE:	United Arab Emirates
UK:	United Kingdom
UN:	United Nations
US:	United States
USCIS:	US Citizenship and Immigration Service

1. Introduction

In the boom years, migrants picked fruit in southern California's orange groves, worked on construction sites in Spain and Ireland, designed software in Silicon Valley and toiled in factories all over the rich world. Many will continue to do so, despite the economic downturn. But as unemployment rises in most rich countries, attitudes towards migrants are hardening.

(The Economist, 2009b)

With globalization and technological innovation, the demand for migrant workers in the developed economies has shifted towards the highly skilled. Nevertheless, low-skilled migration still represents the majority of migrant flows. After decades of low-skilled immigration after WWII (mainly through guest-worker programmes), industrialized countries have recently engaged in the recruitment of highly skilled migrants. The affected economic sectors included high-technology, engineering, information technology (IT), biotechnology and health care, among others. Employers were confronted hit by labour market shortages in these particular sectors because the domestic labour market and education system could not produce graduates and workers in the quantity and the pace required.

The literature includes a wide variety of definitions for highly skilled immigrants. These also vary across countries. But highly skilled immigrants are commonly defined as “having a university degree or extensive/ equivalent experience in a given field” (Iredale, 2001: 8, see also Salt, 1997: 5). Definitions also consider education, occupation and even salary. Highly skilled immigrants often work in private, internationally competitive sectors (some examples mentioned above), but also in public sectors, such as education and health care.

Traditional settlement countries (e.g. Australia, Canada, New Zealand and the United States) have implemented policies to attract highly skilled migrants, first to increase human capital and later to fill labour shortages. Australia and the United States have both introduced programmes for the temporary migration of workers (the 457 visa and the H-1B visa, respectively), which can be adjusted based on labour market demands (ESCAP, 2008). Until recently, host countries' goal was to attract highly skilled and professional migrants, and they were prepared to offer them more benefits, such as permanent residence and family reunification (ESCAP, 2008: 8). This has not been the case for low-skilled migrants, although policies of destination countries vary widely.

Two sources of labour shortages exist: 1) structural labour shortages, such as in health care, where supply of new job entrants is limited through professional associations (i.e. supply-induced shortages), and 2) technology induced shortages, where the skill base for new technologies has not been created (i.e. demand-induced shortages).¹ But the extent of labour shortages is disputed. In general, “shortages occur in a market economy when the demand for workers for a particular occupation is greater than the supply of workers who are qualified, available, and willing to do that job” (Veneri, 1999: 15). However, “there is no universal definition or measure of what defines a ‘shortage’” (MAC, 2008: 13). Based on standard approaches to modeling the labour market, occupations or sectors with labour shortages should experience higher wages and employment rates. Employers and workers respond differently due to varying types of shortages depending on the labour market

¹ For a detailed analysis of labour shortages, see OECD 2003.

context, such as rigidities and coherence of the labour market² (Veneri, 1999). For example, the 2008 Migration Advisory Committee Report in the United Kingdom identified four basic sets of indicators of labour shortages (MAC, 2008: 13-14).³

While in the past years, governments have focused on filling labour shortages, during 2008-2009, the context and deep-rooted assumptions about immigration, highly skilled or not, are changing. It is a time when most countries face an economic shock – a global economic crisis – potentially the most serious one that the world economy has ever faced. Universally, unemployment is increasing, growth contracting and deficits deepening.

The International Monetary Fund (IMF) predicts that world output will decline by 0.6 per cent this year – the lowest rate since World War II. In 2007 and 2008, world output grew by over five per cent and 3.4 per cent, respectively. The European Union (EU), Japan, the United States and other large developed economies had already entered into recession as early as the fourth quarter of 2007 (ILO, 2009b: 3). Tables 1.1 and 1.2 below provide an overview of world output⁴ for 2008 and 2009, by region and by country under investigation in this report. At the global level, the number of unemployed grew in 2008 by 14 million. Worldwide unemployment could increase by at least 38 million by the end of this year (ILO, 2009b: v).⁵

Table 1.1: World Economic Output, by Region

	2008	2009
World Output	3.2	-1.3
United States	1.1	-2.8
Euro Area	0.9	-4.2
Japan	-0.6	-6.2
Other Advanced Economies	1.2	-3.9
Africa	5.2	2.0
Developing Asia	7.7	4.8
Central and Eastern Europe	2.9	-3.7
Western Hemisphere ⁶	4.2	-1.5
Middle East	5.9	2.6

Source: IMF, World Economic Outlook 2009: 189.

² Rigidities prevent the market from working properly. According to a dominant perspective, stronger rigidities in labour markets are associated with higher unemployment and vice versa. Coherence of labour market refers to the interplay between political and economic institutions.

³ These are employer-based indicators (e.g. reports of shortage from skill surveys); price-based indicators (e.g. relatively rapid earnings growth); volume-based indicators (e.g. employment or unemployment); and other indicators of imbalance based on administrative data (e.g. vacancies or vacancy/unemployment ratios) (MAC 2008: 13-14).

⁴ This is the change in real gross domestic product (GDP).

⁵ For an excellent analysis of the current economic situation and overall immigration policy responses around the world, see Awad (2009).

⁶ The Caribbean, Latin America and Mexico.

Table 1.2: World Economic Output, by Country under Investigation

	2008	2009
Australia	2.1	-1.4
Canada	0.5	-2.5
Czech Republic	3.2	-3.5
Ireland	-2.3	-8.0
Malaysia	4.6	-3.5
New Zealand	0.3	-2.0
Singapore	1.1	-10.0
United Arab Emirates	7.4	-0.6
United Kingdom	0.7	-4.1
United States	1.1	-2.8

Source: IMF, World Economic Outlook 2009: 190-195.

All countries under investigation are predicted to have a negative growth rate in 2009, which has put pressure on governments to act. From emergency provisions, such as bailouts and stimulus packages, Governments have scrambled to find solutions. One political response has been a backlash against globalization in general, and trade and immigration in particular. Voices calling for more restrictive policies have risen as the crisis deepens. Highly skilled migrants are affected by the crisis, but not in the same way as low-skilled workers. The impact of the crisis and its policy responses vary from country to country and from region to region. In 2008, the Migration Policy Institute (MPI) argued that “highly skilled immigrants present the best near-term solution to fill shortages and enhance competitiveness. That’s why gloomy economic forecasts do not seem to have slowed the hunt for highly skilled migrants” (MPI, 2008: 1). Is this really the case?

The purpose of this research paper is to conduct a comparative analysis of the implications of the crisis on highly skilled immigration (thereafter HSI) and policy responses arising in different national and regional contexts. The paper also proposes a comparison of changes in policies towards highly skilled and low-skilled migration. It concludes by analysing the implications on HSI and the International Labour Organization’s (ILO) role in this context.

The research paper is based on a desk study and the main references are reports from international organizations, such as the ILO, the International Organization for Migration (IOM) and the Organization for Economic Co-operation and Development (OECD), websites of Labour Departments or their equivalents, websites of research institutions, press releases and some academic reviews. Five regions (Asia, Australasia, Europe, the Middle East and North America) and 12 destination countries were selected for this study – Australia, Canada, the Czech Republic, Ireland, Malaysia, New Zealand, the Republic of Singapore, the United Arab Emirates, the United Kingdom, and the United States. The paper also reviews the European Union’s new immigration scheme: the Blue Card Directive. Countries were selected on a number of criteria. As most existing studies focus on Western Europe and North America, this report also examines other regions with highly skilled host countries.

First, the selected countries include the largest inflows of highly skilled migrants or highest proportions of migrants among highly skilled workers in their region. Their highly skilled programmes are the most developed and important programmes in terms of flows and impact. Australia, Canada, New Zealand and the United States, for example, all

received inflows of 100,000 highly skilled migrant workers or more in 2005 (OECD, 2007). Second, the goal of this selection is to include countries with a wide variety of policy approaches towards highly skilled migrants. Whereas the policies of traditional settlement countries (i.e. Australia, Canada, New Zealand and the United States) used to be aimed at permanent immigration, the purpose of labour immigration in other countries is temporary migration. Nevertheless, settlement countries have increasingly adopted temporary migration policies to fill labour market shortages. Third, specific policy responses in certain destination countries exist that are of particular interest. Some have reacted to the economic crisis by adjusting highly skilled immigration policies, while others have not. Finally, one selection criterion has been the availability of detailed information on HSI policies. In some countries, policies are not fully developed.

A number of governments have announced more restrictions on HSI policies, but the question remains how significant and severe these restrictions are. Has the quota of highly skilled immigrants been reduced? Have the conditions for entry become more difficult? Have HSI policies been discontinued? Are countries waiting for further implications of the crisis before the implementation of drastic measures?

The paper proceeds in the following way. In Part 2, five regions (Asia, Australasia, European Union, Middle East and North America) – the largest receivers of highly skilled immigrants – will be examined to analyze the changes (or lack of) due to the economic crisis. Part 3 will consider the implications of the crisis on HSI, while Part 4 will compare highly skilled and low-skilled migration policies. Finally, Part 5 will focus on ILO's role during these challenges and provide some conclusions for the paper.

2. National and regional approaches of highly skilled immigration policies before and during the crisis

Job losses during economic crises vary across the economy of a country (Papademetriou and Terrazas, 2009). Many highly skilled migrants work in sectors such as health and social services, which are not cyclical and thus are expected to grow as destination countries age. For instance, “more than 15 percent of immigrants are employed in health and social services in Denmark, Norway, Sweden and the United Kingdom” (Papademetriou, Sumption and Somerville, 2009: 3).

In contrast to the non-cyclical sectors above, labour immigration in general is an escape valve for labour markets: when the economy grows, more labour migrants can be absorbed. When economic growth decreases, fewer migrants enter labour markets. Labour migration aims at keeping wages under control and maximizing growth in times of economic expansion. Therefore, migrant workers are likely to be the first ones to lose their jobs in an economic recession (Awad, 2009). The long-term challenge of admitting needed highly skilled immigrants is threatened by short-term political concerns (myopic choices), prompting Governments to restrict labour immigration.

According to Philip Martin, the concentration of job losses during this economic crisis has been in “four major sectors - construction, financial services, manufacturing, and travel-related services. Migrants are employed in all these sectors, but their characteristics differ by sector” (Martin, 2009: 6). Migrants employed in construction and travel-related services usually hold low-skilled jobs, whereas those working in manufacturing mainly have semi-skilled jobs. Migrant workers employed in financial services generally hold highly skilled jobs (Ibid, 2009).

In order to examine the consequences of the economic crisis for highly skilled migration policies, previous policies should be compared to policies adopted during the crisis. Papademetriou, Sumption and Somerville (2009) argue that countries can implement the following channels to restrict their immigration policies:

1) Governments could require a job offer for immigration categories which do not currently need one. For example, some countries have supply-driven programmes, mainly permanent ones, where migrant workers are admitted and have a certain time period to look for a job. If the programme was adjusted that migrant workers were only allowed into the country with a job offer in hand, this would limit admissions to those immigrants who are most likely to integrate quickly into the labour market, reducing the flows of immigrants with poor employment prospects in the current economic climate (Ibid: 9).

2) Countries with points systems (e.g. Australia, Canada, and the United Kingdom) could adjust the number of immigrants arriving via this route by raising the ‘pass-mark’ or the number of points required for admission. Raising the pass-mark would restrict flows to the applicants with the highest credentials, potentially reducing the likelihood of post-arrival unemployment (Ibid).

According to a recent OECD report, changes could also include reducing numerical limits/quotas, as well as shortage lists, reinforcing labour market tests, making it difficult to renew work permits, limiting non-discretionary flows (e.g. family reunification, work permits for spouses) and encouraging return-migration (OECD, 2009a). The next section examines whether host countries have implemented any changes concerning HSI in different regions to cope with the economic crisis.

2.1 Asia

Asia has experienced explosive economic growth, with about half of the world's population (3 billion people) living there. Most migration in Asia consists of low-skilled workers, although over the last thirty years, mobility of professionals, executives, technicians and other highly skilled personnel has increased. Countries such as India, Japan, Malaysia, the Republic of China, the Republic of Korea and the Republic of Singapore are trying to attract professionals on either temporary or permanent basis. Therefore, they have introduced privileged immigration and residence programmes for them (Castles and Miller, 2009).

Information and communications technology (ICT) professionals (generally male) and health care professionals (mostly female) are in high demand. These workers are needed because of the growing ICT sector and rising demand in health care due to ageing populations (ESCAP, 2008). The following country examples analyze how the economic crisis has affected HSI in the region.

After decades of attracting highly skilled migrants to Asia, countries in the region have responded to the economic crisis by restricting the entry of highly skilled immigration. They have sought to decrease the numbers of migrants by giving preference to their native workers, laying off first migrant workers and terminating certain migration programmes. Similar measures were also introduced for low-skilled migrants.

Malaysia

Malaysia had a decline in economic growth from 6.9 per cent in 2004 to 4.7 per cent in 2008, which is expected to decline in 2009 to minus six per cent (Trading Economics, 2009). Many feared the economy would shrink this year despite a huge 60 billion ringgit (US\$ 16 billion) Government stimulus package (Netto, 2009). Unemployment was projected to increase to 3.7 per cent in 2009 from 3.3 per cent in 2007. In Malaysia, there were 2.1 million registered migrant workers, but it was reported in September 2008 that about 6,000 among them had lost their jobs. The sectors the worst affected by the crisis were in manufacturing and services (Awad, 2009: 25).

The Government has frozen the issuance of work permits for migrant workers and has implemented a policy to terminate migrant workers first. The Government has also tasked its Labour Office to register all returning Malaysian workers in need of assistance in order to help its overseas workers (Abella and Ducanes, 2009). Malaysia's overall labour force was 10.9 million in 2008. Plans were to remove 800,000 migrant workers by 2010 (CARAM, 2009: 3).

The Republic of Singapore

After four years of strong growth, GDP slowed down in 2008. Malaysia had a decline in growth from 8.3 per cent in 2006 to 1.3 per cent in 2008, which is expected to decline in 2009 to minus 6.7 per cent (Trading Economics, 2009). In recent years, Singapore liberalized immigration policies in order to facilitate the acquisition of permanent residency for skilled immigrants, as well as launched various programmes to attract talent, such as company grant schemes to ease costs of employing migrant skilled labour and recruitment missions by Government agencies (Yeoh, 2007). In this section, a comparison is being made between highly skilled and low-skilled migrants.

Its non-resident workforce increased 170 per cent, from 248,000 in 1990 to 670,000 in 2006. About 580,000 migrant workers are low-skilled workers. They are mainly concentrated in the construction industry, domestic and household services, services,

manufacturing and marine industries, while the remaining 90,000 are skilled-employment pass holders. The number of higher skilled and better-educated foreigners has increased rapidly as a result of intensive recruitment and liberalized eligibility criteria (Ibid). Most skilled professionals come from the United States, the United Kingdom, France and Australia, as well as from Japan and South Korea (Ibid). In 2006, skilled workers and professionals accounted for 13.4 per cent (about 90,000) of Singapore's total non-resident population. Apart from Malaysians, the majority was from China and India, due to policies introduced in the 1990s, intended to target the highly skilled in non-traditional source countries (Ibid).

Unlike lower-skilled, lower-paid migrant workers, highly skilled workers hold employment passes (types P and Q) that allow them to bring their family members and they are not subject to levies. Those with P passes generally hold university degrees and seek professional, administrative, executive or managerial jobs, while those with Q passes earn smaller salaries and usually have evidence of 'acceptable' degrees, professional qualifications or specialist skills (Ibid). A new category introduced in 2004, the S pass, assesses applicants on a points system, taking into account multiple criteria including salary, education qualifications, skills, job type, and work experience. Although S pass-holders can bring over dependents, they are subject to a monthly levy of S\$50 (US\$32) (Ibid). Only P, Q and S pass-holders can apply to become permanent residents or citizens, which contrasts to the benefits offered to low-skilled migrants (Ibid).

Singapore has about 900,000 migrant workers, 30 per cent of its total workforce. Of these, 143,000 are professionals from all over the world and the rest are low-skilled workers mainly from other Association of Southeast Asian Nations (ASEAN) countries and from China, India and Sri Lanka. No official data has yet been released on laid-off foreigners, but the financial service company Credit Suisse estimated that about 100,000 jobs in the manufacturing and services sectors would be lost in 2009. Private projects were expected to be cancelled or delayed and more jobs would be lost in 2010, especially in the maritime and construction industries which are heavily dependent on migrant workers (Abella and Ducanes, 2009: 4). Nonetheless, job losses will continue due to lag effects even when the recession ends.

Besides lay-offs, other forms of adjustments such as work-sharing and reductions in wages and benefits have not been reflected in any formal statistics. Many migrant workers complained about pay cuts, not being paid on time, having their working days reduced and not being given food, shelter and healthcare, which employers were legally obliged to supply (Ibid: 6).

The Government urged companies to avoid lay-offs by finding means to cut costs, but in the case of unavoidable lay-offs, to fire migrants first. As more disputes were expected due to the crisis, the Ministry of Manpower was supposed to ensure the enforcement of legal obligations of employers and the appropriate dispute settlement between migrant workers and employers. In order to increase domestic output, the Government was engaging in public spending by hiring more teachers and healthcare workers and also starting new construction projects (Ibid: 9).

2.2 Australasia

Australia

Australia had a decline in growth from four per cent in 2007 to 2.4 per cent in 2008, which is expected to further decline in 2009 to 0.4 per cent (Trading Economics, 2009). The country has a labour force of 10.7 million. The unemployment rate, 5.9 per cent in July 2009, was expected to increase even more by the end of the year (Australia Bureau of

Statistics, 2009). Australia's population rose by 390,000 in 2008 to reach 21.5 million; net migration was 236,000. A quarter of all Australians are foreign-born (4.4 million); about 1.2 million of these foreign-born residents were born in Asia (Migration News, April 2009).

About half of Australia's skilled immigrants arrived as temporary workers with 457-visas and settled after their Australian employers sponsored them for permanent visas. Migrants under the 457-visas can work in Australia for a period of between three months to four years and bring eligible secondary applicants with them. Australia also announced plans to accept up to 203,500 immigrants in the fiscal year ending 30 June 2009, including 133,500 skilled immigrants and their families. However, with unemployment reaching five per cent, the government reduced economic-stream immigration from 133,500 to 115,000 in March 2009 (Migration News, April 2009).

Skilled immigration would fall due to the global economic crisis, Immigration Minister Chris Evans told reporters: "I expect the numbers of our programme to drop next year ... as a reaction to the economic circumstances". The size of the cut would be a matter for cabinet. The Government was very aware that labour demand would differ across regions and economic sectors. "It's not a one size fits all" (Canberra Times, 23 February 2009). The Government reduced the list of skills in short supply which is the basis for employer requests for 457-visas. Construction trades have been dropped, but nurses, engineers and IT workers are still on the list. Unions called for a halt to all 457 entries (Migration News, April 2009).

On 1 April 2009, Chris Evans announced a 4.1 per cent increase to the Minimum Salary Level (MSL). The Government thus tightened the 457 programme, requiring that all 457-visa holders earn at least A\$45,221 (\$31,400) after 1 July 2009, and after 15 September 2009, 457-visa holders were required to earn local prevailing wages if they were electricians and plumbers (Australian Government, 2009). The number of 457-visa applications fell from about 700 a week in December 2008 to 400 a week in March 2009 (Migration News, April 2009). In financial year 2008-09, the number of 457-visas issued fell slightly and was expected to be about 50,000 for the year. As a result of the reforms, employers had to give priority to native workers and pay 457-visa holders the same wages and benefits as Australian workers (Ibid). Nonetheless, the demand for highly skilled workers continued to increase, especially in the health care sectors (Workpermit, 2009a). Employers used the 457 programme to bring in needed migrant workers on a temporary basis.

New Zealand

Twenty per cent of New Zealand residents and a quarter of New Zealand workers, were born abroad. Net immigration was about 46,100 in 2007-2008; 60 per cent of these immigrants arrived via the Skilled Worker stream, meaning they received points for their youth, education, and New Zealand work experience. About 75 per cent of all foreigners obtaining immigrant status in New Zealand had previously had a non-immigrant visa to work or study in the country (Migration News, April 2009).

Temporary labour migration continued to grow at a significant rate. Almost 115,500 work permits were granted in 2006-07, an increase of more than 16 per cent from the previous year. Important changes were also made to the Skilled Migrant Policy, particularly in the allocation of points for different attributes (including increased number of bonus points for skilled employment, recognized qualifications and work experience in an identified future growth area) and a better definition of "skilled employment" (OECD, 2008: 266).

After five years of consecutive GDP growth (except for 2006), growth slowed down in 2008. New Zealand had a decline in growth from 4.6 per cent in 2004 to 0.2 per cent in 2008, which is expected to decline in 2009 to minus 2.7 per cent (Trading Economics, 2009). In New Zealand, the immigration office has already enacted policies to allow more immigrants into the country in order to counteract the current economic decline. The new policy has come under heavy fire, according to an October 2008 piece in the *New Zealand Herald*. Many New Zealanders feared that the arrival of a new wave of immigrants would lead to both short-term costs and long-term societal problems. New Zealand's head of immigration, Andrew Annakin, dismissed these concerns, instead arguing that the "ongoing attacks on New Zealand's immigration service will restrict the country's already ailing economy by discouraging would-be migrants from applying" (Mosher and Manson, 2008). The Government planned to admit 45,000 to 50,000 immigrants in 2009-10, the same as in 2008-09. Over half of the immigrant visas would go to skilled and business immigrants, up to 30,000 (Migration News, July 2009).

Overall, the response in Australasia has varied. While Australia has restricted its policy towards highly skilled workers and adjusted immigration levels downwards, New Zealand has kept its targets to date in order to stimulate the economy.

2.3 European Union

In the European Union, member states have dealt differently with the economic crisis. Some member states have liberalized policies, such as Sweden in December 2008 (MPI, 2008). However, the majority of member states have implemented more restrictive policies towards the highly skilled.

Blue Card Scheme

Several regional agreements on labour migration have been implemented, such as the EU, North Atlantic Free Trade Agreement (NAFTA), Mercado Común del Sur (MERCOSUR) and Asia-Pacific Economic Cooperation (APEC).⁷ The EU has the most developed regional scheme. The Council of the European Union adopted the Directive on the Blue Card on 25 May 2009 (Council of the European Union, 2009). The Blue Card would allow highly skilled third-country nationals with a job offer to work in an EU country for a maximum of four years. After 18 months, the migrant could move to another EU country. Highly skilled migrants could bring their families, and a work permit was offered to the spouse.

The Blue Card was proposed in 2007 (based on a 2005 European Commission Policy Plan), and it took many years of negotiation among the Member States to reach a compromise. Some member States were worried about training opportunities for their own citizens, while others feared losing sovereignty in migration matters (i.e. the power to determine who and who not to admit). Several politicians in the Netherlands and Germany were hostile and the Austrian government condemned the plan as "a centralization too far" (BBC, 23 October 2007). Countries, such as the United Kingdom, Ireland and Denmark, wanted their immigration policies left to their own jurisdiction - not the EU's (Cerna, 2008). Most EU Member States were reluctant to cede their responsibility to regulate labour market access and to grant rights to immigrants based on EU-figures and expectations. Based on the EU principle of subsidiarity, or delegating policy-level to the most appropriate level, means that same policy can have different outcomes. The EU

⁷ They are discussed in detail by Lavenex (2006).

policy, as finally agreed by Member States, represented only a compromise based on a lowest-common-denominator (Ibid).

The Blue Card was adopted in 2009, but the regulation of numbers and conditions for highly skilled migrants remained at the national level. Some countries (e.g. Denmark, Ireland and the United Kingdom) decided to opt out of the Blue Card since they want to retain jurisdiction over their immigration policies. A compromise was reached to use salary level as the sole criterion for attribution of the Blue Card (EurActiv, 2008). The applicant's salary has to be at least 1.5 times the average gross salary in the Member State. However, average salaries vary greatly among the Member States. In sectors with a particular need for highly skilled workers (e.g. engineering or health care), the salary level was lowered to 1.2 of the average gross salary (Collett, 2009). Countries where legislation did not fix minimum salaries (e.g. Finland, Germany and the United Kingdom) were hesitant to agree to the proposal. They were assured that the average gross salary was a statistical measure and the Blue Card would not require changes to labour legislation (such as fixing minimum salaries) (EurActiv, 2008).

Another compromise was reached on the duration of the Blue Card. The original 2007 proposal envisioned the possibility for the migrant moving to another EU state after two years and working in the EU for a total of five years. Some countries were determined to maintain national sovereignty over the labour market (e.g. Germany). Therefore, the final agreement included provisions that allowed highly skilled migrants to move with their families to another EU state after 18 months, but then they would need to apply for a new Blue Card. The total duration of the visa would not exceed four years (Melander, 2008). Governments could refuse to issue Blue Cards citing labour market problems or if national quotas were exceeded. The new scheme would enter into force in mid-2010 (Ibid). Labour shortages intensified across the EU during the years that the Blue Card was debated, but when Member States finally agreed on the Directive, most countries were hit severely by the economic crisis.

Czech Republic

Since 2003, the Czech Republic has tried to attract highly skilled immigrants for permanent settlement. The Proposition of Active Selection of a Qualified Foreign Labour Force, approved by the government in September 2001, was a variant of the Quebec Certificate of Selection points system. The Government favored young, educated and qualified in a given profession candidates. Knowledge of the Czech language and previous stay in the Czech Republic were also an advantage. A pilot project with three selected countries (Bulgaria, Croatia, and Kazakhstan) was initiated in 2003. Qualified migrants and their families could obtain permanent residency after two years and six months (OECD, 2003). The pilot project was later extended to other countries (OECD, 2007).

In 2007, the Government announced its own version of a Green Card for immigrants outside the EU. It would combine work and residence permits (Plewa, 2009). The three types of permits granted through the Green Card Programme were: 1) Type A: for university degree holding applicants, for up to three years, renewable; 2) Type B: for apprentices and workers with secondary school education, two years renewable; 3) Type C: and for other categories of migrant workers, two years, non-renewable (MPSV, 2009). Foreign citizens wishing to work in the Czech Republic, but not qualifying for the Green Card programme may apply through the regular work permit programme. The Green Card does not prevent the excluded categories of workers, for example Vietnamese, from working in the Czech Republic. But, as Ministry of Labour officials acknowledged, from 2009-onwards the entry of low-skilled, non-EU workers would be difficult (Plewa, 2009).

The Green Card programme was launched on 1 January 2009 under the amended Labour Law (Act No. 382/2008 Coll.) and aimed to limit admissions of migrant workers to

pre-approved nationalities and jobs, as well as under the condition that no work permit-exempt worker was brought in. Eligible applicants can be citizens of: Australia, Bosnia and Herzegovina, Canada, Croatia, Japan, Macedonia, Montenegro, New Zealand, Serbia, South Korea, Ukraine and the United States. Among them were some of the EU south-eastern neighbors and the countries which invested in the Czech Republic, especially in the automotive industry (for example, Japan, South Korea and the United States) (Plewa, 2009).

The Czech Republic had 362,000 migrant workers at the end of 2008, including about 30 per cent each from Slovakia and Ukraine. The number of migrants more than doubled between 2001 and 2008. The 48,000 Vietnamese and 13,000 Mongolians in the Czech Republic were especially considered problematic. Many incurred significant debts to get jobs in the Czech Republic, and most were reluctant to leave after becoming unemployed. The Czech Interior Ministry's Project of Voluntary Returns offered to pay jobless migrants return bonuses of US\$ 700 per adult and the cost of the tickets home. Some 2,000 migrants accepted return bonuses in spring 2009; two-thirds were Mongolians (Migration News, July 2009). The Czech Republic had a decline in growth from 6.5 per cent in 2006 to three per cent in 2008, which is expected to decline in 2009 to minus 3.3 per cent (Trading Economics, 2009). With the decline in economic growth, pressures increased to react to growing migration.

Ireland

Ireland has two ways of attracting highly skilled immigrants: 1) the work permit system and 2) the Green Card programme (since 2007). The work permit system was liberalized in 2001 and allowed a significant number of migrants to obtain a work permit. Under the Green Card programme, a foreign worker can apply. If migrant worker earns more than €60,000/year, there are no restrictions, if his/her yearly salary is between €30,000 and €60,000, the migrant worker can only apply for occupations in sectors with labour market shortages. Ireland's booming economy and the demand of employers for foreign labour, encouraged the government to look favorably toward an open labour immigration policy (OECD, 2007).

Ireland had a decline in growth from six per cent in 2007 to minus three per cent in 2008, which is expected to decline in 2009 to minus 8.5 per cent (Trading Economics, 2009). The unemployment rate increased to 11 per cent in March 2009, the highest level for nearly 13 years (AFP, 2009). Ireland tightened up its immigrant work permit system in response to growing unemployment. The stricter rules, involving a revision of the qualifying conditions for new permits, came into effect from 1 June 2009. Mary Coughlan, the Minister for Enterprise, Trade and Employment, said a "labour-market needs test for all future applications and renewals would allow 'maximum opportunity' for any available job vacancies to be filled by Irish people and those from the European Economic Area" (AFP, 2009).

From 1 June 2009, employers who wanted to hire non-EU foreigners had to pay them at least EUR 30,000 a year. Occupations such as truck drivers were closed to them, and the spouses of non-EU migrant workers had to qualify separately for work permits. Employers only made 625 requests to hire non-EU foreigners in March 2009, down from a peak of 3,700 in July 2007. Instead of seeking local workers for four weeks, Irish employers had to recruit locally for eight weeks before host permission to hire non-EU foreigners (Migration News, July 2009).

A June 2009 poll found that two-thirds of Irish respondents wanted the migration of labour from Eastern Europe restricted. Poles and other nationals from the accession countries (i.e. A8) are EU citizens and cannot be expelled. However, "the 30,000 non-EU foreigners among Ireland's two million workers have no such protections" (Migration

News, July 2009). Irish workers have called for more immigration restrictions. As Ireland is part of the EU and adheres to the free movement of EU nationals, it cannot easily restrict immigration policies. However, Ireland can restrict policies toward third-country nationals, which are not treated under EU directives.

United Kingdom

From 2008, the Government gradually introduced a new points-based system. It included five 'tiers', related to a grading system of skills (Home Office, 2006). Each tier required the immigrant to score a certain number of points to gain entry clearance or leave to remain (permanent residence) in the United Kingdom. In all tiers, points were awarded for criteria which indicated that the individual was likely to comply with immigration requirements. In Tiers 1 and 2, applicants received points for criteria such as age, previous salary or prospective salary, and qualifications (a system similar to the existing HSMP). Tier 2 incorporated the main body of the work permit system, with advice on shortage occupations given by a new body - Migration Advisory Committee (MAC). This body was meant to provide labour market advice to the Home Office and would bring together existing labour market intelligence (from the Skills for Business Network) (Ibid).

All immigrants applying under Tiers 2-5 were required to have sponsorship from a licensed sponsor (e.g. an employer). The certificate of sponsorship assured that the immigrant was able to perform the particular job. Highly skilled Tier 1 immigrants did not need a job offer and thus no sponsorship. Dependants would be allowed to come to the United Kingdom with the main applicant and were allowed to work (Ibid).

In times of economic prosperity, immigration to the United Kingdom has reached high levels. As the crisis has deepened, Prime Minister Gordon Brown in autumn 2008 promised "British workers for British jobs", and Borders and Immigration Minister Phil Woolas commented: "Migration only works if it benefits the British people, and we are determined to make sure that is what happens." (Migration News, April 2009).

The United Kingdom had a decline in growth from 2.9 per cent in 2006 to 0.8 per cent in 2008, which is expected to decline in 2009 to minus 5.3 per cent (Trading Economics, 2009). British unemployment reached two million in 2009, which led the Government to tighten regulations on employers wanting to hire non-EU migrant workers. Unions complained that many employers did not check properly for local workers before hiring non-EU foreigners. Beginning in January 2009, employers had to post job openings in the Government's Jobcenter Plus (Labour Employment Agency) before advertising vacancies in non-EU countries. In 2008, an estimated 80,000 British jobs were advertised abroad but not effectively in the United Kingdom. Some 140,000 work permits were issued to non-EU foreigners in 2007, and 151,000 in the first 11 months of 2008. The Government introduced a £50 fee in March 2009 on non-EU migrant workers and students to raise £15 million a year to help local communities cover costs associated with migrants (Migration News, April 2009).

The Government considered a proposal that would significantly decrease the number of highly skilled immigrants. "During these economic times when people are losing jobs it is crucial that British workers and people already here have the first crack of the whip at getting back in to work" (Home Office letter, stated in Contractor, 2009). Former Home Secretary, Jacqui Smith, announced plans that non-EU migrants could not "take a skilled job in the UK unless it has been advertised to British workers first" (BBC, 2009). This was the government's response to current economic circumstances. Migrants needed to have at least a master's degree and a previous salary equivalent to at least £20,000 (Ibid).

In the end, the Government passed a new act that included the following measures (UK Home Office, 2009):

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- 1) Migrants who were not citizens or permanent residents of the United Kingdom would not have access to full services benefits and social housing.
 - 2) Migrants would have to pay a levy towards schools, hospitals, and other local services so that that the new flows of UK immigrants did not put pressure on the community (Plaza, 2009).

The EU Member States have dealt differently with the economic crisis, although the majority of states have restricted immigration policies towards the highly skilled. As a whole, the EU has adopted a Directive on the admission of highly skilled workers (i.e. Blue Card). This can be regarded as a step towards liberalization, yet with important limitations. Nonetheless, the Blue Card was proposed during economic boom, though finally passed in times of economic crisis.

2.4 Middle East

The United Arab Emirates' economy was assumed to decline, even though the economies of Saudi Arabia and Kuwait, as well as Qatar, were expected to have stable growth (Abella and Ducanes, 2009). The Gulf Cooperation Council's (GCC) six nations have had a symbiotic relationship with many of the developing countries in the region. Migrants are estimated to account for as much as 70 per cent of the total workforce within these six states. There are between 13-15 million migrant workers in the region, but due to the crisis and resulting decrease in the global price of oil, six million migrants could lose their jobs (CARAM, 2009: 2-3).

United Arab Emirates

The United Arab Emirates (UAE) is expected to slowdown from 4.8 per cent last year to 2.7 per cent this year while the Saudi economy is expected to decrease from 2.7 per cent last year to two per cent this year (Ibid: 3). The UAE has a total population of 4.5 million, including almost a third in Dubai. In 2008, the UAE issued some 650,000 work permits to newly arrived foreigners, including 360,000 in Dubai (Sengupta, 2009). The economic boom that attracted expatriates and low-skilled migrants to the UAE faded in 2009. Dubai's population of 1.3 million at the end of 2007 decreased at least ten per cent by early 2009 because unemployed migrants left. Many more were expected to leave when the school year ended. By March 2009, between 1,500 and 2,000 white-collar foreigners reportedly left Dubai daily (Ibid).

The UAE attracts mainly low-skilled migrant workers to fill almost all private sector jobs, but also highly skilled migrants in financial services. In 2008, there were 3.5 million foreigners in the UAE, including 1.5 million Indians; 800,000 Pakistanis; 500,000 Bangladeshis; and 300,000 Filipinos (Migration News, July 2009). Associated French Press reported that up to 45 per cent of the construction-related work force in the UAE could be laid off in 2009, including managers and analysts (Martin, 2009: 11).

Dubai went on a building spree aimed at making it the financial and tourism hub for the region, but conglomerates linked to the Government ran into financial difficulty in 2008. The Government borrowed US\$ 10 billion from Abu Dhabi to support them, but many building projects have been put on hold, leading to layoffs of construction and service workers. In March 2009, some 2,500 workers employed to build the US\$ 800 million Burj Dubai, the world's tallest building, went on strike over unpaid wages (Sengupta, 2009). One difficulty, according to a Western lawyer at a large Dubai business, was that "no real legal concept of redundancy" existed and no obligation on companies beyond paying staff their notice and modest severance pay (Kerr, 2009).

In the Middle East, there is an indication that the boom years of expanding highly skilled migration are over. Countries in the region have been laying off migrant workers and sending them home. Some countries, however, have not been as badly affected by the crisis as others and thus continue attracting highly skilled migrants.

2.5 North America

Canada

Most (temporary) highly skilled workers have come under the Temporary Foreign Workers (TFW) Programme. It allows eligible migrant workers to work in Canada for an authorized period of time if employers can demonstrate that they are unable to find suitable Canadians/permanent residents to fill vacancies and that the entry of these workers will not have a negative impact on the Canadian labour market. Employers from all types of businesses can recruit migrant workers with a wide range of skills to meet temporary labour shortages (OECD, 2008: 234). A points system (Skilled Worker Programme) has been in place for several decades to attract (permanent) highly skilled migrants. 67 points have to be achieved by the application; these points are based on education, language, work experience, age, arranged employment and adaptability (Workpermit, 2009b).

Canada is among the few countries that have not announced more restrictive HSI policies. The country continues its recruitment policy for highly skilled immigration. Jason Kenney, the Minister for Immigration stated that the country “would maintain its current policy of encouraging immigration in order to meet identified labour shortages in key areas despite the financial crisis” (Mittal, 2008). He further claimed that “attracting different types of skills and talent are necessary for developed countries to compete in the global economy. Canada’s strategy of encouraging people to move there is the best way to prepare to exit the crisis” (Mittal, 2008). Prime Minister Stephen Harper, re-elected last month, said that the country needed workers suited to its economic requirements.

The rationale of the Canadian government was that, due to the expected demographic changes over the next twenty years, “developed countries need to attract talent, reduce skills gaps and project the skills shortage for the next few years. This is the time to attract the best skills instead of reducing the intake of immigrants” (Mittal, 2008). Kenney said that the economic crisis was worrying but said that the Canadian government believed that it would be counterproductive, from an economic point of view, to cut off a labour supply from those sectors of the economy that are still growing by reducing immigration levels. He added that the Government intended to maintain a robust immigration programme but they would also monitor the situation closely in order to make sure it was working for Canada and the economy of the country. Kenney said that he would soon announce the number of immigrants to be accepted in the year 2009. Currently, Canada accepts more than 300,000 applications per year.

Canada had a decline in economic growth from 3.1 per cent in 2004 to 0.4 per cent in 2008, which is expected to decline in 2009 to minus 2.1 per cent (Trading Economics, 2009). The country has not been as hard hit by the financial crisis as the United States, for example. As Keith Richburg from the Washington Post claims, “Canadian banks have not gone shaky like their American counterparts...There is no subprime mortgage or home foreclosure mess. And while the United States fears a prolonged recession, Canadians have remained relatively sanguine” (Richburg, 2008). Canada also has fewer exotic financial instruments, such as credit faults, swaps and derivatives, than the United States. Therefore, the Canada’s HSI response to the economic crisis vis-à-vis the United States differs.

United States

Most highly skilled migrants have come under the H-1B programme, which allows US employers to hire foreigners via an easy attestation process. The jobs H-1B workers fill must “require theoretical and practical application of highly specialized knowledge to perform fully” (usavisanow, 2009). When the H-1B programme was being developed for inclusion in the Immigration Act of 1990, the consensus was that the US had enough workers, but not enough to fill jobs in fast-growing occupations that required several years of training, such as those in science and engineering. For this reason, employers were allowed to simply assert or attest that they wanted to hire foreign “specialty workers” and were paying at least the prevailing wage to the foreigner. The US Department of Labour was obliged to approve the employer’s application, and was not allowed to investigate whether employers were abiding by their promises unless complaints were received. To protect US workers, the cap on the number of H-1B visas was set at 65,000/ year in 1990 (Migration News, April 2009).

The cap of H-1B visas was increased subsequently in 1998 and 2000. The 1998 Act placed new restrictions on H-1B-dependent employers, generally those with at least 15 per cent H-1B visa holders among their US employees. Such employers were required to attest that they had not laid off a similarly qualified US worker 90 days before the request for an H-1B worker, and would not lay off a similarly qualified US worker 90 days after the H-1B worker was employed. H-1B-dependent employers were also required to make “good faith” efforts to recruit US workers before applying for H-1B workers (Ibid).

The 2000 Act exempted universities and non-profit research institutions from the cap. The cap reverted back to 65,000 in 2003, but another 20,000 visas per year were added for migrant workers with US master’s or PhD degrees in 2004. However, employers were requesting more than twice the 85,000 H-1B visas available under the ceiling each year; there were 163,000 requests for the 85,000 visas available for FY09 (1 April 2008 to 31 March 2009) (Ibid). Nevertheless, demand for highly skilled migrants was partially decreasing due to the economic crisis: US Citizenship and Immigration Services (USCIS) reported 32,500 requests for the 65,000 general H-1B visas in the first five days of April 2009 (FY10), but almost 20,000 requests for the 20,000 for advanced degrees (Ibid). While the demand for migrant workers with US advanced degrees remained the same, the demand for migrant workers from outside the US was only half the available cap.

The economy has been badly affected by decline in economic growth, increasing unemployment and unrest in the housing and financial markets. The United States had a decline in economic growth from 3.5 per cent in 2004 to 0.4 per cent in 2008, which is expected to decline in 2009 to minus 3.6 per cent (Trading Economics, 2009). On 6 February 2009, the US Senate passed an act which would make it more difficult for companies to hire H-1B workers. When Congress was debating the exact terms and conditions of the Troubled Assets Relief Programme (TARP), the so-called economic stimulus package, a number of politicians called for a halt to the H-1B programme in the financial sector. The final outcome ‘solely’ applied the same requirements for H-1B dependent companies to all banks and other recipients of TARP, specifically: 1) the employer cannot displace any similarly employed US worker with a H-1B hire within 90 days before or after applying for H-1B status or an extension of status; 2) the employer cannot place any H-1B worker at the worksite of another employer – meaning it cannot outsource a worker for a client – unless that employer first makes a “bona fide” inquiry as to whether the other employer has displaced or will displace a US worker within 90 days before or after the placement of the H-1B worker; and 3) the employer has to take good-faith steps to recruit US workers for the job opening, at wages at least equal to those offered to the H-1B worker. The employer must offer the job to any US worker who applies and is equally or better qualified than the H-1B worker (Herbst, 2009). The act, supported by Senators Grassley (R-Iowa) and Sanders (Independent-Vermont) and passed

by voice vote as an amendment to the economic stimulus package President Barack Obama presented, meant more protection for US workers (Ibid).

Employment in financial services also decreased in the United States. Outplacement firm Challenger, Gray and Christmas, which reports job cuts announced by financial firms, stated 153,000 in 2007, up from 50,000 each in 2005 and 2006; the number of financial firm job cuts for 2008 was expected to be up from earlier levels. There was little data on highly educated workers employed in financial services. Some are foreign-born individuals in the United States with immigrant or temporary worker visas, and it is unclear whether they would take lower-paying jobs and wait for a rebound or leave (Martin, 2009: 11).

However, Papademetriou and Terrazas (2009) have argued that immigration was less likely to be affected significantly in the United States than in other traditional immigration countries because a higher share of US immigrants entered under family unification preferences. Immigration to Australia, Canada, and New Zealand could be more affected by the recession because half or more of the immigrants were admitted under economic criteria (Martin, 2009: 15).

Overall, North America has been affected in a different way by the economic crisis and thus various Governments' response to immigration policy has also differed. Whereas the United States has restricted its immigration policy towards the highly skilled, Canada has kept its immigration targets so far.

3. Implications of the crisis on highly skilled migration and adjustments of immigration policies

As the previous sections have demonstrated, a number of countries have already taken steps to decrease the inflow of highly skilled immigrants, often the result of public pressures during the economic crisis. Nonetheless, the responses have varied due to particular management systems and legislative frameworks. Policy-makers have tried to regulate immigration inflows by: 1) adjusting numerical limits; 2) strengthening labour market tests; 3) limiting possibilities to change status and to renew permits; 4) applying supplementary conditions to non-discretionary flows; and 5) promoting return migration (OECD, 2009a: 23). The recruitment of the highly skilled will not end with the economic crisis and thus countries have to take into account long-term considerations (Ibid).

The steps taken by Governments are likely to deteriorate the position of highly skilled migrant workers. The implications of the economic crisis could lead to: 1) an increase in discrimination and xenophobia, 2) fewer rights and social protection for migrants, 3) heightened labour market competition between native and migrant workers and 4) increased protectionism of native workers. These implications have already started to take place.

Employers usually try to avoid firing permanent workers when adjusting their workforce because of short-term and long-term financial costs. A recession is generally linked with a cut back in working hours, while employers increase working hours during recovery. At the same time, temporary employment is likely to decline during the initial phase of the recession (Ibid).

Recent immigrants face a higher risk of losing their job during the economic crisis as they often hold temporary jobs. Countries (e.g. Ireland, Spain and the United Kingdom) with the highest share of recent immigrants among employed ones are more likely to see a strong decline of immigrant labour market outcomes (Ibid: 15). The International Migration Outlook 2009 stresses that migrant workers are more affected by deterioration of labour market conditions. They have been among the first to lose their jobs, as unemployment levels among immigrants almost doubled in Ireland, Spain and the United States since the beginning of the crisis (OECD, 2009b).

Cases of discrimination against and xenophobia towards migrant workers are numerous (see Awad, 2009). Even though most cases apply to low-skilled workers, highly skilled workers are also discriminated as native workers may see migrant workers as scapegoats. The International Organization for Migration (IOM) worries that xenophobia will increase as “job competition increases between nationals and migrants” (The Economist, 2009a). An opinion poll by the German Marshall Fund, in November 2008, suggested that a majority of Americans and Europeans regard migration as a problem, not as an opportunity (The Economist, 2009a).

Anti-immigration institutes (e.g. Migration Watch UK) seem to take advantage of the crisis and request more restrictions on immigration. A number of unions have made similar demands, calling for ‘jobs for British workers’ and protectionist policies. Native workers have demonstrated against job losses on the streets and have protested that migrants have been taking over their jobs. In addition, if migrant workers can keep their employment, they are likely to face increased resentment as unemployment increases among native workers (CARAM, 2009). Employers could decrease migrant workers’ wages or benefits to lessen their financial burden (UN, 2008). Migrant workers have weak bargaining positions; in particular women and those in irregular status are vulnerable to job losses (ILO, 2009b).

Demand for labour migrants is falling. Most of labour migrants require a prior job offer before coming to a destination country. With decreasing demand during the crisis, job offers also decline, reducing the number of new migrants. Nevertheless, this might not necessarily take place for highly skilled immigration policies (OECD, 2009a). A processing lag exists that varies significantly among countries and between categories (Ibid). Employers will be more selective to screen out applicants (by using language requirements, for example). There will be enough candidates for a job opening (exceptions exist for some highly skilled occupations); hence employers will unlikely look beyond the familiar and relatively predictable workforce (Ibid).

An economic downturn can have long-term consequences on immigrants' labour market outcomes. For example, in the early to mid-1990s, Sweden experienced a severe crisis, in which employment levels decreased by 12 per cent in less than three years, followed by a rapid recovery. During this period, labour market outcomes of immigrants were negatively affected, especially for the most recent arrivals. Aslund and Rooth (2003) show that six years after arrival, "migrant cohorts who had entered before the recession were 7-9 percentage points more likely to be employed, and had about 12-18 percent higher earnings than migrants who had arrived during the deterioration phase of the labour market" (Ibid).

Labour markets tend to improve only four to five years after the economic recovery (which is not expected before the end of 2009). Rises in long-term unemployment and greater labour market "informalization", worsened by return migrants, are very difficult to reverse (ILO, 2009b: vi). The global number of unemployed persons could rise by 18 million, 30 million or even 51 million in 2009, depending on the recovery rate during the year, as well as other factors (Ibid: 24). This could bring the global unemployment rate above seven per cent. Vulnerable employment – measured by own-account workers and contributing family workers is expected to rise by 25 million (Ibid: 11).

Certain groups – notably women, migrant workers and youth are affected disproportionately. In some countries, the financial, construction and automobile sectors are suffering the most...The impact of the crisis on labour markets will go beyond job losses. In particular, the incidence of informal employment and working poverty will rise, aggravating pre-existing challenges. (Ibid: v)

In cyclical immigration policies, Governments should admit more immigrants when labour demand is strong and fewer when it is weak. In reality, however, this simple recommendation is more complex (Papademetriou, Sumption and Somerville, 2009). The relationship between net migration and the business cycle is not a straightforward one.⁸ It depends on the nature and the scope of the crisis, the actions taken by different stakeholders, including migrants (OECD, 2009a).

Since significant evidence is lacking that migrants undercut native workers, social and political concerns are critical. In times of economic insecurity, migrant workers can easily become scapegoats. This may be the case in countries with integration problems, such as Italy, the Netherlands, Germany and France (Papademetriou, Sumption and Somerville, 2009). With high unemployment, the public and policy-makers become more

⁸ For example, in the United States, Canada and Sweden, net migration rates appear much less connected to the economic cycle than in countries such as Australia, Germany and Switzerland. From the early 1980s, or the early 1990s in some countries, the correlation between the two series weakens. For some countries, a lag appears between the business cycle and the change in migration flows (Australia, Canada and Switzerland after 1990), while for others, the correlation disappears almost entirely (France after 1980 or Germany after 1993) (OECD, 2009a: 17).

concerned about the potential negative effect of immigration on natives' employment opportunities (Ibid).

Therefore, immigrant integration policies will play an important role. Job losses, together with ineligibility for benefits, are likely to hamper the economic and social integration of migrant workers (Ibid). While migrant workers might be blamed for job losses by native workers, migrants may need to seek out employment to greater extent than natives because they are not always eligible for benefits or have accumulated savings. Migrant workers are thus more likely to accept lower wages and native workers might feel more strongly that they are being undercut. Therefore, efforts will be necessary to avoid such an anti-immigration backlash (Ibid).

Destination countries can benefit from highly skilled migrants, who are likely to raise productivity and economic growth. One crucial goal of migration governance is to assure the public that migration is meant to meet public interest. It is important to consider the long-term consequences of policy changes implemented during a crisis. Concerns such as population ageing and labour shortages in some sectors are likely to continue, and migration remains one of the responses (OECD, 2009a). In addition, policy responsiveness does not necessarily lead to an impact on policy or on total flows because other factors are important. Governments might be under pressure from public opinion to restrict non-discretionary immigration (i.e. movements cannot be restricted directly, such as family reunification, humanitarian flows and free-movement zones). Highly skilled immigrants often bring their family to the destination country. In many countries spouses receive the right to work. However, restrictive measures on non-discretionary migration might be limited due to international commitments and might even lead to negative consequences on irregular migration or integration (Ibid).

Policy responsiveness does not depend only on political pressure to make changes, but also on the migration management system in place. Some systems might be more responsive to short-term changes in the labour market, depending on the link between migration policy and labour indicators (e.g. vacancy rates), periodic review or planning (e.g. quotas or targets), or ad hoc legislative measures (Ibid). For instance, backlogs of labour migration authorizations (due to administrative delays or to low caps) lead to less responsiveness to changes in the economic situation, whereas shortage lists, numerical limits and labour market tests can be rapidly changed and adjusted to the current needs of the labour market, to some extent (Ibid).

These changes are possible because shortage occupation lists, for instance, might not respond quickly enough to changing labour market needs (Papademetriou, Sumption and Somerville, 2009). Nonetheless, the highly skilled visa in the United States, the H-1B programme, has experienced a smaller demand for visas on the first day of the financial year. This is in contrast to recent years, where the visa cap was reached on the first day (Ibid). There is a lag between application and arrival of new migrants and the visa processing system does not always respond to cyclical fluctuations of the economies.

Many countries suffering from the economic crisis are adopting more restrictive HSI policies. Governments are decreasing the number of labour migrants, putting on hold migrant programmes or encouraging national companies to lay off migrant workers first in order to create jobs for native workers. Migrant workers face unemployment, lack of social insurance and discrimination from the native population, trying to avoid labour market competition with highly skilled migrants. The protection of migrant workers has never been as important as it is now.

The question remains how Governments will deal with these challenges. The protection of native highly skilled workers might become even more important at present as political parties will seek to gain electoral support and represent for more restrictive HSI preferences. Employers and businesses (i.e. capital) lose power, while native highly skilled

workers gain influence in order to push for restrictive preferences. The crisis can lead to a shift of power and influence from capital to highly skilled labour. National institutions can give advantages to organized groups (in this case highly skilled unions/professional associations), affording them access and voice, and thus preventing capital from taking full advantage of its mobility (Milner and Keohane, 1996). Governments will have to balance the needs of their labour markets and public pressures for restrictive policies. The next section examines how policies towards the highly skilled and the low-skilled vary.

4. Comparison of changes in policies towards highly skilled and low-skilled workers

Highly skilled and low-skilled immigration differ in a number of ways, thus policies are distinct as well. Jagdish Bhagwati writes in his recent co-edited book *Skilled Immigration Today: Prospects, Problems and Policies*:

It is widely believed that skilled immigrants create fewer assimilation problems and are more desirable in modern knowledge-based economies than unskilled immigrants. Whereas unskilled workers migrating on a permanent basis into major countries of immigration (unlike the temporary importation of workers legally under the gastarbeiter programmes of postwar Europe...) are typically entering illegally or have entered legally and stayed on illegally, the entry of skilled workers has been through legal mechanisms.

(Bhagwati, 2009: 3)

When economic growth slows down, labour migrants in destination countries might lose their jobs. The demand for new workers might also decrease, which can naturally limit immigration. Many countries have reduced or halted (in particular low-skilled) immigration. While some destination countries hope that labour migrants will return home due to the recession, with some offering them (financial) incentives to do so. Labour migrants often bring their families with them and thus have ties to the destination country. Likewise, the labour market situation might be equally detrimental in their home countries, which are also affected by the worldwide economic crisis.

Immigrants tend to be overrepresented in the most sensitive sectors to the business cycle (OECD, 2009a). Based on the OECD, mining and quarrying and construction, followed by real estate and business activities are on average the most sensitive sectors. A high sensitivity is also observed in hotels and restaurants in Portugal and Ireland, as well as in financial intermediation in the United Kingdom (Ibid: 10). Most of these sectors are classified as 'low-skilled', although financial services count among the highly skilled occupations.

As Phil Martin (2009) stresses, immigrant workers have been affected the most in four sectors (i.e. construction, financial services, manufacturing and travel-related services), comprising both low-skilled and highly skilled workers (as well as semi-skilled workers in manufacturing). In the case of HSI, demand for these workers still persists in some sectors, despite the economic crisis. Countries often pursue reciprocity for highly skilled workers and thus will try to keep their borders open to a certain degree (Kuptsch and Martin, 2008). If British highly skilled workers can work in the United States, then US workers should also be able to work in the United Kingdom. Such reciprocity is not applicable to low-skilled workers; their entry can become more limited.

In contrast to low-skilled workers, highly skilled workers in certain sectors will continue to be in short supply, despite the economic crisis. Labour shortages will remain due to geographic mismatches and occupations with specialized knowledge, such as health care and certain technical jobs, such as engineering, IT and advanced sciences. Native workers cannot easily and quickly be retrained for these jobs (The Economist, 2009b). (Unemployed) native or migrant workers⁹ might also be unwilling to move to regions with jobs because they have family ties or might not want to take unattractive jobs (Papademetriou and Terrazas, 2009).

⁹ This might be less the case for newly arrived or low-skilled migrants.

For instance, even though the US unemployment rate has increased to 9.4 per cent by June 2009, the highest level in almost 30 years, “employers are begging for qualified applicants for certain occupations, even in hard times. Most of the jobs involve skills that take years to attain” (Uchitelle, 2009). Highly skilled jobs in demand include health care workers, geotechnical and civil engineers (Ibid).¹⁰ In four categories - architecture and engineering, the physical sciences, computer and mathematical science and health care - the number of unemployed equaled to or were fewer than the listed job openings. There were, in sum, 1.09 million listed openings and only 582,700 unemployed people available to fill them (Ibid).¹¹

The main effects of the 2008-09 economic crisis vary by country and sector (Martin, 2009). Among low-skilled sectors, construction, manufacturing and travel-related services are the most important ones in terms of migrant workers. The construction industry makes up about seven per cent of global employment. Economic growth and major infrastructure projects attracted migrant workers before the crisis, with slowing construction and shrinking employment, many of these workers will likely lose their jobs (Ibid).

Global employment in manufacturing could be between 150 million and 200 million. Manufacturing employment in the three countries – the United States, Japan, and Germany - with the highest concentrations of migrant workers is decreasing. China could demonstrate a visible decline in manufacturing due to the economic crisis since it is expected the country had an official 83 million and an estimated 109 million workers working in this sector in 2002. About 20 per cent of these workers are rural-urban migrants (Ibid: 8-9).

Many migrants are also working in travel-related services, in particular, hotels and restaurants. In 2008, employment in this sector slowed due to high oil prices. However, hotels and restaurants can adjust by laying off a number of employees or reducing their hours, making the effects of the crisis less visible (Ibid: 12). Some countries (e.g. the United Kingdom and the United States) have made it harder for employers to hire migrant workers by imposing stricter conditions on job advertisements and work permit renewals. These steps are designed to encourage employers to hire native workers. However, they can risk pushing migrant workers into irregular situations (The Economist, 2009b).

Other countries have decreased the number of migrants allowed to enter. These limitations concern especially low-skilled workers, although the highly skilled have also been affected. Spain let in 15,731 migrant recruits under its “contingente” scheme in 2008, but decreased the quota to only 901 this year (Ibid). Further, the shortages occupations list from October 2008 had nearly a third less professions listed than the previous version (Ibid). The Italian government announced that no non-seasonal workers would be admitted in 2009, in contrast to the 70,000 in 2008. South Korea set this year’s limit of the Employment Permit Scheme to 17,000, down from 72,000 last year. Australia has lowered the limit to 108,100 from 133,500 skilled migrants (Ibid).

A number of countries have implemented ‘return incentives’, which apply in particular to low-skilled migrants. From November 2008, the Spanish government offered

¹⁰ For example, “Not newly graduated civil engineers,” said Larry Jacobson, Executive Director of the National Society of Professional Engineers. “What’s missing are enough licensed professionals who have worked at least five years under experienced engineers before taking the licensing exam” (Uchitelle, 2009).

¹¹ “In a monthly count of online job openings, listed on Monster.com and more than 1,200 similar Web sites, the Conference Board, a business organization in New York, breaks the advertised openings into 22 broad occupational categories and compares those with the number of unemployed whose last job, according to the bureau, was in each category” (Uchitelle, 2009).

eligible migrants the total of their Spanish unemployment benefits (40 per cent prior to their return, and 60 per cent following migrant return) if they returned home and promised not to come back for three years. Similarly in the Czech Republic, laid-off migrants were offered air-fare and €500 (US\$704) to return to the origin country, but they were not prevented to return to the destination country in the future. In addition, their dependents were given €250. By the end of March 2009, about 1,100 workers (mainly contract labourers from Mongolia) participated in the return programme (The Economist, 2009b).

“Migration is not a tap that can be turned on and off at will,” said Mr Gurría, the Secretary General of the OECD. “We need responsive, fair and effective migration and integration policies – policies that work and adjust to both good economic times and bad ones” (OECD, 2009b). If the economy rebounds in the upcoming years, migrant workers could be in demand again. By implementing more restrictive policies, destination countries could lack the flexibility to bring migrant workers back (Ibid). Nevertheless, migrant workers who participated in voluntary return programmes might be able to return to the destination country.

Many companies do not hire new staff anymore, but institute short-time work, involving involuntary part-time employment or unpaid leave. In some cases, many workers have been laid off, in particular temporary staff (Awad, 2009). These steps make migrant workers, highly skilled and low-skilled, more vulnerable than before. The next section analyses what role the ILO can play in protecting migrant workers and their rights.

Since the majority of migrant workers in the world are low-skilled, they have been affected the most by the economic crisis. Many of them are substitutable, which increases their replacement rate. In contrast, highly skilled workers bring valuable skills, education and training to the destination country. They are often employed in sectors with labour shortages (such as engineering and health care), which have persisted despite the crisis. Nevertheless, even highly skilled migrants have suffered from the economic crisis, many have lost their jobs and some have returned to their home countries. It has had an impact on the policies of the highly skilled. Before the crisis, destination countries were interested in attracting a greater number of highly skilled migrant workers. With the crisis, the demand for the highly skilled has slowed down, as is the case for the low-skilled migrants. Instead of seeking to liberalize their highly skilled immigration policies, many destination countries in all regions of the world have restricted their policies and placed greater emphasis on the protection of their native high-skilled workers. It has certainly impacted migration policies, though the extent of migration flows still remains to be evaluated.

5. ILO's role and conclusions

The economic crisis is likely to change migration flows significantly.¹² In October 2008, the UN secretary-general, Ban Ki-moon, asked developed countries not to put up barriers against migrants during the crisis, but noted that “migration flows are reversing. In several instances we are seeing a net outflow from countries facing economic crises” (Synovitz, 2008). The ILO warns that the scope of job losses is likely to be immense – it is estimated that there could be between 198 and 230 million unemployed people in the world (ILO, 2009a: 35). Host countries could hence close their doors to migrant workers (The Economist, 2009b). The ILO recommends putting employment and social protection at the centre of stimulus measures for the protection of the vulnerable and the reactivation of investment and demand in the economy (ILO, 2009b). Migrant workers are among the vulnerable group and thus require the help of destination countries for increased protection and employment.

It is important to ensure that workers' rights and international labour standards are not threatened in the process of recovery. Fundamental principles and rights at work should be part of the solution to the crisis. They are significant in “maintaining social justice and peace and avoiding political unrest, which could create even greater delays in recovery” (ILO, 2009b: 52). The different national situations stress the importance of the ILO's instruments for the protection of workers' rights (ILO, 2009b).

In international conventions on universal rights, workers' rights (e.g. non-discrimination against migrant workers; access to human rights; equality of treatment) have to be agreed on as the basis of different responses for origin and destination countries. In general, origin countries have been more favorable to international conventions (such as the ILO Conventions) than destination countries. Due to the human right of exit, not much can be done to stop the outflow of their nationals. In contrast, many destination countries are reluctant to sign Conventions and abide by them because they do not wish to grant undocumented migrants more rights, on whom they depend for cheap labour (Newland, 2005). For instance, Convention no. 97 (Migration for Employment Convention) has been ratified by 48 countries, ten of which are OECD countries (Belgium, France, Germany, Italy, Netherlands, New Zealand, Norway, Portugal, Spain and the United Kingdom). In addition, Convention no. 143 (Right of Migration Workers, Supplementary Provision, Convention) has been ratified by 23 countries, four of which are members of the OECD (Italy, Norway, Portugal and Sweden).

Not all origin countries are favorable to ratifying international Conventions, for example, the 1990 UN Convention on the Rights of All Migrant Workers and Members of Their Families. Only a few origin countries have ratified this Convention, fearing the loss of their market share due to competition from non-ratifying neighbors (Iredale, Piper and Ancog, 2005). Countries defect from cooperation, which hinders the process.

¹² “Full migration numbers for most countries are only available after a long lag, and so don't yet capture all the effects of today's economic crisis. But anecdotal reports and data from government ministries and outside organisations indicate that the flow of immigrants from poor to wealthier countries is slowing significantly for the first time in decades while more people are returning home” (Barta and Millman, 2009).

The impact of the economic crisis demonstrates a need for more countries to sign ILO conventions, as well as develop bilateral and regional mechanisms to act as safety nets (CARAM, 2009). Even if ILO conventions are not binding, they establish guidelines for the protection of migrant workers. Cooperation between countries should help to formulate legislation with a list of rights of migrant workers under stricter terms of employment (Ibid). The ILO Multilateral Framework on Labour Migration provides principles and guidelines that could be very helpful in formulating these policies.

Conclusions

Governments, who have made commitments in bilateral or regional agreements to accept immigrants in certain categories or from certain countries, are under an additional constraint to change policies, such as adjust them to current economic situation (OECD, 2009a). This has been the case in countries, such as Ireland or the United Kingdom, where both Governments wished to restrict labour migration of migrant workers from other EU Member States but could not do so because of free movement agreements within the EU.

Origin and destination countries benefit from liberalizing the movements of workers. Origin countries gain by placing excess supply of workers abroad, receiving remittances or investments from their emigrant workers and benefiting from increased training and experiences of returned migrants. Destination countries benefit through highly skilled migrant workers that fill labour shortages in highly skilled sectors and help to alleviate burdens from population ageing. There is also a benefit from increased economic growth, competitiveness and technology transfers. Governments should find “effective safety nets for migrant workers and resist the inclination to establish adjustment measures that could have lasting impact on restricting future movements” (Abella and Ducanes, 2009: 11). The ILO also states that “the global crisis will not be solved by protectionist solutions. Such solutions would depress world trade and investment, further aggravating the recession” (ILO, 2009b: 59).

Thomas Friedman, a New York Times op-ed columnist, criticized US restrictions on HSI and called instead for more HSI because “in an age when attracting the first-round intellectual draft choices from around the world is the most important competitive advantage a knowledge economy can have, why would we add barriers against such brainpower - anywhere? That’s called ‘Old Europe.’ That’s spelled: S-T-U-P-I-D” (Friedman, 2009). Instead, he argued that the main principle “should be to stimulate everything that makes us smarter and attracts more smart people to our shores. That is the best way to create good jobs” (Ibid).

Restrictive labour migration policies adopted during the crisis are likely to be “sticky and stay even when recovery is achieved for a variety of reasons” (Abella and Ducanes, 2009: 10). As mentioned above, destination countries will continue facing structural changes, such as ageing of the population, rapid technological change and decline in the manufacturing industry, leading to shortages in some sectors of the labour market (OECD, 2009a). In highly skilled occupations, such as health care and engineering, labour shortages will remain strong, despite economic crisis and policy changes in a number of countries (Abella and Ducanes, 2009). Education and experience remain important and highly skilled migrants are seen as stimulus for ailing economies. Even at the low-skill level (e.g. agriculture, domestic services and manufacturing), demand for workers will not be fully met by native workers because of segmentation in the labour market by skill level, geographical areas and social protection (OECD, 2009a).

When labour market needs change during recovery phase, destination countries might be unable to respond accordingly due to previous policy changes (Awad, 2009). This is especially the case for highly skilled workers. The short-term response to the economic crisis might hamper medium and long-term policy needs. Such needs could include smaller and more targeted inflows for certain sectors (OECD, 2009a). Therefore, destination governments should consider: 1) maintaining, if not strengthening, their integration programmes; 2) reinforcing their effort to fight discrimination in hiring and layoffs; and 3) ensuring that active labour market policies reach new entrants into the labour market, including recent immigrants, and workers displaced from declining industries (Ibid: 4).

Public opinion on immigration has hardened due to the economic crisis, and hence many destination countries have restricted their migration policies to respond to public concerns. Migrant workers will become more vulnerable as xenophobia and discrimination increases, and unemployment among migrant workers worsens. They will need the assistance of destination countries, international organizations, social partners and civil society organizations. This includes assisting migrants with integration in host countries, helping them with job searches, educating the public on the benefits of employing migrant workers and informing migrants about their rights.

The ILO's role will continue to be very important in providing guidelines for the protection of migrant workers, and encouraging more countries to sign ILO Conventions. The ILO should try to achieve greater international cooperation by working together with other international organizations, such as the IOM, other UN agencies, the OECD, and the World Bank. This cooperation would help to protect migrant workers by highlighting the difficulties for them during the economic crisis and establishing a common framework for their protection. It would also explain to governments in destination countries the consequences of restrictive policy changes. Greater policy coherence should be emphasized, and cooperation at the bilateral and regional levels should be strengthened. This global economic crisis has affected so many countries that a global response to the crisis is pertinent.

Cooperation between social partners is also necessary. The ILO offers support in promoting the role of the social partners. For example, Trade Union Agreements to protect migrant workers were signed between Sri Lanka and Bahrain, Kuwait and Jordan, in May 2009 (ILO, 2009c). The ILO provided technical assistance in writing the agreements.

Governments should work with trade unions and employers' associations to discuss the needs and risks of the crisis. Employers will continue to experience labour shortages in some sectors and push for keeping the doors open, whereas trade unions will be interested in protecting their native and migrant members. Governments are in danger of responding to increasing public concerns in the short-term, but risk threatening their medium to long-term goals. The ILO's role is to deliver technical assistance and advocacy services to enhance national labour migration policies and programmes.

In order to protect those who have lost their jobs and new entrants with no jobs, the ILO could assist governments with implementing a number of measures, such as: 1) implementation of minimum unemployment benefits or employment guarantees for those

not able to receive income support¹³; 2) introduction of active labour market programmes and training administered through well-resourced public employment services; and 3) implementation of specific programmes and approaches targeting vulnerable groups, such as migrant workers (ILO, 2009b: xii).

Humanitarian and civil society groups can play a significant role. Governments and civil society groups should work together in the origin and destination countries to ensure that migrant rights are not eroded. ‘Decent work’ principles, as defined by the ILO, should be practiced in sectors with migrant workers. Civil society groups should challenge the discrimination of migrant workers. “If migrant return programmes are initiated by governments, these should ensure that migrants are treated with dignity and given proper assistance upon return” (Sward, 2009: 3). Social dialogue is necessary in order to adopt “effective, concrete policy responses by helping to improve the design of reforms” (ILO, 2009b: 54).

Protection of migrant workers has been mostly aimed at low-skilled migrants. Highly skilled migrants are said to be more desirable to the destination country, since they offer specialized knowledge, have fewer problems integrating into the destination society, contribute to taxes and rely less on social contributions. As the crisis unfolds, native workers face increased unemployment and thus hostility towards immigrants heightens. Migrant workers need protection more than ever. The role of the ILO is to raise awareness of the problems and issues associated with highly skilled migrants. It should engage in analytical work on the political economy of labour and economic downturns. The ILO should also formulate and implement region-by-region measures to better respond to the varying needs of migrants. The crisis provides the ILO with an opportunity to enforce the protection of all migrant workers and to encourage countries to sign the ILO Conventions.

While the number of low-skilled ones was greater in absolute terms, the number of highly skilled ones was significant in relative terms. It was the first time that the highly skilled migrant workers were affected by an economic crisis. Previously, they were recruited from host countries around the world. The crisis brought negative consequences for highly skilled migrants. Many lost their jobs; others did not receive the opportunity to emigrate because immigration policies of many host countries were tightened. Despite a decrease in labour migration opportunities, highly skilled workers are still in demand for some sectors, such as engineering and health care. There is likely to be a differentiated effect across sectors, as well as between destination countries. Some destination countries regard highly skilled immigration as a stimulus to the economy, while many others perceive it as a drain. The next months and years will shed some light on the actual impact of the economic crisis on highly skilled migration.

¹³ This is support for low income people who do not have to sign on as unemployed. It usually consists of personal allowances, premiums and payments to cover certain housing costs.

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