



SELECT COMMITTEE ON THE EUROPEAN UNION
Sub-Committee F (Home Affairs)

Economic Migration to the EU

Possible questions for Mr Patrick Taran, Senior Migration Specialist, International Labour Organization

Wednesday 20 July

TALKING NOTES FOR RESPONSES

General

1. Could you tell us something of the work of the ILO in relation to labour migration?

Concern for workers outside their own country is a fundamental component of ILO mandate and activity since its foundation in the Treaty of Versailles in 1919. Main activity areas are: research and knowledge building, including maintaining the International Labour Migration database, policy and legislative support to member governments, technical cooperation and capacity building, and facilitating social dialogue.

Last year, the International Labour Conference mandated a broad ILO Plan of Action on labour migration and elaboration of a multilateral policy framework on labour migration management to provide guidance to governments and other stakeholders worldwide on the practical operational challenges of regulating labour mobility. An ILO expert meeting will review this framework in November, the UK is invited to designate one of the experts.

2. To what extent is globalisation influencing policies on labour migration?

ILO studies have found that factors related to globalization and capitalist modernization directly contribute to eliminating traditional jobs and livelihoods while providing no alternative employment. For many people, migration is a natural response to the huge deficit of decent work. For developing countries migration represents an adjustment to a troublesome disequilibrium in the global economy, although only some 2 million workers migrate annually to join the work forces of industrialized countries. Demography and technological change accompanying globalization are transforming the labour forces and economies of industrialized countries in Asia and the Americas as well as in Europe, resulting in increased need for foreign workers.

However, need to remain competitive in a global economy is driving demand for flexible, docile cheap labour in industrialized countries, resulting in strong pull for irregular migration. The current dilemma appears to be de facto dual policy lines in many countries: tightened border controls and anti-immigrant rhetoric, but tolerance of presence of irregular migrants internally, especially in sectors and localities where low pay jobs are prevalent.

3. How is the international trade in services—and within the EU the Services Directive—likely to impact on labour migration? How important a role is the General Agreement on Trade in Services (GATS) likely to play?

Increased international trade in services will certainly increase labour mobility, as labour is the key component most service provision. A major ILO preoccupation is whether service providers will be guaranteed basic labour and rights protections as human beings and workers as the negotiations proceed regarding the movement of natural persons under GATS Mode 4. Needless to say, GATS Mode 4 outcome may be very important and are rather controversial, as the so-called EU Bolkenstein Directive has proven to be.

Labour markets and labour migration

4. Do you think that there is an identifiable EU labour market?

In essence, yes, given understanding of the EU space as a common market for goods, capital, technology, and, increasingly, services. However, more than with trade and commerce, labour remains legally regulated nationally more than at European level.

5. Would a higher level of labour migration, either globally or within the EU, be desirable?

Higher levels are inevitable in a globalized economic context. Question is whether higher levels will be regulated –rather than continuing in irregular manners—and whether admissions will be based at least in part on measured demand in different levels and sectors, and whether social partners will be involved in policy and thus implicated in implementation. While immigration is not the solution to ageing, technological changes or demographic decline, it is necessarily a component. This applies increasingly in all world regions, not just Europe.

6. What should be the role of state authorities in regulating labour migration? How much regard should they have to protecting the domestic work force?

State authorities should set coherent policy framework in consultation with key stakeholders, ensure adequate legislative basis, apply and enforce labour standards, and seek to regulate entry in accord with labour market conditions. Equality of treatment and upholding basic labour standards to ensure “decent work” conditions should provide more than adequate protection to the domestic work force by preventing unfair competition and impeding incentives to undercut domestic wage and conditions levels.

7. Is there scope for extending freedom of movement arrangements? We understand that the ILO is involved in a project concerning freedom of movement in the EuroMed area.

Our work in Africa is focused on a combination of developing labour mobility within other integration initiatives in East and West Africa –similar to what the EU has accomplished, and on exploring mechanisms to facilitate orderly labour movement between North Africa countries and Europe. In addition to EU supported efforts, ILO has been invited to assist Italy and Spain in linking labour needs with potential offer of candidates in Maghreb and other countries.

The challenge over the next five years will be to establish mechanisms for freer circulation of labour as anticipated in the Euro-Mediterranean cooperation accords. These are scheduled to come gradually into effect by 2010, where access to European

labour markets is the main quid pro quo of opening Maghreb markets to European products and services.

The Commission's Green Paper

8. In the ILO's view is it possible and desirable to establish a common approach at EU level on labour migration?

Certainly, the imperative for application of common legal standards and policy guidelines is set by the economic, social and political logic of the EU itself. While admissions policies remain the purview of national sovereignty, the de-facto and de-jura situations of relative freedom of movement across the EU make difficult over the long run a strict enforcement of labour admissions limited to one country.

9. Does the ILO have a view as between the alternative "horizontal" and sectoral approaches to regulating economic migration?

Not yet. Canada experience was to change strictly sector based quota admissions to admissions on general skills and education levels.

10. What is your view of amnesties? Is there a danger that widespread use of amnesties will encourage further illegal immigration? What effect is regularisation likely to have on the domestic work force?

The starting point is need to ensure that workers are protected, exploitation is prevented and employer-labour relations remain within purview of regulation. The presence of long-staying migrants in irregular status contradicts all three goals. Regularization of persons/groups present for some time –therefore established or rooted in both labour market and community to substantial degrees—has been shown to enhance the situation of the work force as a whole by reducing unfair competition between these and domestic workers and reducing the incentive to exploit such migrants by ensuring they are subject to labour regulation, as well as able to self organize to demand fair and equal treatment.

The question of to what extent repeated regularizations serve as incentive is complex: yes to the extent desperate jobseekers elsewhere willing to take high risks for chance at employment with few alternatives for decent work at home or legal migration; this pressure drives irregular migration whether or not there are any promises of regularizations.

To the extent accessible channels for regular migration/immigration exist or are expanded, alongside enforcement of wage and conditions standards, I think regularizations will not significantly encourage further irregular migration.

Rights of migrant workers

11. The Commission's Green Paper devotes very little space to the rights of economic migrants or to the obligations of employers. Were you surprised by this? What aspects of migrants' rights would it be appropriate to cover at EU level?

Yes, somewhat, especially given emphasis in EU JLS and Employment directorates on what I have heard said is a rights based approach to ensuring basic protection. However, the paper was deliberately focused on stressing the economic considerations for migration, less on the policy regime that eventually must be in place to address the accommodation and integration of anticipated labour migration.

Basic rights stipulated in the ILO Conventions 97 and 143 –one or both ratified by 11 EU members, including the UK—are the starting point; ILO would agree with the recommendation of the European Economic and Social Council and the European Parliament that the universal rights norms applied to migrants in the 1990 International Convention on the protection of migrant workers should be the basis of EU policy guidelines. The ILO understanding is that these three instruments together offer a kind of charter on migration, providing not only norms for protection of basic universal human and labour rights, but also defining main parameters for international intergovernmental cooperation on migration management, integration and reducing irregular migration.

12. Is there a danger that an EU instrument would duplicate existing international instruments in this area? What can be done to improve the rate of ratification, including by the United Kingdom, of these instruments?

Depends on the nature of the instrument. A Convention might end up duplicating content of existing instruments, not only those cited above but also the European Conventions on labour migration elaborated by the Council of Europe.

However, a set of policy guidelines in the form of a directive or similar recommendations with some implementation obligations would certainly be within EU parameters and precedents.

Improving the rate of ratification will certainly require increased awareness raising among national legislatures and government administrations, as well as concerted advocacy and support efforts by concerned stakeholders, such as trade unions, service providers, and humanitarian organizations among others. Our perception is that the two main reasons these conventions have not seen more ratifications is lack of promotion and lack of knowledge of –or misunderstanding of—their content, value and application. The ILO itself and other international organizations can do more to assist and support member governments in consideration adoption and in putting them into effect.

13. Should migrant workers have the same employment rights as domestic workers? When should they be free to change employers and seek work in another Member State?

ILO Conventions are rather specific on this: equality of treatment for regular workers. Possibility to change employer after two years at most (check).

Seeking work in another Member State is not specified, but in a common market regime of free movement, it could be considered along similar lines...

Integration

14. We understand that the ILO has studied the effect of discrimination against migrant workers. What were your main findings? The Commission attaches importance to policies on admission being accompanied by policies on integration. How do you see the relationship between anti-discrimination policies and integration measures?

By early next year, tests using the ILO methodology will have been conducted in 9 countries across Europe including 8 EU member States. This research represents so far the only methodologically consistent and statistically significant studies measuring the situations in labour markets of important immigrant groups in several countries.

Stopping discrimination is the necessary and universal prerequisite to making integration possible. Repeated, reinforced discrimination leads to depression, apathy, resignation, and marginalisation. When people—and groups-- are consistently denied employment opportunities, and when they are also confined to ghettos, provided inferior education or training opportunities and perceive law enforcement as providing little protection, the combination adds up to a powerful recipe for exclusion, the antithesis of inclusion that is the fundamental notion of integration

Effects on third countries

15. Should the EU take action to compensate third countries in some way for the loss of skilled workers trained at public expense? What specific measures could it take?

ILO studies document loss of up to 25% of skilled and trained workers and professionals through emigration from some developing countries in Africa, a devastating portion of human capital required for development. In some cases, even higher proportions of health workers are leaving. For example, I am told half of the Gaborone, Botswana national hospital wards are closed due to emigration of nurses, this in a country with HIV infection rate approaching 30% of adult population.

While compensation may not be the right word, an appropriate approach could be linking aid to education in source countries with numbers recruited or admitted from those countries, so as to provide grant aid amounts equivalent to ensuring that numbers trained are adequate to both retain need levels at home and meet possible future external recruitment.