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SUMMARY

Circular migration is a continuing, long-term, and fluid pattern of international mobility of people among countries that occupy what is now increasingly recognized as a single economic space. At its best, circular migration increases the likelihood that both countries of origin and destination gain from international mobility. It also conforms to the natural preferences of many migrants, as illustrated by de facto circularity where national borders are open by agreement or are not heavily enforced.

Current patterns of circular migration fall into several categories: seasonal migration; nonseasonal low-wage labor; and the mobility of professionals, academics, and transnational entrepreneurs.

Selecting workers with the right skills for the available jobs, guaranteeing repeat access to programs for workers who comply with their terms, and removing administrative obstacles to mobility are steps that governments can take to encourage circular migration. Flexible long-term residence permits and dual nationality also appear to increase circular flows.

However, many of the existing program conditions intended to “enforce” circularity seem to encourage illegal migration. These include short contract periods and nonrenewable visas tied to particular employers.

Circular migration policy will remain a matter of trial and error for some time, and practice is likely to remain far ahead of policy. Understanding how circular migration works when it develops spontaneously is perhaps the most valuable source of insight into better program design.

Learning by Doing: Experiences of Circular Migration

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I. Introduction

Many states have developed a strong preference for temporary over permanent migration, particularly of less-skilled and less-educated migrants. Through temporary forms of migration, some governments may hope to meet their labor market needs without incurring the social and fiscal costs — while also foregoing the benefits — of permanently incorporating newcomers. The reality of the last several decades, however, has often frustrated this preference. In many cases, migrants admitted for limited periods have stayed and settled, often with the tacit approval of their home countries’ governments.

Some migrant-receiving states have concluded that their preference for temporary migration might come closer to realization if they cooperate with the origin-country governments. But the latter have their own priorities. These include access to the labor markets of the richer countries (and the resulting stream of remittances) and greater opportunity to benefit from emigrants’ augmented human capital, which they hope will boost economic development in the country of origin. Increasingly, both destination and origin countries see circular migration as a means to jointly gain from migration.

The first Global Forum on Migration and Development (GFMD), held in Brussels in 2007, devoted a roundtable to circular migration. In the background paper for that session, the authors of this *Insight* described circular migration in the 21st century as “a broader notion than the one-time-only temporary migration programs more dominant in the past, which saw a migrant’s return to his or her home country as the closing of a finite cycle.”¹

Since the first Global Forum, we have developed a more dynamic notion of circular migration as a continuing, long-term, and fluid pattern of human mobility among countries that occupy what is now increasingly recognized as a single economic space. It increases the likelihood that both countries

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of origin and destination can make gains from migration according to their respective preferences. Many migrants and their descendants also prefer to move back and forth between their ancestral and settlement countries. At their best, circular migration

policies align the objectives of origin countries, destination countries, and the migrants who comprise these flows.

Circular migration is distinct from temporary migration in that circular migration denotes a migrant’s continuous engage-

ment in both home and adopted countries; it usually involves both *return* and *repetition*. Circularity produces the most positive outcomes when migrants move voluntarily between countries to pursue various interests. It allows workers to take advantage of employment or investment opportunities as they appear both in the origin and destination country.² It often contributes to the development of both home and host countries and likely reflects the natural preference of workers in the global economy: as labor law scholar Guy Mundlak observes, “For the same reason that it can no longer be assumed that individuals build careers in a single workplace, it cannot be assumed that they build their career in a single country.”³ Beyond economic considerations, people also circulate to pursue philanthropic activities, to be close to family, and to seek educational opportunities, among many other reasons. Positive outcomes are less likely to occur when migrants are compelled to return periodically to their home countries simply to avoid permanent settlement, and when they bring with them little by way of savings or valuable skills.⁴

Despite their considerable interest in circular migration in recent years, migrant-receiving states do not have much experience with such programs. According to the eminent scholar of African migration, Aderanti Adepaju, and his co-author, human geographer Annelies Zoomers, the governments of many origin countries remain skeptical that circular migration, as proposed, will get beyond the receiving countries’ return agenda and

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actually serve the sending countries' purposes.⁵

This *Insight* examines circular migration experiences, attempts to evaluate how circular migration is living up to its apparent promise, and reviews the outcomes

governments might realistically expect of it. It will look at formal programs meant to create circular migration, as well as circularity that has arisen spontaneously. The emphasis throughout is on the *economic* consequences of circular migration rather than the social and cultural benefits or costs of this kind of mobility, although these may be considerable.

Circular migration patterns fall into several recognizable categories: seasonal migration; nonseasonal, low-wage labor; and the mobility of professionals, "knowledge workers" (such as scientists, professors, technicians, and researchers), and transnational entrepreneurs. States plan some of these movements unilaterally, bilaterally, or multilaterally. Other movements take place in the permissive contexts of multiple citizenship, long-term legal residency in two or more states, or regional trade agreements.

It should be noted that most receiving-country governments regard the circular migration of highly skilled and educated migrants

as a beneficial form of economic integration and codevelopment. In contrast, low-skilled labor is a matter of migration control for the receiving countries and labor-market access for origin countries.

Avoiding the permanent migration of low-skilled workers and their dependents is a clear policy priority for many high-income countries; their governments' interest is therefore focused on circular migration programs for less-skilled workers.

Many traditional migration relationships predate current national borders and are, de facto, circular — at least until attempts to stop unregulated traffic across national borders interrupt them.

The discussion that follows concentrates on South-North migration, although circular migration is probably more common, proportionally, in North-North and South-South flows. North-North migration today is rarely seen as a major policy problem, however, and lack of reliable data obscures the significance of South-South migration. Consider that the United Kingdom and Mexico both have about 10 percent of their populations living outside their boundaries — yet one hears of very little anxiety about British immigrants.

II. De Facto Circular Migration

Many traditional migration relationships predate current national borders and are, de facto, circular — at least until attempts to stop unregulated traffic across national borders

interrupt them. Nomads, traders, and seasonal laborers all follow livelihood strategies that take advantage of different conditions in different locations. In some rural communities, young men commonly seek wage employment in urban areas during the slack season for agriculture or during a drought. Migrating for education is also very common. Anthropologist Harold Olfson has identified 25 terms for spatial movement in the Hausa language of West Africa — all but one of which refer to circular migration of varying durations and purposes.⁶

De facto circular migration is the norm where national borders are open by agreement, as among the first 15 European Union Member States, among the Nordic states, or between Australia and New Zealand. It is also normal where governments do not heavily enforce national borders, as in many parts of the developing world. In fact, South-South migration is difficult to estimate in part because so many border crossers do not undergo any formalities at all. For example, the free, though formally time-limited, migration among the members of the Economic Community of West African States (ECOWAS) may reflect members' lack of capacity to enforce border regulations as much as their commitment to economic cooperation.

Much of the migration between the United States and Mexico was de facto circular until the 1990s ushered in an era of much more serious border enforcement. Demetrios Papademetriou of the Migration Policy Institute testified to the US Congress in 2004 that “Mexico’s geographic proximity to and

historically complicated relationship with the United States has shaped a tradition of circular migration that, until recently, had been far longer and stronger than any other nation’s.”⁷ That circular migration, however, has been disrupted by US border enforcement policies of the past ten years or so, Papademetriou said. He and many other observers note that making border crossing so much more difficult, dangerous, and expensive has not stopped unauthorized Mexican migrants from coming to the United States. Instead it has served to “lock them in” to long-term residence rather than the frequent back-and-forth movement that many would prefer.

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Additional patterns of de facto circularity arise spontaneously among well-established, higher-income migrants who have secure residency status in destination countries and are welcome in their countries of origin. It is estimated that between 150,000 and 500,000 residents of Hong Kong hold Canadian passports, and many move back and forth between the two.⁸ They appreciate the dynamic business environment and opportunities for professional advancement in China, but they also value the security, quality of life, and superior educational systems of

Canada. On a much smaller scale, one study of 80 Jamaican nurses who emigrated to the United States and later returned home found that 24 percent had traveled abroad to work at least five times. Some 80 percent intended to travel again.⁹

Dual citizenship and voting rights for expatriates may facilitate long-term circulation by enabling permanent migrants to maintain substantial personal and political attachments to both a country of origin and destination. A recent estimate suggests that more than half of all the states in the world — including both destination and origin countries — now tolerate some form or element of dual citizenship.¹⁰

Although destination countries generally view dual citizenship through the lens of immigrant integration, origin countries also see it as a way to maintain meaningful contact with their diaspora. In recent years, an increasing number of migrant-sending states, such as Colombia, the Dominican Republic, Ecuador, Italy, Mexico, and Turkey, have changed their policies to allow dual citizenship.¹¹

Interestingly, some countries recognize dual membership selectively. Spain allows dual citizenship for nationals of many Latin American countries and some others of special interest to Spain, mostly former colonies such as the Philippines and Equatorial Guinea. Although India does not allow dual citizenship (except when inadvertently acquired), in 2005 it created a special category of citizenship — labeled Overseas Citizenship of India (OCI) — for Indians liv-

ing permanently abroad. All former citizens of India and their children and grandchildren are eligible for OCI status provided that their current country of citizenship permits some form of dual citizenship.¹² (It excludes individuals who have since become citizens of Pakistan or Bangladesh.) OCI status allows individuals access to special multipurpose, multientry, and lifelong visas as well as expedited naturalization. By restricting eligibility for OCI status to individuals whose ancestors were eligible for Indian citizenship at independence, the legislation effectively extended dual citizenship to nonresident Indians living in wealthy, industrialized countries around the world but withheld it from Indians living in poorer or less developed countries (many of whose ancestors emigrated in the 18th and 19th centuries). Such selective recognition of dual citizenship would seem to be intended to facilitate circulation among the countries involved.

In a number of migrant-receiving countries, however, dual citizenship remains a highly contentious proposition, suspected of weakening loyalty to the state or diluting the meaning of citizenship. Some countries, such as Denmark and Norway, do not recognize dual citizenship except in the most exceptional cases. Other countries, including Germany, discourage dual citizenship without prohibiting it.

III. Seasonal Migration

Seasonal migration is the most familiar form of circular migration between high-income and low-income countries. Although

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particularly associated with agriculture, seasonal migration also applies to other industries that are seasonal to some degree, such as tourism, landscaping, and some forms of construction. Among 92 countries that replied to a 2003 International Labor Organization (ILO) survey, 20 reported that they had

bilateral agreements on seasonal agricultural workers.¹³ By far the largest body of experience relating to circular migration comes from seasonal worker programs.

Canada

Policymakers frequently look at the Seasonal Agricultural Workers Program (SAWP), which brings about 20,000 workers annually to work on Canadian farms for at least six weeks and up to eight months. Sixty percent of the workers come from Mexico, and the rest from Central American or Caribbean countries. SAWP offers repeat employment, often with the same farmer, if both the migrant and the employer comply with the program's terms (and the demand for migrant labor persists). The farmer must pay the migrant worker the same rate that a Canadian worker would earn for the same job, and must provide meals (or kitchen facilities) and housing. The employer provides transport from the home country and must ensure that migrants are enrolled in provincial medical insurance plans upon arrival, at minimal cost to the migrant.

The governments of the home countries, which are responsible for recruiting the workers, monitor their living and working conditions (although some observers have questioned their ability to do so effectively). Virtually all of the migrants return home, and the rate of repeat participation is very high for both workers and employers. In addition, an assured labor supply has allowed participating Canadian farmers to expand production, leading to an increase in the employment of Canadians in agriculture and related industries.

In assessing SAWP's impact in Mexico, sociologist Gustavo Verduzco writes that SAWP participants (who are mostly poor farmers or day laborers) have a higher quality of life because they avoid the dangers and high costs of illegal immigration. "This point cannot be underestimated since, unlike undocumented workers who depend on smugglers, participants in the program incur reduced traveling and overall living expenses, experience increased productivity and derive greater benefits from their work."¹⁴ He also notes that employers benefit from the return of experienced workers, thus lowering their training costs and increasing productivity. Sociologist Tanya Basok's case study of Mexican seasonal migration to Canada found that participating Mexican workers have invested in agricultural land and small businesses at home.¹⁵ Despite these outcomes, SAWP was not designed with development in mind. Its goal was simply to meet the labor needs of Canadian farmers.

The SAWP program's preference for young workers with families in Mexico helps maintain circularity, as does requiring temporary workers to present a sealed employer's evaluation of their performance to the Mexican authorities upon their return; compliance with this requirement preserves their work eligibility for the next season. Canadian officials have also speculated, not entirely in jest, that Canada's harsh winters encourage agricultural workers to go home in the off-season.

In another Canadian program for seasonal agricultural migrants, the contracting party in Canada is not the central government but the Province of Quebec's association of migrant-farm-labor recruiters, known by its French acronym FERME (the Foundation of Enterprises for the Recruitment of Foreign Labor). FERME entered an agreement with the government of Guatemala to recruit farm workers. The Guatemala office of the International Organization for Migration (IOM) helps implement the project, and the Canadian Department of Human Resources and Skills Development (HRSD) supervises it from the receiving side under the auspices of SAWP. The number of workers involved is tiny — only 2,075 in the fifth year of operation (2007) — but the innovative public-private partnership, involving provincial recruiters, an international organization, and a national government, makes the project interesting.¹⁶ Officials from HRSD claim that the program has been a success because it maintains circularity, fills labor needs in Canada, and creates institutional “buy-in” from all participating parties, including governments, employers, and workers.¹⁷

Spain

Seasonal workers enter Spain under the auspices of the *Contingente de Trabajadores Extranjeros*, the general program for foreign workers who do not enjoy free circulation within the EU labor market. The Contingente, which is annually adjusted (by province and sector according to needs) and approved each year by the Spanish government, establishes an easy procedure for hiring seasonal workers, for no more than nine months per year. (It also includes a provisional quota for specific permanent jobs.)

The Contingente encourages circular migration with a combination of demands and incentives. First, it requires participating migrants to sign a binding commitment to return to their country of origin at the end of the work season. Migrants must register with a Spanish consulate in their origin country; the consulate then monitors compliance. A worker who returns home can participate in the program again without going through the selection process. After four years of following the rules, the migrant gains easier access to permanent work authorization. At that point, circularity becomes a matter of the migrant's choice.

Beyond migrant earnings, Spain's seasonal labor experience offers a number of good practices to promote development in the country of origin. From a development perspective, a provincial-level program is one of the most interesting. *Unió de Pagesos* (a farmers' union) in Catalonia, identifies labor needs in the agricultural sector and cooper-

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ates with the Ministry of Labor to recruit workers from Colombia, Morocco, and Romania.¹⁸ The union also is involved with logistical issues, housing, and workplace monitoring.

The seasonal workers in the Unió de Pagesos programs support the sustainability of the fruit-growing sector in Spain, and their earnings support families and communities at home. In most seasonal worker programs, this is the limit of the “codevelopment” bargain. But the union’s philanthropic branch, *Fundació Agricultors Solidaris* (the Farmer’s Solidarity Foundation, known as FAS), also helps to connect the home and host communities through development projects that build on the comparative advantages of the migrants’ home communities.

In Spain, FAS promotes a “Welcoming Program” (*mòdul bàsic d’acollida*) that provides newly arrived seasonal workers with information about health care and other services, remittance transfer, and labor laws. FAS also organizes social and cultural activities.

More important from the perspective of development, FAS assists seasonal migrants who want to join together to contribute to the development of their home communities. FAS helps them set up small businesses, agricultural enterprises, or civil-society organizations when they return. For instance, the program has helped Colombian workers estab-

lish small- and medium-sized agribusinesses in their home communities. Businesses that produce pastries, raise cattle, construct hen houses, and market quinoa and fruit, among others, receive technical assistance and cofinancing.¹⁹ Other examples include an information center for women, an organization of small-scale milk producers, and a fruit-marketing cooperative. By 2006, about 1,200 Colombians and 600 Spanish farmers had participated in the program, and the Spanish government decided to replicate and expand the circular-migration-and-development model to other parts of Spain.

Another seasonal worker program, which Spain has implemented progressively since 1999 and the European Union has supported since 2005,²⁰ opened legal channels for foreigners to work in the citrus and strawberry industries in and around Cartaya, Spain. Initially, it was not successful in establishing circularity. Although return of the workers was one of the program’s objectives, only 5 percent of the 1,200 participating workers in 2005 went home.²¹ In 2007, therefore, only married women with children were selected for the program — and they were not permitted to bring their children with them. If they returned on schedule, they were guaranteed a job for the next season. After the 2007 season, 85 percent of the 4,563 workers returned voluntarily.

New Zealand

In 2007 New Zealand launched a new program for seasonal workers from the Pacific

islands. Up to 5,000 workers per year may be employed to plant, maintain, harvest, and pack crops (including in the wine industry). Those who find work with a “recognized seasonal employer” can stay in New Zealand for seven months in any 11-month period (nine months for workers from Tuvalu and Kiribati). They cannot switch to another type of work permit during their stay, and they must leave at the end of the contract period.

A distinctive and valuable feature of the New Zealand program is that it emphasizes evaluating the program from its starting point. The World Bank is cooperating in the evaluation effort. Preliminary findings suggest that among Tongan participants, the recruited workers originate from largely agricultural backgrounds and have lower-than-average income and schooling than Tongans not participating in the program.²² This suggests that the program is indeed achieving its mission of recruiting workers from poorer circumstances.

Germany

As Germany began developing closer ties with Eastern Europe following the end of the cold war, illegal migration became a major German policy concern. Germany did not want to replicate its postwar guest worker programs, which resulted in many workers settling permanently. So, the government developed new bilateral agreements based on industry- and occupation-specific needs.

Germany’s program now admits about 330,000 seasonal workers from the eight

countries that joined the European Union in May 2004 (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic, and Slovenia).²³ About 90 percent work in agriculture and forestry, and the rest in the hotel/restaurant industry.²⁴ Seasonal workers are officially limited to 90 days of employment in Germany per work year, although some workers take multiple contracts during a single year. Since many of these workers are employed (albeit generally underemployed) in the origin country, most are already covered under their national social insurance system. This means their German employers have lower costs. The program evokes the synergistic potential of circular migration: It is clearly not a substitute for development, but it can provide supplemental income for the underemployed and help to reduce poverty.

United Kingdom

The United Kingdom’s Seasonal Agricultural Workers Scheme allows up to 16,250 full-time foreign workers to work in agriculture for up to six months in a year (for 2008). Although workers from across Europe once took advantage of the program, the government has confined participation since January 2008 to nationals of Bulgaria and Romania, which joined the European Union in January 2007.²⁵ The program’s quota increased more than fourfold from 5,500 in 1996 to a peak of 25,000 in 2004, suggesting its growing importance as a source of labor.

The estimated return rate of 90 to 96 percent, though high by international standards, has nonetheless disappointed some policymakers, according to a 2002 review of the program by the Home Office.²⁶ The World Bank suggests three reasons behind this trend: (1) workers bear the transportation costs, and many find it difficult to recoup those costs and reach their savings goals in a six-month period; (2) only full-time students can participate, which increases the likelihood of overstaying after the season following graduation; and (3) workers are overqualified for the seasonal jobs they perform and are likely to find jobs elsewhere in the country.²⁷

United States

The United States has experimented with circular migration for seasonal workers but has backed away from circularity in its existing program. The H-2B visa program was

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created in 1986 for less-skilled, nonagricultural seasonal workers in such sectors as landscaping, construction, hospitality, and entertainment (traveling carnivals and circuses, for example, use these visas). In 1990,

the US Congress imposed a cap of 66,000 H-2B visas per year. Because demand had outstripped supply, Congress in 2005 made it possible for employers to rehire their former

employees from Mexico and Central America under a “return worker exemption” outside the limits of the cap. But in September 2007, Congress failed to renew the exemption, amidst a rancorous domestic political debate that made it difficult to expand any immigration programs. As a result, the number of H-2B visas issued in 2007 fell by almost 70,000. It is likely that unauthorized immigrants filled many of the vacant jobs. Conceivably, these include some of the same workers who previously had H-2B visas.

IV. Nonseasonal Circular Migration for Low- and Semi-Skilled Workers

In seasonal work, circularity has a certain logic. However, circular migration programs for other low- and semi-skilled workers present more challenges to the participating employers and migrants, as well as to governments. Employers have limited enthusiasm for programs that remove experienced workers from ongoing jobs. For migrants, the period of permissible employment and the required breaks between periods of work may bear little relation to their goals.

Persian Gulf countries and some advanced East Asian economies, which depend heavily on less-skilled migrant labor, generally have the largest circular migration programs. Yet these countries also rigidly enforce very restrictive immigration laws, and rarely permit low-skilled workers to permanently settle, marry natives, bring over

their families, or naturalize. In Saudi Arabia, where approximately one-quarter of the low-skilled workforce is foreign, low-waged migrants are forbidden to marry a Saudi citizen.²⁸ In Singapore, a migrant worker who becomes pregnant is subject to deportation.²⁹ Circularity is not built into migration arrangements in these countries, but it is common, because of time-limited contracts, modest earnings, lack of opportunity back home, and the possibility of re-migration. Many temporary workers in these countries go back and forth repeatedly during the course of their working lives. Eventual return is almost universal.

Spain

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migrant-receiving country, has created innovative arrangements to encourage circular migration among less-skilled, non-seasonal workers. Its programs have improved since 2004, when the government trans-

ferred responsibility for immigration matters from the Interior Ministry to the Ministry of Labor and Social Affairs (MTAS).³⁰ More recently, MTAS has been renamed the

Ministry of Labor and Immigration, signaling a higher priority for migration issues.

For the first time, in 2006, the Spanish International Development Agency's annual plan of activities explicitly addressed the issue of migration and development. Spain recently launched an initiative to expand its migration cooperation beyond traditional partners in North Africa, Latin America and Eastern Europe to emerging partners in sub-Saharan Africa.³¹ The Spanish government currently has bilateral migration agreements with Colombia, Ecuador, and Morocco (all 2001), the Dominican Republic, Poland and Romania (all 2002), Bulgaria (2003), Mauritania and Senegal (2007), and Cape Verde (2008). In addition, Spain has provisional agreements with Gambia (2006), and Guinea and Mali (2007). Such agreements lay the groundwork for nationals of these countries to gain greater access to the Spanish labor market.

Spain's agreements with Colombia and Ecuador include measures designed to facilitate migrants' voluntary return such as training projects and recognition of the experience migrants acquired in Spain. The vocational training, whether in Spain or in the origin countries, emphasizes skills that are in short supply in Spain, but these skills can also contribute to development in the country of origin. These agreements serve a dual purpose: If they facilitate labor market integration between the home and host countries, they may encourage a continuing pattern of "positive circularity."

European Commission

The European Commission, Spain, and France are working together on a pilot project to reduce the risks and increase the benefits of migration from Mali to Europe. The project assumes substantial migrant return. It includes establishing an immigration management and information center in Mali's capital, Bamako, with regional offices to be added at a later stage. Through the center, Malian authorities will distribute information on conditions for migration, work opportunities, and training options in Mali, the European Union, and neighboring countries. The center will also disseminate information about the dangers of illegal immigration and the reintegration assistance available to migrants returning to Mali.³² Other EU Member States are reportedly also considering participation.

The European Commission's May 2007 Communication on Circular Migration and Mobility Partnerships between the European Union and Third Countries identifies five commitments that non-EU partner states should be offered: (1) improved opportunities for legal migration for nationals of third countries, (2) assistance to help third countries develop their capacity to manage legal migration flows, (3) measures to address the risk of brain drain and to promote circular migration or return migration, (4) improvement and/or easing of the procedures for issuing short-stay visas to nationals of third countries, and (5) better organization of the consular services of EU Member States in the

third country. In turn, the partner states are expected to cooperate on illegal migration and readmission of their nationals.³³

After Member States reacted positively to the communication, the European Council in December 2007 instructed the European Commission to open dialogues aimed at developing pilot mobility partnerships with Cape Verde and Moldova. These are likely to involve some form of circular migration. More recently, the Commission has opened similar discussions with Senegal and Mauritius. The Commission is encouraging EU Member States to take part in the pilots, which are to be implemented starting in late 2008 or early 2009.³⁴

The Philippines

If Spain provides models of good practice for destination countries, then the Philippines appears to be its counterpart among origin countries. The

government of the Philippines has a long record of organizing overseas contract work for its citizens at all skill levels, from housemaids to physicians.

It has concluded 12 labor agreements (not including social security agreements or those pertaining to maritime workers) with

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host countries. Overseas Filipino Workers (OFWs) on time-limited contracts also have high rates of return and repetition. A background paper for the Global Forum on Migration and Development in 2007 attributed the country's success to "the huge support infrastructure that offers training, skills upgrading, and multi-skilling courses both abroad and at home, and direct reintegration support for the migrants and their families upon returning."³⁵

In fact, the programs for OFW returnees are more impressive on paper than in practice, and many re-migrate because, as statistics from the Philippine Overseas Employment Agency show, 70 to 80 percent of OFWs do not have significant savings upon return. The protection the government offers OFWs through its diplomatic and consular services — and sometimes by direct Cabinet intervention — is impressive.³⁶ But the mobility pattern of Filipino contract workers can be described as "negative circularity." OFWs leave and return because they lack livelihood options at home and integration opportunities in the countries where they work.³⁷

United Kingdom

The United Kingdom all but phased out its program for temporary, low-skilled labor known as the Sectors Based Scheme (SBS). The UK government introduced SBS in May 2003 to address labor shortages in the hospitality, meat and fish processing, and mushroom production industries. Work permits were good for 12 months, after which

the migrant worker was required to leave the country. Application for another work permit could be entered only after having been out for at least two months. Switching from SBS to another work permit was not allowed.

Many observers criticized SBS because the migrant workers were in such low-wage jobs that a year's employment did not allow them to amass significant savings or acquire useful new skills.³⁸ From the employers' point of view, the constant churning of the labor force was wasteful and disruptive. By the end of 2006, SBS had been phased out for migrants from outside the European Economic Area. As of 2007, only Bulgarians and Romanians may be recruited for SBS, and only for food manufacturing industries.³⁹

The points-based migration system that the United Kingdom introduced in 2008 includes a category for "limited numbers of low-skilled workers needed to fill specific temporary labor shortages."⁴⁰ The system does not seem to anticipate long-term needs for low-skilled migrant labor — or perhaps UK authorities assume that workers from new EU Member States like Poland can meet such needs for the foreseeable future (such workers will eventually have complete labor mobility within the European Union). The UK Statistics Office estimates that between 2004 and 2006, the United Kingdom received about 158,000 migrants from the eight Eastern European countries that joined the European Union in May 2004 — about double the number of immigrants it received from the EU-15 countries over the same period.⁴¹

Canada

Canada has long looked to Mexico and the Caribbean for agricultural seasonal workers, as discussed earlier, but it is now extending its temporary foreign worker programs to other industries. Its “Low-Skilled Pilot Project” issues work permits for up to two years (up from one year prior to 2007) to meet labor shortages, after which the worker must leave Canada for four months before taking up another permit. However, both employers and the Canadian federal government have expressed frustration with this program because of the periodic loss of newly trained and badly needed workers and the possible exploitation of workers who take part in the program.⁴²

The federal government also is encouraging provincial governments to administer temporary foreign worker programs directly, even entering into “bilateral” agreements with some provinces. The provinces, in turn, have negotiated agreements with countries. For example, the Minister of Labor from the Philippines signed a two-year Memorandum of Understanding with the government of British Columbia to fill some of the 30,000 positions (many of them associated with the 2010 Winter Olympics) that the provincial government fears will stay empty without an infusion of migrant labor.⁴³ A British Columbia program for live-in caregivers is extraordinary in offering permanent residency after two years of work. The government of Manitoba is also recruiting temporary foreign workers directly.

V. Circulation of Professionals, Academics, and Entrepreneurs

When policymakers consider the mobility of highly skilled individuals, their perspectives on temporary labor migration reverse: those in origin countries promote circularity while those in destination countries encourage settlement. Indeed, many migrant-receiving countries of the North are transforming their foreign student programs and temporary migration programs for highly skilled or well-financed individuals into transitional programs that can lead to permanent residency.⁴⁴

For instance, in 2008, Canada launched a program that will allow skilled temporary workers already in Canada to apply for permanent residency without leaving the country; the program is also open to foreign students with a Canadian academic credential and work experience in a skilled occupation. The Canadian government expects that about 25,000 students and skilled workers will be eligible each year when the program is fully developed.⁴⁵

The US H-1B program of temporary (up to six years) admission for “specialty occupation workers” who fill a gap in the labor market has become a de facto apprenticeship for permanent residency for those who wish to settle in the United States. Currently, 65,000 H-1B visas are issued each year, and employer demand for these workers (typically highly skilled scientists, academics, and technicians) far outstrips the supply. Employers have lobbied strongly for an increase in the quota, and have secured temporary increases

— most recently to 195,000 visas in fiscal years 2001 through 2003. In 2004, the cap returned to 65,000, and political opposition to increases in immigration has since blocked further action.

The H-1B program became so popular, and evolved as a transitional category, because employers found the permanent immigration system for employment-based admissions too limited (numerically), slow, and cumbersome to meet their needs. Rather than reforming the permanent system, Congress eliminated the requirement that H-1B visa holders have a foreign residence and have no intention of abandoning it. This change, instituted in the 1990 Immigration and Nationality Act, recognized the “dual intent” of the H-1B visa program and allowed for adjustment to permanent status. About half of H-1B visa holders do eventually adjust to permanent residency.⁴⁶

Ironically, current criticism of the H-1B program focuses not on the fact that many H-1B visa holders remain, but that so many return to their home countries where they can compete with US workers for the same kinds of work. Of course, the return of skilled workers was the original intent (and requirement) of the H-1B program, and increased competitiveness in origin countries is a desirable outcome from a development perspective.

In an unusual measure to encourage circulation of immigrants, US Senator Joseph Biden (D-Delaware) introduced the Return of Talent Act (S.1684) in the Senate. It would allow a foreign national who is legally present in

the United States to return temporarily to his or her home country “if that country is engaged in post-conflict or natural disaster reconstruction, and for other purposes” without losing the “continuous presence” in the United States that is required for some immigration benefits, such as naturalization or retention of permanent residency. The Return of Talent Act, if passed, would remove a significant barrier to circularity.⁴⁷

The new UK points system grants immediate “leave to remain indefinitely” for the top-tier, “highly skilled individuals to contribute to growth and productivity” — even if they do not have a prior job offer. Individuals earn points for such characteristics as academic credentials, previous earnings, experience living in the United Kingdom, English language ability, and accumulated maintenance funds. Moreover, it requires intending immigrants in the top classifications to commit themselves to making the United Kingdom their primary home.

The United States, Canada, and a number of other states also have special visa categories for investors and/or entrepreneurs. These visas usually require bringing in a certain amount of money, making investments that create jobs, demonstrating a record of entrepreneurship, or some combination of these three.

The E (treaty trader or investor) visa in the United States does not allow adjustment to permanent residency status, but E-visa holders can acquire permanent residency through different means, such as marriage to a US

citizen or permanent resident. E visas can be renewed indefinitely. In 2006, the United States admitted 217,148 individuals on E visas.⁴⁸ While the top countries of origin were mostly developed countries (including Japan, Germany, the United Kingdom, and South Korea), four developing countries were among the top 20: Mexico (11,591), Colombia (2,307), Argentina (1,936), and the Philippines (1,258). Overall, however, only about one in ten treaty traders and investors in 2006 was from a developing country.⁴⁹

According to regulation, treaty traders and investors should infuse capital into the US economy and create jobs, but in reality, little empirical analysis has been conducted on the economic impacts of these immigrants. The E visa is not designed for development impact in the investor's origin country, but it could be — for example by favoring applicants who also have a substantial investment in the country of origin (or in a country that has met certain preconditions – for instance, countries that qualify for Millennium Challenge Account funds).

Of course, policymakers and many other stakeholders are greatly concerned about developing countries losing human capital and the money they spent educating and training emigrants. Destination countries

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of 2006 American Community Survey data, about two-thirds of the estimated 2.7 million foreign-born tertiary-educated workers in the United States are from a developing country and half are from low- and low-middle-income countries.⁵⁰

Since restricting the movement of highly skilled people is neither ethical nor effective (and skilled people face serious barriers to their productivity in many developing countries), the search for brain-drain remedies has begun to focus on circular migration. Although destination-country governments have started and/or funded some small programs, origin-country governments, international organizations, and migrants themselves have taken most of the initiative in promoting circular migration of skilled people.⁵¹

In the 1960s, Taiwan and Korea started to identify “high-flying individuals” who were working abroad and offer them excellent research facilities, salary top-ups, and other benefits. China is now emulating that model but on a much larger scale.⁵² Starting in 1989, China also set up a service center offering returnees housing assistance, duty-free imports, and return airfares for self-financed students. India has loosened foreign-currency exchange controls and streamlined business licensing requirements to encourage expatriate return and investment.

Countries as diverse as Mexico and Lithuania have adopted roughly similar initiatives. Mexico organizes permanent returns of its skilled nationals through its Return of

National Science and Technology Council (CONACyT) Scholarship Recipients program (*Repatriacion de Ex Becarios del Consejo Nacional de Ciencia y Tecnología*). The program promotes brain gain by encouraging CONACyT scholarship recipients to return and contribute to Mexican development. Other countries with similar programs include Jamaica, Uruguay, and Argentina.⁵³ However, establishing a program does not guarantee the desired results, and it is difficult to assess the outcomes of these programs in the absence of publicly available evaluations.

Governments have also partnered with international organizations such as IOM and the United Nations (UN) to initiate permanent and/or temporary return of the highly skilled — though in small numbers and at a relatively high cost. IOM, for example, has been implementing return-of-talent programs in Africa, Latin America and, more recently in Afghanistan and Sudan.⁵⁴ Between 1983 and 1999, it reportedly succeeded in relocating about 2,000 expatriates to 11 African countries. IOM return programs include recruitment, job placement, transport, and some employment support. The organization now places more emphasis on temporary than permanent return of highly qualified expatriates. IOM's Migration for Development in Africa (MIDA) program, for example, aims to engage diasporas in capacity building and strengthening of key institutions in their home countries through short-term consultancies.

A similar long-standing program is the UN's Transfer of Knowledge through Expatriate

Nationals (TOKTEN) program, which subsidizes volunteer professionals to return on a short-term basis to their origin countries to impart skills acquired while abroad. TOKTEN also allows professionals to return temporarily as consultants. Especially active in the West Bank and Gaza, TOKTEN has placed more than 500 Palestinian expatriates since its inception in 1994.⁵⁵

A study of scientific diasporas commissioned by the French Ministry of Foreign Affairs concluded that destination-country government programs have limited potential to promote skills circulation. The study, which also found much to admire in the laissez-faire system of the US scientific community, said:

“The USA is emblematic in this respect: it benefits from the skills of Indian and Chinese expatriates while the home countries apply policies that enable them to take advantage of their expatriates. The S&T [scientific and technological] diasporas are present, but mainly in projects initiated by S&T actors. These actors, in host country and home country, are part of the same scientific community and belong to the same kind of institutions. The S&T diasporas function spontaneously, in accordance with clear professional interests, and there is no need for the USA to introduce any explicit policy toward them.”⁵⁶

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Demographer Graeme Hugo has examined Australia's immigration records to analyze the mobility patterns of Chinese and Indian immigrants to Australia. He found a surprisingly high level of permanent return migration to

China — involving almost a third of Chinese with permanent residence or citizenship in Australia. He also found that Chinese-origin migrants remaining in Australia traveled very frequently to China, and that those who had repatriated to China regularly visited Australia. This is evidence of a lively pattern of circular migration, and is one of the few that is documented quantitatively.⁵⁷

Hugo concludes that these circular migration flows could benefit development.

“Clearly the majority of people who move to Australia from China and India maintain contact with their homeland through regular visitation among other ways of maintaining linkages. Development of effective ways of facilitating such interaction and directing it into channels which have positive social and economic development effects would appear to be a productive area of policy development.”⁵⁸

Political scientist AnnaLee Saxenian's survey of entrepreneurs in California's Silicon Valley revealed similar trends.⁵⁹ Permanent migrants

of Taiwanese, Indian, or Chinese descent return to their native countries regularly for business purposes. About half of these foreign-born professionals reportedly return for business at least annually. These transnational entrepreneurs set up subsidiaries, joint ventures, subcontracting, or other business operations in their countries of origin.

Destination-country governments do some things to encourage skills circulation, but they are more effective when they try to enable such circulation by removing obstacles, rather than directing particular flows. Among the actions that foster skills circulation are facilitating diaspora connections with countries of origin, experimenting with and evaluating pilot projects to encourage mobility of qualified professionals, and supporting cooperation between institutions in sending and receiving countries.

VI. Trade Agreements as Frameworks for Circular Migration

Although facilitating labor migration is rarely the primary objective of a regional trade agreement (RTA), it is often — but not always — a byproduct.⁶⁰ Given that labor mobility is often a lower priority in RTA discussions, negotiators may be willing to exchange labor liberalization for other objectives. RTAs, therefore, display a wide range of labor-mobility provisions. Despite their heterogeneity, RTA labor-mobility provisions can be broadly categorized into agreements that provide full labor mobility, labor market

access for certain groups, and no (or token) labor mobility provisions.⁶¹

Agreements Providing Full Labor Mobility

Few regional agreements provide for full labor mobility. While many of these agreements do include some limitations on labor mobility and labor market access, it is significant that they provide for general mobil-

Few regional agreements provide for full labor mobility.

ity and only then enumerate restricted sectors or conditions rather than vice versa. Examples include the European Union and European Economic Area (EEA), the

Australia-New Zealand Closer Economic Relations Treaty Agreement (ANZCERTA), and the planned implementation of the Common Market for Eastern and Southern Africa (COMESA).⁶²

In many respects, these agreements are the most conducive to developing spontaneous patterns of circular migration, but they generally do not include countries with dramatic income disparities. As of 2006, the majority of RTAs registered with the World Trade Organization were between countries of similar income levels.⁶³ Indeed, the European Union pursues a strategy of supporting a certain level of development before newly acceding countries achieve full labor mobility. Similarly, with the exceptions of Libya and Botswana, the COMESA Member States

are all lower-middle or low-income countries according to World Bank classifications.

Agreements Providing Market Access for Certain Groups

The majority of regional agreements limit labor mobility to certain groups or economic sectors. For example, NAFTA and the Group of Three⁶⁴ provide for the temporary movement of people in select skilled and business-related categories. The Caribbean Community (CARICOM) is somewhat more generous, allowing for both the temporary and permanent

movement of individuals in select highly skilled and business categories.⁶⁵ By contrast, ECOWAS permits wide-ranging labor

mobility for both skilled and unskilled workers but only for 90 days; stays of more than 90 days may require residence permits. A variety of other RTAs — including the Association of Southeast Asian Nations (ASEAN) Free Trade Agreement, the Morocco and Tunisia Euro-Med Association Agreements,⁶⁶ and the Southern Cone Common Market Agreement (MERCOSUR) — are based either directly on the model of the World Trade Organization’s General Agreement on Trade in Services (GATS) or some version thereof.

Generally, it appears that RTAs whose members include countries of disparate levels

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of development prefer to limit mobility to select sectors or groups, most often the highly skilled, business persons, and service providers. By contrast, RTAs among countries lacking state capacity to strictly enforce immigration law prefer to allow broad temporary mobility, given that selective deportation requires fewer operational resources than full border control. Indeed, mass expulsions during periods of economic distress or nationalistic fervor characterized earlier years of ECOWAS labor mobility.⁶⁷

Other Labor-Mobility Provisions in RTAs

Some RTAs prohibit labor market access but facilitate entry through information sharing, simplifying visa procedures and requirements, and improving processing times for temporary entries. Examples include the Asia Pacific Economic Cooperation Forum (APEC) and the South Asian Free Trade Association (SAFTA). Although such provisions may indicate initial confidence-building steps toward more significant future partnerships, they offer little more in terms of substantive cooperation.

Although RTAs have been more successful at implementing labor-mobility partnerships than the multilateral negotiations of the GATS, barriers remain. EU-style zones of free labor mobility among similarly developed countries, combined with assistance to raise the level of prospective members, are a sound long-term strategy and perhaps represent the highest-order evolution of partnerships between countries. But it is not clear how well such agreements can address the fundamental motives for circular migration

and other kinds of mobility partnerships: the global demographic mismatch, labor market gaps, and persistent wage differentials between countries — combined with a reluctance to embrace permanent immigration.⁶⁸

VII. Conclusions

As states have expressed a renewed interest in circular migration, bilateral agreements remain the most common means of pursuing them despite the promise of regional agreements as outlined above. During the 1990s, the number of bilateral labor agreements among Organization for Economic Cooperation and Development (OECD) countries quintupled, rising to 176 in 2003; in Latin America, half of the 168 agreements signed during the last 50 years were concluded after 1991.⁶⁹ This new generation of agreements appears to show that governments have learned from past experience. Some characteristics of these agreements include the following:

- *Matching program characteristics to specific labor market needs.* Rather than implementing a blanket temporary or circular migration program, destination countries are coming to recognize the merits of labor market analysis, in order to reduce the risk that foreign workers are employed as a low-cost substitute for native labor. This process includes timely consultations with local governments — the Canadian and Spanish temporary worker programs include input from provincial governments — as well as business and domestic labor interests.

- *Selecting the right workers for the job.* The new generation of agreements ensures that temporary workers fit the profile of in-demand workers. As noted, Spain's bilateral agreements with Ecuador and Colombia, for example, involve selection committees in the country of origin whereas Canada's SAWP targets workers with agricultural experience who have slightly above-average education, thereby allowing the worker employment flexibility and providing the employer with a worker who has basic literacy skills.⁷⁰
- *Offering repeat labor market access.* As many destination countries have learned, offering repeat labor market access to migrants who comply with the terms of circular migration programs makes it less attractive for migrants to work illegally or keep their unauthorized status. As we have seen, SAWP has benefited both workers and employers and lowers annual training costs for employers, although it is criticized for tying workers to particular employers. Spain has successfully encouraged circular migration by requiring returning temporary workers to register with the Spanish consulate or embassy in their origin country, and rewarding the workers with access to permanent residency after four years of compliance. For nonseasonal work, creating long-term relationships through institutional pairing appears promising. For example, the US National Institutes of Health has a program for African AIDS researchers that trains them in the United States and then supports and engages their research projects at home.⁷¹
- *Focus on skill upgrading.* When temporary workers receive training while abroad, benefits accrue to both countries of origin and destination. If skill upgrading is coupled with a long-term relationship, employers do not have to retrain workers on an annual basis, and workers return home with newly acquired labor market value. Spain's Unión de Pagesos shows how this works for low-skilled seasonal labor. For highly skilled workers, a notable example is the 2002 Dutch-Polish "Polish Nurses in the Netherlands, Development of Competencies" Agreement, which allows Polish nurses to work in the Netherlands for up to two years and provides for predeparture training and reintegration.⁷²
- *Tailoring family unification policies to fit the aims and duration of migration.* Migrants who bring their families want a stable community, educational opportunities for their children, and so forth. Migrant workers are less likely to be content with short-term circular programs if they have their families with them, and they may try to achieve longer-term settlement.
- *Making benefits and pensions portable.* Many migrants are reluctant to return to their home countries because they may have to sacrifice entitlements they built up during their working life abroad. Making social security and pension benefits portable may encourage circular migration.
- *Build state capacity at the origin.* Origin-country capacity is essential to protecting migrants' rights and to discouraging

migrants from working abroad illegally. The Philippines has created a complex bureaucracy that helps place over 1 million Filipino migrant workers in 190 countries each year. The Philippines, though hardly flawless in its approach, has developed a program that provides relatively safe migration channels and stations labor attaches in diplomatic missions abroad who are able to address the urgent concerns of migrant workers.⁷³ Many destination countries have begun to take a more proactive role in this field. For instance, the European Union recently inaugurated a European Employment Agency in Mali as an experimental portal to educate potential Malian migrants about the opportunities and risks of work abroad.⁷⁴ Although mainly targeted at stopping the flow of illegal migrants into Europe, such centers can also help origin countries facilitate more orderly migration.

Programs meant to encourage circular migration are unlikely to work if they are too bureaucratic, too inflexible, too costly, or too slow to respond to employers' needs and changing economic conditions. Labor markets are dynamic. By the time central government authorities recognize and certify labor needs, employers satisfy requirements for trying to recruit already resident workers, and governments authorize employers to hire foreign workers, labor market needs are likely to have shifted.

Programs that rely too heavily on compulsion rather than incentives are both difficult and expensive to implement. It is striking that

many of the conditions of migration programs for the less skilled, intended to “enforce” circularity, seem to have the opposite effect of encouraging irregular migration: Very short contract periods, nonrenewable visas, visas tied to particular employers, and no flexibility to switch to other admissions categories are all conditions that create incentives for migrants to leave the programs and move into irregular status.

Policymakers are now beginning to recognize that ensuring labor circularity does not have to come at the expense of migrants' rights. The policy tool kit to ease circular migration has become much more nuanced, more high-tech, and attuned to the dynamics of incentives and choice.

Policymakers would also be well advised to keep in mind that most circular migration arises spontaneously and responds to the self-interest of migrants and employers. However, this does mean that governments have no role in promoting circular migration. Legislative and administrative frameworks can either facilitate or inhibit circularity. Governments in both destination and origin countries can first look to remove obstacles to circularity — such as the loss of permanent-residency rights after relatively short absences or restrictions on land or business ownership for

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remain permanently, may be more effective than enforcement measures.

Whatever the program or framework, it is exceedingly important to gather data on outcomes and evaluate if the measures that are

non-residents — as a cost-effective way to encourage circulation. Incentives for circulation, like pension portability or an “earned” right to

implemented produce the desired effects at a reasonable cost. Circular migration policy will remain a matter of trial and error for some time to come. Practice is likely to run ahead of policy — and for this reason, too, datagathering is essential. For policymakers, understanding how circular migration works when it develops spontaneously is perhaps the most valuable source of insight into the character of policies that would work better in more settings, increasing the benefits of circular migration for more countries and, most importantly, for more migrants.

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- 60 Generally, countries pursue RTAs to profit from trade gains, strengthen domestic policy reforms, increase their collective bargaining power with third parties, secure access to a country's domestic market (in the case of a smaller, dependent country for example), and underpin strategic or historic linkages and security cooperation. John Whalley, "Why Do Countries Seek Regional Trade Agreements?" in *The Regionalization of the World Economy*, ed. Jeffrey A. Frankel (Chicago: The University of Chicago Press, 1998), 63-89.
- 61 The following classification builds upon Julia Nielson, "Labor Mobility in Regional Trade Agreements," in *Moving People to Deliver Services*, eds. Aaditya Mattoo and Antonia Carzaniga (Washington, DC: The World Bank, 2003).
- 62 COMESA plans to gradually relax visa requirements and implement a protocol on the free movement of persons, labor, and services, and assure the rights of establishment and residence by 2025.
- 63 Classified among developed, developing, and transition countries. Roberto V. Forentino, Luis Verdeja, and Christelle Toqueboeuf, "The Changing Landscape of Regional Trade Agreements: 2006 Update" (Discussion Paper No. 12, Regional Trade Agreements Section, Trade Policies Review Decision, World Trade Organization, 2007).
- 64 The Group of Three Free Trade Area originally included Colombia, Mexico, and Venezuela although Panama joined in 2004 and Venezuela withdrew in 2006.
- 65 J. F. Hornbeck, *CARICOM: Challenges and Opportunities for Caribbean Economic Integration* (Washington, DC: Congressional Research Service, January 2008), <http://openers.cdt.org/document/RL34308>.
- 66 Although the constellation of Euro-Med Association Agreements do not confer free labor mobility, they do address several important peripheral policy fields relevant to mobility partnerships. Examples include Title VI ("Cooperation in Social and Cultural Matters," Chapter II, Dialogue on Social Matters) in which the parties agree to conduct regular dialogue to find ways to achieve progress in the field of movement of *all* workers, not just service providers. In Chapter I "Workers" of Title VI, the agreements include stipulations for nondiscriminatory treatment with regard to working conditions, remuneration, and dismissal for all workers including temporary workers (Article 64), and social security totalization (Article 65). Nationals residing or working illegally in another party are excluded (Article 66).
- 67 A. A. Afolayan, "Immigration and Expulsion of ECOWAS Aliens in Nigeria," *International Migration Review* 22, no. 1 (1988): 4-27.
- 68 In the European Union, the demographic profile of new European Member States in Eastern Europe forecasts a more dire old-age dependency ratio than in Western Europe. Although Eastern European workers have flocked westward to fill labor demand, this brain and brawn drain is hardly a sustainable solution. Similarly, nearly all COMESA countries have very young populations and an oversupply of unskilled labor (with the possible exception of natural-resource-dependent Libya).
- 69 Organization for Economic Cooperation and Development, *Migration for Employment: Bilateral Agreements at a Crossroads* (Paris: OECD, 2004).
- 70 Gustavo Verduzco, *The Impact of Canadian Labour Experience on the Households of Mexicans: A Seminal View on Best Practices* (Ottawa: Canadian Foundation for the Americas, October 2007), http://www.focal.ca/pdf/SAWP_Verduzco_policypaper2007.pdf.
- 71 See n. 4.
- 72 See n. 16.
- 73 See n. 27.
- 74 Marie-Martine Buckens, "Euro-African employment agencies," *The Courier*, July/August 2007, <http://www.acp-eucourier.info/Euro-African-employment-a.58.0.html>.

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