

PART II

Management of Low-Skilled Labour Migration*

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Introduction

Government policy with respect to managed migration has concentrated on attracting high-skilled workers, as OECD countries vie to attract the most highly educated professionals in key industries. Labour market shortages, however, are also appearing in many lesser skilled jobs. Rising educational levels and shrinking numbers of young people mean in practice that there are fewer native-born people available and willing to perform these low-wage jobs in many OECD countries. In many countries, the demand for workers for low-skilled jobs has been met partly through migration. Indeed, immigrants have already been playing a significant role in meeting the demand for workers for such jobs.

Opening up or increasing labour migration for low-skilled workers remains a controversial issue in many OECD countries. The primary concerns regard the long-term employability of lesser skilled migrants, their integration, their impact on the labour market and public finances and the educational and labour market outcomes of their children.

This chapter looks at how migration of the lesser skilled is taking place, both through managed migration schemes and through unmanaged (*i.e.* irregular) migration. It opens with an overview of the presence and role of low-skilled workers in the labour forces of OECD countries. This is a prelude to a review of the principal managed migration schemes for low-skilled jobs, including an examination of the conditions placed on entry. Both temporary and permanent programmes are examined. This is followed by a review of recruitment strategies and the use of labour market tests, shortage lists and caps in determining the size and nature of inflows. The extent to which irregular migration meets part of low-skilled labour demand is discussed, as well as policy responses such as regularisation programmes. A final section with conclusions ends the chapter.

1. Low-skilled labour migration

OECD economies still require much low-skilled labour, *e.g.* for care for children and elderly, hospitality services, retail, cleaning and maintenance, as well as workers in the primary, construction and industrial sectors. Increasing access to education and mandatory schooling in OECD countries, however, has resulted in a workforce that is much more highly educated than in the past. In addition, in many countries, the cohorts entering the labour market are shrinking every year in absolute terms. The combined effect of increased attainment levels and shrinking cohorts is to effectively reduce the supply of workers for lesser skilled jobs.

Compounding the problem is the fact that native workers may shun low-status, low-wage jobs. All of these raise the question of how and where labour market demand for this kind of work will be satisfied. Some of the demand – in certain occupations – may be met by increased labour force participation, especially by older people and by women, or by investment in capital equipment and reorganisation of production. As noted above, migration has been, and will continue to be, one way to meet this demand and it is

important to consider how such flows should be managed in the future. Managed migration will have an impact on sending countries as well, although this chapter focuses primarily on the receiving countries of the OECD.

Defining the low-skilled

The definition of “low-skilled” can be based either on the skills required for the job performed, or according to the educational level of the worker. In other words, “low-skilled” can be either a characteristic of the job or a characteristic of the worker.

For the purposes of this chapter, which examines management of low-skilled labour migration to support economic growth, the low-skilled are considered to be those whose educational level is less than upper secondary. By definition, trades people and artisans with upper secondary education or with higher vocational training are excluded from the low-educated group.

There is admittedly a certain awkwardness in defining low-skilled in this way, because labour market needs as well as recruitment practices are organised around skill requirements for jobs. However, national concerns about low-skilled migration are focused on the skill level of immigrants, and this is one determining element regarding the medium or longer term integration of immigrants, rather than the job they happen to be holding. The overview of the prevalence of low-skilled workers in the economy in what follows will thus focus on an education-based definition, reflecting country concerns, while the discussion of migration programmes will refer to low-skill jobs, which more properly reflect the recruitment process.

In addition, some lower skilled jobs are occupied by higher educated immigrants, at least initially. Although over-qualification of immigrants remains a common phenomenon in many OECD countries (OECD 2007), many higher-skilled immigrants gradually progress out of low-skill jobs over time and experience some wage convergence with natives. In addition, the children of higher-educated immigrants tend to have better educational outcomes than those of lesser-educated immigrants, as demonstrated by the OECD’s PISA results (2007). Relative to lower-educated migrants, higher-educated migrants are likely to have better outcomes in the host country, both in terms of employment¹ and in terms of the performance of their children.

For all these reasons, there is more concern over admitting lower skilled migrants. Although there tends to be a close correspondence between skill levels of jobs and the education of job-holders, the correspondence is far from perfect and it seems prudent to avoid any possibility of distortion by focusing directly on the educational attainment level of workers.²

Low-skilled migrants in OECD countries

The proportion of the workforce with low education varies across OECD countries (Table II.1). In some countries, notably in Southern Europe, low-educated workers account for a significant part of the labour force (almost 70% in Portugal, and more than 40% in Spain).

Immigrants represent a significant share of the low-educated workforce in many OECD countries. Immigrants are more common among young low-educated workers, among other reasons because there are fewer native-born persons with low education but

Table II.1. **The low-educated in the total and foreign-born labour force, by age, 2006**

	Age group 25-34 years old			Total working-age population (15-64)		
	Low-educated share of the labour force	Foreign-born share of the low-educated labour force	Low-educated share of foreign-born labour force	Low-educated share of the labour force	Foreign-born share of the low-educated labour force	Low-educated share of foreign-born labour force
Austria	10.5	41.9	25.0	17.5	25.5	29.0
Belgium	15.3	22.9	28.2	23.5	14.9	31.4
Czech Republic	4.8	5.4	13.9	5.8	4.5	14.5
Denmark	10.1	17.1	23.9	20.0	7.3	25.1
Finland	9.0	8.5	18.6	17.7	3.6	23.1
France	16.2	19.4	31.7	26.6	17.9	42.7
Germany	13.3	39.6	29.6	15.7	28.3	31.8
Greece	23.2	20.2	50.0	35.5	10.7	45.6
Hungary	10.6	2.2	13.7	13.1	1.4	10.6
Ireland	15.0	12.4	11.4	25.9	8.0	17.1
Italy	31.0	14.4	42.9	39.3	9.7	44.9
Luxembourg	21.2	59.8	26.4	29.7	50.2	34.0
Netherlands	16.5	17.5	23.2	26.2	10.2	26.6
Norway	4.1	35.5	14.0	11.1	10.0	14.9
Poland	6.3	–	–	9.0	0.4	10.0
Portugal	56.1	9.0	44.1	69.4	5.5	49.0
Slovak Republic	4.5	0.6	7.0	4.6	0.7	4.8
Spain	32.4	20.0	34.5	42.7	12.4	36.3
Sweden	8.2	26.3	16.0	14.8	16.1	19.1
Switzerland	11.6	71.9	28.1	18.7	43.0	33.0
United States	11.3	54.1	30.9	11.7	38.7	28.8
EU25	19.0	19.6	31.8	25.4	14.1	35.0
All above countries	15.9	29.6	31.3	19.4	20.7	31.5

StatLink  <http://dx.doi.org/10.1787/427842017725>

Note: Low-educated are those with less than upper secondary education (ISCED 0-2). The EU and All countries rows are weighted averages.

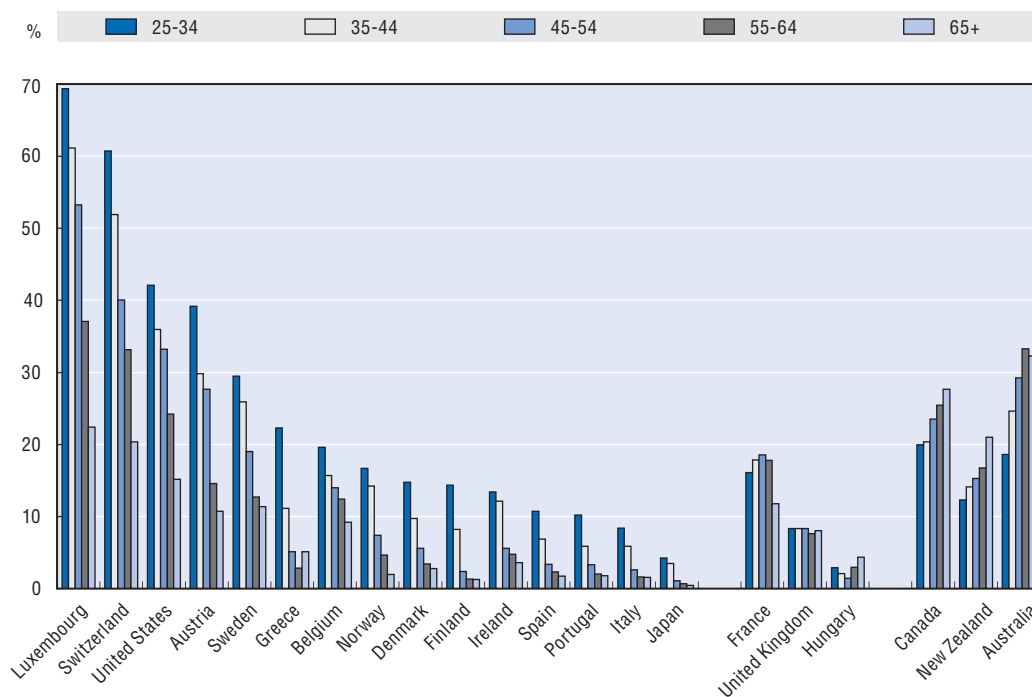
Source: European countries: *European Union Labour Force Survey* (data provided by Eurostat); United States: *Current Population Survey, March Supplement*.

also because the average education level of arriving immigrants is not keeping pace with that of native-born youth.

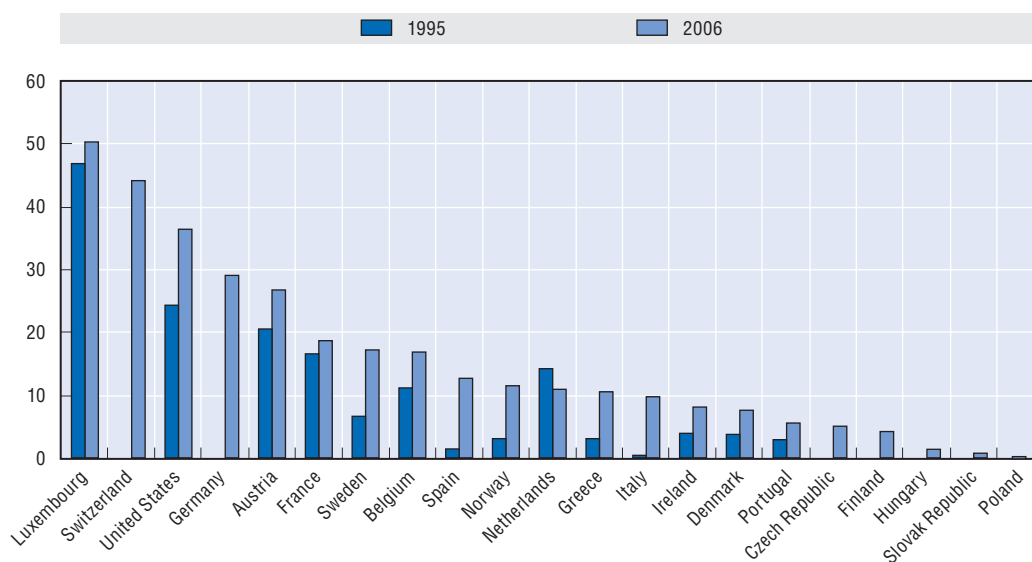

Countries that have sharply limited the entry of low-educated migrants still have significant numbers of low-skilled migrants. This is due to a number of interrelated factors, which vary by country: a long tail effect of past guest-worker programmes, the impact of networks and the extent of non-discretionary migration and of irregular migration.

Immigration to many OECD countries has included many low-educated workers. In Southern Europe, especially, where most migration is recent, low-educated persons represent a third or more of all immigrants.

In most European countries and in the United States, employers rely increasingly on immigrants for low-skilled work. In Luxembourg, Switzerland, the United States, Austria and Sweden, a significant part of the younger low-educated labour force was foreign-born in the early 2000s (Chart II.1). In Greece, Spain, Ireland and Italy, the foreign-born lower educated were already noticeably present in the youth labour force in 2001. These four countries saw substantial immigration of lower educated people as the decade progressed, reinforcing a trend (Chart II.2).

Chart II.1. **Percentage of foreign-born among low-educated labour force, by age, circa 2000**StatLink  <http://dx.doi.org/10.1787/428001302667>

Source: Database on Immigrants in OECD Countries (DIOC).

Chart II.2. **Percentage of foreign-born among low-educated labour force, 1995-2006**StatLink  <http://dx.doi.org/10.1787/428017555223>

Source: European countries: European Union Labour Force Survey (data provided by Eurostat); United States: Current Population Survey, March Supplement.

In Canada, New Zealand and Australia, where immigration policy increasingly favoured the entry of more educated workers in the latter part of the 20th century, there are relatively more foreign-born workers in the older low-educated labour force.

In other OECD countries, with the increasing education levels of younger age cohorts, the low-educated labour force is ageing rapidly, sometimes faster than the labour force in general. Except in Canada, New Zealand and Australia, immigrants account for a growing share of the low-skilled labour force in OECD countries.

Employment outcomes for low-educated immigrants are fairly similar to those for natives. However, participation rates are much higher in most OECD countries, meaning in practice that the unemployment rate is higher as well (Table II.2).

Table II.2. Labour force participation rate and unemployment rate of low-educated by place of birth, 2006

	Participation rate		Unemployment rate	
	Foreign-born	Native-born	Foreign-born	Native-born
Austria	59.6	53.1	13.8	7.8
Belgium	46.3	46.7	24.0	11.9
Czech Republic	49.2	30.2	32.6	24.3
Denmark	55.9	66.4	10.9	6.3
Finland	60.3	58.0	29.7	18.2
France	58.6	53.6	18.1	13.4
Germany	57.9	49.8	21.3	18.1
Greece	71.6	55.3	7.1	8.5
Hungary	42.1	33.0	12.7	16.7
Ireland	54.9	52.6	8.8	7.0
Italy	64.8	49.3	9.0	8.1
Luxembourg	64.4	42.8	7.1	6.1
Netherlands	51.4	64.9	13.2	6.5
Norway	50.7	51.0	19.7	6.3
Portugal	74.8	71.8	9.7	8.3
Spain	72.8	61.6	12.2	10.0
Sweden	58.6	62.7	19.7	12.7
Switzerland	71.4	62.2	10.0	5.3
United States	66.6	41.4	6.5	15.0

StatLink  <http://dx.doi.org/10.1787/428066338448>

Source: European countries: European Union Labour Force Survey (data provided by Eurostat); United States: Current Population Survey, March Supplement.

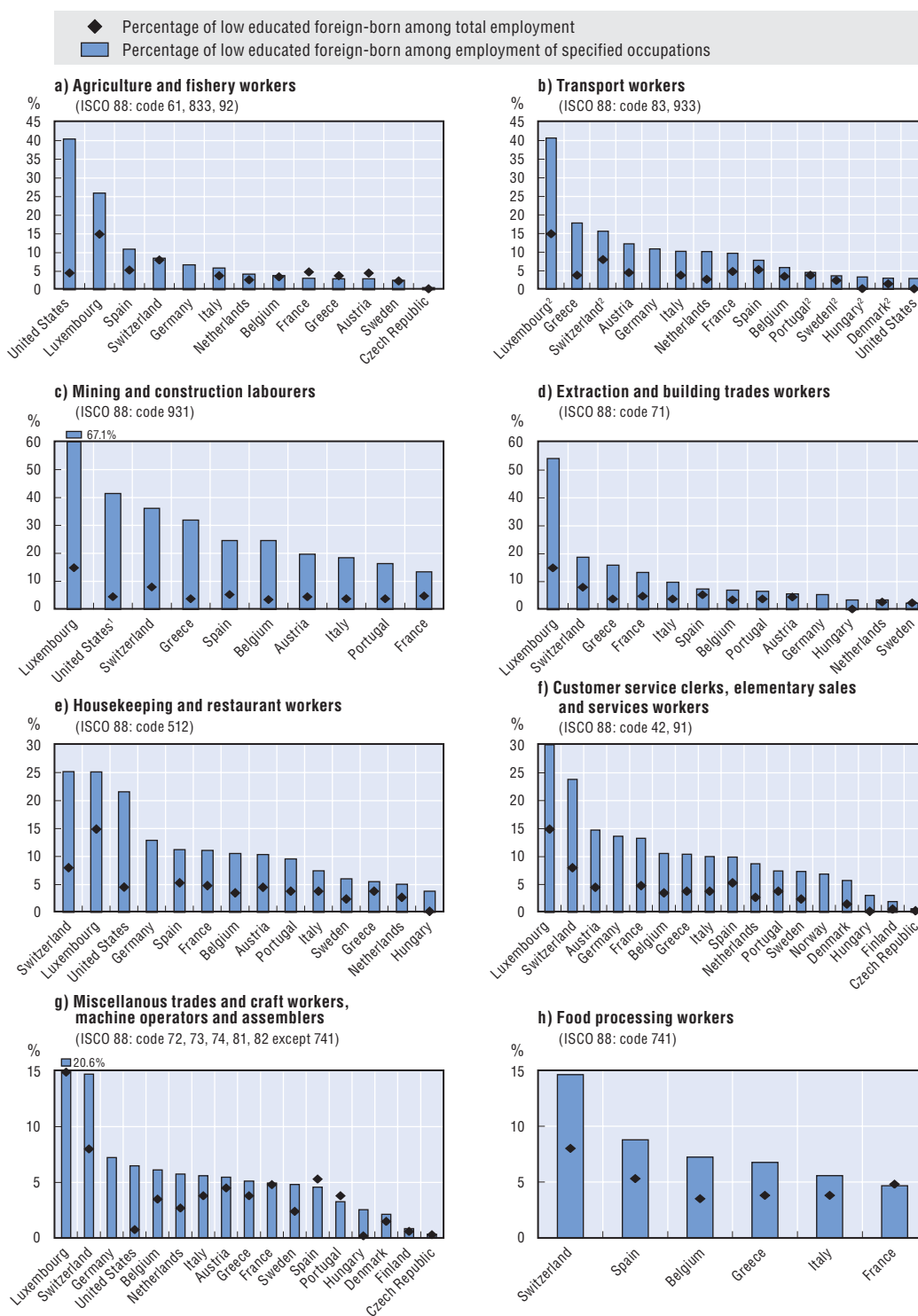
Low-educated immigrant workers are concentrated in specific occupations (Chart II.3). This is particularly evident in agricultural and fishery occupations.³

Low-educated immigrants play an important role in mining and construction occupations, whether in trades or as labourers, although their presence is more significant in the latter. Occupations in transportation are also important.

Employment in the hotels and catering sector in many OECD countries is significantly reliant on low-educated immigrants. In the United Kingdom, for example, 21% of the immigrants from the new EU countries entering employment between May 2004 and March 2007 went into the hotels and catering sector. Food processing occupations are also common among immigrant workers.

Many mid-level trade and craft as well as machine operation and assembly occupations within the manufacturing sector employ immigrants with low education levels. These occupations include those in textile and leather manufacturing, jobs which are particularly subject to labour cost pressures from international competition. Yet these

Chart II.3. **Low-educated foreign-born workers as a percentage of all workers by occupation, 2006**



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Notes: Data for the United States matched to ISCO classification except where noted.

1. Includes all extraction and building trade workers.
2. Includes industrial drivers and transport.

Source: European countries: *European Union Labour Force Survey* (data provided by Eurostat); United States: *Current Population Survey, March Supplement*.

jobs still attract workers: in the United Kingdom, 26% of immigrants from the new EU accession countries entering employment went into trade and craft occupations in the manufacturing sector. Low-educated immigrants are also part of the elementary service workforce, including janitors and cleaning staff, watchmen, retail and counter staff and stockers.

In conclusion, low-educated immigrants play a significant role in certain occupations in many OECD countries. In some of these countries, most of the low-educated migrants were not recruited as workers but arrived through other channels, while other countries have seen their low-educated migrant workforce grow through recruitment. Currently, with what appear to be developing shortages of lesser skilled workers in certain sectors (see below), active recruitment of lesser skilled workers is being considered more broadly.

Sectors where low-skilled workers are expected to be needed

It is expected that certain OECD countries in Europe as well as Japan and Korea, will face a decline in the working-age population over the next decade, at current migration levels. In a number of other countries, the working-age population will stagnate. A shrinking work-force does not necessarily mean a decline in the need for workers; indeed medium-term occupational forecasts anticipate a growing demand. Low-skilled occupations are also expected to see an overall growth. Forecasts for selected OECD countries highlight the expected growth in the next decade of some low-skilled sectors such as food preparation and services, retail sales and customer service, personal and home care aides, construction and transportation (Bureau of Labor Statistics, 2007; CEDEFOP, 2008). In the United States, for example, 650 000 additional nursing aides and almost 400 000 home-care aides are expected to be needed between 2006 and 2016, and cleaning is expected to require more than 530 000 new workers. In Europe (EU25), employment in elementary occupations is expected to increase by 10%, by at least 2 million workers, between 2006 and 2015. Demand for low-skilled workers is already evident in some OECD countries. In Italy, business forecasts estimate that 40 % of the demand for workers is for persons with only minimum education, half of whom are not expected to have any prior experience in the jobs they will be taking on. Italian businesses expect to meet much of this demand by hiring immigrants (Unioncamere, 2007). In Canada, small and medium-sized enterprises report that almost a fifth of current labour demand is for elemental skills and labourers (Canadian Federation of Independent Business, 2006). Total employment in some of the traditional sectors of employment of lower-skilled workers, such as industry, is expected to decline. Even where total employment in the sector is expected to fall, the ageing labour force means that, in some cases, more workers will be retiring than jobs eliminated, and the need for replacement will create a net demand for workers. Agricultural employment, for example, is expected to fall in the EU and to remain stable in the United States, but vacancies are expected to appear nonetheless in both, due to many workers leaving the sector.

Some of the sectors where labour shortages have already been felt are currently relying on low-skilled migration. Low mobility among the native labour force and low willingness to work in low-wage, low-status and difficult jobs affect the ability of these occupations to be filled. In agriculture, native-born workers are difficult to attract because of low wages, location and working conditions, as well as the seasonal nature of most jobs in the sector. Food services such as meatpacking and processing also have difficulty attracting native-born workers. Long-term care work is expected to expand significantly

with the ageing population, while remaining a low-status and low-paid job. The rising educational level of women has led to increased participation in the labour force, creating demand for labour in the so-called “household production substitution activities” traditionally performed by women, such as cleaning, childcare, food preparation and even care for the elderly.⁴ Construction, while subject to cyclical variations in demand, is expected to require workers at all levels.

Some of the demand – in certain occupations – may be met by increased labour force participation, especially by older people and by women, or by investment in capital equipment⁵ and reorganisation of production. The opening of new channels for lower-skilled migrants is also a possibility. How then are such movements to be organised and managed?

2. Managed labour migration for the low-skilled?

The entry of low-skilled labour migrants in OECD countries largely ceased after the 1973 oil crisis; those countries which previously recruited low-skilled workers put a stop to organised employer recruitment of low-skilled workers in their home countries, with the exception of seasonal and temporary work programmes. Even when the changing labour market started to show demand for additional low-skilled workers, most OECD countries have been reluctant to consider recruiting low-skilled workers from abroad in large numbers.

There are a number of reasons behind the reluctance to recruit immigrant workers for low-skilled jobs, which is in striking contrast to the trend towards policies aimed at attracting high-skilled workers. First, unemployment levels among less educated workers in general, especially humanitarian immigrants, have raised concerns about likely labour market outcomes for lower educated immigrants. Other concerns address the expected impact of low-skilled immigration. The first relates to the unemployment and wage impact of low-skilled migration on native and resident workers. The second is the claim that low-skilled migrants represent a fiscal loss for the destination country, in that they receive more in public transfers and services than they contribute in taxes. The third concerns the question of intergenerational transmission of disadvantage, which may exacerbate general problems of unemployment and social exclusion. Educational and labour market outcomes for many children of low-educated immigrants have been unfavourable compared with those of children of the native-born. In most OECD countries, migration flows include significant numbers of immigrants (family, humanitarian or free-movement) over which countries have little discretionary control (OECD, 2006), significant numbers of whom are low-educated. Humanitarian flows may represent a non-negligible contribution to the low-skilled labour force, especially in traditional settlement countries (Canada, Australia and New Zealand, the Nordic countries) where low-educated migrants have little possibility for entry under the prevailing permanent migration schemes. Refugee resettlement, for example, often involves persons with very limited education. In France and the United States, family migration categories have been especially important for the growth of the low-skilled labour force.

Notwithstanding the concerns over low-skilled workers, a number of OECD countries have introduced low-skilled managed migration programmes over the past decade. All of these programmes are employer driven, with entry contingent on a job offer. While some countries admit high-skilled labour migrants without an employment offer (notably, the point systems used in Canada, Australia and being introduced in the United Kingdom), no

OECD country admits low-skilled economic migrants without such an offer. The required employment offer is generally subject to limits on the duration of stay or on portability (the ability to change employers once in the country), and the employer may need to satisfy certain criteria in order to be able to recruit foreign labour. Most such offers grant only temporary stay.


The following section examines temporary and permanent programmes and the mechanisms (labour market test, shortage lists, caps and recruitment strategies) through which they operate.

Temporary labour migration programmes

Legal temporary migration is significant and growing (Table II.3). The movements covered under this rubric are heterogeneous and include both higher and less educated migrants. Most of these temporary migrants, however, work in low-skill occupations. Seasonal workers are the largest single category, although working holiday-makers are growing in number. Trainees, although generally required to have some education or skills, may be employed in low-skill occupations.⁶ “Other temporary workers” include a mix of both high and low-skilled workers, service-providers and free-circulation migrants, among others.

Table II.3. **Inflows of temporary migrant workers, selected OECD countries, 2003-2006**

	Thousands			
	2003	2004	2005	2006
Seasonal workers	545	568	571	576
Working holiday-makers	442	463	497	536
Trainees	146	147	161	182
Intra-company transfers	89	89	87	99
Other temporary workers	958	1 093	1 085	1 105
All categories	2 180	2 360	2 401	2 498
Australia	152	159	183	219
Austria	30	27	15	4
Belgium	2	31	33	42
Canada	118	124	133	146
Denmark	5	5	5	6
France	26	26	27	28
Germany	446	440	415	379
Italy	69	70	85	98
Japan	217	231	202	164
Korea	75	65	73	86
Mexico	45	42	46	40
Netherlands	43	52	56	83
New Zealand	65	70	78	87
Norway	21	28	22	38
Portugal	3	13	8	7
Sweden	8	9	7	7
Switzerland	142	116	104	117
United Kingdom	137	239	275	266
United States	577	612	635	678
All above countries	2 180	2 360	2 401	2 498
Annual change (%)	..	8.3	1.7	4.0

StatLink  <http://dx.doi.org/10.1787/428138365486>

Source: OECD Database on International Migration.

Temporary work programmes currently in place in different OECD countries are structured differently (Table II.A1.1). Invariably, the duration of the permit depends on the employment offered. Usually the duration is less than one year, especially for the agricultural sector. The offer of employment is also subject to a labour market test, where the job offer must be advertised to residents and conform to certain minimum wage and contractual criteria.

One of the principal concerns in temporary work programmes for immigrants is to ensure temporariness, to avoid the possible effects of settlement by low-educated workers cited above. Issuing a short-term visa or permit, however, is not always enough to guarantee that a migrant worker leaves at the end of the period allowed by the permit, and some programmes in the past have suffered from high overstay rates.

A number of features of existing programmes have evolved with these difficulties in mind, and most seasonal programmes now see high rates of compliance and return. The most successful programmes from this point of view are aimed at relatively stable or predictable seasonal needs. Generally, employers are allowed to rehire seasonal workers they have hired in the past, and returning workers enjoy priority access and an easing of bureaucratic procedures. Most programmes eventually see many of the same workers cycling through year after year, and successful programmes have incorporated the likelihood of repeat migration into their procedures.⁷ France issues migrants a three-year permit allowing for seasonal work for up to six out of every twelve months, with fewer administrative obstacles. Priority access is particularly relevant when the seasonal programme is capped; workers who are repeat participants can be granted priority or exemption from limits. In Canada, in 2002, 70% of seasonal workers were rehired workers, and the average length of participation in the programme was seven years. Compliance rates are very high. Italy grants repeat seasonal workers priority access and even allows conversion of a seasonal permit into a longer term renewable work permit after three seasons of compliance.⁸ Italy also allows employers to request a three-year seasonal permit for workers who have already completed two seasons in Italy. The three-year permit frees the employer from the quota limit, although the worker must still apply for a visa each year for entry.

Several other factors influence compliance rates. *A priori* it seems economically sensible to match the nature of the job to the nature of migration, and indeed the most successful temporary programmes have been in sectors with a natural seasonal cycle, such as agriculture and tourism. When the job ends and there are no other employment opportunities, there is little incentive to stay on. Even more effective may be recruiting workers on the basis of specific criteria which increase the likelihood of return. In Spain, for example, the seasonal work programme suffered from substantial overstay in the early 2000s. The Spanish authorities, together with the Moroccan public employment service, began to recruit married mothers for seasonal work. This group has had very low overstay rates.⁹ Selection criteria, along with facilitation of repeat seasonal work, meant that by 2007 most seasonal workers (at least 80%) were rehires who had already worked at least a season in Spain and returned home. Selection criteria of this kind, however, can be very difficult to apply without the involvement of a third-party intermediating agency such as a public employment service or an employers' association.¹⁰

Employers can also play a role in ensuring return. Employers may be required to post a bond which they forfeit in the event a worker they have recruited fails to return home at

the end of the contract. In Italy, New Zealand and Korea, for example, the employer is liable for expulsion costs in the event of a worker overstaying. In some cases, the employer must take good-faith measures (such as providing transportation to the point of departure, as in Spain). Spain also penalises employers whose workers have high overstay rates by reducing or denying their subsequent applications for foreign workers.

Bilateral agreements make the sending country an active stakeholder in making seasonal and temporary programmes work. In return for access or quota set-asides (reserved for citizens of certain countries), sending countries can be encouraged to implement proper selection of candidates and put collective pressure on participants to comply. Korea reviews its bilateral agreements with sending countries on the basis of cooperation but also of overstay rates. Germany, Spain, Italy, Canada, New Zealand and France open their seasonal work programmes to specific countries, with which they collaborate and whose partnership is subject to review. Most OECD countries use labour recruitment agreements in general as an incentive for greater cooperation in the fight against undocumented migration (OECD, 2004). Bilateral agreements can also target workers whose employment is seasonal in their home country and compatible with short-term cyclical employment abroad (*e.g.* resort workers, or farmers in countries with different growing seasons).


Temporary programmes must both protect migrant workers from exploitation and prevent distortion in the local labour market. Protecting temporary workers may be especially difficult, since they are often geographically and linguistically isolated, live in on-site housing provided by the employer, and not unionised. Most temporary programmes also limit the employee's right to change employers, which increases the potential for abuse. When the temporary migrant workforce is contracted by a labour provider and can be moved from one worksite and labour user to another, labour inspection and verification are difficult. Workers who are exploited may be afraid to complain for fear of losing their sponsorship and being sent home before recovering their investment. Most OECD countries have developed inspection and licensing regimes to address these concerns, and deny authorisation to past violators.

Temporary programmes may also be used for labour needs which are longer term, especially when no permanent programmes are available for lower skilled workers. The US H-2B programme and the Korean Employment Permit System (EPS) both admit temporary workers for periods of several years, following a labour market test which covers only the immediate availability of resident workers. Employers seeking low-skilled foreign workers through legal routes have little option but to use these temporary programmes, even if demand is permanent. In the United States, where the programme is for "seasonal, peak load, intermittent or one-time needs", in 2004 employers were successful in obtaining an extension of the original 10-month duration of the visa for at least two renewals, and are now pushing for a continuation of this extension.

Many OECD countries have also opened their borders to temporary work by young people who come from other OECD countries on working holidays (Table II.4). Most are the product of bilateral agreements in the framework of youth exchange and cultural exchange programmes, and often have a cap.¹¹ Working holiday programmes are limited to young people – generally under 30, and, in some countries, without dependents. The duration of stay is usually not more than one year, and employment is not meant to become permanent, so changes of status are not favoured. Most do not allow more than three

Table II.4. **Working holiday-makers in selected OECD countries, 1999-2006**

	1999	2000	2001	2002	2003	2004	2005	2006
United States	..	236 837	261 769	253 841	253 866	254 504	275 161	309 951
Australia	62 644	71 531	76 566	85 207	88 758	93 760	104 352	113 935
United Kingdom	..	38 400	35 775	41 700	46 500	62 400	56 560	43 700
New Zealand	..	13 040	17 066	20 308	20 742	21 449	28 996	32 489
Canada	..	..	..	..	..	..	..	27 979
Japan	3 113	3 383	3 707	4 410	4 651	4 934	4 731	6 130
Korea	64	316	553	797	977	1 137	1 113	..
Italy	..	..	..	60	60	279	358	362

StatLink  <http://dx.doi.org/10.1787/428234020655>

Source: OECD Database on International Migration.

months employment in the same job. The beneficiaries of these programmes are different from traditional labour migrants, since they save and remit little of what they earn. English-speaking countries benefit the most from these programmes: English speakers use the programme to travel to other English-speaking countries, and non-English speakers use the programme to improve their language skills. The number of participants going to Korea, France, Germany, Belgium, the Netherlands and Italy, all of which have bilateral agreements for working holiday programmes, is quite low.

Australia, which has seen its programme increase by 50% in five years, now accepts about 135 000 working holiday-makers annually. Australia meets much of the low-skilled labour demand in the hospitality sector through this supply and has no cap for many participating countries, even when these countries apply a cap to Australian nationals. New Zealand now has bilateral agreements with 25 countries and accepts up to 50 000 working holiday-makers annually, covering a substantial part of its seasonal agricultural as well as hospitality industry labour needs through this form of migration. Canada has more than 25 000 working holiday-makers, concentrated in hospitality sectors, while the United Kingdom accepts 40 000 annually. Ireland also has a programme which attracts several thousand young people. The United States has a similar programme, the J-1 Exchange Visitor programme, which sees an average of 150 000 visa-holders in the country at any time, although categories and conditions vary. The “Work and Travel” subcategory of the J-1 visa allows up to four months work for students, 18-28 years old, and is used extensively by employers in the hospitality industry. A sub-category of the Q-1 visa for Cultural Exchange also provides for longer term (up to 15 months) stays for foreign workers, who often work in the amusement park industry. The US programmes differ from working holiday programmes in that they are run by intermediary agencies which are supposed to ensure an employment offer, while the other programmes allow visitors to find work once in the country.

All of these programmes are designed as short-term stays for cultural and holiday experiences but can contribute significantly to the labour supply in low-skilled sectors such as the hospitality industry. In Australia and New Zealand, particularly, their role in meeting labour market demand is explicitly recognised. Canada’s hospitality industry is pushing for an expansion of the 12-month limit to the programme and has already won an additional year for some visitors. There are limits to the role that working holiday programmes can play, however. Australia’s attempt to induce working holiday-makers to take on less traditional agricultural jobs in the interior of the country by granting longer

stays has not been successful. Working holiday-makers are attracted by social, recreational and cultural opportunities as much as by the chance to work, and cannot be expected to cover temporary labour needs outside of a few sectors and locations.

Temporary programmes can be designed to meet temporary labour demand, whether seasonal, cyclical or to meet occasional peaks in demand. Or a temporary programme may be designed to meet permanent labour demand while preventing migrants from settling in the country. In either case, the question of duration of stay is important. Employers may not be willing to accept workers for short periods. If employers are liable for recruitment, transportation or housing for workers, these costs may be difficult to recoup if the duration of stay is short and wages are low. Similarly, if the migrant has to bear fees and costs, a short stay may not be enough to recover related costs, increasing the temptation to overstay and seek illegal employment. Employers may have difficulty identifying potential short-term employees who live abroad. The shorter the duration of stay, therefore, the more important it is to reduce administrative and logistic costs. The longer the stay, by contrast, the more important it is to provide sufficient incentives for compliance with the obligation to return.

Allowing only temporary migration for lower educated migrants is one mechanism for ensuring that short-term demand for low-skilled work does not change the skill composition of the labour force, while allowing rapid adjustment of the stock of low-skilled immigrants to changing economic conditions.

Permanent programmes

For some labour needs, temporary programmes are ill-suited, and permanent programmes must be considered: when demand is permanent and when work experience improves productivity within a specific employment relationship. Permanent migration, as defined by the traditional settlement countries (unconditional residence rights and a relatively rapid path to citizenship), however, is sharply limited for low-skilled migrants. Where it is available, it is always conditional on an employment offer. But there is an alternative to these traditional settlement programmes: the renewable temporary permit leading to permanent status; this has long been the normal pathway to permanence in many European countries, although not always open to the less educated in recent decades.

The past decade has, in fact, seen a significant increase in OECD countries opening employer-driven labour migration channels with renewable permits. Within the EU, the adoption of a policy on long-term residents (2003/109/EC) means that most third-country nationals acquire stable residence rights after five years of renewable permits and are largely freed from the obligation to demonstrate employment or to satisfy other criteria.

In Canada, as well, policy is shifting towards allowing persons in Canada on a temporary permit the right to apply for permanent residence. Temporary permits may be considered as an initial phase in a process potentially leading to permanent settlement. "Canadian experience" will count more in granting permanent residence, and temporary workers will be able to take advantage of their experience.

The US permanent employer-sponsored programme for low-skilled workers is quite small. There are only 10 000 "green cards" issued annually, of which half are set aside for specific nationalities. The waiting list for approval is more than six years, making it of little interest to employers.

Labour market test

Both short and long-term low-skilled economic migrations are generally subject to a labour market test. The labour market test varies according to country (Table II.A1.2).

Most countries apply a labour market test requiring the job to be advertised locally or nationally before an employer can apply for authorisation to hire a foreign worker. The requirement may also include listing the vacancy with the public employment service, especially in countries where the latter plays a major role in matching workers with jobs or maintains a list of job-seekers. The length of time a job vacancy must be advertised varies across countries. Employers may also be required to interview candidates sent by public employment services.

In most cases, employers must also submit the job contract for review or specify the conditions of the contract, with particular attention to wages. Wages must meet minimum levels, although some countries require compliance with the collective bargaining agreement for the sector. In the United States, labour market certification involves both a requirement to advertise the job and a review of contractual conditions, which must respect a benchmark sector wage. US employers are in effect required to pay at least the 51st percentile of the prevailing wage distribution within the sector. In Canada, employer requests are evaluated on a case-by-case basis according to advertising attempts and contractual conditions.

The labour market test is meant above all to provide an opportunity for natives and legal residents to apply for the job. It is also meant to protect wages in the sector. France also applies a discretionary consideration of the “added value” of hiring a foreign worker, expressed in terms of any new skills or resources represented by the candidate for France. Norway also considers the specific skills of foreign workers. Such discretionary criteria can be applied very restrictively. Restrictive discretionary criteria can limit admission more than a numeric cap.

In addition to the labour market test, which protects the local labour market, employers may also be required to provide additional guarantees in addition to those concerning wages and working conditions. Employers, in fact, may be held responsible for either directly providing housing or by ensuring access to it. For seasonal workers, employers may be required to cover part of the transportation costs from the country of origin and, once arrived, to and from the worksite. In cases where employers are allowed to deduct some of these costs from the salary, there are generally limits to the deductions allowed.

Shortage lists

In addition to a case-by-case analysis of work-permit requests, the authorisation procedure for a work permit may also involve consultation of a shortage list. Shortage lists are becoming more frequent in the OECD as a way to accelerate processing of work permits for occupations where shortages are particularly acute and processing times long. Shortage lists may also allow limited labour migration channels for lower-skilled occupations in migration regimes which otherwise require higher education for entry.

Shortage lists can be used to exempt employers from a labour market test, speeding up the recruitment process. The broadest application of a shortage list can be found in Spain, where the list has been used since 2005. Every trimester, Spanish public employment authorities use unemployment and job vacancy data¹² to draw up a list of

potential shortage occupations at the regional level (“Catalogue of Hard-to-fill Positions”). The social partners then review and approve the shortage occupations. Employers are then authorised to fill shortage positions without going through a labour market test. A similar system is used in Spain for anonymous recruitment under the parallel contingent system (see Box II.1). In 2007, Canada also adopted a provincial shortage list system; occupations on this list are subject to less stringent labour market test criteria and authorisation is

Box II.1. Spanish labour migration authorisation system

Spain has two channels for labour migration: the General Regime and the Contingent. The General Regime allows employers to ask for authorisation to hire a foreign worker by name (nominative system), while the Contingent is for anonymous requests when employers have not identified a specific candidate.

The General Regime allows employers to hire known foreign workers following a labour market test, where the job is listed for at least 15 days and the local public employment office makes an effort to send candidates from among registered job seekers. Each province also has a Catalogue of Hard-to-Find Occupations (CODC), drawn up each trimester based on job vacancies and registered unemployed and discussed and approved by local social partners. There are more than 500 different occupations specified on the 2008 CODC, although a single province may only have some of these occupations on its list. Many are low-skilled, such as kitchen help, bricklaying and basic farm work. If the occupation sought is on the CODC, the employer is exempted from a labour market test and the application is approved more quickly. Most employers seek workers for jobs in the Catalogue, although applications for workers to fill occupations not in the Catalogue are also generally authorised after the labour market test.

The Contingent is for anonymous hiring using mediation by public authorities to meet forecasted rather than immediate demand. Only workers for jobs on a shortage list (the occupations are different but overlapping with the Catalogue) can be hired, subject to caps for each occupation and province. The occupations and caps are set every trimester based on proposals by employers and a review by the public employment services and trade unions, and subject to review at the national level. In practice, the caps have been higher than actual demand. Seasonal workers can be hired under the Contingent with no cap, but these jobs are always subject to a labour market test. Recruitment is done by the Spanish Ministry of Labour in collaboration with employment services in countries with which Spain has bilateral labour recruitment agreements.* The local employment service advertises the positions and does a preselection of candidates, followed by a commission consisting of a representative of the local employment service, the Spanish Ministry of Labour consulate functionary, and sometimes the employer. Some training may also be offered. Employers must recruit at least 10 workers in order to use this system, which effectively excludes small businesses. Small business associations can conduct recruitment for members, but only the agricultural sector does so. Employers pay a small fee, while the costs of the selection process are essentially subsidised by the Spanish government. The process takes four to five months from the time of application to the arrival of a worker.

Between 2004 and 2008, more than 725 000 non-seasonal workers entered under these mechanisms, mostly lower educated immigrants employed in low skill jobs. Most entered under the General Regime.

* Spain has bilateral agreements with Columbia, Ecuador, Peru, the Dominican Republic, Morocco, Senegal and Romania. It also has a health sector agreement with the Philippines and a pilot agreement with El Salvador. Spain is negotiating additional agreements with Mexico and Ukraine.

intended to be faster.¹³ Finland has a shortage list drawn up annually for each of 15 regions, based on consultation among the social partners.

In Canada, certain specific occupations can be placed on regional lists of “Occupations under Pressure”. The decision is taken by Human Resources and Social Development Canada (HRSDC) and Service Canada (SC). For occupations on these lists, employers are subject to shorter and less comprehensive advertising efforts before being eligible to apply to hire a foreign worker. Many of these positions are lower skilled, such as food service counter staff, truck drivers, fish-plant workers, hospital orderlies, hotel clerks, janitors, and taxi drivers.

Other countries have developed shortage lists which, in principle, exclude the very low-educated and those without specific technical skills. These shortage lists, however, may provide a margin of manoeuvre for opening migration opportunities in low-skill occupations or employment.

France, for example, has developed shortage lists, based on employment data and consultation with social partners. There are two principal shortage lists: one for citizens of the EU subject to the transition period; and a subset of the first list open to non-EEA citizens. Many of the occupations on the first list are at the lower-end of the skill spectrum (e.g. domestic work, waiter, chambermaid, door-to-door sales, agricultural worker, window-washer). The remainder of the occupations on the EU list are mostly advanced vocational training positions in construction and food processing. The shortage list for non-EEA citizens, in contrast, includes only higher level technical and a few university-level occupations.

Australia has developed a “Migration Occupations in Demand List” (MODL) for its permanent skilled migration regime. Occupations on the list are not enough to ensure approval, but do provide additional points in the point-based system. The MODL grants points to certain lower-wage occupations which are not traditionally considered high-skilled (e.g. hairdressers, bakers and pastry-chefs, bricklayers, butchers). Prospective migrants are, however, required to apply for recognition of the claimed skills and must have the qualification approved before benefiting from the additional points.

New Zealand’s temporary programme also has an “Immediate Skills Shortage List”, which exempts employers from the existing strict labour market test. Most occupations on the list are vocational positions and require both national certification and experience, although some are open to lower-skilled workers (e.g. sheep-shearer with three seasons of experience).

The United Kingdom is currently developing a methodology for its “Shortage Occupation List”, which will apply to its Tier 2 employer-driven category. A Migration Advisory Committee (MAC) has been established to determine shortage categories. Tier 2 is meant to exclude low skilled occupations, although the actual educational attainment of the worker may vary.¹⁴ In addition to applying skill definitions, the MAC will also look at wages, vacancies and unemployment, recruitment and benefit changes, and the possibility to draw on resident workers through greater labour force participation or training initiatives. The Shortage Occupation List will exempt the employer from the Resident Labour Market test and will, along with English-language skills, ensure approval of the employer request.

Portugal has chosen to identify occupations which will not be open for international recruitment, making an exclusion, rather than a shortage, list. The Portuguese Ministry of

Labour first proposes an annual cap (*contingente global*) based on an analysis of vacancies, employment trends and expected interest in international recruitment. The proposed cap is submitted to the social partners. The Ministry may then identify occupations where no international recruitment will be allowed.¹⁵

Shortage lists are usually based on prevailing national classification systems for occupations. The more digits used to define the shortage occupation, the greater is the degree of specificity.¹⁶ A narrow definition is important for the identification of specific skills shortages and may also facilitate foreign recruitment. It is easier for employers to claim and demonstrate a shortage for a narrowly defined occupation in the local labour market.

Skill certification requirements are often used in conjunction with a shortage list, especially in countries where professional certification covers medium and low-skilled technical positions. If a shortage of truck drivers or bricklayers is identified, for example, the national certification system for these professions exerts a decisive influence on how easy it is for an employer to hire a foreign worker. Rigidly applied discretionary certification criteria can represent an obstacle to international recruitment for lower-skilled jobs, as in Australia.

Shortage lists have started to appear in countries outside the OECD which have not yet seen significant labour migration. Lithuania, for example, published a shortage list for 2007 with 60 occupations, mostly in the construction, industrial and health sectors, but also for truck drivers and cooks, open to non-EEA citizens.

Italy, rather than establish a shortage list, makes administrative decisions in its annual quotas reserving a set-aside for broadly defined occupations or sectors: live-in caretakers, construction, transport, and fishing. These categories constituted almost half of the total Italian quota in 2007. None of the categories require proof of skills or experience. As with almost the entire Italian quota, authorisation is not subject to any skill criteria, and most of the employer applications are for low-skill positions.

A key issue with shortage lists is the relationship between local and national labour supply. Most shortage lists have moved towards identifying local rather than national labour shortages. Canada, France, New Zealand and Spain all specify their labour shortage lists at a provincial or regional level. Canada and France both require workers to receive a new work permit for any changes of employer or extensions of stay. Spain requires workers entering on the basis of a labour market test or shortage list to remain in the same province and in the same sector for at least one year, although they are allowed to change employers. After the first year, workers are free to move anywhere and take up any job. Italy assigns quotas at the provincial level, although labour migrants are free to change employers and region once they have received their first work permit.

An alternative to shortage lists is to legislate specific programmes for special categories. This has been the approach in Canada for long-term care workers, with a special live-in caregiver programme.

Finally, both the labour market test and shortage lists are meant to identify, for skilled positions, jobs where there are few or no natives with the right skills available and/or willing to do the job. For lower and unskilled work, however, the labour market test and shortage list are meant to identify the “jobs that natives don’t want”. When labour force participation is high and employment is almost full, it is relatively easy to justify international recruitment for these jobs. But when native participation rates are low and unemployment is high, the difficulty in finding workers for these jobs may well be due to

low wages and poor working conditions. Whether these can improve enough to attract natives, however, is uncertain.

Labour market tests and shortage lists can help address the question of whether workers are available locally at the right price and conditions. New Zealand's labour test, for example, requires the employer to demonstrate that the labour shortage is not due to the wages and working conditions offered but to the job itself. In Spain, the required consensus of the social partners is meant to ensure that the employment offers opened to foreign recruitment are truly ones which no resident is willing to do.

Caps and limits

In order to provide additional protection against possible medium and long-term effects of low-skilled labour migration on employment, wages and social expenditures, as well as on the skill composition of the labour force, most OECD countries admitting low-skilled labour migrants not only use shortage lists but also apply caps, quotas or targets for admission. Seasonal work is less subject to caps: the United States, Canada, Spain, Poland, France and Germany do not cap their seasonal programmes, while Italy and New Zealand do so.¹⁷ For renewable – and potentially long-term – permits, Italy applies an annual limit to total entries. In 2006 and 2007, this limit was 170 000. Portugal introduced a cap of 8 500 in 2008. Korea also applies a cap to its temporary work programme. The United States has set its annual cap on the temporary work programme (H-2B) at 66 000, although it has allowed renewals which increased the stock of these workers to well over 200 000 in 2007. As noted above, its permanent programme is capped at just 10 000.

A cap serves several purposes. It may match forecast demand, as under the Spanish *contingente*. It may provide some checks to growth in the immigrant population during cyclical or boom periods. Spain, for example, has not capped its General Regime programme, and allowed more than 700 000 foreign workers to be recruited into largely low-skilled jobs during the first four years of application. When the Spanish economy slackened in 2008, the idea of setting a total cap came back into discussion. Caps may also address concerns of the population that migration is completely open, by setting clear limits. In the latter case, the caps may serve their purpose even if the limit is never reached, by assuring the public that there is institutional control over migration inflows.

Recruitment channels

Recruitment of foreign workers can be an issue in both temporary and permanent programmes. High recruitment costs are particularly difficult to amortise in temporary migration. Delays and inefficiencies in processing legal migration applications – many countries record delays of six months or more – may act as an incentive to hire undocumented workers to meet sudden or short-term labour market demand.

One significant complication in the recruitment of foreign workers, especially at the lower end of the skill spectrum, lies in the difficulty of international mediation. Employer-driven migration is usually nominative, with the employer specifying the name of the foreign worker to whom the job is offered. For higher-skilled positions, where candidates have more resources, matching is facilitated by international professional networks, head-hunters and recruitment agencies, internet job listings and international job fairs. These channels are less relevant when looking for lower skilled workers for generic or unskilled positions. Where possible, cross-border service provision may represent a solution, but has been controversial (see Box II.2).

Box II.2. **GATS Mode 4 and international service providers**

An alternative way in which demand for temporary low-skilled workers could be filled from outside the country is through the contracting of firms based abroad to enter the country (with their employees) and provide the required services. This form of cross-border service provision is known as Mode 4 and is covered by the General Agreement on Trade in Services (GATS, 1995). The commitments made by signatory countries regarding this mode of service provision, however, were relatively limited. It has also been the object of negotiations in the on-going Doha round, but with few significant breakthroughs. For a number of reasons, among them the fact that governments cannot go back on their commitments in the trade negotiations without financially compensating other signatory governments, there has been a reluctance to make commitments related to this form of labour migration.

This mode of cross-border service provision was also the object of acrimonious debate in the European Union in the context of the so-called “Bolkestein Directive”, which was eventually passed with the restriction that employees of service providers were subject to the same wage and working conditions regulations as domestic workers. In contrast to the situation for movements of workers, there were no restrictions on those of service providers following EU enlargement, except in construction and related branches, industrial cleaning and interior decoration.

Mode 4 introduces a new element into the management of migration, namely the possibility of transferring the responsibility for organising the movements (and the returns) to foreign service enterprises, with access to the market being dependent on good performance in this regard. As of yet, however, there is little experience with the use of Mode 4 in this way. One reason may be that verification that labour standards are being observed may not be as simple for foreign service providers as it is for domestic enterprises.

Several managed solutions for matching workers to low-skilled positions exist. Bilateral agreements often include a mechanism for identifying and selecting candidates through joint selection committees or procedures. Involvement of public agencies is also aimed at increasing transparency and reducing the fees paid by workers themselves. Such selection is common for seasonal work, and is used by Spain, Canada and France for their seasonal programmes. In Spain and Italy, seasonal agricultural work offers are “bundled” by the farmers’ associations, which mediate the recruitment. COAG, one of the larger associations of Spanish agricultural cooperatives, brings in more than 15 000 agricultural workers annually and distributes them to small farmers. In Canada, farmers have created non-profit foundations or agencies to handle intermediation (FARMS in Ontario and FERME in Québec). In France, the National Agency for the Reception of Foreigners and for Migration (ANAEM) handles the recruitment and logistics for seasonal employment, charging a nominal fee.

Spain and Korea favour public agencies over private recruitment for longer-term work as well. In Spain, where private labour providers have only been allowed recently, few agencies are active in this area, as they find it difficult to compete with the subsidised public recruitment agency. Spain also requires private agencies to have two contracts: one between the agency and the worker, the other between the agency and the labour user. In Korea, private recruiters are excluded from the process, and recruitment is entrusted to

NGOs licensed by the Ministry of Labour. These agencies provide candidates to the Korean public employment service, which matches them with prospective employers. In the United Kingdom, such recruitment is generally done by private recruitment agencies, many of which have partners or subsidiaries in Poland or other major source countries. While the UK agricultural sector has been made subject to greater regulation under the 2004 Gangmasters Licensing Act, temporary agencies recruiting for other sectors in the United Kingdom are subject to a lighter regulatory regime. The Czech Republic signed a bilateral agreement with Ukraine, valid from 1996 to 2002, under which it used the Ukrainian public employment services to recruit thousands of Ukrainian workers for short-term contracts.

Training in the home country is also part of bilateral selection agreements used to hire non-seasonal workers in Spain and Korea. Both countries are using training in the home country prior to immigration as part of the selection process, focusing primarily on basic language proficiency and workplace safety and practice. The costs of training are borne by the public authorities in the framework of bilateral agreements and tailored to the needs of specific employers. In Spain, home-country training is part of the selection process for the anonymous *contingente* system, and the public employment service works closely with employers to meet their specific needs. One restaurant company in Spain brings in more than 1 000 workers annually under this programme: training is provided by vocational schools and trainers in the country of origin chosen by the company and paid for in part by the Spanish public employment services. Courses rarely last more than one to two months and concentrate on basic skills.

For employers, public involvement in the recruitment process can translate into significant savings over the use of private recruitment agencies. While one concern about collaboration with public employment services in sending countries is rent-taking or other forms of corruption, bilateral cooperation is usually contingent on successful functioning of the recruitment mechanism and transparency in selection and costs. Another concern over such collaboration, when it involves training, regards the role of public employment services in training foreign workers abroad for recruitment into the domestic labour force. Trade unions have argued that vocational training resources should be spent instead on the resident labour force. In most cases, however, as noted above, the training required to perform low-skill tasks is minimal or can be acquired on the job. In any case, when recruitment procedures are simplified and costs reduced and publicly subsidised, trade unions contend, there is no cost premium for employers hiring foreign workers and therefore no incentive to invest in and recruit from the local labour force.

The extent of international recruitment in the face of high costs may, in fact, provide some indication of the strength of labour demand. Costs vary significantly between countries, and include obligatory advertising as part of the labour market test, application fees, legal and administrative costs, transportation and housing. Immigrants must pay visa fees and often fees to intermediary agencies. Most OECD countries have been raising processing fees in recent years, sometimes as a way to fund additional resources and reduce backlog or under the cost-recovery principle, while other countries subsidise the process.¹⁸ Even high fees, however, have not discouraged employers from applying.

An additional criticism of anonymous recruitment through such selection processes is that it favours larger employers seeking more workers. Larger businesses, in fact, are better able to forecast demand, to sustain the costs and accept the delays inherent in

international recruitment. Smaller businesses are also more likely to be concerned about the risks of sponsoring an individual worker who has never been met or seen. For smaller enterprises, trade associations can play an intermediary role in managing labour flows. The seasonal agricultural and tourism sectors through trade associations in some countries collect and bundle job offers and manage the distribution of seasonal workers to small-scale farmers. The fact that employers can nominate returning workers with whom they have established a relationship demonstrates the importance of a trial period. For permanent work, however, no such trial period is usually foreseen, and the question of how to integrate a probationary period into international labour recruitment for small enterprises remains.

When small businesses are excluded from international matching, they may turn to informal networks – current immigrant workers often refer relatives and friends for new positions. An alternative is to recruit workers already in the country – regardless of immigration status. In Italy, in 2006, the long lines of undocumented foreigners waiting at post offices to file applications for authorisation of entry under the quota system was clear evidence of the fact they were already in the country and had established a relationship with an employer. In France, following the end of labour recruitment in 1973, most – at least two-thirds – of the growth in the stock of foreign workers was due to legalisation of those who came irregularly and found employers (Cealis *et al.*, 1983).

One area of particular difficulty for international recruitment is that of live-in and other long-term care workers, as well as other cases where a family contracts with a foreign worker. International anonymous recruitment is ill-suited to this sector, since families generally want to be assured that the caretaker is trustworthy, appropriate and has adequate language skills before undergoing a cumbersome sponsorship process. A face-to-face meeting is important.

Attempts to formalise international mediation for family and care workers have faced obstacles in obtaining the trust of families. Canada has had success with a live-in care programme largely mediated by private agencies. In other countries, however, live-in care is often associated with undocumented immigration. A significant presence of undocumented workers can be found in the domestic work sector in general. Regularisation programmes in southern Europe over the past decade have revealed large numbers of undocumented foreigners working in the care and domestic sector. In Italy, the 2002 regularisation saw 140 000 home-care workers and 190 000 domestic care workers apply for regularisation, comprising half of all applicants; the 2005 regularisation in Spain allowed 218 000 domestic workers to “emerge”.

One proposed solution for this sector and other sectors aimed at small businesses and families which need to meet the prospective employee, is the “job-search” visa. Italy granted some job search visas in the late 1990s. Spain, recognising the difficulty of international mediation in the family sector, provides a small allotment of job-search visas (450 in 2007) for prospective domestic and home-care workers. Although candidates are vetted by the Spanish authorities in their home countries, there were not enough applicants in 2007, and this small number of visas went unutilised. This highlights the difficulty in gaining the trust of employers with anonymous recruitment in the domestic sector.

The discussion of managed migration above has pointed out the challenge that formal channels face: competition with faster, more economic and more direct recruitment

through informal channels. The issue of unregulated migration is addressed in the following section.

3. Current unmanaged pathways

In addition to the non-discretionary and discretionary channels cited above, some form of irregular migration of low-skilled workers has continued in all OECD countries.¹⁹ In part, irregular migration is driven by factors which are difficult to control. Push factors, especially such as war and persecution, unemployment, low wages, or agricultural problems in the home country, are beyond the control of receiving countries. Just as these push factors drive irregular and regular migration, so do other factors, such as proximity and high income differences. Irregular migration is also subject to pull factors in receiving countries, such as strong labour demand, especially in segmented labour markets. Other conditions in the receiving country, such as the possibility of work in the informal sector and a history of regularisations, affect irregular migration specifically. For example, interviews with beneficiaries of regularisations in Spain and Italy found that their choice of country was generally linked to ease of employment in the informal sector, and that the prospect of an eventual regularisation was also a pull factor (Reyneri, 2001). Some Italian evidence also suggests that the impact of irregular migration appears to act more by sustaining the informal sector rather than through direct effects on employment in the formal sector (Venturini, 1999).

While unauthorised immigration is always present to some degree in all countries, the existence of a large number of unauthorised foreign workers suggests a dysfunction at one or more points in the migration management system: in the admission system, at the border or in procedures. Indeed, it is very difficult to manage low-skilled migration in a context where irregular migration accounts for a substantial part of labour migration flows. Unauthorised migrants can be found especially where legal channels for unskilled foreign workers are very limited and demand is strong. Countries with significant irregular populations, which have opened their labour markets to larger legal flows of lower-skilled workers, have seen some reduction in irregular flows (*e.g.* Korea, Spain and Italy).

The magnitude of irregular flows has, however, been largely in relation to the characteristics of the labour market. Irregular migrants seek employment, so access to illegal employment or to legal employment (*e.g.* through false documents or limited employer checks) are significant factors in determining flows, while the strength of border controls and enforcement play a less important role (see below).

Evidence from regularisations, inspections and surveys provide some indication of the sectors in which undocumented workers are employed. In Portugal, construction accounted for a third of all regularisations 2001-07, followed by cleaning (16%) and hospitality (13%). In Italy in 2002, the sectors were domestic work (27%), low-skilled industry (22%), long-term home care (20%), and construction (10%). In Spain in 2005, principal sectors were domestic work (32%), construction (21%), agriculture (15%) and hospitality and restaurants (10%). Other sectors with a significant presence of irregular migrants are food processing and storage and warehousing. These sectors had been open to international recruitment on only a limited scale, far less than what emerged through the regularisations. In some sectors, matching supply and demand internationally was not effective, and employers chose from workers who were available locally, regardless of their status. In the presence of legal channels, the persistence of irregular migration can be a

response to real or perceived inefficiency and high costs of legal channels, for both employer and employee.

Irregular migration channels and employment

Undocumented migrants use different means of entry depending on the country: overstaying, fraudulent entry or illegal border crossing. Overstaying occurs when the legal status enjoyed by migrants or visitors expires without renewal, either because the initial stay was not renewable or because the administrative requirements for renewal could not be met. For some countries, especially islands (such as Japan, Australia and New Zealand), overstaying is practically the only channel for unauthorised migration. Fraudulent entry – with false documents – is also a significant means of entry in some countries. Illegal entry, slipping across land borders or arriving by sea, is significant elsewhere, although it rarely plays the large role it is assigned in media representations of irregular migration. For example, overstayers are estimated to make up at least 40% of the undocumented population in the United States (GAO, 2004), and between 60-75% in Italy (Ministry of Interior, 2007). In light of the large numbers of tourist and visitor visas issued by OECD countries to third-country nationals,²⁰ border controls are not in themselves sufficient to eliminate irregular migration.

Employment opportunities affect irregular migration patterns. Most irregular migrants are working, and irregular migrants have a very high labour force participation rate, higher than natives and legal migrants. In the United States, participation rates for working-age undocumented foreign men reach 94%, although women have lower participation rates of 54% (Passel, 2007). The high participation rates are due in part to the fact that irregular migrants in general have no access to social benefits and are younger than the general population. Since their employment is illegal, undocumented migrants generally face a wage penalty (Tapinos, 1999). Irregular workers are generally paid less than natives. For example, irregular Poles in Sweden earned one-third of the minimum wage set by collective agreements in 1990; irregular Filipinos in Korea earned less than half the prevailing average in 1992; and irregulars in Japan earned 60% less than natives in the same job (Ghosh, 2000). When unauthorised migrants with false documents are declared by their employers, the wage penalty may be less or even non-existent if the employer truly considers the worker to be legal. Acquisition of legal status has meant rapid wage growth for irregular migrants in the USA (Rivera-Batiz, 1999).

The characteristics of irregular migrants also vary according to the country in which they reside. The skill composition of irregular migrants differs from that of regular migrants. In migration systems that do not favour skilled migrants, the differences between irregular and regular immigrants are less visible than in systems where there are relatively limited possibilities of entry for unskilled migrants. Generally, irregular migration is disproportionately composed of lower skilled migrants. Migrants with educational credentials and occupational licenses can expect significantly lower returns if limited to the underground economy due to their undocumented status. Similarly, migrants have little incentive to invest in destination-specific human capital if they face the risk of expulsion (Chiswick, 2001).

Self-selection also plays a role in determining the skill composition of irregular migrants. Just as there is positive selection for migrants in general, there is a positive selection of irregular migrants as well (Chiswick, 1999; Borjas, 1988; Liebig and Sousa-Poza, 2004; Bianchi, 2007), especially in terms of unobservable skills such as the propensity for

risk (Radu, 2003; Yashiv, 2004). Irregular migration may even select for the higher-skilled depending on the related costs. Where the costs of being smuggled amount to many multiples of annual earnings in the home country, emigration may not be an option for the low-educated, and the migrants consequently may be selected among those with a higher level of education. Restrictive policy can raise the cost of irregular migration, affecting self-selection among irregular migrants just as it determines the skill composition of those who can benefit from regular access.

Other factors can cause both immigrants and employers to rely on irregular channels. Chain migration effects may establish powerful irregular channels. Chain migration takes place when settled migrants – with or without residence rights – call relatives and friends to join them. For employers, too, path dependency can lead employers to turn first to irregular migrants. Path dependence in irregular migration occurs when available work for unauthorised migrants increases the supply of irregular workers, nurturing a continuous flow and creating reliance by employers on irregular migrant labour.

Any measures affecting the informal economy and illegal employment will also have an effect on irregular migrants. The OECD has in the past focused on enforcement measures, especially on sanctions applied to employers, which exist in all OECD countries (OECD, 2000). Recent trends in enforcement legislation have, in fact, been moving towards more rigorous employer verification requirements and sanctions. In the United States and some European OECD countries, employers have long been required to check the eligibility of workers before hiring them. These good-faith verification measures, where employers can accept worker documentation without having to verify eligibility, are giving way to more active verification systems. The United States is working towards requiring employers to verify eligibility of foreign workers with a central database. Some US States currently require employers to use this “e-Verify” system to check employment eligibility of applicants before being able to hire them. In Europe, a proposed directive regarding sanctions for employers who employ irregular migrants was submitted to the European Council and Parliament by the European Commission.²¹

Recent regularisations and permanent discretionary regularisations

The policy options for reducing a significant resident population of undocumented foreigners seem limited. Expulsions are difficult to apply on a large scale. Apprehensions of illegally employed workers without valid residence permits, especially in economically and socially important sectors such as agriculture, hospitality, construction and personal care, are often contested by employers and public opinion. Detention facilities are often quickly overcrowded and become flashpoints for legal action and contestation by human rights groups. This has led numerous countries to contemplate regularisations or amnesties.

There are strong arguments both for and against regularisation programmes and the decision to implement such a programme is generally taken only after careful analysis of benefits and risks. The benefits of regularisations include greater protection of the labour market, improved outcomes for irregular migrants, and better public security. Irregular migrants are often forced to accept wages and working conditions below the legal minimum, undercutting legal workers. They are also generally unable to move upward in the labour market. The presence of many irregular migrants also creates broader law enforcement and security problems and makes the fight against illegal employment

chronic. Through regularisation, governments acquire information about who is living in the country, and legal immigrants are less likely to pursue unlawful activities.

The main argument against regularisations, in principle, is that they may encourage further irregular migration and therefore do not solve the problem of irregular migration. There is no doubt that countries where regularisations have been frequent are seen by irregular migrants as offering a possibility of stay, but there are other factors determining migration which are arguably more important, namely the availability of employment and the presence of family and social networks. Another objection to regularisations is that they reward law-breakers and queue-jumpers among both immigrants and employers. Recent regularisations have focused on those who have a record of employment in the host country, many of whom had limited means of entry under existing labour migration programmes.

Regularisations are, by their nature, an exceptional policy intervention. They are almost always accompanied by a change in migration policy, as an attempt is made to eliminate the conditions that led to a large unauthorised population. Nonetheless, frequent recourse to regularisations suggests that getting the right policy mix to redirect irregular movements into legal channels and to wean employers off irregular migrants is a difficult task. In some countries, regularisations are the main channel for entry into the legal labour force for less educated immigrants in low-skill jobs. The 1986 US regularisation saw about 2.7 million irregular migrants participate. The more recent large-scale European regularisations, while smaller in absolute terms, have been larger relative to the population: in Italy (1995, 1998 and 2002), Spain (2000-01, 2005), Greece (1998-99, 2001-02 and 2005) and Portugal (2001 and 2004). These regularisations required proof of employment and, in some cases, payment of retroactive social contributions for a minimum period.

In other cases, regularisations may be a corrective measure addressing processing problems in the asylum system or for other long-term residents who cannot be safely sent to their origin countries. Such limited offers of regularisation have been made over the past decade to long-term residents and asylum seekers in France (1997-98, 2006), Belgium (2000, 2004), Poland (2003), the Netherlands (1996, 2007), Luxembourg (2001), the USA (1997-98) and New Zealand (2000-01).

In addition to large-scale and one-off regularisations, a number of countries foresee mechanisms for exceptional – but continuous – regularisation as part of their ordinary migration policy. In some countries, this is limited to certain long-term asylum seekers, who are not generally in employment. Belgium, Switzerland and Germany have allowed discretionary regularisation of persons in such groups. The Netherlands has also allowed long-term residents with regular employment to be regularised. Japan grants “special residence status” to about 10 000 foreigners annually, usually long-term residents with employment or family ties. Portugal also signed a bilateral agreement with Brazil in 2003 to permit regularisation of Brazilians. In 2007, Portugal incorporated a mechanism for discretionary regularisation in specific cases.

Spain has integrated two regularisation mechanisms into its migration policy since 2005. The first, *arraigo social*, or social “rootedness”, requires three years residence and either proof of employment, family ties to a legal resident, or a statement of support from the municipality of residence. In 2006, there were about 34 000 applications, of which 20 000 were approved. Permits issued under *arraigo social* are not conditional on a labour market test or the Catalogue of Hard-to-Fill Occupations. The second, *arraigo laboral*, is

aimed at encouraging illegally employed foreigners to report their employer. It requires two years residence and reporting of an employer for whom the undocumented immigrant has worked for at least a year. There were about 1 100 applications in 2006, of which 500 were approved. Other countries also often issue a special permit to irregular immigrants who report an illegal and exploitative employer to the authorities; such an instrument is a means of fighting illegal employment.

The employment-driven regularisations cited above have granted temporary permits to beneficiaries, with renewal conditional on continued activity in the labour market. Renewal may be difficult, however, because the regularised, by definition, work in sectors with a high rate of precarious and illegal employment. Regularised workers may lose their jobs and return to illegal employment, if they fail to meet permit renewal requirements to renew their permits. For example, one in four beneficiaries of the 2001 Spanish regularisation had failed to renew their permit by 2004, and one-third of Italy's 1990 beneficiaries had not renewed their permits two years later. The failure to renew may be due to these migrants leaving the country, yet some reapply for later regularisation. The 2005 regularisation in Greece was aimed specifically at lapsed permit-holders, many of whom had previously been regularised; 50 000 applied to re-regularise themselves. Problems with renewal not only affect those who have benefited from a regularisation, but extend to all immigrants working in sectors where illegal employment is high.

Another potential problem in implementing regularisations lies in employer pressure on undocumented workers to pay their own social contribution costs or under declare their hours and earnings. Regularisations requiring retroactive payment of social contributions, meant to penalize the employer, may end up being borne by the worker.

Finally, regularisations may not solve shortages in specific sectors, since immigrants who have acquired documents become more mobile actors in the labour market. The most demanding of the low-skilled occupations, and those that pay the least, may not benefit from regularisation. In the United States, the Special Agricultural Worker regularisation regularised 1.2 million workers for the agricultural sector in the late 1980s, but few remained in the sector once they received their papers. Spain regularised almost 100 000 agricultural workers in 2005, but by 2007 only 10-20% were still working in the sector.

Some changes in policy can reduce irregular flows. Because inefficiencies in the migration management system have led to legal residents falling into illegal status, as was evident in Greece, improving the efficiency of permit processing and increasing compliance by employers can help reduce the growth of the irregular population. Similarly, improving legal recruitment channels for small businesses and by individuals and families looking to hire foreign workers to meet immediate and unforeseen demand can keep these employers from turning to irregular migrant workers.

The choice of a regularisation may be a necessary and effective component of a major migration policy shift in a context of widespread irregularity. However, a regularisation without opening channels or finding other effective solutions to meet evident labour market demand will not do much to redirect irregular movements into legal channels.

Conclusion

Migrants with low education are already filling many low-skill jobs in OECD countries. Despite the concerns over the impact of low-skilled migration, some OECD countries have

implemented policies in recent years to admit low-skilled labour migrants because of employer demand. It is expected that specific shortages will be felt in the future in certain occupations. Occupational shortages will be exacerbated as a shrinking number of low-skilled enter the domestic labour force at the same time as new needs are created by an ageing population. This demographic pressure is likely to increase interest in low-skilled labour migration schemes.

The evidence presented in this chapter indicates that there is considerable experience in many countries with the management of low-skilled labour migration, and a number of temporary migration schemes appear to be working well. However, the persistence of unauthorised movements and of irregular employment of immigrants, generally for lesser skilled jobs and often of significant scale, suggests that existing policies are not entirely adequate. Still, current policies and programmes do provide some indication of what the features of an appropriate managed migration policy for the low-skilled might be.

First of all, it is important to note that *all* schemes aimed at lower-educated migrants are demand-driven, with employers initiating and justifying requests. This means that workers arrive in the host country with a job and thus are guaranteed a certain economic support and stability upon arrival.

A careful assessment of labour market demand at regular intervals would appear to be the first essential element of a labour migration programme. This is to ensure that there is an adequate provision of work permits and of entry possibilities to satisfy the labour market needs of the host country.

The methods for identifying shortages tend to vary across countries, but a common principle underlying the various existing approaches is to give priority to resident workers. The effect on the local labour market of non-discretionary migration flows is, however, not always factored in. Approval of single employer requests is often time-consuming and idiosyncratic, which may explain the increased recourse to shortage lists. Shortage lists are revised periodically to reflect the evolution of employment within sectors. However, shortage lists need to be supplemented by vocational training policies aimed at developing the local labour force.

International recruitment for permanent migration of lesser skilled workers has been largely spontaneous and informal, relying on networks. Some formalisation of direct recruitment, especially through bilateral agreements, has been experimented with, involving public employment services and training. The question of how to equitably distribute costs of such intermediation remains. Employers have shown a willingness to use legal channels, when available, that are efficient and reliable, as well as to provide employment contracts to employees eligible for regularisation. Sanctions for illegal employment are an essential part of a comprehensive policy, but any attempt to reduce irregular migration must take into account the legitimate labour needs of employers. The lengthy administrative processes currently in place in many countries discourage employers, especially smaller businesses, from using the system. Procedures must be simple, without excessive delays. This is especially the case for small enterprises, which can neither afford long delays before replacing essential workers nor build them into their planning in the way a major employer can. With both temporary and permanent programmes, there is an issue of the rights of both native and immigrant workers. Due to the employer-driven nature of low-skilled migration programmes and the fact that permits are often tied to specific jobs, the possibility of abuse exists, highlighting the need for

careful monitoring and inspection regimes to guarantee respect for workers' rights, but also to provide employers with incentives to respect legality. Employer needs and expectations need to be balanced with the interests of resident and immigrant workers, in particular with respect to restrictions on job mobility, whether temporal, occupational or geographical.

Temporary immigration programmes have been made to work, especially for labour demand which is truly seasonal or short-term. Attempting to implement temporary migration programmes for permanent or ongoing needs may be a different question, since all parties (employers, the immigrant and indeed even the government itself) may have an interest in preserving the employment relationship. Appropriate selection of employers and employees can help a temporary programme meet mutual expectations. The most successful programmes use intermediation by public or non-profit agencies to handle recruitment and logistics, reduce fees for both parties and allow employers to call back past workers.

Temporary programmes are not, however, realistic for all workers and all jobs, especially where employer and employee interests converge in favour of a longer stay. As a result, immigration policy has experimented with a number of safeguards to reduce risks of negative effects. Permanent migration for the low-skilled, where allowed, is generally subject to an initial probationary phase where renewal requires continued employment. In addition to applying a labour market test, countries may also place a limit on entries based on their perceived capacity to absorb immigrants. More specifically, entries could be contingent on the extent of non-discretionary flows, which also contribute to increases in the labour force.

The existence of significant irregular populations in many countries may well be symptomatic of the fact that one or more of the features described above is absent. Undoubtedly the most common one is the assessment of low-skilled labour needs, which generally reflects the reluctance to acknowledge that such needs exist and that migration is one route to satisfy them that matches the needs of employers and potential migrants. Whether this reluctance will persist in the presence of growing labour needs remains to be seen.

Notes

1. Highly educated immigrants may have better outcomes than less educated immigrants, but the difference relative to the native-born may sometimes be larger for the former than for the latter (OECD, 2008).
2. From the policy perspective, it is the educational level of the migrant which exercises greater influence over longer term outcomes, rather than the skill level of the first job which he or she holds. International recruitment for low-skilled jobs, as will be evident, does not consider the educational level of the worker. For receiving countries, it may be advantageous to have highly educated immigrants in lower skilled jobs, since their longer term outcomes are more favourable. However, such a situation results in brain waste to the detriment of both origin and destination countries.
3. Labour force survey data, for which samples are based on dwellings or population registers, do not usually capture seasonal agricultural work by non-resident immigrants. The data in Chart II.3 regarding employment of lower-educated immigrants in agricultural occupations reflect only permanent jobs such as those involving livestock.
4. The labour force participation of women varies significantly across OECD countries. In those countries where social protection for parents is limited and where child-rearing is not shared with men, women's participation in the labour force is affected by the availability and cost of private child-care and elder care (Jaumotte, 2003; Sleebos, 2003). More recently, Kremer and Watt (2006)

found that high numbers of foreign household workers (7% of the labour force) actually increase overall wealth, by permitting high-educated women to enter the workforce and/or work longer hours. For example, Cortes and Tessada (2007) found that low-skilled migration to the US in the 1990s led to longer hours worked by high-skilled American women.

5. Immigration, by maintaining the supply of labour, may delay investment in new technology and production methods. Martin, Abella and Kuptsch cite the example of mechanisation of tomato harvesting in California (2006). While investment in labour-saving technology can help reduce labour shortages, in some sectors, especially personal care, the potential for such gains is limited. Lewis (2005) found that abundant immigrant labour resulted in less investment in United States factory automation. Similar results can be found for agricultural work in Florida (Napasintuwong and Emerson, 2004). González and Ortega examined the inflow of workers into the construction industry in Spain, and found that, while wages for a given educational level are constant, the skill composition of the construction workforce changes, suggesting employers changing production methods (2008).
6. The trainee programme in Korea, for example, was eliminated after authorities found that trainees were often serving as low-paid employees in low-skill occupations rather than in a real training programme. Japan, which has the largest trainee programme in the OECD, faces similar problems.
7. Programmes where repeat participants are favoured increase compliance and meet employer interests, but when total entries are capped, priority lists have the potential to create an exclusive group of beneficiaries and to deny access – and broader economic and development impact – to the general population in sending countries.
8. Italy subjects the number of conversions from seasonal to renewable permits to an annual limit specified under the quota system (1 500 in 2007).
9. A similar choice was made by Australia in extending its Working Holiday Programme to middle-income countries such as Hong Kong (China), Thailand and Chile: in addition to the requirement that participants be under 30 and have no dependent children, only those with tertiary degrees are admitted. Tertiary-educated young people from these countries, in fact, have no incentive to overstay in Australia.
10. Most OECD countries' consular services also apply a discretionary analysis of "intention to return" before granting temporary visas.
11. These caps have tended to be adjusted upwards as the programme expands, as a sign of closer cooperation and as countries realise that the programme has not had negative effects on the labour market. For example, Japan and Korea have both raised the reciprocal caps on their programmes with Canada and New Zealand.
12. The number of openings in a particular occupation is determined by comparing the number of persons of a given occupation who are unemployed and the number of vacant jobs in the same occupation.
13. Given the proposed move to attribute more weight to "Canadian experience" in applying for permanent residence, the Canadian shortage lists for temporary workers determine which workers can enter and acquire the experience necessary to stay on permanently in Canada.
14. The MAC will define shortages in occupations where at least a specific proportion of its workforce has at least NVQ level 3 qualifications. National Vocational Qualifications (NVQs) are work-related, competence-based qualifications; level 3 "involves the application of knowledge in a broad range of varied work activities performed in a wide variety of contexts, most of which are complex and non-routine. There is considerable responsibility and autonomy and control or guidance of others is often required."
15. In 2008, Portugal declined to specify an exclusion list, although the option remains open.
16. Both the Spanish and the Canadian shortage lists provide a narrow definition of shortage occupations (4-digit classification). The Spanish shortage list used for the *contingente* (anonymous recruitment) system uses an 8-digit classification. France applies a 5-digit classification for occupations on its shortage list. New Zealand's "Immediate Skills Shortage List" applies a 6-digit occupation category. The UK's Shortage Occupation List uses the 4-digit classification system in analysing the skill distribution within the occupation.
17. Most seasonal workers in Italy come from the new EU countries and since 2005 the quota for seasonal work has not been fully utilised.
18. For example, the United States imposes almost USD 500 in fees on employers applying for H-2B workers (many also pay the USD 1 000 fee for expedited "premium processing"). Legal services

required for the application can raise the cost significantly beyond this fee. Canada charges employers a CND 150 fee for each SAWP worker, although this may be deducted from pay. Spanish employers pay about EU 170 for each seasonal worker. Italian employers pay only a nominal filing charge (less than EUR 15).

19. Government estimates vary according to methods. In 2006, Australia reported about 50 000 overstayers and Korea 190 000 overstayers. The United States estimates about 12 million undocumented residents, while Spain, Italy, and the UK estimates are around 500 000, France 250-400 000, Greece 300 000 and the Netherlands 125-230 000.
20. For example, the United States admits more than 33 million temporary visitors annually; France issues more than two million short-stay visas.
21. "EU Proposal for a Directive for sanctions against employers of illegally staying third country nationals" EC COM(2007) 249 final, Brussels 16.05.2007; see also the "Impact assessment", SEC(2007)603. The EU proposal, like the United States proposal, requires employers to notify governments when hiring workers; e-Verify relies on the creation of an integrated database for rapid verification of documents and for communication to employers, while the EU proposal is not specific in this regard. Another difference is that the United States requires positive confirmation before an employer can hire a candidate, while under the proposed EU Directive, employers' obligations explicitly end once they have informed authorities of the identity of the person hired.

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ANNEX II.A1

Annex Table II.A1.1. **Temporary work permit programmes for low-skilled workers**

Country	Programme	Maximum length of stay allowed	Guarantees required	Sectors involved	Number of participants	Limits
Canada	SAWP	< 8 months	Labour market test; employer must pay transportation and housing (can deduct from salary)	Agriculture	18 000 (2006)	None
Canada	Temporary Foreign Worker Programme C (intermediate and clerical)	< 2 years	Labour market test; cover all recruitment costs; help find suitable, affordable accommodation; pay full transportation costs from home country; provide medical coverage until the worker is eligible for provincial health insurance coverage	All sectors	34 000 (2006)	None
Canada	Temporary Foreign Worker Programme D (elemental and labourers)	< 2 years	Labour market test; cover all recruitment costs; help find suitable, affordable accommodation; pay full transportation costs from home country; provide medical coverage until the worker is eligible for provincial health insurance coverage	All sectors	3 500 (2006)	None
France	Seasonal Agricultural	< 6 months/ annually for 3 years	Labour market test or shortage list; employers must guarantee housing	Agriculture	17 000 (2006)	None
Germany	Bilateral Agreements	< 8 months	Employers must provide housing (can deduct from salary)	Agriculture, other temporary	290 000 (2006)	None
Italy	Seasonal Work	< 9 months	Demonstrate existence of (but not necessarily provide) housing; must pay repatriation costs for overstayers	Agriculture, tourism	64 540 (2006) (requests)	80 000 (2008)
Korea	Employment Permit System	3 years + 3 year renewal	Labour market test	All sectors	80 000 (2006)	Target 110 000 (2007)
New Zealand	Recognised Seasonal Employer	< 7 months	Labour market test; employer must demonstrate (but not necessarily provide) housing and pay half transportation costs; employer must pay repatriation costs for overstayers	Agriculture	5000 (2007)	Quota of 5 000 (2007)
Spain	Contingent	< 9 months	Labour market test or shortage list	All temporary sectors	78 000 (2006)	None
United Kingdom	Seasonal Agricultural Worker Scheme (SAWS)	< 6 months	Employers must guarantee housing but can deduct costs	Agriculture	16 000 (2005)	Limited to Romanian/ Bulgarian citizens from 01/01/08
United Kingdom	Sector Based Scheme	< 12 months	Employers must guarantee housing but can deduct costs	Food processing	3 500 (2007)	3 500 (2007); to be phased out
United States	H-2A	< 10 months	Employer must pass labour certification test, pay at least enough to counter adverse wage effects, provide housing and cover one-way transportation costs	Agriculture	50 000 (2006)	None
United States	H-2B	< 10 months, renewable up to 3 years	Employer must pass labour certification test	Non-agriculture, especially landscaping, cleaning, hospitality, construction	200 000 (2006)	Capped at 66 000 entries annually

Annex Table II.A1.2. **Labour market tests in different OECD countries**

Country	Programme	Main characteristics
Australia	Work Permit	Must attempt to recruit locally. Verification of prevailing wage.
Canada	Temporary Foreign Worker Programme C and D	Labour market opinion, with demonstration of attempts to fill position (advertisements, etc. and public employment service), verification of prevailing wage and conditions. The labour market opinion also considers whether "employment of the foreign worker will directly create new jobs or retain jobs for Canadians". Trade union approval will accelerate the process. Reduced advertising obligations (7-day listing instead of 2-3 weeks) for shortage list of "occupations under pressure".
Denmark	Work Permit	Danish Immigration Service consults the relevant trade union, except for shortage list occupations. Requests for ordinary skilled-labour vacancies, such as carpenters or bricklayers, or unskilled positions, such as pizza makers, delivery people, cleaners, etc., are generally not granted.
Finland	Permanent Workers	Employers or job applicants must apply for authorisation from the Public Employment Service, which lists the job for 2-4 weeks, except for occupations on the regional shortage list.
France	Seasonal Agricultural	For occupations not on shortage list, either publication with the public employment service or documented listings through private channels.
France	Permanent Workers	Employment must publish position with the Public Employment Service, and submit application to the Departmental Labour, Employment and Vocational Training service for a discretionary review of professional qualifications, contract wage and conditions, the technological and commercial added value of the foreign worker, and the employer's guarantee of available housing.
Iceland	Temporary Work Permit	Employer must apply to regional employment office for workers, except where the Directorate of Labour has confirmed a shortage. The relevant sector trade union, local or national, has 14 days to comment, except for sectors or cases where the employment is not covered by a trade union.
Italy	Work Permit	Listing with public employment service. Automatic approval even without response after 21-day listing.
Korea	Employment Permit System	Listing of at least 3 days (newspaper) or 7 days (public employment service) or 1 month (other means), following check on unemployment of Koreans in sector.
Netherlands	Work Permit	Listing of at least 5 weeks with the public employment service. Centre for Work and Income must approve employer request, which must meet minimum wage to support entire accompanying family.
New Zealand	Recognised Seasonal Employer	Must advertise position locally and take "all reasonable steps" to recruit locally.
New Zealand	Temporary Work Permit	The employer must make "a genuine attempt" to recruit suitable resident workers. The application is rejected if suitable workers are available in New Zealand, but not "prepared to do the work on the terms and conditions proposed by the employer", or if the employer could "readily train" residents to do the work.
Norway	Work Permit	Applications for authorisation of recruitment of a non-EEA worker require a labour market assessment (LMA). Employers are encouraged to request an LMA from the Public Employment Service (NAV) and enclose it with the application. Otherwise, the police contact NAV for an LMA. Prior LMA is required for seasonal and fish processing workers. There is a quota for skilled workers and specialists; beyond this quota, prior LMA is required. Work permits are not granted if the post can be filled by domestic labour, and the position must require specific skills possessed by the candidate.
Poland	Work Permit	Regional employment service must authorise employer following publication with Public Employment Service and local media.
Portugal	Work Permit	Immigrants may be recruited from abroad for any job which has been listed with the Public Employment Service for at least 30 days. If the employer wishes to recruit an immigrant from abroad without listing the job, the Public Employment Service has 30 days to find candidates in Portugal or the EEA.
Spain	Contingent and General Regime	"Negative certification" is required only for seasonal and temporary Contingent workers, and for General Regime workers. Job must be listed with public employment service for 15 days, and employers must interview candidates sent by the Public Employment Service, although they are allowed to reject them. However, no labour market test is applied for shortage list occupations under either Contingent or General Regime.
Sweden	Temporary or Permanent Work Permit	For lower skilled occupations, the Public Employment Service authorises a work permit only if no Swedish, EU, or EEA workers are available or who can be trained "within a reasonable time" to fill the vacancy. Requirement to be eliminated in 2008. Trade Union representatives must continue to approve the contract conditions.
United Kingdom	Tier 2 Work Permit	The "Resident Labour Market Test" requires employers to advertise for an EEA worker, submitting proof of advertisement within the past 6 months, information on applicants and selection process, and justification for not hiring applicants. The proposed Shortage Occupation List will provide an exemption from this test for specific occupations.
United States	H-2A	Labour certification following advertisement of job (at least 10 days with public agency and 3 days in private press), verification of prevailing wage (requirement to pay the highest of: the Adverse Effect Wage Rate, the applicable prevailing wage, or the statutory minimum wage). Response from Department of Labor within 45 days of application. Employer must hire local workers even if they apply during the first half of the foreign worker's contract.
United States	H-2B	Labour certification following advertisement of job (at least 10 days with public agency and 3 days in private press), and justify any rejection of candidates. Verification of prevailing wage. The job must be "seasonal, peak load, intermittent or one-time needs".

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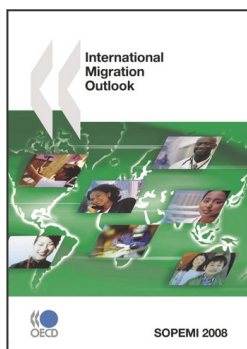
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