



EUROPEAN REPORT  
ON **DEVELOPMENT**

**A New Multilateral Framework for Labour Migration:**  
*A Review of Options*

Carla Buil and Melissa Siegel,  
Maastricht Graduate School of  
Governance, Maastricht University,  
The Netherlands

**BACKGROUND PAPER**





# A New Multilateral Framework for Labour Migration: *A Review of Options*

## Synopsis

This background paper assesses the feasibility of establishing an international framework for labour migration. It discusses the developmental implications of the prevailing ‘non-system’ of labour migration and the ways in which current immigration policies are often ineffective or even counterproductive. It argues that the two main shortcomings of this ‘non-system’ are the insufficient openness of labour markets to migrants in order to address the growing labour needs in Europe and the inadequate protection of the rights of migrant workers.



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### Disclaimer

The content of this background paper does not reflect the official opinion of the European Union or of its Member States. Responsibility for the information and view expressed lies entirely with the authors.

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## Abbreviations

COM	European Commission
EHEA	European Higher Education Area
EU	European Union
GAMP	General Agreement on the Movements of People
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GFMD	Global Forum on Migration and Development
HIC	High-income country
ILO	International Labour Organization
IOM	International Organization for Migration
LIC	Low-income country
MIC	Middle-income country
OECD	Organisation for Economic Co-operation and Development
RCP	Regional Consultative Process
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WMO	World Migration Organization
WTO	World Trade Organization

## Executive summary

This background paper, commissioned for the 2013 European Development Report, assesses the feasibility of establishing an international framework for labour migration. It discusses the developmental implications of the prevailing ‘non-system’ of labour migration and the ways in which current immigration policies are often ineffective or even counterproductive. It argues that the two main shortcomings of this ‘non-system’ are the insufficient openness of labour markets to migrants in order to address the growing labour needs in Europe and the inadequate protection of the rights of migrant workers. The paper discusses six proposals for a new framework, each of which has various weaknesses in terms of its political feasibility and efficiency and its potential to address the issues of access to labour markets and the rights of migrant workers. The authors propose a global labour-matching organisation that would match the demand and supply of jobs and skills while protecting the rights of workers. The European Union could take an initial role in supporting its the creation, drawing on its experiences in the portability of pensions, the European Higher Education Area, and good governance, social welfare and human rights.





# 1. Introduction

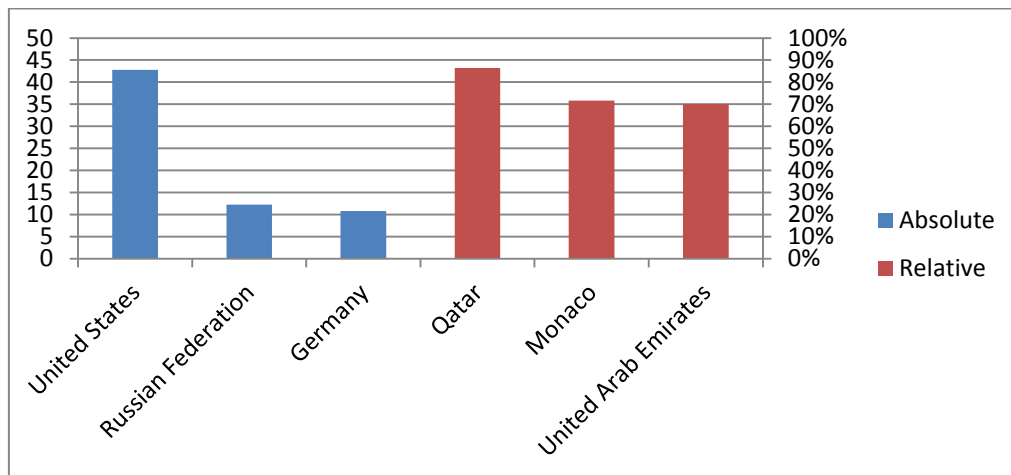
For most aspects of globalisation – climate change, international commerce, public health, security and conflict – cooperation has been institutionalised and is overseen largely by the United Nations (UN) (Betts, 2008). This is not, however, the case for international migration. Although there are international agreements regulating some categories of international migrant, for instance the United Nations High Commissioner for Refugees (UNHCR) for refugees, asylum seekers and internally displaced persons, but there remain large variations in the degree of institutional cooperation across different categories of international migrant. Labour migration is still primarily unregulated at the global level. This paper explores the developmental implications of the prevailing lack of a global system of labour migration and evaluates proposals for how its global governance. In this context, it also assesses the role of the European Union (EU) in the development of a global governance system. The potential gains of such a framework suggest that a discussion on proposals for global labour migration governance could provide useful input for a post-2015 multilateral framework for development.

The paper is structured as follows. The introduction opens with a short overview of current migration trends, followed by an exploration of the positive and negative aspects of (labour) migration for migrant-sending and -receiving countries and for migrants themselves. Next follows a discussion of the developmental implications of the current ‘non-system’ of labour migration. Examples of how current immigration policies are ineffective or even counterproductive provide further evidence of the need for a system for the global governance of labour migration. The introduction ends with a discussion of the potential benefits of such a global system. Section two discusses six proposals for the global governance of migration, focusing specifically on their political feasibility and efficiency, and how they could address migrants’ rights and access to labour markets. The third section concludes with a new proposal for the governance of labour migration that aims to overcome at least some of the difficulties identified in the six proposals discussed in the previous section. It also discusses the role the EU could play in the development of such a regime.

In 2010 the number of migrants was estimated to be 215.8 million, the equivalent of around 3.2% of the world population. About half of these migrants reside in high-income countries (HICs) that belong to the Organisation for Economic Co-operation and Development (OECD) (109.5 million) and 80.5 million in low- or middle-income countries (LICs and MICs). South–South migration is slightly higher than migration from LICs and MICs to high-income OECD countries, at 43.1% and 42.8% respectively. Intra-regional migration is especially common in sub-Saharan Africa, where 63% of emigrants stay within the region (compared to 24.8% migrating to HICs), and in LICs and MICs in Europe and Central Asia 55.1% is intra-regional. The level of intra-regional migration is much lower among LICs and MICs in the Middle East and North Africa (31.5%), South Asia (28.2%), East Asia and Pacific (15.1%) and Latin America and the Caribbean (12.9%). The vast majority of emigrants from the latter region go to OECD countries (84.8%) (World Bank, 2011).

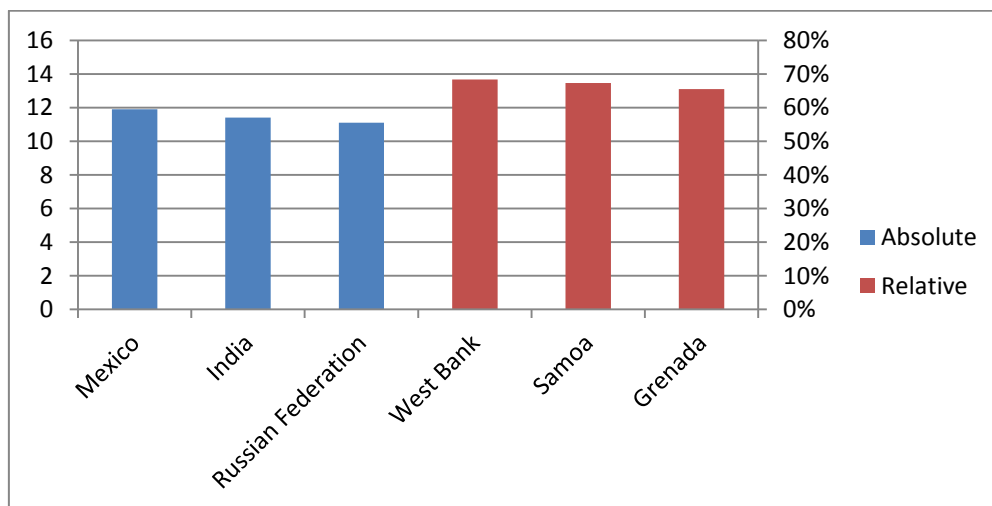
The three main receiving countries in absolute terms are the USA, the Russian Federation and Germany (based on 2010 data). In proportional terms, however, the top ten receiving countries are mainly countries with small national populations, particularly Gulf States (Figure 1.1). The three main sending countries in absolute numbers are Mexico, India and the Russian Federation. Again the top sending countries tend to be those with a small population, such as the West Bank and Gaza, Samoa and Grenada (Figure 1.2) (World Bank, 2011).

**Figure 1.1 Main receiving countries in absolute numbers (millions) and as a percentage of the population**



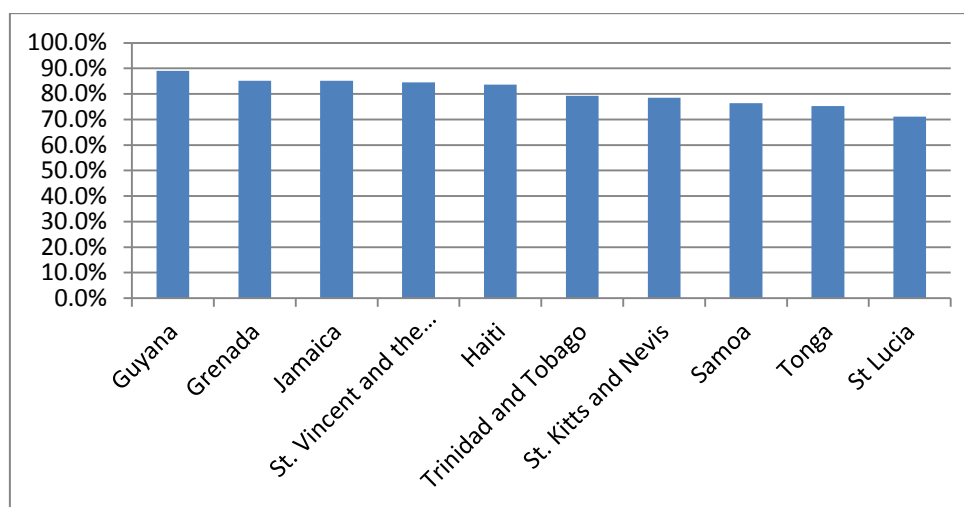
Source: World Bank, 2011

**Figure 1.2 Main sending countries in absolute numbers (millions) and as a percentage of the population**



Source: World Bank, 2011

Data from 2000 on high-skilled emigration indicate that this is particularly prominent in small-island states (Figure 1.3). In certain sectors, such emigration can pose a problem for the sending country. For example, over 97% of the physicians trained in Grenada and Dominica live elsewhere (World Bank, 2011).

**Figure 1.3 Emigration rate of tertiary-educated population in 2000**

Source: World Bank, 2011

A recent phenomenon is the ‘feminisation of migration’ as women increasingly become labour migrants. This is especially the case in Asia, where female labour migration has risen rapidly since the 1970s, first to the Middle East and then also within Asia since the 1990s. For example, in 2004 women constituted 81% of the new registered migrant workers from Indonesia. The majority of migrant women work in jobs that are considered ‘female’, such as domestic service, entertainment (which often refers to commercial sex work), restaurants and hotels, and as assembly-line workers (Castles and Miller, 2009).

In the current ‘non-system’ of global labour migration governance, receiving and sending countries both benefit and lose from its developmental implications. Table 1.1 presents an overview of the positive and negative effects of migration for sending and receiving countries. For sending countries,<sup>1</sup> remittances constitute a positive micro-level effect by facilitating the reduction of household poverty and sustaining and improving livelihoods. For instance, remittances can help to increase investment in education by reducing capital constraints (Acosta et al., 2007; Cox-Edwards and Ureta, 2003) and can also contribute to improved health (Hildebrandt and McKenzie, 2005; Mansuri, 2007). A second positive effect is the so-called ‘brain gain’. Migration may encourage greater investment in human capital by raising the expected returns on additional schooling (Siegel, 2012). The possibility of migration may increase the incentives for people in sending countries to invest in education, although of course not everyone who becomes better educated will migrate. This potential ‘brain gain’ depends on the capacity of the sending country to absorb the increased demand for education and may be limited to the specific skills demanded abroad (Gibson and McKenzie, 2011). ‘Brain gain’ can also occur when returning emigrants bring with them new knowledge and skills (Castles and Miller, 2009; Gibson and McKenzie, 2011). Third, migration can have positive impacts on gender roles and decision-making at the household level, although this outcome depends largely on the context. Migration can be empowering for women who remain behind and obtain access to more resources. The absence of a man in the household may mean that women assume many of the traditionally male tasks and responsibilities, although doing so can also increase their burden of work (Siegel, 2012).

The meso-level effects of migration for sending countries may include a reduction in inequality among individuals and households, although the families that can send migrants and so tend to receive the benefits are not necessarily the poorer households (Black et al., 2005; Zachariah et al., 2001). Migration has also been found to contribute to the transmission of cultural, social, and political norms (Siegel, 2012). Connections to migrants and migration networks – and, by extension, the knowledge and capital transfer they facilitate – can

<sup>1</sup> The positive effects mentioned could be increased through more mobility and some of the negative effects might be mitigated by a global governance system.



increase entrepreneurship and investment among individuals in migration-affected communities. Several studies have demonstrated the positive effect migration can have on the growth of small enterprises across a variety of regional settings (see Siegel, 2012 for an overview).

**Table 1.1 Selected developmental implications of migration for sending and receiving countries**

	Sending countries	Receiving countries
Positive		
Micro	<ul style="list-style-type: none"> <li>• Remittances increase household resources (which can have positive effects on health, education, etc.)</li> <li>• ‘Brain gain’ if the possibility of migration increases incentive to invest in education and through the return of emigrants</li> <li>• Can empower women as they assume many traditionally male tasks</li> </ul>	<ul style="list-style-type: none"> <li>• Increased multicultural diversity brings people into contact with new foods, festivals, and other cultural traditions of immigrant communities</li> </ul>
Meso	<ul style="list-style-type: none"> <li>• Possible reduction in inequality among individuals and households</li> <li>• Transmission of cultural, social and political norms</li> <li>• May increase entrepreneurship and investments through connections with migrants and migrant networks</li> </ul>	<ul style="list-style-type: none"> <li>• Possible positive effects on communities, e.g. productivity is higher in culturally diverse cities</li> </ul>
Macro	<ul style="list-style-type: none"> <li>• ‘Brain gain’ when returning emigrants bring new knowledge and skills</li> <li>• The networks and professional connections, capital and entrepreneurial skills of returnees can contribute to economic development of the country of origin</li> <li>• Remittances can improve a country’s creditworthiness and are a stable source of external funding</li> <li>• Reduce unemployment rates</li> <li>• Reduce wage and income disparities between sending and receiving countries</li> <li>• Diaspora may have positive impact on conflict and post-conflict reconstruction and reconciliation process in origin country</li> </ul>	<ul style="list-style-type: none"> <li>• Immigrants help to reduce labour shortages and deal with demographic changes: migrants do the jobs which nationals are unable or unwilling to do</li> <li>• Migrants can contribute to the economy through creation of businesses: could generate jobs, promote innovation and increase trade with origin countries</li> </ul>
Negative		
Micro	<ul style="list-style-type: none"> <li>• Absence of carers can have negative implications for family members left behind, especially for the more vulnerable (e.g. children and elderly people)</li> <li>• Male migration can increase women’s work burden</li> </ul>	<ul style="list-style-type: none"> <li>• Local fears about the social impact of immigration may lead to racist attitudes towards migrants, with negative implications for immigrants and society</li> </ul>
Meso	<ul style="list-style-type: none"> <li>• Large-scale emigration of healthy, economically productive adults and the absence of individual carers can affect the functioning of communities</li> </ul>	<ul style="list-style-type: none"> <li>• Residential segregation could limit the interactions across different communities and immigrants may be forced by socioeconomic factors to reside in disadvantaged neighbourhoods</li> </ul>
Macro	<ul style="list-style-type: none"> <li>• ‘Brain drain’, especially pervasive for small-island nations</li> <li>• ‘Brain waste’ if people do not or may not emigrate while there is a surplus of people with their skills, or if migrants do not find employment that matches their skills</li> <li>• Remittances can result in exchange-rate appreciation and lower export competitiveness</li> <li>• Remittances can decrease labour participation by reducing the incentive to work</li> </ul>	<ul style="list-style-type: none"> <li>• Border management and security</li> <li>• Migrants may be a burden on the welfare state, although in Europe there is little evidence for this</li> <li>• Growing diversity can challenge national identity</li> <li>• Problems with the integration of migrants can influence social cohesion</li> </ul>

In line with the individual ‘brain gain’ discussed earlier, the return of educated migrants brings macro-level benefits, such as new knowledge, attitudes, and skills acquired abroad. They also bring network and professional connections with them as well as much-needed capital and entrepreneurial insight (Skeldon, 2009). Remittances can improve a sending countries’ creditworthiness (Ratha and Shaw, 2006), are considered a stable source of external financing and are often countercyclical. Large-scale emigration can lower the rate of unemployment in the sending country, which can also push up local wages. Moreover, it

may contribute to reducing wage and income disparities between migrant-sending and receiving countries (Siegel, 2012). The diaspora can be instrumental in affecting origin-country development, particularly in the context of conflict and post-conflict reconstruction and reconciliation processes. For example, Zunzer (2004) notes that diasporas can act as socioeconomic, cultural, and political ‘bridge builders’ between the home and the host country.

A negative effect for sending countries at the individual and meso level is the large-scale emigration of healthy, economically productive adults and the absence of care-givers for those who remain behind. This affects not only individual households but also entire communities, particularly when the resident population is more vulnerable (in particular children and elderly people) or has limited capacities to cope with changes that affect their wellbeing (Siegel, 2012).

One negative macro-level issue that is often raised in relation to labour migration is the ‘brain drain’, which refers to the emigration of a country’s most highly skilled professionals, most commonly engineers, health professionals and scientists (Gibson and McKenzie, 2011). This is particularly problematic in settings where their skills are scarce and/or where public funds have been used to educate them. ‘Loss of qualified personnel from less developed countries can lead to economic stagnation, waste of the public funds invested in higher education, and depletion of tax income’ (Castles and Miller, 2009: 65). Small-island nations are among those most affected, especially those in the Pacific and the Caribbean that have a small population and are close to OECD countries (Docquier et al., 2007).

In addition to ‘brain drain’, sending countries can experience ‘brain waste’. This can occur in two different ways. If a small country over-invests in a specific type of education and vocational training (for example, doctors) and people with this training do not or may not emigrate, unemployment rates among them will be relatively high. ‘Brain waste’ can and often does occur when highly skilled migrants cannot find suitable employment in the destination country. Mattoo and colleagues (2008) observed this phenomenon among highly skilled emigrants from Eastern Europe and Latin America in the USA.

At the macro level, large remittance flows can lead to exchange-rate appreciation and reduced export competitiveness. Amuedo-Dorantes and Pozo (2004) found that a doubling of workers’ remittances led to an increase of 22% in the real exchange rate in their panel of 13 Latin American and Caribbean countries and Bourdet and Falk (2006) also observed this association in Cape Verde. A negative effect of labour migration is a possible decline in labour participation if remaining family members have less incentive to work because they are receiving remittances (Siegel, 2012).

For migrant-receiving countries one positive aspect of migration at the micro level is that the inflow of migrants who are ethnically and culturally distinct from the host population contributes to cultural enrichment. The host population comes into contact with new foods, festivals, and other cultural traditions of migrant communities. At the meso level, social diversity has been associated with positive effects on host communities. For example, research in the USA found that in culturally diverse cities the productivity of white, US-born workers is higher in relation to the wages and employment density (Ottaviano and Peri, 2005).

A macro-level positive effect is that migration helps destination countries to meet their labour needs. In Europe, the ageing population creates an undeniable need for labour migrants. European countries generally have a low total fertility rate, which means that a smaller number of working-age people will have to support a growing number of elderly people (Castles and Miller, 2009). Over the next 50 years, it is anticipated that the EU workforce will decline by 50 million. While in 2010 every person aged 67 years or more could rely on an average 3.5 people for personal assistance, in 2060 this ratio will decline to 1.5 people (Malström, 2011). Immigration has prevented many European countries from experiencing population decline and can improve the dependency ratio (Castles and Miller, 2009). Nevertheless, Europe faces serious shortages of qualified personnel in certain sectors. For example, by 2020 there will be a deficit of 1 million health professionals, partly as a result of an ageing population, and the shortage of migrants with ‘green skills’

restrict Europe's aims to achieve sustainable growth. At the same time there is often a mismatch between migrants' potential and the work they are able to find, with the result that skilled migrants are often working in low-skilled jobs (COM, 2010). The EU Commissioner for Home Affairs, Cecilia Malström (2011), has emphasised that migration from outside the EU is vital in order for Europe to maintain its welfare systems.

There is a common misconception that migrants have a negative effect on a country's labour market by taking jobs from the national workforce and depressing wages. In reality, the effects of immigration on wage levels have been mixed (see IOM, 2005 for an overview). Moreover, migrants tend to be employed either in sectors in which there is a shortage of qualified national workers or that in work they tend to avoid, such as low-skilled employment in the informal economy, jobs that are dirty, difficult and dangerous (the so-called 3D jobs), work for which the demand is temporary or seasonal (e.g. farming and tourism-related work), and highly skilled jobs in certain sectors (e.g. information technology) (Castles and Miller, 2009; IOM, 2005).

There is a structural demand for migrant labour in all high-income countries. In the current 'non-system' highly skilled migrants are selected, while the demand for low-skilled labour tends to be met by pushing low-skilled migrants to reside in the country illegally. The disadvantage of low-skilled immigrants is that they 'tend to earn relatively low wages, pay relatively little in taxes, and receive subsidized health care with relatively high frequency' (Hanson, 2009:13). At the same time, illegal or irregular immigrants have only limited access to government benefits and do not place a major burden on the welfare state. Irregular migrants are not protected and provide a pool of flexible reserve labour that can be dismissed if there is an economic crisis. The dismissal of irregular workers has fewer economic and political implications than when a country's own citizens are made redundant (Newland, 2005). In order to meet the demand for labour, governments sometimes turn a blind eye to illegal migration.

Second, migrants may also contribute to the economy of the destination country through the creation of new businesses. In OECD countries every self-employed migrant who owns a small or medium-sized firm creates on average between 1.4 and 2.1 additional jobs, which is only slightly less than similar national entrepreneurs generate (an average of 1.8–2.8 jobs). In addition, migrant entrepreneurs can contribute to innovation in the destination country and may help to expand trade with their countries of origin by, for example, lowering transaction costs (OECD, 2011).

One negative micro-level implication for destination countries is that the national population may fear that migrants will change the religious and socio-cultural basis of their society and/or that they take their jobs. These fears can fuel racist attitudes towards migrants. 'Racism is a threat, not only to immigrants themselves, but also to democratic institutions and social order' (Castles and Miller, 2009: 15).

A negative meso-level impact in many receiving countries is the residential segregation between the existing population and new immigrants. This tends to limit the interaction among members of different (ethnic) communities. Furthermore, residential segregation is often based not only on cultural or ethnic differences, but overlaps with socioeconomic status. This combination of factors tends to 'push' migrants towards isolated and disadvantaged neighbourhoods (Castles and Miller, 2009).

The most important negative implication of migration at the macro level involves the issue of border management and security. Since the 1970s, many governments have been adopting increasingly restrictive measures to control immigration. Yet these as well as restrictive immigration laws, sanctions on employers employing undocumented migrants and deportation policies have not substantially lowered the influx of 'unwanted' migrants. As Bhagwati states, 'paradoxically, the ability to control migration has shrunk as the desire to do so has increased. The reality is that borders are beyond control and little can be done to really cut down on immigration' (2003: 1). Greater migration control seems possible only by severely restricting civil and human rights. Once migration movements have started, the establishment of migrant networks undermines government efforts to restrict irregular migration. The social networks and transnational connections that are part of the migratory process give rise to a so-called 'migration industry'. This industry

involves a wide variety of people who earn their living from migration and contributes to its continuation despite stricter migration policies (Castles and Miller, 2009).

A second negative macro-level impact is the burden that migrants may place on the receiving country if they consume more state services than they contribute in taxation. This is particularly the case for low-skilled, low-income immigrants who pay relatively little direct tax and may make more use of state provision such as health services than do high-skilled immigrants (Hanson, 2009). However, Barrett and Maitre (2011) found little evidence that immigrants in European countries are more likely to receive welfare benefits than are national citizens, but observed higher poverty rates among them.

Another negative implication for receiving countries is the impact on their sense of national identity that may result from greater ethnic diversity. Migrants may not speak the national language(s) and have different traditions and religions, which can pose a challenge to national identity. This is especially the case in countries that perceive themselves as being based on a common culture (Castles and Miller, 2009). In addition, the integration of immigrants is frequently a concern and the negative public discourse that often accompanies restrictive immigration policies may harm social cohesion by contributing to the marginalisation of immigrants and stirring xenophobia (de Haas, 2006).

Lastly, Table 1.2 (below) presents an overview of the positive and negative developmental implications for migrants. One important positive aspect is the large income gains it can bring (e.g. Clemens et al., 2008; McKenzie et al., 2006), as well as potentially large educational gains. As discussed earlier, the possibility of migration may increase the incentive to invest in education. Second, the experience of migration can enhance migrants' knowledge and skills (Castles and Miller, 2009). Third, since remittances can help receiving households to improve their economic resilience (De Haas and Rodriguez, 2010), this may create significant gains for migrants and their families back home.

**Table 1.2 Selected positive and negative developmental consequences of migration for migrants**

Migrants	
Positive	<ul style="list-style-type: none"> <li>• Migration can bring large economic gains</li> <li>• Educational gains as the possibility of migration may increase investment in education and migrants can acquire skills abroad</li> <li>• Remittances increase households' economic resilience</li> </ul>
Negative	<ul style="list-style-type: none"> <li>• Insufficient protection of migrants' rights</li> <li>• Strict immigration rules can encourage irregular migration, which exposes migrants to dangers of trafficking and smuggling</li> <li>• Separation from families</li> </ul>

For migrants, the main negative consequence of the lack of a system for the global governance of migration is that they can be exploited and their rights are inadequately protected. In the country of destination, much of the power is in the hands of the employer as the migrant's status is often linked to the offer of work (Hart, 2006). But legal status does not always guarantee protection from exploitation, discrimination, and exposure to health and safety hazards. A striking example is the situation of Asian immigrants in the Gulf States. In much of Asia, labour migration is increasingly seen as part of an employment strategy, and the absence of state agencies has resulted in the commercialisation of labour movements. The practices of unscrupulous recruitment agencies, for instance in making fraudulent job offers, smuggling workers and charging very high fees, are a challenge for the migrant-sending countries and make migration risky and expensive for the individuals concerned. Furthermore, in the destination country, migrants may be excluded from social security protection, work long hours without overtime pay, have their passports confiscated, and face restrictions on changing employers in search of better work (Regional Thematic Working Group on International Migration including Human Trafficking, 2008). This implies that the current 'non-system' does not sufficiently protect the rights of labour migrants.



Migrants may face the problem of gaining access to employment in destination countries, which often impose strict border controls. This especially applies to the unskilled or low-skilled nationals of developing countries. The strict border controls in destination countries encourage irregular migration, which exposes migrants to the dangers associated with smuggling and trafficking (Castles and Miller, 2009). Long periods of separation from their families can be difficult both for the migrants and for those left behind.

In the absence of a global system on the governance of migration, national governments largely determine their own migration policies. Receiving countries retain considerable autonomy in determining which migrants they admit – usually high-skilled migrants who are considered beneficial to the economy. Migrant-sending countries are generally obliged to accept the regulations and immigration policies of destination countries and deal with their effects (Betts, 2008). This means that the absence of a global migration system disproportionately benefits the richer migrant-receiving countries at the expense of the poorer migrant-sending countries.

The negative aspects of migration at present suggest the relevance of a governance regime. Another indication of the need for such a regime is that existing immigration policies are ineffective and sometimes even counterproductive. Research in the Netherlands shows that the influx of migrants is related to the country's economic cycle, with a delay of about two years. When economic growth is strong, the number of immigrants rises, whereas when economic growth slows down or declines the number drops. Immigration seems to respond in the same way to the rate of unemployment, but whereas the number of immigrants is strongly influenced by Dutch economic development, the type of migrant is more strongly affected by Dutch policies (Cörvers et al., 2009). Migration will continue while there is a demand for labour. When there is a mismatch between policies and the demand for labour, however, rather than seeking legal entry, migrants may enter or remain in the country on an irregular basis or via family reunification. In addition, immigration policies have the counterproductive effect of discouraging circular migration and pushing people into permanent settlement. They have also been shown to stimulate undocumented migration and increase the financial and human costs for migrants (de Haas, 2006).

The creation of a global system for the governance of labour migration could potentially increase the possibility for sending countries to participate in selecting potential migrants and in determining their conditions of employment in the receiving country. This would also allow sending countries to be more effective in stimulating the potential contribution of labour migration to development, for example in the area of remittances, encouraging 'brain circulation' and promoting the engagement of diasporas in the development of their country of origin. For migrants and sending countries an additional benefit of a global migration governance system would be an improvement in the protection of migrants' labour, social and human rights (Hart, 2006; Papademetriou, 2011). Migrants would be assured of fair(er) compensation for their work and of respect for their rights (Papademetriou, 2011). Moreover, the existence of a regulated system of labour migration and of recruitment agencies could reduce the costs to the individual migrants and also reduce the level of risk.

For receiving countries global migration governance could lead to a more efficient system for dealing with the growing demand for labour by creating a better match between the demand for and supply of skills. It could also reduce (the need for) irregular migration. Moreover, improving labour mobility could make it possible to achieve some of the large economic gains associated with more liberal labour flows. According to Clemens (2011) total trade liberalisation has been estimated to lead to an increase in global GDP of less than a few percentage points, whereas the gains of moving to free international migration could be between 50% and 150% of world GDP. Clemens therefore states that 'when it comes to policies that restrict emigration, there appear to be trillion-dollar bills on the sidewalk' (2011: 1). As the dependence of (richer) countries on migrant labour is expected to grow and people are still willing to migrate for work, it is crucial to open up migrants' access to labour markets. At the same time, there is a need for better protection of the rights of migrant workers.

## 2. Evaluation of past proposals

The global governance of migration can be ‘loosely defined as the creation of a more or less formal set of norms and rules to regulate the behaviour of states with respect to the movement of people across borders’ (Papademetriou, 2011: 1). Betts (2010) outlines three broad levels in which global migration governance has been developed and can be understood:

1. **Multilateralism:** Few multilateral agreements touch upon the field of (labour) migration, for instance, those of the International Labour Organization (ILO, 1919). At present, the only strong formal multilateral migration regime concerns international refugees and asylum seekers, under the auspices of UNHCR (Betts, 2010). States are exceptionally reluctant to act upon any kind of multilateral agreements on (labour) migration. This will be discussed in more detail in the section on the proposed World Migration Organisation (WMO). The main exception to the general lack of support for a multilateral framework for migration can be found in the EU at the regional level, where regional cooperation on immigration and asylum issues involves an internal component that aims to facilitate the free mobility of labour within the EU and an external element designed to manage border control, on which the Union cooperates with third countries (Betts, 2008).
2. **Embeddedness:** Institutions that are not specifically focused on regulating migration may still facilitate the way in which states respond to it. An example is International Migration Law, which ‘is not an independent body of law but is based upon drawing together the implications of states existing obligation within other areas of public international law such as international human rights law, WTO [World Trade Organization] law and international maritime law’ (Betts, 2010: 2).
3. **Informal networks:** Global migration governance is taking place at an informal level on the basis of a Regional Consultative Process (RCP) model, which started in 1985. ‘RCPs are networks of government policy-makers who meet in a setting that is non-binding, flexible, and focused on information-sharing, best practice, and capacity building’ (Betts, 2010: 2). One prime example of an informal type of governance at the global level is the Global Forum on Migration and Development (GFMD), which will be discussed below.

Despite these initiatives, there are still gaps and overlaps in the global governance of labour migration (Newland, 2005). The gaps involve the aspects of (labour) migration that are not (adequately) covered by existing international organisations, such as the rights of migrants. Overlap refers to the fact that the many categories of migrants are not watertight, such as voluntary and forced migrants, and are addressed by different organisations (e.g. UNHCR for the latter). Previous initiatives have attempted to manage labour migration in more global terms (e.g. within the ILO and WTO), while new proposals are still being researched and widely debated. However, as mentioned earlier, states have been very reluctant to establish multilateral agreements in the area of migration, which largely explains the current ‘non-system’ of global labour migration governance. This indicates that political feasibility is a major criterion for the potential success of a proposal for such a system.

This paper discusses ideas for integrating labour migration into a future global framework for the governance of migration in general. Most of these proposals have involved a multilateral framework of global migration governance and we discuss four different types of multilateral system: official UN multilateralism (WMO); designate a lead UN agency from among existing institutions; the General Agreement on Trade in Services (GATS); and the General Agreement on the Movements of People (GAMP). The first two propose creating or appointing a multilateral institution, whereas the other two are legal instruments. In addition, we discuss a proposal for informal network-based governance,

with the GFMD as the suggested framework for this type of governance. The sixth and last proposal is coherent pluralism that concerns different types of governance depending on the type of migration.

The evaluation of these proposals focuses on four crucial requirements of a global system for the governance of labour migration. The first is their political feasibility and, in particular whether they would be acceptable to the governments of sending and receiving countries. Second, a global system should be efficient in order to respond to fast changes in labour demand and supply. This calls for a light and relatively unbureaucratic system. Third is the facilitation and extension of labour migration, which has enormous potential for development, especially for migrants, as discussed in the introduction. It must also address the current mismatch between the supply of and demand for skills and labour, which is expected to worsen in the face of global demographic shifts, such as ageing populations. The fourth criterion concerns the protection of the rights of labour migrants. This will involve not only human rights (e.g. protection from exploitation), but also ‘financial’ rights, which concern the ability of the system to facilitate the portability of rights, such as pensions. In the light of these four requirements, this section ends with a short discussion on whether it would be preferable to govern labour migration in an independent framework, rather than having a single system covering all aspects of migration. This discussion connects to the third and final section of the paper, which proposes a system for the global management of labour migration and suggests what role the EU could play in it.

### 2.1. Official UN Multilateralism – World Migration Organisation

In response to the lack of a framework governing international migration, Bhagwati (2003: 4) argued that ‘the world badly needs enlightened immigration policies and best practices to be spread and codified’, and proposed a *World Migration Organisation* to address all aspects of migration in a multilateral framework. A WMO would effectively overcome the prevailing problems of coordination, overlaps and gaps whereby various institutes deal with different aspects of migration at different levels (Newland, 2005).

There have been several proposals regarding the functions and components of a WMO. For example, Bhagwati (2003) proposes a diaspora model, but does not specify what this would entail. Böhning (2004) describes three functions that could form the basis of a WMO: fighting illegal migration, encouraging cross-border cooperation to manage migration flows and devising an equitable system for sharing migrant workers’ taxes between sending and receiving countries.

Various authors have suggested that the proposed WMO employ a tax system to compensate sending countries for the loss of labour. For example, Bhagwati (2003) suggests taxing citizens living abroad, and Böhning (2004) proposes that receiving countries split the income-tax revenue with sending countries. There are two main arguments against such suggestions. In practical terms, it would be difficult to implement a tax system that takes into account the skills of each migrant (including how their education was provided and paid for) and potential benefits and costs for receiving and sending countries. Second, such a tax seems unfair for various reasons. For instance, it goes against the right to mobility. It is also essential not to put additional pressures on individuals from migrant-sending countries, for whom the tax would be higher in real terms than for those in HICs due to differences in income and wealth. Furthermore, a tax is likely to generate opposition on the grounds that it may seem unfair to tax all migrants for possible negative effects, such as ‘brain drain’, both because not all labour migration causes these effects and because such a tax ignores any positive contributions migrants make in both receiving and sending countries. Finally, a tax does not consider the circumstances that ‘pushed’ people to migrate, for which the governments of sending countries are accountable and not the individual migrants.

The political feasibility of a WMO seems limited, however. Governments have been extremely reluctant to establish a multilateral framework to govern (labour) migration, or even to discuss a common set of guidelines that could guide international cooperation. With the exception of the EU, efforts to develop a multilateral framework on migrant workers have been unsuccessful (Betts, 2010). For example, Papademetriou (2011) argues in relation to the GFMD that ‘most observers believe that a UN-led process (even a nonbinding one) would not have been agreed to, showing how difficult it is to elevate even the most informal migration processes to the international level’ (p. 10). Newland (2005) thinks that the international consensus on migration issues remains too weak to support the creation of an overarching multilateral migration organisation. As argued in the introduction, it is the richer countries that most benefit from the prevailing ‘non-system’ since it allows them to control their own immigration policies. It seems unlikely that they would accept a WMO given that it might erode such control, especially because any rules made in a multilateral organisation are likely to be binding. A WMO would need financial support, and funds would probably have to come from the (more) developed countries. In sum, states, and especially the richer ones, are likely to resist the creation of such an organisation.

A WMO may not be the most efficient means to address labour migration since it would probably be a very bureaucratic and slow organisation. One reason is that a WMO would deal with all areas of migration, not only labour migration. Many national governments with competing political and economic interests would have to reach decisions on all these different aspects of migration. Protracted negotiations would make it difficult to deal with changes in labour market demand and supply (Hart, 2006). Furthermore, the large and complicated mission of a potential WMO would require substantial human and financial resources that would increase its bureaucratic nature.

Although there are as yet no concrete proposals for how a WMO could regulate access to labour markets and protect the rights of migrants (except for a compensation scheme that we have opposed), it may be argued that within a WMO it would be possible to aim for multilateral agreements in which receiving countries would agree on the protection and enforcement of migrants’ rights and improved access to their labour markets, in exchange for sending countries helping with the return of their nationals in order to ensure that temporary migration programmes were effective. A dispute-settlement mechanism could be created to ensure that countries comply with any such agreements. Establishing any such agreements seems unlikely in view of the strong reluctance, particularly on the part of migrant-receiving countries, to discuss common guidelines.

Thus, the political feasibility and efficiency of a WMO may be considered low, while its effects on improving labour access and the protection of migrant workers’ rights seem ambiguous since they are not explicitly addressed in current proposals, although they could be addressed via separate agreements.

## 2.2. Designate a lead UN Agency from among existing institutions

It has been suggested that an existing UN agency be the lead agency on migration. The two most likely candidates are the ILO and IOM, while UNHCR has been suggested as a lead organisation for the governance of migration (e.g. Newland, 2005). However, since UNHCR’s mandate is solely in the areas of refugees, internally displaced persons and asylum seekers, it has no existing competence in labour migration. The prime advantage of designating a lead agency is that it avoids the complications of establishing a new organisation and provoking the fears of dealing with an unknown body (Newland, 2005).

The ILO was set up in 1919 and became a UN agency in 1946 (ILO, 2012c). It supervises the establishment of international labour standards by setting Conventions and Recommendations. Its tripartite structure consists of representatives of governments, labour unions and employers’



associations. These three parties draw up agreements at the annual International Labour Conference (ILO, 2012a).

For labour migration, the ILO would be the most suitable as a governing body given its mandate in establishing labour standards and the protection of migrant workers. The ILO's core labour standards (i.e. freedom of association and right to collective bargaining, elimination of discrimination, elimination of forced and compulsory labour, and the abolition of child labour) were set out in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which have been ratified by most ILO member states (Betts, 2008). However, its success in securing the rights of migrants has been limited. For example, the minimum standards for labour migrants are not specifically included in the core labour standards and the 1990 Convention on the Rights of Migrant Workers has been ratified by only 46 countries, none of them main destination countries (UN Treaty Collection, 2012). The ILO Multilateral Framework on Labour Migration involves only non-binding principles and guidelines for a rights-based approach (ILO, 2006). One suggestion to promote compliance with the labour standards is for the ILO to adopt a dispute-settlement mechanism that could, for example, impose economic sanctions. The absence of such a mechanism may be what has limited the success of the ILO compared to the General Agreement on Tariffs and Trade (GATT)-WTO with regard to enforcement actions (Dawson, 2012).

The strong involvement of the ILO in the protection and enhancement of labour standards suggest that it could become a lead agency addressing the protection and enforcement of migrants' rights. However, it is not clear how the ILO would extend its mandate to incorporate access to labour markets. The lack of political will for multilateral cooperation, as discussed above, makes it unlikely that the ILO's mandate would be extended in this way. The political feasibility of the ILO as the lead agency also relates to its tripartite structure. Managing global labour migration in such an agency may be more complicated than in an exclusively inter-governmental system because of the diverse and sometimes opposing interests of the three parties. For example, whereas employers' associations generally favour more migration, unions may be less inclined to do so, for fear that labour migration could depress pay and working conditions. Newland even argues that governments would not accept the ILO specifically because of its tripartite structure, because they would object to the involvement of unions and employers' associations in determining national migration policies (Newland, 2005).

Nominating the ILO as the lead agency for migration seems more efficient than creating a new organisation, such as the WMO. It already has a strong background in promoting labour and human rights through the creation of international labour standards that are backed by a supervisory system or mechanism. Furthermore, it assists countries to implement its policies and programmes (ILO, 2012b). If the ILO's mandate were extended to cover labour access and a relevant Convention adopted, the system could potentially be efficient by using a similar system of supervision and technical assistance. However, this seems unlikely in the current political climate.

Another suggestion is to incorporate the IOM into the UN system. The IOM is the main inter-governmental organisation in the area of migration and works to encourage 'humane and orderly migration for the benefit of all'. It was established in 1951 and has 146 member states with offices in more than 100 countries (IOM, 2012a). Its incorporation could be directly approved by a vote at the UN General Assembly and the IOM Council, or indirectly, through a gradual convergence of the IOM's activities with those of existing UN agencies regarding migration issues. This would enable the IOM gradually to take on some of the functions of other agencies and so emerge as a WMO. For example, the IOM could extend its mandate to include the setting of standards on labour migration and thereby assume the ILO's functions in this area.

An advantage of the IOM as the lead agency is that compared to other international institutions it has the broadest mandate on migration issues. One of its activities is to facilitate labour migration. It

provides policy and technical advice to governments, assists in the development of policies and laws that regulate labour migration, helps governments to encourage safe practices on labour migration, facilitates the recruitment of workers and supports the integration of migrant workers (IOM, 2012c). This implies that the organisation already facilitates the two of the main labour migration issues identified in this paper, namely the protection of migrants' rights and access to labour markets.

Nevertheless, its ability to deal with labour access and migrant rights is ambiguous and would require the extension of its mandate, which does not include normative authority in the area of protection of human rights or the setting of labour standards. This is in contrast to the area of asylum and refugee protection that is based on the 1951 Convention on the Status of Refugees overseen by the UNHCR. The IOM has been considered primarily a service-provider, advising about best practice in areas such as the management and facilitation of migration, migrant health and the post-conflict movement of people (Betts, 2008). However, the most recent strategic focus of the IOM indicates that its work is much broader. For example, it contributes to the global debate on migration through the International Dialogue on Migration (IOM, 2012b). Nevertheless, for the IOM to extend its current activities to promote more openness in labour market access and to create and oversee the implementation of conventions, its mandate would have to be enlarged and it would have to change Article 2.3 of its constitution, which concerns the recognition that 'control of standards of admission and number of immigrants to be admitted are matters within the domestic jurisdiction of States' (IOM, 1953).

The proposal to incorporate the IOM into the UN system is likely to meet with considerable resistance from those agencies whose functions it would absorb. For example, it would take over the setting and overseeing of labour standards for migrant workers from the ILO. Moreover, since governments have been so reluctant to engage in multilateral negotiations on the issue of migration it is unlikely that attitudes will shift substantially in the foreseeable future.

To summarise, the chief advantage of agreeing on a migration lead agency among existing UN organisations is that it would sidestep the widespread opposition to the creation of a new organisation. The ILO seems to be the most suitable lead agency for labour migration given that labour issues lie at the heart of its mandate. The IOM facilitates labour migration in specific programmes, but does not promote labour access and migrant rights globally and lacks the normative authority to do so. The political feasibility and efficiency of the proposal to make the ILO or IOM a lead agency seem moderate, but its potential to address labour access is ambiguous although it may lead to some protection of migrant workers' rights (especially in the case of the ILO).

### 2.3. General Agreement on Trade in Services

A third suggestion is that the GATS perform the function of the global governance of migration. The GATS is an agreement overseen by the WTO, whose aim is to produce transparent and mutually advantageous agreements in order to substantially reduce tariffs and other barriers to international trade among its 155 member states (WTO, 2012; Newland 2005). Migrant workers feature in Mode 4 of the GATS, which is concerned with liberalising the movement of service suppliers.

The main benefit of GATS Mode 4 is that it has the potential to address the access of migrants to labour markets. Currently it only allows for the temporary movement of 'natural persons' that supply services and therefore it 'does not cover migrants seeking access to employment abroad, nor does it provide a route to permanent residence or citizenship. It is not an agreement on migration *per se*' (Hatton, 2007: 369). Furthermore, the application of Mode 4 has mainly been limited to highly skilled migrants. Only 17% of the commitments apply to low-skilled workers (Newland, 2005). It does, however, provide a framework to deal with access of migrants to labour markets, and the possible liberalisation of labour migration. Arrangements that are currently restricted to temporary migration

of (high-skilled) natural persons may be extended through extensive negotiations to cover other aspects of the access of migrants to labour markets.

The political feasibility of extending the GATS Mode 4 to incorporate other aspects of migrants' access to labour markets seems rather low. Progress on the liberalisation of the movement of service providers has been limited. In 2004 it was estimated that less than 2% of the total trade in services was accounted for by temporary migration (Dawson, 2012). In addition, the GATS Annex on 'Movement of Natural Persons Supplying Services under the Agreement' contends that GATS does not obstruct government measures to regulate the entry and (temporary) stay of service providers (Newland, 2005). This means that governments can apply their own admission criteria, which have tended to be more restrictive than the temporary labour migration agreements they used before (IOM, n.d.).

Even if GATS Mode 4 were extended to address access to labour markets for all types of labour migrant, it does not deal with the protection of migrant workers' rights. This would require additional agreements to be made within the framework of the GATS. It is highly unlikely that such agreements would be reached, however, since many governments regard multilateral agreements as too rigid, too binding and as intruding in domestic policies, which is why ratification is so limited (e.g. Betts, 2010, Hart, 2006; Newland, 2005). For instance, in 2004, only 25 (mainly migrant-sending) countries ratified the UN Convention on the Rights of Migrant Workers and their Families, which had taken 13 years to develop (Newland, 2005). The same unwillingness is demonstrated with the ILO Conventions on migrant workers, with No. 97 (Migration for Employment, 1949) ratified by 47 member states (ILO, 2012d) and No. 143 (Migrant workers, 1975) ratified by only 23 (ILO, 2012e).

The efficiency of the GATS appears moderate. GATS Mode 4 provides less flexibility and would be less effective in addressing labour market changes than commitments made outside the WTO system, because the scope and duration of such commitments are limited. However, the market reach of agreements made within the WTO is much larger, which means that agreements involve a far greater number of countries (Dawson, 2012). Nevertheless, the creation or amendment of a treaty does not imply that it will be broadly ratified. Thus, the political feasibility of the proposal appears limited and its efficiency moderate. Although it could promote increased access to labour markets, the effects of the GATS on the protection of migrant workers' rights seem ambiguous since it does not address these issues, which means that additional agreements would be required.

## 2.4. General Agreement on the Movements of People

The General Agreement on the Movement of People (GAMP) has been proposed by Straubhaar (2000) and is similar to the GATS but deals specifically with all aspects of migration. The free international movement of people has been shown to result in larger gains in world GDP than the liberalisation of trade. This presents an economic argument for a shift from national migration policies to an international framework to regulate migration.

Straubhaar (2000) uses the metaphor of a club to illustrate why citizens of a given country do not appreciate unrestricted immigration. He perceives nations as 'clubs' that compete for high-potential members, and which offer public goods, services and social networks in exchange for taxes, fees and contributions. Unrestricted immigration increases the risk that nationals may be crowded out of their own club. In addition, clubs that lose their (best) members cannot survive economically. A club avoids a 'brain drain' by offering attractive local club goods (Straubhaar, 2000).

However, the externalities of international migration are more complicated than crowding-out and 'brain drain'. In the introduction it was argued that immigrants tend to be employed in sectors in which nationals are either unqualified or unwilling to work, and that they will provide taxes, fees and contributions to the 'club' if they are in employment. Also the issue of 'brain drain' is more nuanced

than Straubhaar (2000) implies, since not all sending countries are equally affected because this depends on factors, such as the size and the educational background of a country's population and on the number and skills of those who migrate.

Straubhaar suggests a GAMP, which would regulate the free movement of workers and should deal with the externalities and market failures of the international movement of people. First, the GAMP should strive to liberalise the movement of all people and promote an acceptance of free entry and exit of migrants. In order to tackle externalities and market failures, the GAMP has an economic and a political dimension:

- The political dimension would be part of the system of international law and would aim to discourage mass migration by applying two principles: first, that all people have the right to stay in their home country; and second, that governments are responsible if their citizens migrate en masse in response to bad governance. Refugees fleeing conflict should always be able to find shelter in other countries.
- The economic part aims to create the optimal allocation of public goods and to internalise the externalities of migration. Straubhaar proposes a *migration tax* to counter the negative externalities of 'brain drain' consisting of an *exit tax*, to counterbalance its effects, and an *entry fee*, to compensate for the crowding-out losses.

With the first principle, Straubhaar tries to limit short-term non-economic migration and to promote development in migrant-sending countries. The GAMP should produce an economic policy that stabilises economic development and increases growth prospects. The GAMP policy should further be directed at improved market access, a better integration of the financial markets, the diffusion of technology and the promotion of good governance.

In practice, the second principle resembles the migration tax proposed by Bhagwati (2003). Straubhaar (2000) argues that this migration tax will lower the incentive for free movement, but it will also discourage migration flows that have positive external effects. Straubhaar proposes a migration tax for nationals living abroad, a *citizenship-insurance*, in order to provide financial support to and strengthen their ties with the home country. The idea of a migration tax already exists at a minor level in the form of visa fees, naturalisation fees and visitor taxes (Straubhaar, 2000). Arguments against such a tax were presented earlier in this paper.

Straubhaar's proposal concerns the issue of access of migrants and aims to liberalise migration, although there is no suggestion of how this would be achieved except for the creation of an agreement. The proposal does not specifically deal with the rights of migrants. It does mention that the GAMP will be part of the system of international law and that those affected by war or political persecution would enjoy the protection of international asylum and refugee law. This suggests that the GAMP could involve a provision that international agreements that apply to labour migration must be respected and that within the GAMP there would be the opportunity to negotiate the protection of migrants' rights. Thus it seems possible for the GAMP to address both access to labour markets and migrants' rights. However, its efficiency is difficult to determine as it is unclear how the treaty would be implemented and how it would achieve its aim to liberalise migration.

Straubhaar (2000) argues the GAMP should remain as simple as possible in order to be politically feasible. Therefore, he advocates a gradual approach that starts with the development of bilateral agreements in a regional setting, from which regional and finally global agreements can be developed. Although this seems the most feasible and practical approach to reaching an agreement on the movement of people, the lack of political will to agree on a binding, multilateral agreement on migration makes it unlikely that the GAMP would be established in the foreseeable future. Moreover, migrant-receiving countries are unlikely to open up their borders given that they can currently set



their own immigration policies, based in part on their labour needs. Imposing a tax on migrants may to some extent reduce migration but would not allow receiving countries to determine who enters. Governments are also reluctant to submit to the administrative obligations of international treaties, which could pose a particular burden on those with limited administrative capacity.

Hatton (2007) makes another strong argument against the political feasibility of a WTO for international migration that can also be applied to the GAMP. The three principles that form the basis of the multilateral negotiations of the GATT/WTO are non-discrimination, national treatment and reciprocity. Although it can be argued that the first two apply to international migration, this is not the case for reciprocity. 'Reciprocity means negotiating access to foreign markets in exchange for concessions of approximately equal value to foreign suppliers in domestic markets' (Hatton, 2007: 363). Reciprocity applies to trade as it is primarily driven by comparative advantage. In contrast, migration flows mainly flow in one direction (i.e. from relatively poor to relatively rich countries) and are therefore driven mostly by absolute advantage (Hatton, 2007). Migration from HICs to LICs accounts for only 3.5% of international flows, whereas 33.6% flows in the other direction (Hanson, 2009). For rich(er) countries, opening up the labour markets in LICs is not considered of equal value as improved access to their own labour markets and will therefore not be considered as the basis of a reciprocal 'concession' on the part of poor(er) countries. Exporting labour could benefit developing economies mainly through the inflow of remittances and reduced unemployment, which means they would benefit most from greater access to the labour markets of high-income countries. In other words, the principle of reciprocity does not seem to apply to international (labour) migration, which undermines the political feasibility of the GAMP.

Thus, not only is the political feasibility of this proposal low, its efficiency is ambiguous. The GAMP seems likely to promote increased access and the rights of migrants could be integrated in the GAMP.

### 2.5. Informal network-based governance and the GFMD

In *A New World Order Slaughter* (2004) describes how global governance is already taking place through 'government networks'. Government officials, such as legislators, police investigators and financial regulators, are already working with their foreign counterparts to deal with issues such as crime and trade. Information is exchanged and activities are coordinated to deal with different types of global governance issue. In this way, global governance is not viewed as regulating governments and does not operate on the basis of formal and binding agreements (Slaughter, 2004). Rather, it is seen as a pragmatic way to tackle issues and find solutions to problems that have arisen from globalisation through the exchange of information and the creation of best practices and non-binding agreements, overseen by the relevant officials.

Such informal government networks could develop into more formal, multilateral institutions. The EU is a good example of this. Its migration policy did not arise from principles but evolved 'gradually in response to felt needs and converging objectives' (Newland, 2005: 5). This avoids one of the main problems underlying the development of a multilateral organisation. National interests in migration issues vary enormously, which explains the reluctance of governments to define common principles. The result is likely to be a very low common denominator or empty agreements that will not be applied or implemented nationally (Newland, 2005).

The *Global Forum on Migration and Development* could be seen as a starting point for the development of networks. It is 'a state-led, voluntary, non-binding and informal consultative process open to all member states and observer states of the United Nations' (GFMD, 2011: 4). This forum, which held its first meeting in Brussels in July 2007, was created after a long process of debates and reports that started at the 1994 International Conference on Population and Development (ICPD) in Cairo, in which the need for a dedicated migration conference was expressed. Then the 2002 'Doyle

Report' was developed and in 2003 the Global Commission on International Migration was created, whose 2005 report led to the 2006 High Level Dialogue on International Migration and Development. During this Dialogue the UN Secretary-General's suggestion to extend multilateral cooperation with regard to migration through the creation of a Global Forum on Migration within the system of the UN was not approved. The US and European governments preferred to have more flexibility and to continue making regional and bilateral agreements rather than formal multilateral ones (Betts, 2008). This again shows the opposition of the migrant-receiving countries to multilateral forms of migration governance.

It seems that the reason the creation of the GFMD succeeded was by proposing that it be an informal process led by states, outside the UN system, and focusing on policy and practical programmes. Nevertheless, its establishment indicates the growing need to deal with migration issues. The Secretary-General stated that 'a few years ago, many people did not think it possible to discuss migration at the United Nations. Governments, they said, would not dare to bring into the international arena a topic on which their citizens are so sensitive' (Annan, 2006). In response, the GFMD forms the middle way between the growing interest in an international governing framework and the lack of consensus and complications surrounding the issue. It is framed as an arena within which to hold informal discussions on the challenges and opportunities concerning migration and development (Matsas, 2008), and a forum for sharing information and dialogue as opposed to the basis for inter-governmental negotiations (Betts, 2010).

Several authors have argued that any changes in the field of migration must be initiated from below and through the development of policy and the building of consensus (e.g. Newland, 2011; Papademetriou, 2011). Newland agrees with Slaughter (2004: 16) that 'global governance (...) is not a matter of regulating states the way they regulate their citizens, but rather of addressing the issue and resolving the problems that result from citizens going global – from crime to commerce to civic engagement'. Slaughter (2004) predicts that well-functioning networks among governments may in due course press for an overarching multilateral agency. Informal networks, such as the GFMD, are crucial to developing a cooperative spirit that could form the basis for better governance. They can help to promote mutual trust among the various actors involved in labour migration, the collection of information and statistics on good practices and the incremental generation of consensus (Papademetriou, 2011). Another strong point of the GFMD, in addition to its confidence-building approach, is the involvement of civil society. The participation of civil society can help to ensure that the voices of migrants are heard and could help with the implementation of any practical measures adopted (Newland, 2011).

To date, however, the GFMD appears to have produced no concrete outcomes regarding labour market access and migrants' rights. In 2011, there were 14 thematic meetings held by Switzerland, which led the GFMD in that year. These meetings were organised under three thematic clusters, one of which concerned labour mobility and development, which indicates the prominence of this issue for many governments. Within this cluster the focus was on three themes: engaging the private sector in planning labour markets; lowering the cost of migration for higher development gains; and a case study of global domestic workers. The second theme on lowering the costs of migration might have addressed the issue of human rights. However, the three outcomes of this thematic meeting concerned only the intention to discuss the development and recognition of migrants' skills, the improvement of the monitoring and regulation of recruitment agencies, and to discuss and monitor circular and temporary or seasonal migration (GFMD, 2011). Although the regulation of recruitment agencies could reduce the abuse and exploitation of migrant workers, the meeting did not take a wider approach to the protection of migrant workers. Furthermore, the focus on human rights in the cluster that addressed irregular migration was mainly limited to a statement that fundamental human rights should be respected in the management of border control. These outcomes point to the difficulty of

reaching an agreement on the rights of migrant workers. Although labour migration is addressed in the GFMD, this was only in relation to a marginal approach to the protection of rights, and the issue of labour access was not discussed specifically. However, representatives of civil society ‘urged the ILO to show new energy and new commitment to organizing practical and rights-based approaches to labour migration’ (GFMD, 2011:13).

The efficiency of the GFMD also appears low. First, it explicitly lacks clear modes of operation and vision and deals with all aspects of migration. There is therefore no certainty that labour access and migrant rights will be discussed or even considered as one of its goals. Moreover, the level of institutionalisation of the GFMD is relatively low owing to the informality of the process and the lack of a permanent secretariat (Matsas, 2008). This seems to undermine its ability to achieve concrete outcomes. At present, the GFMD relies entirely on voluntary initiatives in order to implement its proposals. This reliance might also undermine its coherent approach (Matsas, 2008), while its informal and voluntary status means that it has only limited resources (GFMD, 2011).

Thus, the efficiency of the Forum is low and its ability to achieve concrete outcomes on labour migration seems limited. Moreover, the strong reluctance to formalise the GFMD makes it unlikely that concrete outcomes will be achieved in the foreseeable future.

## 2.6. Coherent Plurilateralism

Betts (2010) argues that ‘global migration governance does not and should not imply a “one size fits all” approach’ (2010: 3) and explains this with the theory on global public goods. A global public good has two qualities: the benefits are non-excludable in the sense that the good benefits every country equally regardless of which countries contribute to providing it; and the benefits are non-rival, meaning that if one country consumes this good it does not reduce what is available to another. If there is no institutional framework to ensure the provision of a global public good, such as mitigating climate change, countries have little incentive to provide the good since they can ‘free-ride’ on others’ contributions. An institutional framework can ensure that all states cooperate to provide the global public good. However, not all aspects of migration governance can be considered public goods, which means that the type and scope of institutional requirements differ.

Three different types of goods apply to migration. The first concerns global public goods, discussed above, which applies to the governance of refugee protection. States collectively value refugee protection, but may not have the incentive to provide for its benefits in the form of security and respect for human rights owing to the fact that these benefits are partly non-excludable. Therefore, a multilateral regime is applicable and to be expected.

The second involves a ‘club good’, which is partly excludable. This applies to the governance of low-skilled labour and irregular migration. The benefits of the governance of these types of migration are non-rival, because the supply of low-skilled and irregular migrants is supposed to be so large that the admission of such migrants to one country does not reduce the supply to other countries. The two types of migration are partly excludable, however, because the benefits of regulation are limited to specific regions. Therefore, cooperation is more likely to take place in a regional, inter-regional or trans-regional context.

The third, the governance of high-skilled migration, can be considered a private good. The costs and benefits of this type of migration are highly excludable as they accrue almost completely to the receiving or sending country, or to the migrant. The benefits of high-skilled migration are rival because the supply of skilled labour is finite and the admission of a migrant to one country excludes another country from enjoying the same benefits. As a result the governance of high-skilled migration

involves cooperation though the unilateral liberalisation of bilateralism. At the multilateral level cooperation will be limited to facilitation (Betts, 2010).

Betts (2010) has therefore argued for coherent plurilateralism, which recognises that one approach is not appropriate for every type of migration. Currently, a wide variety of agreements at different levels cover distinct aspects of migration. In this proposal there is no need to create new institutions, but rather to improve the functioning of existing institutions in order to fill the gaps in the current (non-) framework of migration governance. The aim of coherent plurilateralism is to make migration governance more coherent by, for instance, cooperating or coordinating efforts on issues of mutual national interest (Betts, 2010). One of the largest gaps identified by Betts (2010) is the lack of an institutional body to provide normative oversight to ensure that states fulfil existing agreements under International Migration Law. The focus on making the current system more coherent is likely to be far more politically feasible than creating a new organisation or treaty or extending existing ones.

It is unclear, however, how efficient coherent plurilateralism would be. Coherence may be developed by creating a normative authority or by cooperating on issues that are of mutual national interest, but its effects on labour migration are unclear. In addition, it might not be very efficient to have a differentiated approach for low- and high-skilled migration, since these are considered different 'goods'. Whereas low-skilled migration can be governed at the regional level, the governance of high-skilled migration is expected to take place at a unilateral or bilateral level. Therefore, a broad range of approaches and agreements on labour migration will (continue to) exist, differing in the level (i.e. unilateral or multilateral), in the range of countries that participate, and in the extent to which these issues are tackled. More coherence may be established regarding the rights of migrant workers if, as proposed, a normative authority on International Migration Law is established.

Thus, coherent plurilateralism seems politically feasible, but its efficiency is unclear. Moreover, the effects on labour access are probably ambiguous and it may lead to increased protection.

To conclude, the political feasibility of the first four proposals seems moderate at best. One reason for this is that these proposals suggest a global framework to deal with all aspects of migration. It is much more complicated to reach agreements among many very diverse countries on all aspects of migration rather than to reach agreement only on one. The only feasible proposals are for informal networks and coherent plurilateralism, since the GFMD already exists and coherent plurilateralism involves an improving on the current system. The efficiency of the proposals is low (WMO, GFMD), moderate (lead agency, GATS) or ambiguous (GAMP, coherent plurilateralism). Most of the proposals also deal only with one aspect of labour migration and therefore their potential to address labour market access or migrants' rights is ambiguous.



## A New Multilateral Framework for Labour Migration: A Review of Options

Table 2.1 Overview of the six proposals

	WMO	Lead agency (ILO or IOM)	GATS	GAMP	Informal networks (GFMD)	Coherent plurilateralism
<b>Description</b>	Official UN-type system, which will address all aspects of migration.	The ILO or the IOM are designated as the lead agency on migration.	GATS Mode 4 involves an international treaty on the liberalisation of the movement of service suppliers.	Similar to the GATS, but deals with all aspects of migration. Aim: liberalise movement of all people and address externalities and market failures of this movement.	The GFMD is proposed as a starting point for the development of informal network-based governance.	Different types of governance apply to the various aspects of migration. Functioning of existing institutions need to be improved to fill the gaps in current system.
<b>Political feasibility</b>	<b>Low level of feasibility</b> Strong reluctance to develop a multilateral framework for governance of migration. Removes control from states over domestic policies. System requires funding.	<b>Moderate Feasibility</b> ILO: Promotes labour standards and migrant workers' rights, but political will to extend mandate to labour access seems limited and potentially complicated by its tripartite structure. IOM: Has a broad mandate on migration issues, but other agencies may resist the IOM assuming some of their functions and IOM does not explicitly deal with labour.	<b>Limited Feasibility</b> Progress has been limited. Extension of GATS to incorporate all aspects of labour migration is unlikely as states tend to be reluctant to commit themselves to international migration agreements.	<b>Low level of feasibility</b> States are generally not willing to commit to international migration agreements. Administrative burden of a treaty. Reciprocity, one of the basic principles underlying the GATT/WTO, is not applicable to international migration.	<b>Very feasible</b> Forum exists already	<b>Feasible</b> Feasible as no new institutions have to be created.
<b>Efficient</b>	<b>Low efficiency</b> Probably a very bureaucratic and slow organisation, because it covers all areas of migration and requires significant financial and human resources to function.	<b>Moderate efficiency</b> ILO: More efficient than WMO, because of its experience on labour standards and migrant rights. ILO has a supervisory system or mechanism and provides technical assistance to ensure implementation of Conventions. IOM: Facilitates labour migration, but its mandate has to be extended to include labour access and migrants' rights.	<b>Moderate efficiency</b> Although a treaty can ensure wide implementation, it is less flexible and effective in addressing changes in labour market. It deals mainly with one side of the issue.	<b>Ambiguous</b> Although a treaty can ensure wide implementation it is unclear how this treaty would be implemented and achieve its aim to liberalise migration.	<b>Low efficiency</b> Its informal nature and lack of vision will probably prevent it from achieving concrete outcomes. Efficiency is also negatively affected by the focus of the Forum on all aspects of migration, the lack a permanent secretariat and its reliance on voluntary initiatives.	<b>Ambiguous</b> It is unclear what are the effects of promoting more coherence in a pluralistic global governance system. Differentiated approach for low- and high-skilled migrants. Neither will be managed at a multilateral level.
<b>Access to labour markets</b>	<b>Ambiguous</b> Possibly addressed but not explicitly dealt with in current proposals, e.g. by establishing agreements.	<b>Ambiguous</b> ILO: Unlikely that its mandate will be extended to include access to labour markets due to lack of political will. IOM: It has no normative authority regarding labour access.	<b>Increased access</b> Although it provides a framework to deal with access of migrants, arrangements are currently restricted to temporary migration of (high-skilled) natural persons. GATS does not obstruct national measures to regulate access of service providers.	<b>Increased access</b> Objective is to liberalise migration, but no indication as to how this will be achieved other than the adoption of an agreement.	<b>Ambiguous</b> Issues might be addressed in Forum, but it is doubtful whether it will lead to concrete outcomes.	<b>Ambiguous</b> No specific focus on improving access to labour markets.
<b>Protection of migrant workers' rights</b>	<b>Ambiguous</b> Same as above	<b>Partial protection</b> ILO: Yes, although ratification of 1990 Convention should be extended. IOM: It lacks normative authority in area of human rights.	<b>Ambiguous</b> Additional agreements are required for GATS to deal with migrant workers' rights.	<b>Possible protection</b> Rights of migrants could be integrated in the GAMP but these rights are unclear under the current proposal.	<b>Ambiguous</b> Same as above	<b>Increased protection</b> This can be ensured if a normative authority to oversee implementation of International Migration Law is established.

## 2.7. Would it be preferable to have a migration regime solely focused on labour?

The proposals discussed above involved a system for the global governance of all aspects of migration. There is room for debate on whether all forms of international migration should be incorporated in one overarching regime or whether it would be preferable to govern labour migration in an independent framework. An overarching system could address all aspects of migration without the gaps and overlaps that exist in the current arrangements, but its political feasibility seems very limited. Given the record of past international discussions in the UN system and at the IOM it seems clear that there is little political will to address issues of migration at the international level, except in the informal, non-binding framework of the GFMD. Furthermore, a regime that only focuses on labour would be less bureaucratic as the financial and human resources required are considerably less than a system that also focuses on other issues of migration, such as refugees and asylum seekers. This also implies that a labour regime would require less funding, which makes it more likely that governments would agree to create it. A 'lighter' system would be more efficient in addressing changes in the labour market. A labour migration regime would allow governments to negotiate directly on these two issues instead of having to consider other aspects of migration, such as refugees and asylum seekers. Thus, the creation of a migration system focused solely on labour seems the most feasible and efficient option.

## 3. Final assessment

### 3.1. A new proposal for a global governance system for labour migration

Since the six proposals discussed above face severe shortcomings, we propose a new system for the global governance of labour migration (Table 3.1). It takes the form of a labour-matching organisation or clearinghouse, but at a global level that matches job/skills demand and supply while also protecting the rights of workers. The idea is that governments would indicate how many migrant workers are needed and with what qualifications, and the organisation will match these from a global pool submitted by other countries. In many cases, specific work contracts or vacancies would be submitted at a global level. This organisation would function for all types of labour, including all skill levels and employment sectors and lengths of contract. Governments would have flexibility in determining the periods of stay to allow for differences in the type of work required and labour-market conditions. These periods would be tied to the duration of the work contract. However, the end of a contract would not mean that migrants have to return to their country of origin because they would be entitled to look for a different job in the same or another country. This option means that residence would not be tied to the initial contract because migrants could remain if they found a new job. This would enhance migrants' rights and also be more efficient for employers.

The international organisation would need to fulfil certain minimum criteria in order to function adequately. This means the system has to be politically feasible (allowing for the use of and by-in of several governments), efficient (low level of bureaucracy) and able to address labour access and migrant workers' rights. The first minimum requirement is that the organisation has to be able to **assess the value of qualifications** (creating equivalency scales) worldwide in order to ensure a match between the qualifications and skills required and those on offer. Second, the organisation should ensure that the job contract **satisfies certain minimum labour standards**, many of which are already outlined in existing conventions but this organisation would observe these when matching jobs and people. Only contracts that meet the minimum standards would receive labour matches. It is important that all participating countries respect the human rights of migrant workers and that migrants receive decent remuneration and social protection. To ensure the protection of migrant workers, the contract would have to be checked by the organisation and there would be a need for monitoring in the destination country to ensure compliance with labour standards and human rights obligations. Furthermore, the portability of the migrant workers' pensions could be addressed bilaterally under the aegis of this organisation.

Third, the system has to be based purely on **matching labour demand and supply** in the sense that labour contracts will be issued with no limits on migrant workers re-migrating if they have a new work contract and have not behaved inappropriately in the first country. One of the reasons for the failure of past temporary or circular migration programmes has been the restrictions placed on re-entry (e.g. de Haas, 2006). These restrictions can encourage migrants who would not otherwise have chosen to do so to settle permanently.

Fourth, the system should **facilitate the visa process**. The idea is that the organisation investigates whether a migrant's skills and qualifications match the advertised job and that the contract satisfies certain labour standards. It would then be for the immigration service of each destination country to accept or reject the visa application since the organisation would already have assessed each potential migrant and contract. This would streamline the process and so reduce the administrative burden for destination countries. The final requirement for such a global governance system is that it has to **be light in terms of its bureaucracy** in order for it to react swiftly to changes in labour demand and to make matches quickly and to allow workers to start jobs when they are needed.

This proposed system could have advantages for sending and receiving countries as well as for labour migrants. It could help migrant-receiving countries to meet their labour demands in a flexible and efficient manner while still allowing them to determine the flow of labour migrants. Governments would determine what type and how much labour they required and the organisation would match labour demand and supply and ensure that the migrants had the necessary skills and qualifications. The system would focus only on labour and be specifically tied to the labour market. Both arguments suggest that the proposal would be politically feasible. In addition, as suggested earlier, the proposal could reduce the administrative burden by facilitating the visa process. There would be less incentive to migrate illegally, which would mean fewer irregular migrants in destination countries. Although the system could not guarantee that none of the migrants entering under such an agreement would settle in the destination country, it should reduce the need/wish to do so.

The advantage to migrant-sending countries is that it could make migration easier. Access to labour markets would be greatly facilitated since the proposal would provide a flexible and efficient system to satisfy the (growing) demand for labour in migrant-receiving countries. There would be greater access to labour markets in receiving countries because there would be less reliance on strict immigration controls that do not satisfy labour demand. The proposed system would also reduce the need for bilateral or regional temporary or circular migration programmes by making it easier for potential migrants to find out about the possibilities of legal migration. This in turn could potentially relieve some of the employment pressures in sending countries and contribute to their development (e.g. through an increase in social and economic remittances). The temporary nature of the labour contracts might also mitigate 'brain drain' and stimulate 'brain circulation', albeit that the effects of migration on development depend on largely structural constraints in the origin country (de Haas, 2010).

The main benefit to migrants is that there would be more possibilities for legal migration, which could contribute to reducing the human and financial costs associated with the irregular entry and stay in a destination country. This system would also allow migrants to re-enter a country on a new contract and would seek to ensure respect for their fundamental human rights. Migrants would not have to pay excessive migration fees and may be less likely to resort to smugglers and traffickers. There would still be restrictions on migrant's freedom of choice, especially with regard to changing employers and the duration of the period of stay in the destination country, which would be based purely on the work contract. In relation to circular migration, Wickramasekara (2011: 23) argues that 'there is no reason to assume that migrants would like to go back and return several times rather than stay and settle, or stay on until they can earn and save what they believe to be an adequate sum for comfortable living back home before returning for good'. Nevertheless, in the proposed system, migrants could apply for other jobs while abroad and would not be required to return to their country of origin on expiry of a contract provided they have obtained a new one.

This system is likely to be politically feasible since it allows governments to determine entry and helps to streamline the labour-matching process. In cooperation with the private sector, governments establish the country's labour needs, and where and how many migrant workers are required and for what period of time. On the basis of the demand visas would be issued to migrants who match these needs. If the system were widely adopted it could substantially increase access to labour markets. Furthermore, the organisation would ensure that the labour contracts meet minimum labour standards and monitor the employment situation of migrant workers, thereby limiting their exploitation and mistreatment.

**Table 3.1 Proposal for the global governance of labour migration**

Global labour-matching system	
Description	The organisation matches job/skills demand and supply, while protecting the workers' rights.
Political feasibility	<b>Feasible</b> Governments of destination countries control who enters and for how long and it may reduce their administrative burden regarding the issue of work visas. For sending countries it would increase the possibilities of labour migration and protect the rights of their nationals.
	<b>Efficient</b> System should be light in order to react quickly to changes in labour demand and to match labour demand and supply.
Access to labour markets	<b>Increased access</b> If system were widely adopted, access could be increased significantly as receiving countries could meet labour needs through this flexible and efficient system without having to rely on strict immigration controls.
Protection of migrant workers' rights	<b>Increased protection</b> Organisation ensures work contracts meet minimum labour standards and monitors employment situation of migrant workers.

### 3.2. What Role could and should the EU Play?

The EU could use its experience with the portability of pensions and the European Higher Education Area (EHEA) to support the creation of the proposed system. The EU already plays a leading role in its adherence to the principles of good governance, social welfare, and human rights at a regional level. The European Commission (COM) has been working on the issue of the portability of pensions and mentions in its White Paper 'An Agenda for Adequate, Safe and Sustainable Pensions' that it will continue working on a pension portability Directive, which will set 'minimum standards for the acquisition and preservation of supplementary pension rights' (COM, 2012: 18).

A total of 47 European countries currently benefit from the EHEA, an initiative first put forward in 1998 by the education ministers of France, Germany, Italy and the UK and formalised the following year in the Bologna Declaration. The Bologna process that created the EHEA 'was meant to strengthen the competitiveness and attractiveness of the European higher education and to foster student mobility and employability through the introduction of a system based on undergraduate and postgraduate studies with easily readable programmes and degrees' (Bologna Process – EHEA, 2010a). Although the EHEA is not an initiative of the EU as such, the COM is a member of the Bologna process (Bologna Process – EHEA, 2010b). The experiences of European countries with regard to education standards and the recognition of degrees gained through participation in the Bologna process could be of great value in assessing the demand for and supply of particular labour skills and ensuring that they are adequately met. Moreover, the EU could promote the harmonisation of academic degree standards and frameworks and encourage their recognition at the global level. Although this is not a requirement for the functioning of the proposed system of labour governance, it could greatly facilitate a better match between skills supply and demand.

The experience of European countries with the EHEA, and the EU's strong adherence to human rights, good governance and social welfare and its work on devising a Directive on the portability of pensions suggests that the EU could contribute to the development of the labour-matching system. Support from the EU for the creation of such a system could help to ensure that the labour-matching organisation eventually achieves global coverage.

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