
RESTORING TRUST IN THE MANAGEMENT OF MIGRATION AND BORDERS

COUNCIL STATEMENT

By Demetrios G. Papademetriou
Convener, Transatlantic Council on Migration

Restoring Trust in the Management of Migration and Borders

The fifth plenary meeting of the Transatlantic Council on Migration

COUNCIL STATEMENT

Demetrios G. Papademetriou

Convener, Transatlantic Council on Migration

Acknowledgments

This Council Statement results from the meeting of the Transatlantic Council on Migration in November 2010 in Washington, DC. The meeting's theme was "Restoring Trust in the Management of Migration and Borders."

The Council is an initiative of the Migration Policy Institute undertaken in cooperation with its policy partner, the Bertelsmann Stiftung. The Council is a unique deliberative body that examines vital policy issues and informs migration policymaking processes in North America and Europe. The Council's work is generously supported by the following foundations and governments: Carnegie Corporation of New York, Open Society Foundations, Bertelsmann Stiftung (Policy Partner), the Rockefeller Foundation, the Barrow Cadbury Trust (UK Policy Partner), the Luso-American Development Foundation, the Calouste Gulbenkian Foundation, and the governments of Germany, Greece (through 2010), the Netherlands, and Norway.

For more on the Transatlantic Council on Migration, please visit:
www.migrationpolicy.org/transatlantic.

© 2011 Migration Policy Institute.
All Rights Reserved.

Cover Design: Danielle Tinker, MPI
Typesetting: April Siruno, MPI

No part of this publication may be reproduced or transmitted in any form by any means, electronic or mechanical, including photocopy, or any information storage and retrieval system, without permission from the Migration Policy Institute. A full-text PDF of this document is available for free download from:
www.migrationpolicy.org.

Permission for reproducing excerpts from this report should be directed to: Permissions Department, Migration Policy Institute, 1400 16th Street, NW, Suite 300, Washington, DC 20036, or by contacting communications@migrationpolicy.org.

Suggested citation: Papademetriou, Demetrios G. 2011. *Council Statement from the 5th Plenary Meeting of the Transatlantic Council on Migration*. Washington, DC: Migration Policy Institute.



Table of Contents

Introduction..... I

I. Creating the Political Space Necessary for Reforms..... I

II. Reducing Illegal Immigration3

III. Building a New Architecture for Border Management.....4

IV. Improving Transatlantic Cooperation on Common Challenges.....6

V. Conclusions.....7

About the Author.....8



Introduction

The scale and complexity of transnational threats and the relentless growth in international travel have put border and migration management systems across the industrial world under severe stress — and have exposed their weaknesses. It is thus critical for governments on both sides of the Atlantic to gain and maintain control over their borders and minimize unwanted immigration, and to demonstrate to their anxious publics that they are doing so.

The fifth plenary meeting of the Migration Policy Institute's Transatlantic Council on Migration, held in Washington, DC in November 2010, convened high-level officials from Europe and North America to identify the best ways to bring greater order and legality to migration, border management, and labor market systems and thus restore public trust in government's ability to manage these complex tasks.

Since no single policy action *in isolation* can improve migration management sufficiently and investing too heavily in a single strategy may even imbalance the system further by denying adequate attention and resources to other strategies, participants at the Council meeting considered the politically elusive mix of policies and programs needed to thwart unwanted migration while facilitating movement for legitimate immigrants and travelers. The Council also identified ways to build up transatlantic cooperation as a first step toward the more effective management of the movement of people across the globe.

This Council Statement seeks to capture the key elements of those deliberations.

I. Creating the Political Space Necessary for Reforms

The persistent belief among many citizens that governments are consistently unequal to the task of managing immigration well — that the system is “broken” — reduces the political space policymakers need to develop and implement creative and far-reaching migration (and immigrant integration) reforms. And although the sense of such purported failure varied around the table, all understood and agreed that rebuilding public confidence in the management of the migration *system* is critical and that in the toxic political climate that has gripped most countries across the North Atlantic in the wake of the Great Recession, public opinion saps the necessary political will and constricts the policy space necessary for smart reforms.

While the drivers of public opinion are both diverse and complex, three main forces fuel anxiety about immigration: the profound (but often inflated) sense in many countries that illegality and disorder at physical borders are pervasive; the belief, heightened by the recent recession, that immigration is displacing native workers and reducing their wages; and the perception of unfairness that arises when unauthorized immigrants are perceived as breaking the law with impunity while benefiting from increasingly scarce public resources. The anxiety is further fueled by concerns about immigration's costs to the public purse and its effect on national identities. These beliefs persist even when publics are presented with objective evidence of improvements in border security and reductions in illegal entries, unauthorized populations that are smaller than much of the public believes, the relatively modest effects of immigrants on wages and ever smaller effects on job displacement, and the (admittedly hard-to-understand and incomplete) estimates on immigrants' costs and benefits. It is this enduring, and often exaggerated, perception of disorder that polarizes debates and narrows the space necessary for smart policy ideas and initiatives to flourish.

Governments can combat these perceptions and begin to restore public confidence by presenting a clear, easily comprehensible action plan for reforms that will benefit the society at large. In doing so, leaders must remain acutely aware of immigration's connection with national identity and the powerful emotions



of anxiety and pride that such a connection creates. This Council Statement outlines an immigration narrative that clearly articulates a set of realistic, cross-cutting policy objectives that demonstrate to the public that leaders take seriously their responsibilities to protect their borders and prevent and reduce illegal immigration. The successful narrative, *if honest and well nuanced*, can create the political space needed to talk about and enact more far-reaching reforms.

Recommendations on Developing a More Effective Immigration Narrative:

- **Articulate clearly why immigration is in the national interest.** The first task is to explain why and how sensible immigration policies benefit *both* natives and immigrants. In doing so, leaders must address head-on the tensions and difficulties caused by the rapid pace of change in local communities and set out a plan for addressing immigration's at times adverse effects by focusing on social and cultural issues and the economic concerns of those who lose from immigration.
- **Set realistic goals.** The pursuit of perfection — such as a goal of no illegal immigration — sets governments up for failure. Realistic goalposts need to be introduced against which a more pragmatic notion of “success” can be measured. This must include all aspects of the immigration system's management — from borders to labor markets and from education and language training for immigrants to greater civic engagement by all members of a community — as well as retraining and job placement assistance for natives directly or indirectly affected by immigration.
- **Take concrete actions.** Citizens want to hear solutions to their practical, real-world problems and will not be satisfied with hollow statements of principle. Stricter enforcement measures garner support not (exclusively) because of anti-immigration animus, but because they offer something concrete in response to a problem that is perceived to be (or be getting) out of control.
- **Adhere closely to the rule of law and demonstrate fairness.** Policies that uphold the rule of law can count on wide support. Enforcement policies will be viewed more favorably across the public spectrum if they show a certain degree of proportionality and nuance (for example, in distinguishing between criminal and administrative offenses committed by unauthorized immigrants), and exhibit the practicality, sensitivity, and sense of fairness that most citizens of advanced democracies expect of their governments.
- **Clearly explain the tradeoffs.** The cost-benefit analysis of each intervention (especially in an era of limited resources) must be absolutely transparent and diligently performed. Publics must understand that investing solely or disproportionately in one area can exact a harsh price by taking resources away from other critical areas. The public-sector budget crisis that the financial downturn has bequeathed on virtually all advanced economies will make that “price” even more consequential.
- **Show results.** Leaders need to clearly communicate what actions have been taken and what results these have yielded, measured against their original goals. This should include giving examples of how policies have been effective, particularly when it comes to public security. Despite significant investment (and success) in this area, public perception in many countries persists that borders are out of control and interior enforcement is lax or ineffective. Hard figures that show drops in illegal crossings at borders, more effective interior enforcement, and concrete evidence of cooperation by transit and sending countries must be publicized to counter popular belief that efforts committed toward this goal are insufficient.



II. Reducing Illegal Immigration

Countries have long struggled to reduce unauthorized populations, but illegality continues to thrive for reasons which are, by now, obvious: market demand for unauthorized workers, growing networks of criminal syndicates that facilitate illegal flows, and the will of individuals to move in search of opportunity and, in some cases, survival, almost regardless of the cost. While much of the public demands stricter law enforcement targeting unauthorized immigrants, leaders should consider a holistic set of policies. A credible threat of enforcement is necessary to deter smugglers and would-be illegal entrants alike, as well as to reassure the public; *but it is not sufficient on its own*, as immigrants will continue to attempt to come as long as there is work available. Action thus must be taken to strategically address the underlying conditions that allow unauthorized immigrants to stay and work illegally.

Three sets of interdependent and complementary policies can yield much better outcomes. *First*, a sustained commitment to disrupting people-moving criminal syndicates is necessary, along with simultaneous investments in strong enforcement measures to secure borders and reduce illegally resident populations. Much of this effort requires thinking and acting beyond the physical border, a strategy that involves extensive commitments of physical and diplomatic capital, but also patience. Governments must also make better informed visa decisions by constantly refining and relying more on risk-management algorithms and by giving consular officials and front-line inspectors real-time access to interoperable information systems (that include data from entry/exit controls), since a majority of unauthorized immigrants in Europe (and between 30 and 40 percent in the United States) enter legally, but overstay their visas.

Second, policies must better target the principal reason why so many immigrants choose to come illegally to destination countries: the lack of legal means of entry despite the availability of work. Policies in this regard must also reinforce each other and should include recalibrating legal migration channels to divert some illegal flows to legal ones by redesigning policy to account for the mismatch between labor needs and legal visas to work, as well as imposing sanctions on employers who hire illegally. Among such employers, the full weight of the law must be reserved for persistent bad actors and those who also violate wage and working conditions and thus cheat both workers and the social insurance system (and get an unfair advantage over their competitors), while also adversely affecting the opportunities and working conditions of legal workers who typically work side-by-side with unauthorized ones.

Third, governments must address the problem of existing illegally resident populations. Removals and returns — including noncoercive, that is “pay-to-go” and “sustainable” returns — are critical to reducing the number of unauthorized residents while establishing and maintaining a deterrent effect. At the same time, policymakers must assess the relative effectiveness of the two main approaches to interior enforcement: removing the *greatest volume* of offenders, the overwhelming majority of whom have committed the typically civil violation of unlawful presence or its equivalent; and targeting those who pose the *greatest threat*. The latter include, first and foremost, criminals; they also include absconders, that is, people who had been arrested previously for an immigration or other minor violation and had been ordered removed but had not left. While both strategies need to be pursued for the sake of deterrence and to maintain the enforcement system’s integrity, the main focus should be on targeted enforcement, where the threat is greatest and the political payoff largest, rather than “random disruption.” Random disruption is likely to lead to hostility from both immigrant groups and the broader civil society, while also resulting in negative reactions at the community level, most notably in the form of reduced cooperation with police by minority and immigrant communities.

Selective “earned” legalization (“regularization”) programs, however, must also be a critical component of a smart overall *strategy*, even if resisted by some in the public and many politicians. At the policy level, such resistance arises primarily from the fact that repeated reliance on legalization programs in the past has been completely ineffective in slowing the growth of illegal flows. What gets lost in the constant



retelling of such (largely accurate) narratives is that no earlier regularization program was ever part of a strategy in which coordinated, across-the-board enforcement *and* more legal work visas were at the core of the overall effort and in which each policy component was designed to reinforce the objective of reducing and keeping illegal immigration under control.

Recommendations on How to Build a “Whole-of-System” Approach to Controlling Illegal Immigration:

- ***Invest in a holistic policy package.*** Policymakers must work to change the underlying conditions that lead to illegality while tackling the existence of unauthorized populations. No one policy tool in isolation — even if it is a smart one — can possibly be sufficient in addressing the policy challenge. Instead, governments must identify the right “algorithm” combining complementary and mutually reinforcing policy initiatives. This will include diligent border enforcement, far greater (and more meaningful) coordination with key sending and transit countries, broader policy changes to address the mismatch between legal means to immigrate and local demand for labor, employer sanctions, returns and removals, *and* earned legalization programs.
- ***Ensure balanced and effective implementation.*** In the strategic framework the Council embraces, the success of one policy tool is dependent upon the successful implementation of another. For instance, legalization programs will not gain popular support unless people are assured these programs are coupled with resolute and *effective* enforcement; and migrants who fail to meet the requirements for earning legal status will not opt to return voluntarily without the threat and execution of forced removals. Governments must thus work actively to ensure that enforcement investments and legal immigration policy adjustments work in tandem so that each component of the policy “algorithm” receives equal energy, attention, and visibility.
- ***Coordinate policies across agencies and levels of government.*** It is rare that all the policy levers needed to regain and maintain control over illegal immigration are under the control of a single government department and, in many countries, a single level of government. All government agencies and authorities at all public-sector subdivisions that are relevant to migration regulation and enforcement must therefore cooperate and coordinate with each other to ensure efficient decisionmaking and consistent but even-tempered implementation.

III. Building a New Architecture for Border Management

Security is by definition the first responsibility of government. In today’s “age of risk,” most governments understand that stopping potential terrorists and foreign criminals who seek to enter and/or operate from within their countries is the principal aim of the much intensified border and interior security policies. An important byproduct of this enhanced focus on security is better control of illegal immigration. Policymakers also understand, however, that *economic prosperity is crucial too, and as a result have focused enormous energy on the facilitation of the movement of legitimate travelers*. Moreover, top government officials appreciate that these often seemingly contradictory policy objectives must be pursued in a manner that is essentially error-free, cost-effective, and respects individuals’ rights and privacy. These realities have led to the emergence of a new border architecture centered on information and technology that seeks to “preclear” legitimate travelers and instead target likely threats and passengers about whom nothing or very little is known — all done as far away from the physical border as possible.



This transition from a reactive to a proactive mobility management system is not without controversy. While technology has enabled governments to “push out” borders, and increasingly sophisticated information-based management systems allow them to assess risk before it reaches their shores, errors are magnified (and harder to undo) as the amount of information that is entered into these systems grows exponentially and is both entered and accessed by multiple agencies (and, eventually, multiple agencies in many countries). Data collection and the expanded use of biometrics have resulted in a shift toward focusing on individual characteristics (rather than nationality) as a means of verifying identity and distinguishing between “safe” and potentially “problem” travelers — a gradual and inexorable move toward what some have come to call an “identity assurance” concept; however, this shift can create “two-tiered” mobility regimes by privileging citizens of states with access to technology and the willingness to abide strictly by the necessary security protocols.

The appeal of the emerging architecture is simple: it allows governments to do a better job matching and enhancing the reach of the policy tools in their arsenal with those of other, like-minded, partners and focusing the combined effort to new threats and those that continue to evolve. The benefits of new technologies, however, must be carefully weighed against their limitations and formidable costs of all kinds. Investments can be easily wasted if systems are not built correctly from the beginning, if they do not accurately match needs or are not capable of the continuous adaptation that always evolving needs require, and if databases are not interoperable.

Recommendations on How to Design and Use Effectively — and Properly — the New Border Architecture:

- **Use technology strategically and strictly within legal parameters.** Technology is not a panacea; it is only as useful as the investments made to analyze and act upon the information that is gathered strategically. Analysis and use, however, must adhere strictly to applicable laws and policies.
- **Protect individual rights.** Enhanced efficiency and greater use of technology come at a high price, both in terms of the investment of time and resources required for success and the risk to the individual when systems fail. Strong and transparent guidelines to protect individual rights and privacy are essential, *as are accessible and easy-to-understand-and-use redress mechanisms.*
- **Allocate resources based on risk.** A targeted approach to controls is necessary — it does not make sense to screen low- and high-risk travelers the same way. Segmentation will allow resources to be allocated more efficiently, focusing on screening high-risk travelers.
- **Make successful programs more accessible.** Registered-traveler programs that successfully facilitate faster, more efficient movement of legitimate travelers must become increasingly accessible to a wider spectrum of people if they are to truly enhance mobility. Governments must thus think hard about how to expand these programs beyond the “top tier” of those who have access to more advanced technology and prepare for greater system integration across countries by encouraging the use of compatible and even common biometric standards.
- **Improve individual identification and verification.** The susceptibility of any system to fraud must be always kept in mind as reliance on personal characteristics and behavior increases. Even with greater reliance on biometrics, the importance of traditional, physical documents like passports will not go away. Furthermore, with the application of a new layer of technology to old systems, the threat of fraud and misuse is still present, and sophisticated technologies can perpetuate both inadvertent errors and deliberate fraud.



- ***Keep the centrality of the human dimension in border management always in the forefront of the effort.*** Policymakers must ensure that technology and its capabilities are a function of policy and political choices, rather than their determinant, and that they are transparent and have the support of the public. At the core of the effort must always be balancing security objectives with the facilitation of mobility while adhering strictly to privacy laws and respecting individual liberties.

IV. Improving Transatlantic Cooperation on Common Challenges

Pursuing a “whole-of-system” approach to better management of migration is even more challenging in the absence of a single agency that can control all the necessary policy levers. This reality makes effective cooperation between nations even more difficult than it needs to be. The relationship between the European Union (EU) and United States (US) nonetheless offers a critical opportunity: as one of the most important international relationships, it can drive cooperation with other countries and regions.

Yet, despite substantial transatlantic collaboration across a number of domains, several critical philosophical differences remain regarding how information is collected, used, and retained. These are exacerbated by sharply different histories, often divergent perceptions of risk, and expectations of privacy and remedy in case of errors.

The difficulties in reaching agreement on data sharing also reflect the complex, and different, ways in which the two “governments” are organized internally; neither the United States nor the European Union is a single entity that can negotiate freely through a single process and one appointed body. As a result, important political questions must be resolved internally before the two parties can negotiate effectively with one another. In the case of the United States, the executive branch has the power to negotiate on international matters, and yet it must do so fully mindful of the legislature’s interest on these matters — and its willingness to intervene decisively when it does not feel that it is properly consulted. In Europe, the complexity is even greater in that it has two dimensions: the European Commission’s need to negotiate with all 27 Member States and its need to navigate smartly the waters of the EU Parliament, which has grown rapidly in relevance and co-decisionmaking power since the Lisbon Treaty took effect.

These and similar institutional challenges necessitate smart preparatory work, the building of trust, and substantial cooperation between relevant agencies in the partner countries, among allies internationally, and between countries from and through which passengers come. And while the US-EU negotiating process may be both lengthy and difficult, once properly completed, it will increase security, make possible the necessary exponential leaps in facilitation, and become the benchmark for the rest of the world.

Recommendations on Improving Transatlantic Cooperation:

- ***Keep earning the trust to negotiate on behalf of the European Union.*** Before the European Union can effectively negotiate and work with the United States, it is essential that policy and process be standardized and embraced within the Union’s various components — between EU institutions, the European Commission and Member States, and among Member States. Only then can the European Union allay the US perception that it overpromises in areas in which it ultimately may not be able to deliver and thus build greater credibility in its negotiations.



- ***Better understand the core EU objections to US demands.*** In negotiating with the European Union, US negotiators must appreciate better the social and historical reasons that make EU negotiators reluctant, even unwilling, to accede to some US proposals. This requires being more thoughtful about three things: the indelible marks 20th-century history has left on European governments and publics alike; the complexity of decisionmaking within the European Union; *and* that the Union's economic prowess — and the growing perception among some in Europe that the United States is in decline — make old models of negotiating (by dividing and conquering or by using asymmetries of power to advantage) less and less effective.
- ***Dialogue should continue at all levels of policymaking regardless of impasse on some larger issues.*** Building trust and forward movement are important in any negotiation. Accordingly, collaboration should not be limited to the political level. Ongoing, technical-level, exchanges between officials, and learning from both positive and negative experiences, can help governments understand mutual constraints to action and prepare the ground for further cooperation. Sustained progress, however, requires agreeing on an overarching framework of common principles first. Only then will the time-consuming ad hocism that has characterized some of the negotiations to date can give way to systematic progress.
- ***Expand partnerships with other countries, especially countries in each side's neighborhood and the BRICS.*** The transatlantic relationship must not be the only focus of negotiating energy. Both the United States and European Union should consider putting real incentives on the table in exchange for cooperation on travel and border controls for key countries from which most of the growth in travel and exchange will come in the coming decade: Brazil, Russia, India, China, and South Africa (BRICS). Boosting *their* willingness to collaborate in a common project will once again rely on building partnerships that set common goals, rather than attempts to impose one's will.

V. Conclusions

Much public opinion on both sides of the Atlantic is animated by the belief that immigration and in some cases borders are out of control, are of questionable economic value, and have adverse social and cultural consequences. These concerns are exacerbated by a lack of confidence in governments' ability and willpower to manage these highly interrelated issues well.

The challenge for policymakers is thus how to regain control over what does not work well as the prerequisite to earning once more the public's confidence. This involves hard choices about how best to invest in credible enforcement at the borders (including virtual ones) and smart interior enforcement (targeting employers and criminals, for example), all while focusing on travel facilitation and conveying to the public that serious steps are being taken to solve the problem of illegality. Governments' performance on this issue shapes public confidence in their ability to manage *all* migration. Ultimately, however, nothing will succeed unless both government and society put their shoulders behind the ambitious reforms needed.

For more on MPI's Transatlantic Council on Migration, please visit:
www.migrationpolicy.org/transatlantic

About the Author



Demetrios G. Papademetriou is President and Co-Founder of the Migration Policy Institute (MPI), a Washington-based think tank dedicated exclusively to the study of international migration. He is also the convener of the Transatlantic Council on Migration and its predecessor, the Transatlantic Task Force on Immigration and Integration (co-convened with the Bertelsmann Stiftung). The Council is composed of senior public figures, business leaders, and public intellectuals from Europe, the United States, and Canada.

Dr. Papademetriou is also Co-Founder and International Chair Emeritus of *Metropolis: An International Forum for Research and Policy on Migration and Cities*. He has served as Chair of the World Economic Forum's Global Agenda Council on Migration (2009-2011); Chair of the Migration Committee of the Organization for Economic Cooperation and Development (OECD); Director for Immigration Policy and Research at the US Department of Labor and Chair of the Secretary of Labor's Immigration Policy Task Force; and Executive Editor of the *International Migration Review*.

Dr. Papademetriou has published more than 250 books, articles, monographs, and research reports on migration topics and advises senior government and political party officials in more than 20 countries (including numerous European Union Member States while they hold the rotating EU presidency).

His most recent books include *Migration and the Great Recession: The Transatlantic Experience* (co-author and co-editor, 2011); *Immigration Policy in the Federal Republic of Germany: Negotiating Membership and Remaking the Nation* (co-author, 2010); *Gaining from Migration: Towards a New Mobility System*, OECD Development Center (co-author, 2007); *Immigration and America's Future: A New Chapter* (2006, co-author); *Europe and its Immigrants in the 21st Century: A New Deal or a Continuing Dialogue of the Deaf?* (2006, editor and author); *Secure Borders, Open Doors: Visa Procedures in the Post-September 11 Era* (2005, co-author), *NAFTA's Promise and Reality* (2003, co-author), *America's Challenge: Domestic Security, Civil Liberties, and National Unity after September 11* (2003, co-author); and *Caught in the Middle: Border Communities in an Era of Globalization* (2001, senior editor and co-author).

He holds a PhD in comparative public policy and international relations (1976) and has taught at the universities of Maryland, Duke, American, and New School for Social Research.



The Migration Policy Institute is a nonprofit, nonpartisan think tank dedicated to the study of the movement of people worldwide. MPI provides analysis, development, and evaluation of migration and refugee policies at the local, national, and international levels. It aims to meet the rising demand for pragmatic and thoughtful responses to the challenges and opportunities that large-scale migration, whether voluntary or forced, presents to communities and institutions in an increasingly integrated world.

www.migrationpolicy.org

1400 16th Street NW
Suite 300
Washington, DC 20036

Tel: 001 202-266-1940
Fax: 001 202-266-1900