

# Bordering on Control

Combating Irregular Migration  
in North America and Europe

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IOM International Organization for Migration



# **Bordering on Control: Combating Irregular Migration in North America and Europe**

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## EXECUTIVE SUMMARY

The literature on migration and asylum has grown even more rapidly than the number of migrants themselves, who are its subject. Much of academic literature is normative, often concluding that globalization, transnationalism, or expanding human rights regimes are eroding the capacity and the will of nation states to control entries across their borders. Other sources, such as government and NGO reports, examine particular aspects of migration, from the cost-effectiveness of border controls to the actual functioning of the asylum system.

This study aims to be different in two respects: to be empirical rather than normative, and to go beyond government reports that provide summaries of staff, expenditures and activities. A book edited by Brochmann and Hammar (1999) adopts a similar approach, using country chapters that lay out the external and internal control framework in selected European countries. The editors predict that in Europe the twenty-first century response to the dilemmas of migration management will be tougher controls outside destination countries, since that will minimize the need to make hard decisions within them.

The main objective of this study is to review the cost-effectiveness of both external and internal migration-control instruments in selected countries and to provide a perspective on the usefulness of the law enforcement approach to migration management in the 1990s, such as increased expenditure on border controls.

In 2002 five industrial countries – Canada, Germany, the Netherlands, the UK and the US – spent about US\$17 billion on the enforcement of immigration laws and to care for asylum seekers, about two-thirds as much as they provided in Official Development Assistance. It may be argued that if countries targeted by irregular migration flows were to foster trade, investment and aid in the countries of origin, migration pressures could be expected to decline, although programmes aimed at promoting local socio-economic development to provide potential migrants with an incentive to remain in their home countries yield neither smooth nor quick results.

In fact, western democracies appear to converge in their common failure to manage migration effectively and efficiently, as demonstrated by the widening gap between the migration-policy goals they set themselves and the actual results achieved. Three major indicators point to this goal-outcome gap:

- Stable or growing stocks of illegal, irregular, or unauthorized migrants as well as the arrival and presence of legal but unwanted foreigners, including asylum applicants. Many of these unauthorized and unwanted migrants are being smuggled into destination countries.
- Disagreements between emigration and immigration countries that often culminate in which should make the major adjustments needed to control unauthorized and unwanted migration. The answer to this question will itself depend on the principal motivation for migration – is it mostly driven by demand-pull factors, such as the jobs or welfare benefits aspired to in receiving countries, or by supply-push factors, such as low wages, unemployment, or persecution in the countries of origin? Given the simultaneous existence of both demand-pull and supply-push factors, what role do network or intermediary factors – the migration infrastructure that ranges from networks of migrants abroad to smugglers – play in turning potential into actual migration?
- Frustration and resentment among both migrants and natives in destination countries, as when migrants cannot work legally or find jobs, and when the local population resents supporting asylum applicants knowing that the majority does not qualify for refugee status.

Particular migration policy goal-outcome gaps are evident. For instance, on the US-Mexican border, where the number of Border Patrol agents was increased threefold during the 1990s, unauthorized migrants continue to elude the growing army of agents with the help of smugglers. One unintended consequence is that some Mexican migrants, who originally were seasonal sojourners, have become unauthorized settlers because of the cost and difficulty of illegal re-entry, thus raising the stock of unauthorized foreigners in the US. In Europe, smugglers have been termed the nerve centre of the region's migration network, as they are able to respond quickly to changes in national policies and regulations and can shift migrants from one route and destination to another. In Japan and Korea, legally resident trainees often transmute into irregular migrants as they seek to increase their earnings because, as trainees, they do not count as workers who are entitled to minimum wages.

Although expenditures on immigration-control mechanisms increased sharply in the 1990s, the intended policy goals were not achieved. In fact, the author estimates that five western democracies spent at least US\$ 17 billion on immigration control in 2002 (Table 1.1). Projecting these estimates onto other western democracies would mean that the 25 richest countries are probably spending US\$ 25-30 billion a year on immigration enforcement and asylum processing mechanisms.



The US is a case in point. The budget of the US INS, half of which is devoted to preventing illegal immigration, rose 20-fold in two decades, from US\$ 250 million in 1980 to US\$ 5 billion in 2000, while the estimated number of unauthorized foreigners continued to rise from 3 million to 9 million, and this despite several regularization programmes. Other western democracies have experienced a similar sharp rise in their expenditures on migration-control systems, together with widening goal-outcome gaps.

One way to do away with illegal and unwanted migration would be to simply remove controls. Indeed, the UNHCR has often advocated that the availability of legal immigration channels would obviate the need to turn illegal migration: “What is needed is a system which is controlled by governments under a set of EU-wide immigration policies (...) the lack of legal channels [for immigration] has the perverse effect of encouraging human smuggling”.<sup>1</sup> However, short of total access for immigration, it is not clear that the High Commissioner’s statement is borne out in fact, since partial liberalization could actually provoke an increase in unauthorized migration, at least in the short term.<sup>2</sup>

Instead of, or in addition to, the opening of legal channels, enforcement theory suggests that goal-outcome gaps could be narrowed through an increase in resources together with higher penalties. The economic theory of enforcement argues that if economically motivated migrants and smugglers weigh the benefits and costs of their planned activities, lowering the benefits and/or increasing the costs of migration would reduce migration. The standard economic model indicates that as enforcement resources and penalties increase, a tipping point is reached when costs exceed benefits and the goal-outcome gap closes.<sup>3</sup>

During the 1990s, the dominant response to migration policy goal-outcome gaps was to increase enforcement expenditures and hope that the tipping point for economically motivated migrants and smugglers could be achieved with more enforcement and tougher penalties. However, the evidence is mixed regarding the success of this approach, which is understandable given that a key dependent variable is unauthorized migration, a number difficult to estimate. There is also disagreement on whether the major independent variable is the wage differential, the available benefits for asylum seekers or the activities of smugglers.

It may well be impossible for policy makers to regulate migration with any degree of precision. It is not possible for them to adjust the number of migrants as one might turn a tap on and off, nor may it be desirable to alter the major

independent variable influencing migration in a manner that would altogether close the gap between migration policy goals and their outcomes. For example, the most important variable influencing migration is probably the economy – when there is rapid economic growth together with low unemployment, migrants may be welcomed, or at any rate tolerated. However, governments may not wish to slow economic growth in order to reduce migration pressure. Instead, their goal is maximum economic growth, sometimes based on policies that slow down economic growth in countries of origin. Therefore, to modify the major variable known to affect migration is not really a realistic immigration-control instrument.

Therefore, the major lessons of the 1990s experience for the twenty-first century posit that:

1. Migration must be managed on a continuing basis, much as trade and other international exchanges are managed. Continuing high-level management, with or without a World Migration Organization or similar regional organizations, would improve the availability and quality of relevant data as well as provide a better understanding of the linkages and interactions between immigrant, non-immigrant and unauthorized migrant flows across countries and regions.
2. Effective migration management requires better coordination and cooperation among and within governmental, intergovernmental and non-governmental agencies dealing with migrants.
3. Most migrants move from poorer to richer countries, and the relations between sending and receiving countries must be strengthened if international migration is to be managed more effectively. The appropriate mix of the measures intended to facilitate cooperation will only develop over time, and may vary by country and region, but the starting point for any cooperative action rests with regular meetings.

The author concludes that there are no easy ways to narrow the gap between migration management objectives and the actual results achieved. He argues that the key to success posits the setting of realistic goals, coordinated migration management within and across countries and the continuing monitoring and revision of appropriate policy instruments since migrants, smugglers and others involved in the migration system tend to adjust their tactics and strategies very rapidly to such changes.

# 1. COSTS AND BENEFITS

This chapter defines the purpose and evaluates the costs of migration control systems. This is no easy task because both are pluridimensional, and there is disagreement over which items are to be considered as falling under either costs or benefits. For example, there is agreement that cost estimates of migration control should include the wages of border guards. However, if increasing the number of border guards causes migrants to turn to more dangerous entry routes and the death toll of migrants to rise, should this be considered a cost of more controls? For example, in the US, the trebling of the agents stationed along the Mexican-US border in the 1990s caused the death toll related to illegal migration to rise on average to one death per day inside the US border (Cornelius, 2001).

The second difficulty is the determination of the dependent variables, the policy goals to be achieved. As the dependent variable can change, it becomes very difficult to evaluate migration policy instruments. For example, if the goal of German migration policy until 1998 was to ensure that “Germany is not a county of immigration” and then changed to “Germany is a county of selective immigration”, the dependent variable underwent a significant change.

In addition to changing goals, migration policies frequently aim to achieve multiple goals and it may be difficult to determine which of the competing goals should receive the highest priority. For instance, if the direct objective of a given migration policy is to ensure that entries occur in accordance with the relevant laws and regulations, then it is clear that the cost of border controls and of law enforcement and prosecution, detention, and removal should be included as a cost item of immigration control systems. However, if an additional indirect purpose of migration policy is to protect resident workers from “unfair” competition by foreign workers, should the cost of labour inspectors be included? It is even more difficult to reach agreement on the costs of achieving goals in which migration plays a part in the realization of foreign policy or demographic goals. Accepting refugees or migrants now might serve to prevent “worse outcomes” in the future, but how are the respective benefits and costs to be weighed in such situations?

The most common approach to evaluating migration control systems is to measure their accounting costs, that is, to measure government expenditures on the enforcement of migration laws and regulations, and to evaluate these agencies’ success rate in actually achieving their goals. This relatively narrow accounting approach to evaluating migration control systems tends to lead to

recommendations aiming at the incremental strengthening of enforcement capacity – if illegal migration continues despite the presence of 1,000 border inspectors, then add inspectors. An alternative economic approach to evaluating migration control systems includes the behavioural responses of individuals to enforcement efforts. For example, if the knowing employment of unauthorized foreign workers is penalized by a system of sanctions, a behavioural response by employers may be to hire workers via independent intermediaries such as subcontractors and labour brokers who are willing to act as “risk absorbers” regarding enforcement. If this occurs, migration control systems may have to be adjusted to include strict or joint liability for more of those involved in the production process, e.g. making general contractors answerable for the hiring decisions made by their subcontractors.

## **1.1 Accounting costs**

The accounting costs of operating a migration control system are primarily the expenditures of the relevant government agencies, which increased significantly in the 1990s. In the United States, the Government Performance and Results Act of 1993 requires each federal government agency to have a strategic plan and to prepare an annual report outlining its progress in the realization of its goals. In 2000, the US Department of Justice had a budget of US\$ 21 billion and employed a staff of 110,000 which, at the time, included the INS with a budget of US\$ 4.3 billion and 33,000 employees,<sup>4</sup> an agency pursuing two major objectives: law enforcement to prevent illegal immigration, and the provision of services to legal immigrants and non-immigrants. Several commissions and studies in the 1990s concluded that: (a) the INS was not achieving its goals; (b) the missions were incompatible, and (c) the INS was to be split into at least two agencies, one focused on enforcement and the other on services.

During the 1990s, the budget of the INS increased sharply, and most of the additional resources went to enforcement. Most enforcement, in turn, was concentrated on the Mexico-US border to reduce illegal entries, especially after the INS had adopted an enforcement strategy based on deterrence through prevention. Before 1994, the INS set out to apprehend all unauthorized foreigners who succeeded in entering the US between lawful ports of entry.<sup>5</sup> Operations known as “Hold the Line”, “Gatekeeper”, “Rio Grande” and “Safeguard”, launched between 1993 and 1995 and subsequently expanded, reflected a change in strategy. Border Patrol agents were positioned visibly along the border in urban areas, and fences and lighting were installed to discourage migrants from attempting illegal entry in these areas.

The deterrence strategy assumed that, if migrants were forced to attempt entry in desert and mountainous regions, most would give up and return home, that word would spread of how difficult illegal entry had become, and that others would be deterred from trying to enter the US illegally. However, the deterrence strategy encouraged migrants instead to turn to smugglers to enter the US illegally in remote areas, resulting in more migrant deaths, and turning Border Patrol agents into both enforcement agents and search-and-rescue staff. In September 2000 former INS Commissioner Doris Meissner said: “The geography itself in these very tough places in the mountains and desert should be a deterrent in and of itself. But what has happened is that there have been shifts in the patterns of behaviour, largely by the smugglers, and we’ve had to be far more explicit and focused in protecting the migrants from that exploitation than we expected.”

How should this border control policy based on deterrence be evaluated? If the policy goal is to prevent illegal migration between ports of entry, it is relatively easy to measure the costs of additional border patrol agents, and even some of the side effects of the deterrence strategy, such as higher smuggling fees and more deaths from riskier entry channels. Assessing the benefits and costs of this deterrence strategy suggests that:

- Deterrence could be measured by estimating how many migrants did not attempt to cross the border illegally because of the dangers involved – a difficult exercise.
- Effects could be measured by computing the lower number of migrants who attempted or succeeded in unauthorized entry, and the effect of lower illegal immigration on US wages and job availability, welfare costs etc.

The US General Accounting Office, which conducts most of the studies of government agency expenditures, concluded that even after six years the first deterrence goal had not been measured successfully: “INS lacks performance information to determine the overall impact of its strategy to reduce the illegal aliens flow across the border, reduce flow to the border, and reduce the number of illegal aliens who reside in the United States” (2001a: 17), and that the INS lacked “information to measure the extent to which INS anti-smuggling efforts have helped to achieve the strategy’s objective of deterring and disrupting alien smuggling” (2001a: 18). In other countries the story is very similar. It is easy to measure the cost of more enforcement, but very hard to measure the effectiveness of such additional expenditures regarding the achievement of their goals.

## **1.2 Economics: optimal level of violations**

The economic approach to regulation evaluates policy goal-outcome gaps by assuming that unlawful behaviour can be reduced by means of more enforcement to detect and penalize violators; i.e. economics examines the behavioural changes induced by enforcement efforts and assumes that, as penalties increase and the probability of evading detection decreases, the policy goal-outcome gap narrows. The key conclusion of the economic approach is that the optimal level of compliance is never 100 per cent – there will always be violations because the cost of extirpating all violations is too high. The usual assumption is that enforcement and violations may be represented as two intersecting curves. The first steps to increase enforcement quickly reduce violations, but, despite sharply higher enforcement, some violations persist. Plotting the rising marginal cost of enforcement and the falling marginal benefit of fewer violations along the curves, the optimal levels of enforcement and of residual violations will be situated at the point of intersection.

A key issue in economic analysis is how to measure the marginal benefits of reduced violations. For example, traffic laws prohibit speeding, and society spends resources to hire more police to enforce traffic laws and hand out higher penalties for violations, including speeding. The costs of increased enforcement to prevent speeding are easily measured, but the marginal benefits of more enforcement are more difficult to assess. When the policy goal-outcome gap becomes too wide, as after a series of bad accidents caused through speeding, enforcement and/or penalties may be increased, and increased enforcement may be accompanied by education aimed at reducing speeding, with policy debates centred on when and by how much to increase enforcement, penalties, education, or all three. The answer to “when” depends on assessing the benefits from less speeding, the answer to “how much” depends on which strategy is most efficient at reducing speeding.

## **1.3 International: trade and migration**

In some cases, policy goal-outcome gaps can have international repercussions, as when the enforcement of protectionist trade laws leads one country to prevent the entry of goods or investments from another. The economic theory of comparative advantage suggests that countries that close themselves to international trade and investment will also experience slower economic and labour market growth. However, faced with strong domestic opposition to freer trade,

some countries often join international organizations that establish rules to liberalize trade and investment among its members, and penalties for the violation of these rules. To confront domestic critics, the government can then state that it must accept freer trade, because membership in the WTO required it to do so.

Since freer trade is expected to boost growth, economists urge that trade negotiators push for the least barriers to trade, assuming that domestic pressure for protectionism will accumulate over time. In the “bicycle theory” of free trade, negotiators are constantly trying to reduce trade barriers to prevent protectionism, much as the bicyclist must keep moving to avoid falling. As with engineers who build a canal that is wide and deep because they assume that silt at the bottom will eventually slow the flow of water, theory and experience push trade negotiators to reduce trade barriers as much as possible, and to keep negotiations going to maintain the momentum towards freer trade.<sup>6</sup>

However, migration management is often the exact opposite of trade management. If there are economic reasons for migration to continue, that is, if the differences that motivate migration persist, then opening one door to migration could increase the pressure for entry not only through the open door but also via other channels. This would be the opposite of the theory that opening legal channels would reduce illegal immigration. For example, if guest-worker recruitment were stopped, i.e. demand-pull is halted by a policy change, would migration stop or continue? Taking the cue from the trade negotiations example above, countries should instead be digging migration channels that are narrow and shallow since, if the reasons for migration persist, the behaviour of migrants, host country beneficiaries, and network players will actually result in more migration over time.

Several attempts have been undertaken at the international level to regulate particular types of migration, including the General Agreement on Trade in Services (GATS), which has sought to extend the bedrock principle of trade, the “Most Favoured Nation” (MFN) clause, from goods to services since 1994. To bring services, such as, e.g. medical services, telecommunications, financial services, insurance, computer and information services and personal, cultural and recreational services within the purview of the MFN clause, means that, if a country allows foreign competition in a sector such as banking, equal opportunities in that sector must be granted to provider of services from all other WTO members.<sup>7</sup> A GATS annexe deals with the movement of “natural persons”, sometimes called Mode 4, and discusses a person’s right to stay temporarily in a country for the purpose of providing a service, but emphasizes that GATS did

not apply to people seeking permanent employment, and that GATS was not to interfere with immigration laws that spell out conditions for obtaining citizenship, permanent residence or regular employment.<sup>8</sup>

The GATS has not succeeded in making it easier for most “natural persons” to cross borders and provide services. Unless and until professional criteria are standardized to facilitate the determination of whether a person is in fact, e.g. an accountant or architect, and there is more mutual recognition of licenses and certificates for, e.g. doctors and nurses, it will be difficult for “natural persons” to provide services across borders. Even when there is freedom of movement in a region, as within the European Union, it is hard to agree on professional standards and the mutual recognition of licenses and certificates. Negotiating trade agreements with migration provisions for unskilled migrants is still in the future, so that, for example, an international construction firm from a developing country could use lower-wage workers from its country in a tender to build a dam or bridge in an industrial country. During the 1990s building boom in Berlin, even migrants from within the EU had to be paid in line with Germany’s minimum wage regulations while in Germany to protect domestic workers.

There has been more international agreement on refugees, but the result is a limited restriction that prevents countries from returning refugees to face persecution. The 1951 Geneva Convention obliges signatory states not to return persons fleeing from “persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion” (the principle of non-refoulement). In order to come within the meaning of non-refoulement, the refugee must be in the host country, and there are various definitions of what seems to be a clear statement. For example, France and Germany do not recognize persecution by individuals and private agents as a basis for granting a person refugee status, while the UK does. The definition of “particular social group” encompasses women fleeing abuse from, e.g. husbands, or persons fleeing persecution for homosexuality in some countries, but not others. The EU has taken the lead in trying to develop a region-wide definition and treatment of asylum seekers, with the major components of a EU-wide migration system, including:

- Safe countries of origin – countries presumed to be safe and to respect basic human rights and the rule of law, so that the burden is on the applicant from such a country to prove the existence of persecution;
- Safe third countries – requiring applicants to apply for asylum in the first safe country they reach (country of first asylum);



- Mutual recognition of decisions, so that an applicant denied asylum in one EU country may not re-apply in another (prevention of “forum shopping”);
- Harmonization of treatment of applicants, including the provision of basic amenities, pending a decision on their asylum application.

A major issue in the regionalization of the asylum regime is the determination of the standard to be retained; e.g. should it be a minimum regional standard? If so, could this provoke a “race to the bottom” in order that one country not be “swamped”?

Migration-related discussions at the WTO and those advocating the creation of a WMO (World Migration Organization) often intend the latter to develop information and minimum standards to regulate entries and movements at the multilateral level. Many look to the OECD’s success in tabulating the cost of agricultural subsidies with the goal of reducing them, and hope that a better means of measuring migration stocks and flows could similarly lay the groundwork for a WMO-migration regime capable of reducing barriers to cross-border movements.<sup>9</sup>

TABLE 1.1  
IMMIGRATION ENFORCEMENT AND ASYLUM COSTS

	Year	US\$ (mn)
United States*	2002	4,100
Canada**	2002	750
Germany***	2002	6,600
Netherlands****	2002	1,000
UK*****	2002	5,000
Total		17,450

\* Most integration costs are handled by state and local governments for, e.g. education.

\*\* Most immigration-related spending in Canada is for settlement services for landed immigrants, about US\$ 4,000 per immigrant.

\*\*\* About 75 per cent of German costs are for asylum seekers and those granted TPS.

\*\*\*\* About 60 per cent of Dutch costs are for asylum support.

\*\*\*\*\* About 60 per cent of the UK costs are for asylum support.

## 2. US: BORDER YES, INTERIOR NO

The United States is a nation of immigrants. The US accepts about 800,000 legal immigrants a year, and welcomes 32 million foreign visitors. The number of unauthorized foreigners rose by an estimated 700,000 a year in the late 1990s, bringing the stock to an estimated 8.5 million in 2000, suggesting that 3 per cent of foreigners present in the US are unauthorized residents. Most Americans believe that immigration is in their country's national interest – immigrants arrive to improve themselves and thereby strengthen the US, hence the motto *e pluribus unum* ("Out of many, one"). However, polls conducted in the 1980s and 1990s found that most Americans believed that legal immigration should be reduced, and that more should be done to reduce illegal immigration.

Immigration has costs as well as benefits, and the cost of immigration tends to be emphasized in times of economic uncertainty. The US and, particularly California, were in recession in 1990-91, just as legal and illegal immigration increased (as foreigners whose status was legalized in 1987-88 unified their families) and the North American Free Trade Agreement (NAFTA) was being debated. The combination of recession, increased immigration and NAFTA set the stage for a backlash over the immigration goal-outcome gap that was reflected in Proposition 187 in November 1994. It was an initiative that would have established a state-funded system to prevent unauthorized foreigners from receiving state-funded services, including elementary and secondary education (Garcia and Martin, 2002).

Although never implemented, Proposition 187 paved the way for three major federal immigration control laws in 1996 that, *inter alia*, aimed to speed up deportations or removals from the US, reduce access for immigrants to means-tested welfare schemes and reinforce the border patrol to prevent illegal immigration. Immigration faded from the headlines as the economy improved in the 1990s, and some of the provisions of the 1996 control laws were not implemented, including the exit-entry control system to detect overstayers, and the foreign student tracking system. In the late 1990s and 2000, when the US unemployment rate averaged 4 per cent and the economy added 10,000 net new jobs per working day, and the stock market hit new highs, concern about immigration receded further. Perhaps the high point for concluding that immigration was not a serious issue was in February 2000, when Federal Reserve Chairman, Alan Greenspan, stated: "The benefits of bringing in people to do the work here, rather than doing the work elsewhere, to me, should be pretty

self-evident". In that same month, the AFL-CIO executive council, the leaders of major US unions, unanimously called for the repeal of employer sanctions and the legalization of unauthorized foreigners in the US.

The INS devoted most of its resources to border enforcement in the 1990s – only 2 per cent of its effort went to enforcing employer sanctions, and it did not clarify what was meant when it stated that the agency's priority was to pursue "employers who are flagrant or grave violators" of sanctions (GAO, 2001a: 21). Indeed, effective enforcement tools were sometimes suspended following complaints by employers and migrant advocates. INS Commissioner Doris Meissner stated in 1998: "The focus of our work site enforcement needs to be increasingly directed at employers. Work is the incentive that brings illegal immigrants into our country. [Enforcement] can't just be done at the border." However, she added that there was a much stronger political consensus on border enforcement than on the way enforcement should be conducted away from the border.

By the mid-2001, the major US immigration issue was how to legalize at least the 4-5 million Mexicans out of the 8-9 million unauthorized foreigners in the US. Legalization would have shifted the focus from the prevention of entry by unauthorized foreigners to regularizing their status once in the US. Before the 5 September 2001 meeting between presidents Bush and Fox in Washington D.C., immigration news was dominated by debates over the kind of guest worker and earned legalization programme would be implemented "before the end of 2001".

The terrorist attacks of 11 September 2001 lulled the discussion of guest workers and legalization, and some restrictionist groups hoped that they would have the effect of increasing support for proposals aimed at reducing legal immigration and of stepping up measures to curb illegal immigration. However, President Bush and other leaders drew a sharp distinction between immigrants and terrorists, stressing that the US would continue to welcome immigrants. In a typical comment, the Los Angeles Times of 10 January 2002, concluded that: "The most significant development in the national immigration debate is what has not happened: No lawmaker of influence has moved to reverse the country's generous immigration policy, which for more than three decades has facilitated the largest sustained wave of immigration in US history." The reason is that most Americans agreed with INS Commissioner James W. Ziglar, when he said: "These weren't immigrants. They were terrorists." (McDonnell, 2002).

## 2.1 The US immigration system

Immigration generally occurs in waves, and the US is in the midst of its fourth wave of immigrants. Between 1820 and 2000, over 65 million immigrants arrived in the US. In 2000, 12 per cent, or 31 million of the 281 million US residents, were born abroad, up sharply from 5 per cent or 10 million foreign-born residents in 1970.

The first wave of immigrants arrived before records were kept beginning in 1820, when most of the immigrants were English-speakers from the British Isles. The second wave, between 1820 and 1860, was dominated by Irish and German immigrants. Their arrival challenged especially the dominance of the Protestant church, and led to a backlash against Catholics and immigrants. The third wave, between 1880 and 1914, brought 20 million immigrants to the US, an average of 650,000 immigrants a year. Most of these southern and eastern European immigrants found jobs in factories in the cities of the Northeast and Midwest, and they were often joined on the assembly line and in the military during World War I, by Americans leaving the farm. Third-wave immigration was slowed first by World War I, and then by numerical quotas in the 1920s.

The fourth and current wave of immigration began with immigration reforms in 1965 that eliminated quotas based on the number of persons from each country already in the US. Instead, immigrants got priority to enter the US if they had family here, or offered needed skills. The 1965 reforms increased immigration, and the major countries of origin shifted from Europe to Latin America and Asia. Reforms undertaken in 1990 raised the number of immigration visas available to foreigners entering the US for economic or employment reasons, and added a diversity immigrant visa, an acknowledgement that family reunification was making it hard for new migration streams from Europe, Africa and other regions that had sent few immigrants in the 1970s and 1980s to get started. During the initial years, many of the diversity visas were reserved for Irish immigrants.

Three main groups of non-nationals arrive in the US: immigrants, non-immigrants, and unauthorized foreigners. Under US law, immigrants are persons entitled to live and work permanently in the US and, after five years, to become naturalized US citizens. There are four major types of immigrants:

- The largest category concerns relatives of US residents; about 70 per cent of the immigrants in recent years had family members in the US who petitioned the US Government to admit them.

- The second-largest category was employment-based, the 12 per cent immigrants and their families admitted for economic or employment reasons.
- The third group is comprised of refugees and asylum seekers, the 7-9 per cent of foreigners who were granted safe haven in the United States.
- The fourth group is made up of diverse immigrants, persons who applied for a US immigrant visa in a lottery open to those from countries that sent fewer than 50,000 immigrants to the US in the previous five years.

TABLE 2.1  
ALIEN ENTRANTS TO THE US: 1996-2000

	1996	1998	1999	2000
<b>Immigrants</b>	915,900	654,451	646,568	849,807
Immediate relatives of US citizens	300,430	283,368	258,584	347,870
Other family-sponsored immigrants	294,174	191,480	216,883	235,280
Employment-based	117,499	77,517	56,817	107,024
Refugees and asylum seekers	128,565	52,193	42,852	65,941
Diversity immigrants	58,790	45,499	47,571	50,945
Other immigrants	16,442	4,394	23,861	42,747
NACARA (Section 202)	0	0	11,267	23,641
Other	16,442	4,394	12,594	19,106
<b>Estimated emigration</b>	220,000	220,000	220,000	220,000
<b>Non-immigrants</b>	24,842,503	30,174,627	31,446,054	33,690,082
Visitors for pleasure	19,110,004	23,254,140	24,104,371	30,511,125
Visitors for business	3,770,326	4,413,440	4,592,540	
Temporary workers/trainees	254,427	430,714	525,700	635,229
Foreign students and dependants	459,388	598,520	603,787	699,953

Note: Visitors for pleasure in 2000 include visitors for business.

Source: Immigration and Naturalization Service (<http://www.ins.usdoj.gov/>).

Non-immigrants are foreigners who come to the United States to visit, work or study. There are no numerical limits on entries of most types of non-immigrants; the US is willing to accept far more than the 30 million foreign

tourists who arrive in a typical year, and more than the five million business visitors.

However, the issue of foreign workers and foreign students is more controversial. The 543,950 foreign workers admitted in FY2000 represented 25 per cent of the net growth of US employment, which expands by 2.5 million a year. About two-thirds of the foreign workers were professionals who received H-1B visas allowing them to stay in the US for up to six years, and to become eligible for an employment-economic immigration visa if they are sponsored by a US employer who can show that there are no qualified US residents available to fill the vacant jobs. About one-sixth of the foreign workers were unskilled workers in jobs ranging from harvesting tobacco to cleaning hotels in resort areas. Finally, about 10 per cent were either outstanding athletes or entertainers.

The H-1B programme illustrates the controversies that surround efforts to manage migration. On the one side are employers who argue that the US should scour the world for the best computer programmers in order to remain globally competitive and that there should be few immigration barriers between US employers and Indian computer programmers. On the other side are those who argue that US employers should do more to train and retrain US workers to fill vacancies before recruiting abroad. Making it too easy to fill computer jobs with foreigners, they argue, will increase employers' dependence on immigrant workers over time by discouraging Americans from going into fields in which foreigners hold down wages and opportunities.

It is difficult to evaluate such arguments, making it hard to know whether guest workers represent a migration policy goal-outcome gap or, rather, a policy that strengthens the economy. During the 1990s "dot.com" boom, employment opportunities in the computer industry rose more rapidly than US computer specialists could be trained and retrained. However, even during the boom years US computer companies never hired more than 5 per cent of US job applicants, often screening them by computer. In some cases, detailed investigation demonstrated that employers preferred young foreigners who had just graduated from US universities – they were cheaper and more likely to work long hours in the hope of being sponsored by the employer for an immigrant visa. Intermediary businesses, so-called body shops, soon emerged to bring foreigners from India and elsewhere into the US, even if the body shop had no suitable jobs on offer for the H-1B workers, which led to charges of exploitation of migrants and the undermining of US standards (Lubman, 2000). The compromise reached in 2000, just before the high-tech bubble burst, was to raise the maximum number

of H-1B admissions to 195,000 a year, but also to impose new requirements on employers with 15 per cent or more H-1B workers, prohibiting them, for example, from laying off US workers and hiring H-1Bs (other US employers may lay off US workers and hire H-1B workers).

Unauthorized foreigners, also known as undocumented workers and illegal aliens, are foreigners who entered the US without inspection at ports of entry, or who enter legally, but then violate the terms of their entry by, for example, working following their admission as tourists, or overstaying their visa entitlement. The number of unauthorized foreigners is not known, but the best estimates are that their number rose from three million in 1980 to four million in 1986. In 1987-88, some 2.7 million foreigners were legalized by the Immigration Reform and Control Act of 1986, but more arrived, so that there were an estimated 2.5 million unauthorized foreigners in 1990. The number of unauthorized foreigners rose again in the early 1990s, as legalized foreigners unified their families without waiting for visas, but the growth slowed in the mid-1990s. However, there was rapid growth in the stock of unauthorized foreigners in the late 1990s.

TABLE 2.2  
UNAUTHORIZED FOREIGNERS IN THE US: 1980-2000

Year	Million	Average annual change
1980	3	
1986	4	167,000
1989	2.5	-500,000
1992	3.9	467,000
1995	5	367,000
2000	8.5	700,000

Note: About 2.7 million unauthorized foreigners were legalized in 1987-88.

Source: Jeff Passel, Urban Institute.

## 2.2 US immigration controls: external

The US has two distinct systems for external immigration control: visa issuance and border inspections for those arriving at ports of entry, and border patrol agents to deter entries between ports of entries. Visa issuance is handled

by the US Department of State through its 207 offices outside the US, border inspections are handled by 1,800 INS inspectors and 9,500 border patrol agents try to prevent entries between ports of entry.

Foreigners wishing to enter the US at a port of entry must overcome several hurdles. For the nationals of more than 170 countries this begins with obtaining a visa. In 2000 almost 10 million foreigners applied for visas to enter the US of whom about 75 per cent received one. Some 1,100 consular officers, mostly young people at the start of their foreign service careers, deal with visa applications. Consular officers have only limited time to review visa applications, limited access to law enforcement databases with the names of criminals and other persons to whom visas should not be issued, and no effective feedback on the outcome of their decisions, such as who leaves the US as required under the terms of the visa, and who does not. In most cases, decisions on visa applications are reached within a few minutes, as soon as the consular officer is satisfied that the foreigner will leave the US again as scheduled – US law presumes that applicants for visitor visas are intending or potential immigrants, and the burden to prove the contrary is on the applicant.

Under US law, foreigners with visas can nonetheless be denied access at US ports of entry by immigration inspectors, if there is sufficient evidence that the foreigner is likely to violate the terms of his visa, e.g. if a letter from a US employer is found among the documents of a person holding a tourist visa. Neither consular officers abroad nor inspectors at US ports of entry are law enforcement officers and, until recently, this restricted their access to the information stored in criminal databases. However, even if they had such access a person may still obtain entry into the US by presenting a false name and passport since most of the criminal databases are name-based.

Two groups of foreigners do not need visas to enter the US. All Canadians, as well as Mexicans living along the Mexico-US border, are admitted without visas; they accounted for 330 million entries in 2000. INS (and customs) inspectors check those arriving on foot or by car very quickly, especially during morning commutes. The second group of foreigners who do not need a visa to enter the US are nationals of 28 countries who are allowed to enter the US for up to 90 days.<sup>10</sup> This means that, when French or Japanese tourists or business visitors arrive at US ports of entry, the inspector examines their passports and they are routinely admitted. Thus, of the 350 million foreigners who enter the US each year, only 10 million apply for visas abroad; therefore, the tightening of visa issuance procedures would actually affect less than 3 per cent of foreign entrants.



Section 110 of the 1996 IIRIRA (Illegal Immigration Reform and Immigrant Responsibility Act) required the INS to develop a system for recording the entry and exit of all foreigners, initially by 1 October 1997 and then by 1 October 1998. The INS did not do so, in part because of opposition from Canada and US states bordering Canada. They noted that some 130 million persons crossed the 4,000-mile Canadian-US border in 2000, and about US\$ 1.5 billion worth of goods cross the border each day, so that checking each person's entry and exit would cripple cross-border commuting, trade and tourism. Congressional opposition to an entry-exit tracking system was highlighted in July 1998 when the Senate passed an amendment on a 99-0 vote to repeal Section 110.

### **2.2.1 The US-Mexican border**

In FY2000, the US border patrol apprehended 1.8 million persons attempting to enter illegally (if a person is caught repeatedly, each time counts as an individual apprehension), exceeding the previous peak of FY86. A large number of people, an estimated 700,000 a year in the late 1990s, eluded border patrol agents, entered the US, and stayed; others entered illegally, and then left. The vast majority of these unauthorized migrants are Mexicans and Central Americans seeking better economic opportunities, but a growing number of migrants from outside Mexico and Central America are also transiting Mexico to enter the United States.

In 1993, the border patrol in El Paso experimented with a new approach to border management: deterrence. Border patrol agents were stationed along the border within sight of each other around the clock for about 15 miles on the border separating El Paso and Juarez. As a result, apprehensions fell by 76 per cent in FY1994, as Mexicans commuting to jobs in El Paso, or going to El Paso to commit petty crimes, were deterred, while Mexicans heading further inland went around El Paso to enter the US illegally (Bean et al., 1994). In 1994, the INS expanded this policy of deterrence to urban areas along the 2,000-mile border, naming it the Southwest Border Strategy, and using a combination of agents stationed visibly along the border, 76 miles of fencing, video surveillance systems and lights to deter entries in heavily patrolled urban areas, shifting them to remote areas, where the INS believed it would be easier to detect and apprehend unauthorized entrants. The underlying strategy was that as migrants eventually recognized the futility of attempting unauthorized entry, they would abandon further attempts, and the border could be deemed secure.

The INS border patrol had a FY2000 budget of US\$ 1.2 billion and in September 2000 nearly all of its 9,096 agents were stationed on the Mexico-US border, providing 11 million hours of border enforcement. To “secure” the US-Mexico border, the INS estimates it needs 7 to 10 more years and 3,200-5,500 additional agents, plus US\$ 450-560 million for additional technology (US General Accounting Office, 2001b: 7, 10).

TABLE 2.3  
BORDER PATROL AGENTS AND APPREHENSIONS,  
MEXICO-US BORDER, FY1993-2000

	1993	1994	1995	1996	1997	1998	1999	2000	2001
Agents	3,389	3,670	4,337	5,281	6,261	7,292	7,645	8,475	9,000
Apprehensions (mn)	1.2	1.0	1.3	1.5	1.4	1.5	1.6	1.8	1.2
Agents, 1993 =100	100	108	128	156	185	215	226	250	266
Apprehensions, 1993 =100	100	81	105	124	113	125	132	136	99

Source: GAO, 2001b.

The INS predicted that apprehensions would first rise and then fall as its Southwest Border Strategy was implemented. It developed an effectiveness ratio, an estimate of the number of migrants apprehended or who turned back compared to the number who attempted entry along a particular part of the border, which the INS calls a corridor. The INS reported that, between October 2000 and March 2001, effectiveness ratios ranged from 37 per cent in the corridor west of Tucson to 92 per cent in the corridor west of El Centro – most of those attempting illegal entry tried to do so in Arizona, and only about one in three was apprehended by the border patrol (GAO, 2001b: 15).

The Southwest Border Strategy had other effects, including the deaths of migrants attempting entry in desert and mountain areas. To locate those who perished, and to determine whether they were in fact attempting to enter the US illegally, is fraught with uncertainty and conjecture. The Border Patrol puts the number of migrant deaths between October 1997 and mid-2001 at 1,100, and emphasizes that there have been fewer migrant deaths since: (a) the border patrol established specially trained search and rescue teams to find migrants in trouble

in desert and mountain areas and (b) the US and Mexico signed a border safety agreement in 2001 to share information and resources to find and rescue migrants. So far, the dangers of entering the US across mountains and deserts has not discouraged especially young men from attempting unauthorized entry. However, reinforced INS border controls have encouraged virtually all migrants to turn to smugglers to enter the US illegally. There may be 2 million migrants attempting unauthorized entry each year; at US\$ 1,000 each, this makes smuggling a business worth US\$ 2 billion a year. In 2001, the GAO concluded that: “Although illegal alien apprehensions have shifted, there is no clear indication that overall illegal entry into the United States along the southwestern border has declined” (GAO, 2001b: 28).

The INS has had trouble hiring and retaining border patrol agents. Although it is authorized to have 16,500 agents and immigration inspectors, it had only 15,000 in August 2002: 10,000 border patrol agents and 5,000 inspectors. Since 1 October 2001, 2,000 have left, many for higher salaries at the Transportation Security Administration. The border patrol achieved its goal of hiring 1,500 agents in the first nine months of FY02, but lost 1,450; turnover for BP agents may reach 23 per cent this year, versus 6 per cent for all federal workers.

Both the INS budget and the share of the INS budget earmarked for enforcement have risen. The share of immigration enforcement costs was about US\$ 4 billion in 2002, and is projected to rise to US\$ 5 billion by 2005-06. With enforcement representing two-thirds of the INS budget, enforcement costs increased

TABLE 2.4  
US IMMIGRATION ENFORCEMENT COSTS:  
INS: 2001-07 (US\$MN)

	Actual	Estimated	Estimated	Estimated	Estimated	Estimated	Estimated
Fiscal Year	2001	2002	2003	2004	2005	2006	2007
Immigration Enforcement	3,358	4,154	4,746	4,825	4,912	5,005	5,100
Immigration Services	1,039	1,461	1,414	1,479	1,481	1,483	1,485
INS, Federal Funds	5,023	6,334	6,416	6,563	6,655	6,754	6,854
Enforcement (%)	67	66	74	74	74	74	74

Source: [http://w3.access.gpo.gov/usbudget/fy2003/sheets/fpaa\\_11.xls](http://w3.access.gpo.gov/usbudget/fy2003/sheets/fpaa_11.xls).

about fivefold within a decade, from some US\$ 1 billion to US\$ 5 billion. In addition to INS enforcement costs, the cost of visa issuance, asylum and immigration hearings, and judicial costs associated with immigration cases could well double INS spending on immigration control.

## **2.3 US immigration controls: internal**

An estimated 8.5 million unauthorized foreigners were in the US in 2000, of whom 60 per cent are believed to have entered without inspection, eluding border patrol. The other 40 per cent are believed to have entered the US with valid visas or other documents, but violated the terms of their entry by, e.g. overstaying.

Most of the unauthorized foreigners in the US are thought to have entered for economic reasons, to find jobs that paid higher wages than those available at home. The US enacted employer sanctions in Section 274A of the Immigration Reform and Control Act of 1986, and imposed fines and prison terms for employers who, (a) knowingly hire unauthorized foreigners and (b) fail to check that the workers hired were authorized to work in the US. The underlying idea was that by closing the labour market door or by reducing the attraction of the labour market, such sanctions would discourage migrants from attempting illegal entry since, on arriving in the US, they would not be assured of jobs. Some sectors, such as agriculture, believed that sanctions would work to deter migration, and they were able to prevent the enactment of sanctions until IRCA included programmes that provided them with legal farm workers.

The sanctions require US employers to verify the identity and eligibility for employment of all persons hired after 6 November 1986. This is done by having the employer and the newly hired worker complete an I-9 form, but only after an offer of employment had been made. Section 1, completed by the employee, provides personal data including evidence of the right to work in the US, while Sections 2 and 3 are to be completed by the employer to show that work authorization documents were examined. However, to prevent discrimination, an employer cannot require some workers to produce specific or more documents and not others. An agency distinct from the INS, the Office of Special Counsel under the Justice Department enforces the anti-discrimination provisions of IRCA's employer sanctions that prohibit employers with four or more employees from discriminating against workers in respect of hiring practices, discharge, recruitment, or referring them to jobs for a fee.

Sanctions did not prevent unauthorized workers from getting jobs, and this for several reasons. First, the INS did not aggressively enforce sanctions – it was reluctant to bring cases against employers who were willing to challenge the agency, both by having powerful politicians write letters about the INS’s enforcement, and in court, arguing that they were guilty only of paperwork violations. Second, the widespread availability of counterfeit documents allowed employers to violate the spirit if not the letter of the law. For between US\$ 30 and US\$ 50 unauthorized foreigners could purchase forged documents, present them for employment and other purposes, and employers could copy the counterfeit documents – as long as they appeared to be genuine – to protect themselves against sanctions. Employers could rightfully say that they had to walk a tightrope between sanctions aimed at preventing them from hiring unauthorized workers, and anti-discrimination laws that prevented them from demanding specific documents from newly hired workers, or questioning some workers more aggressively about their documents than others.

Third, the structure of employment changed in a manner that made the enforcement of sanctions more difficult. During the 1990s, a great deal of outsourcing was encouraged by economic restructuring and specialization, as well as risk avoidance. Brand-name firms that wanted to avoid liability for sanctions violations could outsource the hiring of workers who were most likely to be unauthorized, including seasonal farm workers, janitors and other staff hired

TABLE 2.5  
SAWS AND UNAUTHORIZED CROP WORKERS:  
1989-98

	SAWs	Unauthorized
1989	37	8
1990	30	17
1991	27	19
1992	23	33
1993	12	44
1994	20	38
1995	19	40
1996	16	50
1997	17	51
1998	15	52

Source: US Department of Labor, 2000.

only part of the year or at odd hours. In agriculture, for example, farm labour contractors doubled their share of farm hands in the 1990s, and many farm labour contractors (FLCs) turned out to be little more than risk absorbers for the farms that hired them – by hiring workers through FLCs, farmers escaped liability for employing unauthorized workers. The farm workers legalized in 1987-88 were called Special Agricultural Workers (SAWs), and they quickly got out of the farm workforce and were replaced by unauthorized labour in the 1990s.

By the mid-90s, there was widespread consensus that the enforcement of sanctions was failing. In 1994, the bipartisan Commission on Immigration Reform (CIR) laid out a seven-point plan to reduce illegal immigration in a report entitled “US Immigration Policy: Restoring Credibility”. Its cornerstone was the establishment of a computerized system to enable employers to check the social security numbers of newly hired workers similar to the way merchants submit credit card information for verification.<sup>11</sup> The CIR recommended the development of a counterfeit-resistant social security card, and a government-run system that would enable employers to ask newly hired workers personal question to ensure that workers were presenting their own cards.

However, a coalition of employers, migrant advocates and civil libertarians opposed the plan as “Big Brother” authoritarianism, and it was not implemented. Many states actually went the other way in the 1990s, making it easier for unauthorized foreigners to get driving licences, presuming that all drivers knew the rules of the road and had driving licences to obtain insurance, even if they were not authorized to be in the US.

### **2.3.1 Enforcement of sanctions**

In an Op-Ed published in August 2001, former INS Commissioner Doris Meissner concluded that employer sanctions had not worked, and that there was no reliable way for employers to comply with the law (...), stating that neither Republicans nor Democrats, nor a broad range of interest groups was prepared to support a workable employer sanctions programme.

She held the major reasons for the failure of sanctions as a second line of defence against illegal immigration, to be: (1) continued illegal immigration and employer demand for unauthorized workers; (2) the readily available counterfeit documents and the widespread resistance to the creation of a national ID card, and (3) an allocation of INS resources towards the detection and removal

of criminal aliens, but not the prevention of the employment of unauthorized workers. In June 2001, the INS counted 1,899 investigators for sanctions and all other interior enforcement. The INS reported that the number of unauthorized workers apprehended at work sites had fallen from 11,989 in FY93 to 953 in FY00. The number of citations against employers for violating employer sanctions laws also fell sharply, and employers soon learned that they could hire unauthorized workers and avoid fines. For example, Mester Manufacturing, a Los Angeles-area waterbed manufacturer, was fined US\$ 3,000 in 1987 for hiring 27 unauthorized workers, one of the first fines imposed by the INS.<sup>12</sup> In 1999, Interstate Roofing in Portland was ordered to fire 76 out of 128 employees, but was not fined. Interstate said that the workers who were fired, 56 of whom had valid Oregon driving licences, stayed in the area and went to work for other employers.

Although there have been several promising experiments to enforce sanctions, they were not sustained. Operation Vanguard was an enforcement action conducted in May-June 1999 under which the INS required meatpacking employers to turn over copies of the information provided by newly hired employees.<sup>13</sup> The INS checked this employee-provided information against government data bases, identified employees who appeared to be unauthorized, and told employers to ask them to clarify discrepancies in their records before the INS came to the plant to interview them. About 4,500, or 19 per cent of the 24,000 employees in 36 meatpacking plants in Nebraska and Iowa were suspected of being unauthorized. When employers notified these employees of the discrepancies in their records, most of them quit – only 34 were arrested when the INS conducted follow-up visits.

Operation Vanguard was a cost-effective strategy for keeping unauthorized workers out of the high-turnover meatpacking industry without raids or inconvenience to legal migrants.<sup>14</sup> The INS believed that, with repeat visits, there would be a virtuous circle – unauthorized workers would not be hired and meatpackers would have to raise wages and improve benefits or restructure and automate jobs that involved “disassembling” hogs, cattle and poultry. During the six months of 1999 during which Vanguard was most active, some US\$ 528,000 was spent on verifying employee records, and 3,500 jobs were opened for legal workers. By comparison, a 1992 raid on a Monfort Inc. plant in Grand Island that resulted in 307 arrests cost US\$ 234,000.

However, the Vanguard approach of checking documentation rather than staging workplace raids was roundly condemned by employer and worker

representatives. Meatpackers complained that they were unable to hire replacement workers quickly, or to operate on a round-the-clock all-week basis as they wanted. Migrant advocates complained that unauthorized migrant parents without jobs were unable to support their US-born and, therefore, US-citizen children, or switch employers by presenting new false documents, thus losing seniority rights and benefits. In July 1999, the National Council of La Raza asked President Clinton to suspend Vanguard, citing its “potential for extreme discrimination against our nation’s ethnic minorities”. Farmers joined meatpackers in complaining that, because some plants had to abandon round-the-clock slaughtering, cattle and hog prices were declining. Former Nebraska Governor Ben Nelson argued that it was ill-advised for Operation Vanguard to start out in a state with such low employment and a serious labour shortage problem, and that this had had an adverse economic impact on agriculture.

The INS was also criticized by restrictionists for not removing unauthorized aliens from the US. Restrictionist organizations argued that the INS failed to do its job properly if it simply informed employers of suspected illegal workers and then allowed those identified to rotate among employers. Operation Vanguard was stopped in 1999 when the Social Security Administration prevented the INS from checking employee information against its database, citing privacy concerns. The INS found a private data processing firm to check employee information at a cost of US\$ 2 per name, and INS headquarters refused to approve the continuation of the programme.

Sanctions may begin to be enforced through a combination of public and private resources. On 11 December 2001, the US filed its largest-ever employer sanctions case against Tyson Foods Inc., accusing Tyson, the largest meat processor in the US, of recruiting illegal Mexican workers and transporting them to 15 of Tyson’s 57 poultry-processing plants in the Midwest and South. Tyson, which has 120,000 employees at 130 locations, uses the INS’s Basic Pilot programme to verify the right to work of newly hired workers – employers submit the A-numbers from the green cards of newly hired non-US citizens to the INS for verification. However, the government charged that Tyson utilized workers hired and provided to Tyson by temporary service agencies that did not utilize the Basic Pilot Program, well knowing that most of these workers were unauthorized. Tyson countered that the violations resulted from a handful of managers operating outside company policy; six Tyson employees were dismissed or put on administrative leave.

The private twist in this case is the federal Racketeering Influence and Corrupt Organizations (RICO) law, which allows private parties injured by racketeering



to file civil suits and obtain treble damages. With the government doing the enforcement to convince a jury that Tyson and other employers knowingly hired unauthorized foreign workers, private RICO suits filed on behalf of US workers alleging that their wages were depressed by the employment of unauthorized workers could become a powerful “1-2 government-private” punch against employers hiring unauthorized workers. The private RICO suit filed in the Tyson case alleged that Tyson was violating RICO by employing large numbers of illegal immigrants at 15 facilities, causing the overall wage structure to be depressed, and demanded damages three times the amount of wages thus depressed. In July 2002, the RICO suit was dismissed, with the judge ruling that the workers had to show that “they directly suffered loss of wages because Tyson employed illegal aliens.” Previous dismissals of RICO suits were reversed on appeal; if one of the suits had succeeded in winning triple damages, there could be a significant change in employer behaviour.

### **2.3.2 Sanctions and labour laws**

The US is one of the few countries where laws prohibiting the employment of unauthorized foreigners are enforced by the immigration, rather than the labour agency. Many immigration agents think in terms of criminal violations, not violations of laws regulating economic activities, and there has been uneven cooperation between US labour and immigration agencies. Indeed, many state labour enforcement agencies do not cooperate with the INS, and advertise this fact to the public, in order to induce unauthorized workers to cooperate in the enforcement of the minimum wage and similar laws that are their responsibility.

The major federal labour law enforcement agency is the Wage and Hour Division of the Employment Standards Administration (ESA) of the US Department of Labor (<http://www.dol.gov/dol/esa/>). In November 1998, ESA signed a Memorandum of Understanding with the INS aimed at reducing “the employment of unauthorized workers in the US and the consequential adverse effects on the job opportunities, wages and working conditions of authorized US workers by increasing employers’ compliance with their employment eligibility verification obligations.” Under the MOU ([www.dol.gov/dol/esa/public/whatsnew/whd/mou/nov98mou.html](http://www.dol.gov/dol/esa/public/whatsnew/whd/mou/nov98mou.html)), ESA will share information on possible employment of unauthorized aliens that its inspectors discover with INS, except when ESA learns of the unauthorized employment through a tip-off from workers. There have been few publicized cases of ESA-INS cooperation.

Instead, the failure to enforce employer sanctions and low budgets for labour law enforcement were cited by the AFL-CIO in its February 2000 call to end sanctions enforcement. In 1990, total INS salaries and expenses were about three times those of ESA, reflecting more INS personnel. By 2001, they were about 10 times higher. INS salaries and expenses increased 368 per cent in the 1990s to US\$ 3.4 billion in FY 2001, while ESA salaries and expenses increased by only 67 per cent.

TABLE 2.6  
FEDERAL IMMIGRATION VS. LABOUR LAW EXPENDITURES: 1990-2001

	1990	1996	2001	1990-01 change
Immigration INS (US\$000s)	734,563	1,375,000	3,441,000	368%
Labour ESA (US\$000s)	217,650	257,000	364,000	67%
Total	952,213	1,632,000	3,805,000	300%
INS Share	77%	84%	90%	
ESA Share	23%	16%	10%	

Notes: Data are for salaries and expenses.

ESA stands for Employment Standards Administration.

The AFL-CIO's executive council unanimously called for: (1) the repeal of employer sanctions; (2) legalization for many of the unauthorized foreigners in the US and (3) new criminal penalties on employers who use labour and immigration laws to exploit vulnerable workers (<http://www.aflcio.org/publ/estatemnts/feb2000/immigr.htm>).

The AFL-CIO argued that employers were using sanctions laws to intimidate unauthorized workers, and cited the example of a Holiday Inn Express in downtown Minneapolis. The 16 workers had voted for union representation in August 1999 and, in October 1999, the hotel manager called in the INS to check on the status of the workers. Nine workers were arrested. The union paid the US\$ 3,000 bail per head to have the workers released while they awaited deportation hearings, and then filed charges with the National Labor Relations Board accusing Holiday Inn of retaliating against the workers for engaging in union activities. In January 2000, the hotel paid US\$ 72,000 in a settlement

with the Equal Employment Opportunity Commission, so that each of the nine workers received US\$ 1,000 in compensatory damages and US\$ 7,000 in back pay.<sup>15</sup>

Under US labour and anti-discrimination laws, all workers, including unauthorized workers, are protected. However, if their labour rights are violated, they may not be entitled to remedies if the violating employer does not agree on a settlement with the enforcement agency. The US Supreme Court ruled in March 2002 that unauthorized workers who are unlawfully fired for union activities were not entitled to back pay for the time they were out of work following their illegal firing, in effect deciding that a worker's violation of immigration laws was more serious than an employer's violation of labour laws.<sup>16</sup> In a 5:4 decision, Chief Justice William H. Rehnquist wrote: "Awarding back pay to illegal aliens runs counter to policies underlying [immigration law]. It would encourage the successful evasion of apprehension by immigration authorities, condone prior violations of the immigration laws, and encourage future violations."

The case involved an unauthorized Mexican, Jose Castro, who presented a false Texas birth certificate to get a job at Hoffman Plastic Compounds in Los Angeles in 1988, and who was fired unlawfully for handing out union authorization cards to fellow employees. Hoffman argued that, since it did not learn that Castro was unauthorized until he admitted his status in compliance proceedings after he was unlawfully fired for union activities, he was not owed back wages for the time he was out of work because he was not authorized to work in the US. The National Labor Relations Board ordered Hoffman to pay US\$ 67,000 in lost wages, but the Supreme Court disagreed. Since a significant proportion of farm workers, janitors and other workers are unauthorized, this Hoffman Plastic decision seems to limit the ability of agencies enforcing labour laws from obtaining back wages from employers who violated unauthorized workers' rights in the industries where such rights are often disregarded.

## **2.4 Assessment: from legalization II to uncertainty**

Before 11 September 2001, the US was debating the type of legalization best able to close the migration policy goal-outcome gap, especially the gap in relation to Mexico-US migration. Since 11 September a combination of evidence that enforcement may have reached the tipping point to deter unauthorized immigration, a 50 per cent rise in the US jobless rate to 6 per cent, and projec-

tions that significant Mexican-US migration was likely to continue for several decades, again dampened support for the legalization of unauthorized Mexicans.

The background for considering a change in US migration control strategies was the evidence in 2000-01 that tripling enforcement expenditures had not prevented the number of unauthorized foreigners from rising sharply in the late 1990s. The Mexican Government launched a campaign for the legalization of its nationals in the US, with Mexican President Vicente Fox arguing that “immigration is not bad for the US. It has given a real stimulus to the American economy. That’s the only way that it has grown 5 per cent a year with inflation of just 2 per cent”. In February 2001, presidents Bush and Fox agreed to create “an orderly framework for migration that ensures humane treatment [and] legal security, and dignifies labour conditions”.

During 2001, there were several proposals for an orderly framework for Mexico-US migration, proposing mainly guest workers and/or legalization. The leading guest worker option, advocated by Senator Phil Gramm (R-TX), would have permitted unauthorized Mexicans already in the US to obtain a temporary legal status, and provided the possibility for additional Mexican workers for up to one year to fill jobs throughout the US economy. Gramm’s proposal would have given work permits to unauthorized Mexicans in all US industries and included provisions aimed at ensuring that the guest workers returned to Mexico when their work permits expired. The 15.3 per cent of gross wages paid by US employers and workers in social security contribution would have been diverted to a fund to provide emergency medical care for guest workers, with any remaining balance to be placed in individual IRA-type accounts from which Mexican workers could receive payments when they handed in their US work permits in Mexico.<sup>17</sup>

Senator Bob Graham (D-FL) was the lead sponsor of an alternative proposal, earned legalization, that would have been available only for unauthorized farm workers, but in which workers from all countries could participate, not just Mexicans. Earned legalization would allow currently illegal workers who had done a sufficient number of days of work to apply for temporary legal status. If they continued to work in the US, this temporary status could be converted to an immigrant status. In December 2000, the Graham proposal assumed concrete form with a proposal that unauthorized farm workers who had done at least 100 days of farm work during one of the two seasons before the law was passed, could become temporary residents, and that they could convert this to immigrant status if they satisfied a three-part farm work test that included doing at least 360 days of farm work over the next six years.

The third option was legalization. The AFL-CIO, most migrant advocates and the Mexican Government support a general legalization programme for unauthorized foreigners in the US, but no new guest worker programme. One proposal, the US Employee, Family Unity and Legalization Act, would have granted temporary legal status to persons in the US since before 6 February 2000, and immediate immigrant status to persons in the US since before 6 February 1996. The legalization date would then roll forward by a year in each of the next five years, eventually encompassing all of those now illegally in the US.

The events of 11 September changed the momentum for legalization and guest workers by changing the American perception of immigrants. Before 11 September, unauthorized Mexicans were seen as hardworking foreigners seeking the American dream, but afterwards unauthorized foreigners, especially those from the Middle East, were seen as potential threats to Americans. Three other developments may change the manner in which the US attempts to close the migration policy goal-outcome gap: enforcement, unemployment and Mexican projections. First, there are signs that border enforcement may be reaching the tipping point. Apprehensions along the Mexico-US border fell by 25 per cent between FY2000 and FY2001, from 1.8 to 1.2 million, and fell even further in FY02 – the INS expects fewer than one million apprehensions.

Second, the US economy went into recession in March 2001, and the unemployment rate rose from 4 to 6 per cent.<sup>18</sup> The rapid increase in the US unemployment rate reportedly encouraged some laid-off Mexicans to return to Mexico, and discouraged others from coming. Third, Mexico's National Population Council released a report in December 2001 that concluded that Mexico-US migration would continue at 400,000 to 500,000 a year for the next three decades: "Migration between Mexico and the United States is a permanent, structural phenomenon. It is built on real factors, ranging from geography, economic inequality and integration, and the intense relationship between the two countries, that make it inevitable." According to the NPC, if current trends continue, the Mexican-born US population could reach 18.3 million in 2030, up from 8.3 million today.

### 3. CANADA: HIGH LEVELS, SATISFACTION

Canada has relatively high levels of immigration. Its goal is to admit 1 per cent of its population, or about 310,000 immigrants a year, and an average of 225,000 to 250,000 immigrants actually arrive each year. Canada has generous social welfare programmes and high levels of public approval of its immigration policies, attributed to:

- An admissions system dominated by entrants who score enough points on a test designed to ensure that they are an economic asset to Canada;
- Minimal illegal immigration owing in part to the fact that Canada does not share a border with a major emigration country; but does share a border with a major immigrant receiving country, and
- Migration laws that permit administrative discretion, allowing relatively quick changes with which to head off potential migration problems.

Canada is one of the few countries that spend more on immigrant integration than on immigration enforcement and asylum processing. In 1998, Canada spent an estimated CAN\$ 6,000 (US\$ 3,840) per immigrant on resettlement, or CAN\$ 1.2 billion (US\$ 768 million) on integrating 200,000 immigrants (DeVoretz and Laryea, 1998: 55). In contrast, spending on enforcement stands at about US\$ 750 million a year.

#### 3.1 Canadian immigration system

Canada admitted 252,000 immigrants in the year ending 30 June 2001, when it had a population of 31 million; it is the only country that consistently receives fewer immigrants than anticipated or desired. Prime Minister Jean Chrétien stated in July 2002: “We see the population is not growing as fast as it should. And it’s why we have a very open immigration policy. And we’re working to reform it. Because we don’t achieve as many immigrants as we would like to have in the Canadian economy”. Federal Citizenship and Immigration Minister Denis Coderre made the same point in 2002: “I am the Minister **for** Immigration not of Immigration” (quoted in *Hill Times*, 11 March 2002, emphasis added).

In the 1996 census, 5 million residents, 17 per cent of all Canadians, were born abroad, including 2.3 million in Europe and 1.6 million in Asia. Most immigrants and most Canadians are concentrated in three provinces: Ontario

(population of 12 million), Quebec (7.4 million) and British Columbia (4 million).

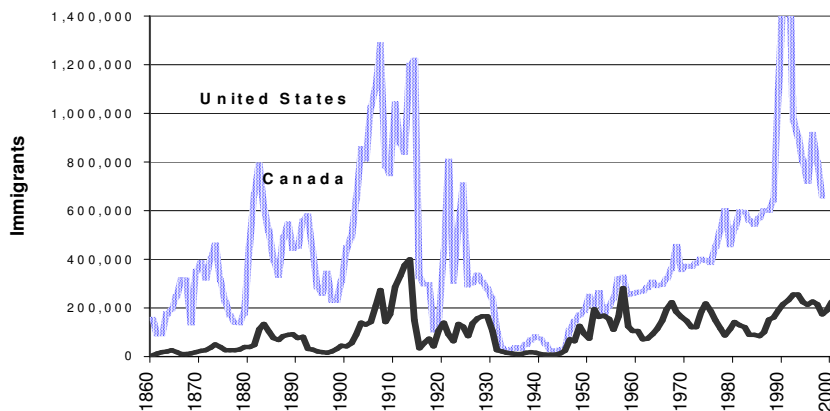
Canada has three major entry channels for legal immigrants:

- Economic or independent skilled workers, 56 per cent of the total flow of 227,400 migrants admitted in 2000,<sup>19</sup> that included 118,000 skilled workers (including families), 6,200 entrepreneurs, and 2,500 self-employed;
- Family reunification, 70,000 or 31 per cent; and
- Refugees, 30,000 or 13 per cent.

The leading countries of origin for immigrants to Canada were China (15% in 1999), India (9%) and Pakistan and the Philippines (5% each).

Canadian immigration flows and policies broadly mirror those of the US. For example, the US barred Chinese immigrants in 1882, and Canada took steps to limit Chinese immigration in 1885. Immigration to Canada peaked between 1895 and 1913 – some 2.5 million immigrants arrived in a country that, in 1913, had a population of 7 million, including 400,870 immigrants arriving in that year. In the aftermath of World War II, Canada permitted displaced Europeans and refugees to enter, including 40,000 Hungarians between 1956 and 1957.

FIGURE 1  
IMMIGRATION TO CANADA AND THE US: 1860-2000



Source: US INS and Canada CIC.

Canada's "white only" immigration policy, which favoured entries from Europe and the US, ended in 1962.

Canada's Immigration Act of 1976 established a point system to select non-family or independent immigrants. It assesses foreigners wishing to immigrate for economic reasons against nine criteria on which an applicant can score a maximum of 107 points. At least 70 points are required to qualify for an immigrant visa (75 points after March 2003). For example, language skills (knowledge of English and/or French) can earn an applicant a maximum of 15 points, while education beyond a BA can earn a potential immigrant up to 16 points. There is an additional educational training factor (ETF) worth up to 18 points that reflects the level of education and training required for an applicant's occupation, and up to 10 points are awarded to applicants between the ages of 21 and 44.

In the 1990s, concern rose over the high numbers of immigrants, that too many were becoming dependent on welfare despite passing the points test, and that too many asylum seekers were coming to Canada and were being supported by taxpayers even though they did not face persecution at home. In 1998, an independent commission issued a report recommending changes to the Canadian migration policy, including a new requirement stressing language proficiency: immigrants admitted under the points system should be able to speak English or French before arriving, and family reunification immigrants should speak English or French before arrival or pay fees to learn English or French thereafter. Some of these recommendations were included in Bill C-11, the Immigration and Refugee Protection Act of 2001, which came into effect 28 June 2002.

The flexibility of the Canadian migration system was illustrated in 1997. In August 1997, a film aired on Czech television implied that Czech Roma were almost guaranteed refugee status and welfare benefits on their arrival in Canada. Some 1,000 Czechs flew to Canada in September 1997, and half applied for asylum – economy-class airline seats from Prague to Canada were sold out for months. However, as soon as the first Czech gypsies were granted refugee status by the independent Immigration and Refugee Board, the government imposed visa requirements on Czechs, which made it harder for Czechs to get to Canada and apply for asylum.<sup>20</sup>

Canada also admits non-immigrants, persons expected to leave after a period of work, tourism, or business in Canada. There is one special type of non-immigrant worker, a NAFTA professional as defined in Chapter 16 of the North



American Free Trade Agreement. This provision permits 64 types of professionals, including accountants, engineers and lawyers, to cross the Canada-US border to work in the other country by showing an offer of employment, professional credentials and a passport at the border (there will be open borders for professionals from Canada, Mexico and the US after 2003). The number of Canadians entering the US as TN-visa holders increased sharply to 111,000 in FY2000.

Canada admits about 17,000 temporary farm workers each year. Most are from Jamaica and Mexico, and most work on fruit, vegetable and tobacco farms in Ontario. Canadian farmers wanting to hire Mexican guest workers must pay for the workers' transport to Canada, provide them with housing and pay them the prevailing or minimum wage, whichever is higher. The selection criteria encourage returns. For example, Mexican men must be between 22 and 45, married and with children, and their families must remain in Mexico. The guest workers must have at least a third-grade education, but not more than an elementary school education, in order to be selected as guest workers for Canada. This Mexico-Canada guest worker programme is considered by Mexico to be a model programme, and the Mexican Government has urged the US Government to adopt it to better manage Mexico-US migration.

### **3.2 Canadian immigration controls: external**

Canada spends about CAN\$ 750 million a year on immigration enforcement, broadly defined. Citizenship and Immigration Canada (CIC), established in 1994, manages access to Canada, admitting immigrants and non-immigrants, resettling refugees and helping to integrate newcomers (<http://cicnet.ci.gc.ca/>). CIC has 4,800 employees, plus another 255 Canada-based and 1,105 local employees at 88 Canadian embassies, high commissions and consulates abroad – the CIC's 2002-03 estimated expenditures are CAN\$ 927 million.<sup>21</sup> An independent Immigration and Refugee Board hears asylum applications and appeals from CIC decisions; its budget for 2002-03 stands at CAN\$ 124 million.<sup>22</sup> Most of the money spent on immigration in Canada provides settlement services for landed immigrants, not for immigration control or asylum care and processing.

The Royal Canadian Mounted Police, with 20,900 staff and a 2002-03 budget of CAN\$ 1.6 billion, is part of the Portfolio of the Solicitor General and has an immigration and passport programme to investigate violations of the Immigra-

tion Act, Citizenship Act, Canadian Passport Order, and the Criminal Code of Canada; 200 officers are posted to 17 immigration and passport sections across Canada. The RCMP's major immigration control priority is to combat migrant smuggling (<http://www.rcmp-grc.gc.ca/html/rpp2001-e.htm>, Fact Sheet 16). The RCMP, which often operates in conjunction with Citizenship and Immigration Canada, estimated in 2001 that 15,000 foreigners were smuggled into Canada.

There are two major external migration challenges facing Canada: asylum applicants and unauthorized foreigners arriving by ship. Some 60 per cent of the 34,260 foreigners arriving each year who sought asylum in Canada in the financial year ending 31 March 2001, enter via the United States. Canada recognizes 50 to 60 per cent as refugees; while the US recognition rate for asylum applicants is similar. Before Bill C-11, Canada normally did not detain foreigners arriving with either false or no documents if they requested asylum.

Canada declared the US to be a safe third country for foreigners transiting the US en route to Canada, and when the agreement is signed, foreigners arriving in Canada from the US may not apply for asylum. Applicants for asylum in Canada since July 2002 (Bill C-11) are photographed, fingerprinted and interviewed before being released until their applications are considered, and they receive housing, health care and cash assistance while their applications are being processed. If the initial interviews reveal a serious criminal record or other problems, foreigners can be deported before they apply for asylum. In 2001 Canada contributed about CAN\$ 25 million to UNHCR, and spent a further CAN\$ 150 million for Immigration Canada and refugee boards to process some 40,000 asylum applications (*Ottawa Citizen*, 1 November 2001).

The second external challenge involves Chinese migrants smuggled to Canada's west coast by ship. Some 590 Chinese arrived in Canada in four ships between July and September 1999, of which 491 applied for asylum. Canadian authorities were urged by local residents, as well as by the Chinese Government, to consider them as economic migrants and to return them without delay to China – the Chinese Government agreed to accept those who were Chinese. When the migrants applied for asylum, China stated: "You expect us to try to hold the lid on the boiling pot of illegal migrants, while your refugee, welfare and legal systems continue to put more kindling on the fire (...) unless efforts [are] made to organize a plan to reduce Canada's attractiveness to Fujianese, we may see a rapid increase in the number of Fujianese arriving in Canada."

Canada detained most of the Chinese while their asylum applications were being processed, at a cost of about CAN\$ 2 million a month, and the nature of

their arrival as well as the cost of processing made immigration a major public policy issue. In a September 1999 poll, 34 per cent of Canadians said that health care needed immediate government attention, followed by immigration, education, and taxes, each scoring 20 per cent. However, political leaders played down the arrival of Chinese migrants. Prime Minister Jean Chrétien emphasized that more asylum applicants arrive in Toronto every month across the land border than arrived by ship on Canada's west coast in Summer 1999. China and Canada cooperated to reduce smuggling from Fujian Province in 2000, and no more migrants arrived by ship. As of April 2001, some 340 or 60 per cent of the arrivals by ship had been returned to China and 24 had been granted refugee status, the others were in detention, awaiting court hearings or were released into the community pending further action.

### **3.3 Canadian immigration controls: internal**

Citizenship and Immigration Canada (CIC) and the RCMP are jointly responsible for locating unauthorized foreigners within Canada, most of whom are overstayers or asylum seekers whose applications have been rejected. The Immigration and Refugee Board, for example, reported that 9 per cent of the 29,000 asylum applications in 2000 were deemed abandoned because applicants did not attend hearings. Since 11 September 2001, asylum applicants are given longer interviews before being released and ordered to show up for later hearings.

Employer sanctions are enforced by the Royal Canadian Mounted Police. Since 90 per cent of Canadian employment is regulated by provincial and not federal labour law, federal-provincial cooperation plays a decisive role in the detection and removal of unauthorized foreigners. If unauthorized foreigners are found during an immigration investigation, the RMCP informs provincial labour authorities of employers hiring unauthorized foreign workers; however, this is not always followed up by provincial authorities. CIC immigration agents who enforce sanctions laws are not armed.

Federal employer sanctions were included in Canada's Immigration Act (1976/77) in Part IV, Section 96 (1): "Every person who knowingly engages in any employment of any person, other than a Canadian citizen or permanent resident, who is not authorized under this Act to engage in that employment, is guilty of an offence and liable: (a) on conviction on indictment, to a fine not exceeding CAN\$ 5,000 or to imprisonment for a term not exceeding two years

or to both; or (b) on summary conviction, to a fine not exceeding CAN\$ 1,000 or to imprisonment for a term not exceeding six months, or to both.” “Knowingly engages” is defined in para. 2, as follows: “a person knowingly engages in any employment of a person who is not authorized to engage in that employment when, by the exercise of reasonable diligence, he would have known that the person was not so authorized.” The key identification number in Canada is the Social Insurance Number, which can be issued to allow the employment of foreigners: “(3) The Minister may by order direct the Canada Employment Insurance Commission, continued by the Department of Human Resources Development Act, to issue to persons, other than Canadian citizens or permanent residents, Social Insurance Number Cards whereby the holders of such cards are identified as persons who may be required by or under this Act to obtain authorization to engage or continue in employment in Canada.”

There have been few reported examples of enforcement of sanctions. One occurred 29 November 2000, when CIC immigration agents and the RMCP raided the meatpacking plant Erie Meat Products in Mississauga and apprehended 57 illegal migrants, including workers from Ghana, Grenada, St. Lucia and Jamaica. The workers were paid CAN\$ 7 an hour to cut meat that was resold through a network of Toronto-area grocery stores. Erie Meat was not charged with violating sanctions laws because a temporary help agency supplied the workers, but federal human resources department and agents from Revenue Canada began an investigation of Erie Meat to determine if there were violations of tax and unemployment insurance regulations.<sup>23</sup> A review of published accounts suggests that most employer sanctions cases involve unauthorized workers hired via subcontractors or temping agencies. The workers are sent to a work place, discovered to be unauthorized, but the employer on whose premises they are found is rarely charged with a violation because the migrants are employees of the temping agency or the subcontractor.

### **3.4 Assessment**

Canada shows one of the industrial world’s smallest gaps between its official migration goals and outcomes, and this migration management success is often attributed to: (1) an immigration policy that favours the admission of skilled foreigners selected for their ability to be economically successful and, (2) the absence of a land border with a major emigration country. Canada receives 225,000 to 250,000 immigrants a year, meaning that Canada adds the equivalent of 0.75 per cent to its population annually through immigration.

Canada's "white only" immigration policy ended in 1962, and the point system for selecting immigrants was launched in 1967. The Immigration Act of 1976, which went into effect in 1978, is the basis of current immigration policies. In the mid-1990s an independent commission was asked to "examine the suitability of the immigration and refugee legislation to continue to provide the flexibility and direction needed to respond to emerging issues and migration trends in the 21st Century" and its 1998 report, *Not Just Numbers: A Canadian Framework for Future Immigration*, included 172 recommendations, together with the suggestion that prospective independent (point system) immigrants to Canada be required to speak English or French.

Bill C-11, which came into effect in June 2002, was originally introduced to deal with Chinese migrants arriving by ship as well as the Not Just Numbers recommendations; after 11 September 2001, spending on border, security and enforcement increased. One Bill C-11 objective is to reduce the perception that Canada is a "soft touch" for asylum seekers. For example, a 1987 article in *Macleans* reported on 173 Punjabis landing in Nova Scotia as follows: "Men with dark complexions from south Asia swarm ashore, risking the hazardous illegal landing to take advantage of Canada's well-known leniency toward anyone who manages to set foot on its soil and claim the status of a refugee" (*Macleans Magazine*, 27 July 1987, p.6).

After 11 September 2001, Canada faced criticism that it was soft on asylum seekers, and some US leaders speculated that the terrorists who attacked the US had actually spent some time in Canada. US Attorney-General John Ashcroft, for example, called the US-Canada border "a transit point for several individuals involved in terrorism", but Foreign Affairs Minister John Manley proved to be correct when he said in October 2001 that, "The evidence is mounting that this particular attack was not orchestrated in Canada but elsewhere, probably in Europe" (*Toronto Star*, 6 October 2001).

## **4. GERMANY: GUEST WORKERS, ASYLUM, MANAGED MIGRATION**

Germany recently made a historic shift from being “not a country of immigration” to a country striving to manage the migration of foreign professionals in a manner that would be beneficial to increased economic and job growth. Germany’s first-ever regulated immigration system was signed into law in June 2002. It was challenged in national elections in September 2002, and survived the test of the voters, but was successfully challenged in court on the grounds of a formal error in parliamentary procedures. Viewed over the past 40 years, Germany initially experienced a guest worker era during which unskilled workers arrived, in the 1990s it was confronted with large numbers of asylum seekers and ethnic Germans, and most recently Germany resorted to the introduction of a small “green card” programme to develop a managed migration system for professionals in a unifying and expanding Europe.

### **4.1 The European context**

Most European societies were shaped by emigration to the Americas – about 60 million Europeans emigrated between 1820 and 1914.<sup>24</sup> Within Europe, there was significant migration from east to west during the great transatlantic migration, as from Poland to Germany. World Wars I and II led to the redrawing of borders and the migration of people who found themselves on the wrong side, such as the exchange of Greeks and Turks in the 1920s. Economically motivated migration in the second half of the twentieth century was dominated by movements between territories and colonies abroad and the mother country, such as between Algeria to France, India-Pakistan to the UK and Surinam and the Netherlands.

Europe became a destination for guest workers in the 1960s and 1970s, to be followed by asylum seekers and family reunification immigration in the 1980s, and is today the destination of earlier types of migrants as well as highly skilled and professional foreigners. Few European migration laws are, in fact, adapted to current migration patterns and that is one reason why the presence of 10 million non-EU foreigners in the 15-nation EU is a major issue. Immigration continues – net migration stood at 711,000 in 1999, taking the EU population to 375 million (4 million births, 3.7 million deaths).

Germany represents less than one-fourth of the total EU population, but is host to 36 per cent of the EU's foreign residents. It is hard to compare stocks of foreigners in Europe and North America because citizenship in Europe is often conferred by blood (*ius sanguinis*), not place of birth, as is the case in Canada and the US. For example, there can be no "second-generation" foreigners in either Canada or the US because persons born in these countries, even to unauthorized foreign parents, become citizens by birth. However, until 2000 a baby born in Germany to foreign parents was a foreigner, and almost 20 per cent of "foreigners" in Germany were born to foreign parents in Germany.

TABLE 4.1  
FOREIGNERS AND FOREIGN WORKERS IN WESTERN EUROPE: 1998

	Total population (000s)	Foreign population (000s)	Foreign population (000s)	Total labour force (000s)	Foreign labour force (000s)	Foreign labour (%)
Austria	8,099	737	9.1	3,303	327	9.9
Belgium	10,253	892	8.7	4,261	375	8.8
Denmark	5,333	256	4.8	2,938	94	3.2
France	57,095	3,597	6.3	26,016	1,587	6.1
Germany	82,247	7,320	8.9	27,714	2,522	9.1
Ireland	3,700	111	3	1,500	48	3.2
Italy	59,524	1,250	2.1	19,529	332	1.7
Luxembourg	430	153	35.6	234	135	57.7
Netherlands	15,762	662	4.2	7,172	208	2.9
Norway	4,459	165	3.7	2,233	67	3
Spain	40,000	720	1.8	15,917	191	1.2
Sweden	8,929	500	5.6	4,294	219	5.1
Switzerland	7,095	1,348	19	3,994	691	17.3
United Kingdom	58,079	2,207	3.8	26,641	1,039	3.9
Total/Average	361,005	19,918	5.5	145,748	7,835	5.4

Source: *Trends in International Migration*, 2000, OECD, Paris, p.41.

With the coming into force of the Amsterdam Treaty in 1999, the EU undertook to develop a common immigration and asylum policy by 2004. In most of Europe, political, business and other opinion leaders want national governments

to embrace immigration to counterbalance the declining population and labour force, and to preserve the welfare state. For example, in a speech delivered on 12 July 2000, the European Commissioner for Justice and Home Affairs, Antonio Vitorino, said “the European Union is facing a changing economic and demographic situation (...) the zero immigration policies of the past 25 years are not working... [EU nations should agree] on new legal ways for immigrants to enter the EU, recognizing their contribution...[but] avoiding the creation of new ghettos in our towns and cities.” In July 2002, European Commission President Romano Prodi stated: “In the European countries, immigration is indispensable (...) for a simple reason. No German, no Italian, no French of the younger generation wants to do night shifts in a hospital. No one wants to work in agriculture or public works. And so immigration is obviously needed.”<sup>25</sup>

Without immigration, European populations will shrink if fertility and mortality remain at current levels. According to the UN Population Division estimate of the number of immigrants needed to maintain 1995 populations, labour forces, and ratios of younger to older persons, in the four large EU countries – France, Germany, Italy and the UK, which together include about two-thirds of EU residents and received about 88 per cent of EU immigrants in 1995 – immigration would have to triple from 237,000 a year to 677,000 a year, to maintain 1995 populations at current fertility rates. To maintain 1995 labour forces, immigration to these countries would have to increase to 1.1 million a year. Finally, to “save social security” and maintain the ratio of persons 18 to 64 years old to persons 65 and older at present levels, immigration to these countries would have to increase 37-fold, to almost 9 million a year.

Many Europeans feel that there is no need for continued or more immigration. EU countries are receiving 300,000 to 500,000 legal newcomers a year, including returning citizens, family members of settled foreigners, guest workers, and asylum applicants, plus up to an estimated 500,000 unauthorized foreigners, not all of whom settle in Europe. Unemployment rates for foreigners from outside the EU are often two to three times higher than for natives and EU nationals, so that increasing current immigration flows, or regularizing unauthorized foreigners, can prompt political opposition from those who argue that the admission of immigrants added to unemployment and social welfare costs.<sup>26</sup> This opposition to additional immigration is evident in plans to enlarge the EU by accepting 12 eastern European countries, and possibly Turkey. Studies of potential migration flows if Poles and Hungarians had freedom of movement estimate that 335,000 workers from all of eastern Europe would migrate westward in the first year. After this migration hump, the number of migrants would



TABLE 4.2  
IMMIGRATION REQUIRED TO AVOID POPULATION DECLINE IN EUROPE: 2000-2050  
AVERAGE ANNUAL NUMBER OF MIGRANTS REQUIRED: 2000-2050

	Actual immigration in 1995 (000s)	To maintain 1995 pop. (000s)	Multiple of 1995 immigration	To maintain 1995 working-age population (000s)	Multiple of 1995 immigration	To maintain pop. support ratio* (000s)	Multiple of 1995 immigration
EU-15	270,000	949,000	4	1,588,000	6	13,480,000	50
Big 4 EU	237,000	677,000	3	1,093,000	5	8,884,000	37
France	7,000	29,000	4	109,000	16	1,792,000	256
Germany	204,000	344,000	2	487,000	2	3,630,000	18
Italy	6,000	251,000	42	372,000	62	2,268,000	378
UK	20,000	53,000	3	125,000	6	1,194,000	60
Other EU countries	33,000	272,000	8	495,000	15	4,596,000	139
USA	760,000	128,000	0	359,000	0	11,851,000	16

\* Migrants necessary to maintain 1995 population ratio of persons aged 15-64 to those aged 65 or older.

Source: United Nations, "Replacement Migration: Is it a Solution to Declining and Ageing Populations?", accessed online at: [www.un.org/esa/population/execsum.htm](http://www.un.org/esa/population/execsum.htm), 7 May 2001.

shrink to 160,000 a year by 2010, with 80 per cent of the migrants moving to Austria and Germany (Boeri and Brucker, 2000).

This projected migration hump prompted Austria and Germany to insist that the EU not grant freedom of movement to nationals of newly entered eastern European nations for at least two years (2005-06, if they enter in 2004). After this two-year interval, the current EU-15 members could, under the freedom of movement compromise, individually prevent migration for another three years (2007-09), and then for a further two years up to a maximum seven-year waiting period (2010-11). Eastern European EU-candidates eventually accepted this 2-3-2 freedom of movement plan.<sup>27</sup>

The efforts made by European governments to control immigration vary considerably. One study concluded that the major variables in migration control expenditures were the state of the economy, geography and history, with the single most important variable the state of the labour market: “the economy is the prime public argument against immigration in all the countries” (Brochmann and Hammar, 1999: 299). Geographical considerations follow. Italy has a longer coastline, is closer to major emigration areas, such as Albania, and has a large informal sector, and thus must spend more to manage migration than Norway, which is further from emigration areas and has a more regulated economy. Immigration history and policy play roles in the enforcement efforts of particular countries. For example, granting admission to ethnic Germans from the ex-USSR means they do not have to attempt unauthorized entry and stay.

## **4.2 The German migration system**

Germany, with 7.3 million foreign residents in 2000 (9 per cent of total population), has been debating since the 1960s whether it is a country of immigration. Between 1950 and 2000, some 31 million foreigners migrated to Germany, and 22 million left after stays of three months or more, yielding a net immigration of 9 million. By 2000, about 40 per cent of foreign residents had been in Germany for 15 years or more.

Germany has long maintained that it is “not a country of immigration”. However, on 4 July 2001, an immigration commission with representatives from all major political parties, as well as employers, unions and churches issued a historic report, “*Organizing Immigration – Fostering Integration*”, that declared: “Germany is and should be a country of immigration”. The Commission noted

that, in addition to the 250,000 foreigners who move to Germany each year to join family members, about 100,000 asylum seekers together with 100,000 ethnic Germans who are considered as German citizens upon their arrival enter the country. In addition to these flows, the commission recommended that Germany welcome an additional 50,000 foreign professionals a year.

The “Green Card” programme of August 2000 set the stage for the Commission’s recommendations. At the height of the high-tech boom, the German IT sector made it known that at least 75,000 jobs were waiting to be filled and that there were few computer specialists in the pipeline in German universities to fill them. It therefore recommended that the German Government allow the entry of foreign IT specialists. The ruling SPD-Green coalition government agreed, and five-year green cards were made available for up to 20,000 foreigners with the necessary computer skills, who were paid at least DM 100,000 (US\$ 45,000) a year. During 2000-01 around 1,000 foreigners received Green cards and, following the distribution of the first 10,000, a further 10,000 green cards were made available.

### **4.3 German immigration controls: external**

Germany spends at least US\$ 3.5 billion a year on immigration enforcement, with almost half supporting the 30,000-strong *Bundesgrenzschutz* (BGS) or Border Patrol employees (at US\$ 50,000 a year) ([www.bundesgrenzschutz.de](http://www.bundesgrenzschutz.de)), and, until 2002 the Federal Office for the Recognition of Refugees (<http://www.bafl.de/>), with a staff of 2,200 (at US\$ 50,000 a year). State and local governments care for about 80,000 new asylum applicants a year, in addition to over 400,000 foreigners who have lodged an appeal against the rejection of their claims, or who have been granted temporary protection status (TPS), at a cost of at least US\$ 5 billion (500,000 at US\$ 10,000 a year). Finally, there are costs for state and local aliens offices, labour inspectors to prevent the hiring of unauthorized foreigners (and other labour law enforcement), staff to process visas, etc.

Estimates of the number of unauthorized foreign residents in Germany range from 150,000 to 1.5 million. This wide range reflects the various ways in which a foreigner can be unlawfully present in Germany, from entering Germany illegally, or entering legally and then violating the terms of legal entry by working or overstaying. There is agreement that the number of illegal entrants peaks in the summer, when “working tourists” from eastern Europe find jobs in agriculture, construction and services, and that the number of unauthorized foreigners

rose in the 1990s. Most unauthorized or unwanted foreigners in Germany and Europe are believed to enter legally, as tourists or other visitors, so border controls are generally considered a weak “first line of defence” against illegal migration.

Germany’s BGS has been shrinking from 33,700 agents and support personnel in 1995 to 31,117 in 2001.<sup>28</sup> The data in Table 4.2.1 indicate that apprehensions and smuggling cases handled by the BGS peaked in 1998, and have since fallen slightly. However, indicators of illegal entry and smuggling suggest that enforcement measures have been unable to deter such activities, as their incidence was higher in 2000 than in 1995. In recent years, most of the foreigners apprehended near German borders were from Romania, Albania and Bulgaria.<sup>29</sup>

TABLE 4.2.1  
GERMAN BORDER PATROL ENFORCEMENT: 1995-2000

	1995	1996	1997	1998	1999	2000	2001
BGS Staff	33,700	33,909	33,445	33,246	32,681	31,692	31,117
	1995	1996	1997	1998	1999	2000	1995-00
Apprehensions	29,604	27,024	35,205	40,201	37,789	31,485	6%
Smugglers arrested	2,323	2,215	2,023	3,162	3,410	2,740	18%
Smuggled migrants	6,656	7,364	8,288	12,533	11,101	10,320	55%

Source: German Ministry of the Interior.

#### 4.4 German immigration controls: internal

There are distinct control systems in Germany to deal with residence and employment. The Central Register of Foreigners and the Aliens Authority report to the local Land government and the Federal Ministry of the Interior; while the Register of Work Permits and Labour Inspectors are the responsibility of the local Land government and the Federal Ministry of Labour. Computer data cross checks from these registers and separate computer databases of workers for whom employers pay social security and health contributions, can help to flag suspicious individuals and employers.

Germany has *Ausländerbehörden* (aliens offices) in most cities responsible for the issuing of residence permits. The data from local aliens offices is collected in a central aliens register. Police in the late 1990s located 130,000 to 140,000 foreigners a year who were suspected of being unlawfully in Germany, such as overstaying their visa entitlements, and charged 10,000 a year for falsifying documents (Büro der Ausländerbeauftragten, 2001: 72-3).

Foreign workers require work permits. Germany introduced employer sanctions in 1972 for the illegal hiring of alien workers as part of a broader effort to reform the aliens law, and increased administrative fines and penal sanctions for the hiring of unauthorized workers several times. Beginning in 1975, persons who recruited foreign workers outside established Federal Department of Labour channels could be fined up to DM 50,000, and in 1982 employer sanctions were increased to DM 100,000 or three years imprisonment.<sup>30</sup> However, most fines are small, e.g. in 1983 out of around 3,800 fines, 85 per cent did not exceed DM 1,000.

The Federal Department of Labour has primary responsibility for enforcing employer sanctions. However, labour inspectors acknowledge fines have not prevented 300,000 to 500,000 illegal aliens from being hired, at least on a seasonal basis on German farms, in hotels and restaurants and on construction sites, and this despite an unemployment rate of over 20 per cent for legal foreign workers, and the availability of legal channels through which migrant workers can be hired.<sup>31</sup>

When they were introduced, sanctions were endorsed by major employers' and workers' organizations, and deemed necessary to assure the public that immigration was under control. Nor did the few immigrant associations voice any concern about discrimination; some endorsed the idea that a line needed to be drawn and enforced between legal and illegal migrants to prevent the growth of anti-immigrant sentiments. An ILO convention No. 143, approved in 1975, includes a provision for employer sanctions and a draft directive issued by the then European Communities in 1978 encouraged the adoption of employer sanctions, but British resistance prevented its EC-wide adoption.<sup>32</sup>

In the 1990s Germany's internal control system seemed to fail as a result of: (a) slack enforcement in the late 80s and early 90s, when the economy was growing and the cold war coming to an end, and (b) the reluctance by the German Government to enforce laws strictly against eastern Europeans who were just beginning to make use of their freedom to travel abroad. During the late

80s and early 90s, there were many reports of Polish schoolteachers or doctors earning more in one month harvesting apples and grapes in Germany than they earned during the rest of the year in Poland, and the general reaction was that Germany should not endanger the eastern European transition economies by strictly enforcing employer sanctions. Relaxed enforcement led to some German employers becoming dependent on foreign workers, making it difficult to enforce sanctions effectively when stricter enforcement was attempted in the mid-90s.

The best example is the construction sector in Berlin. Berlin was the world's largest construction site in the mid-90s. Some 10,000 building sites, including 300 major projects, were scattered throughout the city in 1997. Construction contractors and subcontractors employed about 550,000 workers, including 200,000 foreigners of whom 15 to 25 per cent were not authorized to work in Germany.

To combat unauthorized work on construction sites, Germany assigned extra labour inspectors to enforce labour and immigration laws. They mounted at least one "major inspection" each month, involving up to 100 police officers with dogs to surround the construction site to prevent anyone from leaving during the inspection, and 200 to 300 labour inspectors to check the legal status of each worker on the site. A convoy of 50 or more vehicles assembled near the site, police surrounded the site and inspectors rushed into the partially assembled buildings to determine exactly what workers were doing. A foreign worker could be legal if he was laying bricks, but not if he was painting, or he may be working for the "wrong" employer.<sup>33</sup> During inspections, workers were quickly interviewed on site and then taken to a central location where their work permits were reviewed. Construction workers are required to carry permits with their photos. Workers without proper permits were handcuffed, placed in police vans and taken to detention facilities.<sup>34</sup> If their suspected unauthorized status was confirmed, the Aliens Police would remove them from German territory.

However, such raids failed to prevent unauthorized foreigners from working in the German construction industry. In October 2001, the German Labour Office reported that 3,500 labour inspectors, supported by police and aliens authorities, checked 5,400 employers and 17,000 construction workers and found 5,200 suspected violations. For example, 1,500 workers did not receive the minimum wage to which they were entitled, (DM 19.17 an hour in former West Germany, DM 16.87 in the former East), 780 did not have work permits and 900 were drawing unemployment or other benefits while working (black

market). In 190 cases it appeared that employers had unlawfully “lent” their workers to another employer. The results of a September 2001 inspection were similar – 5,000 suspected violations, including 1,600 for violation of minimum wage regulations, 740 for lack of work permits and 900 for drawing benefits (<http://www.arbeitsamt.de/hst/services/presseinfo/index.html>).

There were two broad responses to the combination of high unemployment rates among German workers and the complaints of labour shortages that resulted in the presence of large numbers of foreign workers in Germany. One response was to blame structural rigidities and excesses in the German labour market for the paradox of high unemployment and foreign workers. For example, unemployment insurance (UI) benefits and assistance can continue indefinitely at relatively high levels, so unemployed German and legal foreign workers are allegedly able to avoid hard and dirty jobs that other foreigners were willing to accept.<sup>35</sup> The argument runs that if minimum wages were lowered and UI benefits reduced, German and resident foreign workers would be induced to apply for jobs and German employers would be more ready to hire them.

The second response was the call for stricter labour law enforcement to preserve jobs in the high-wage, high-benefit German labour market for Germans and legal foreigners. Tougher labour law enforcement requires more inspectors, as well as laws that would, e.g. make the general contractor liable for all labour law and immigration violations found on a work site (joint liability between general contractors and subcontractors).<sup>36</sup> Germany mainly followed this stepped-up enforcement approach.

## **4.5 Assessment**

As Europe’s economic locomotive, at least until recently, Germany accounted for about one-third of total EU GDP. German efforts to prevent unauthorized migration include border controls, residence controls and employer sanctions. The German BGS has one of the largest staffs in Europe – about 31,000 agents and support personnel, and it aims to prevent primarily unauthorized entries over the Polish and Czech borders. Between 1995 and 2000, apprehensions and other indicators of unauthorized entry generally rose, but were below the 1998 peaks. Germany keeps a central register of foreigners and an aliens office responsible for issuing residence permits to foreigners; the administration of household registration and work permit systems is handled jointly at the federal and state levels.

Even though the German labour market inspection system is well organized, it is not able to discourage the entry or employment of unauthorized foreign workers. Many of the sites on which unauthorized workers are found have multiple layers of employers, including a general contractor and several subcontractors. Most unauthorized workers are employed by subcontractors, some of whom go out of business without paying fines for hiring unauthorized workers. Local prosecutors who considered drugs and other crimes to have higher priority often fail to investigate “victimless” cases involving foreign workers.



## **5. THE NETHERLANDS: LIBERAL TO TOUGH**

The major external controls established by the Netherlands is the visa requirement for foreigners to prevent the violation of immigration laws in conjunction with other Schengen countries, the regulation of immigration for the purpose of family reunification (requiring family members to obtain residence and work permits in their countries of origin), and efforts to rapidly process asylum applications. Internal controls have been tightened, primarily by linking household and other databases in a manner that makes it very hard for someone without a legal residence permit to work or to obtain welfare benefits.

The major immigration issues in 2002 included high unemployment rates among foreigners, high crime rates and the removal of rejected asylum seekers. In 2002, Pim Fortuyn, a parliamentary candidate, highlighted the difficulty of integrating Muslim immigrants; his party entered the coalition government and was in control of the immigration ministry for six months.

### **5.1 The immigration system in the Netherlands**

The Netherlands is one of the most densely populated countries in the world, prompting the government to sponsor emigration from 1945 to 1969 – about 500,000 Dutch citizens emigrated, many with government assistance.<sup>37</sup> Between 1870 and 1960, emigration exceeded immigration but, since then, the Netherlands has become a net immigration country (with the exception of 1967). There were two special immigrant inflows in the post-war period: some 300,000 Dutch and Indonesians arrived between 1945 and 1968,<sup>38</sup> and a third when some 400,000 residents of Surinam migrated to the Netherlands in the early 1970s.<sup>39</sup> The number of immigrants entering the Netherlands rose by 10 per cent to nearly 133,000 in the year ending 31 May 2001; 50 per cent were from Europe.

In 2000, 668,000 foreigners lived in the Netherlands, including 17 per cent Moroccans and 16 per cent Turks. The number of Moroccans and Turks peaked in 1992 at 165,000 and 212,000, respectively, the comparable numbers in 2000 were 111,000 and 101,000, mostly reflecting naturalizations. The number of asylum seekers peaked at 53,000 in 1994, and averaged about 44,000 a year in the late 1990s. There were 1.4 million first-generation foreigners in the Netherlands in 2001, led by 183,000 Surinamese, 178,000 Turks and 153,000 Moroccans. However, most of these foreign-born residents have been natural-

ized; about 60,000 foreigners a year were naturalized in the late 1990s. There were also 1.4 million second-generation foreigners (those with at least one parent born outside the Netherlands), including 124,000 Surinamese, 138,000 Turks and 117,000 Moroccans. Half of the immigrants in the Netherlands are classified as “western”, meaning they are from Europe, the US or are Dutch nationals from Indonesia; the other half are classified as “non-western”, and are mostly from Morocco, Turkey and Latin America. The strongest growth is recorded in the non-western immigrant population.

According to Penninx (2001), until 1980 no one single term was used to describe Dutch immigration policy, when the term *allochtonen* (literally non-native) policy was adopted. Most foreign residents were assumed to be temporary residents, with, e.g. the Ministry of Social Affairs responsible for guest workers. Government-appointed commissions concluded that the Dutch policy of treating each group of foreigners separately was actually failing, and in 1983 a commission urged the government to accept the fact that most foreigners would stay, and that more should be done to integrate them into the workplace.

Integrating foreigners has challenged the structure of Dutch society, which is often referred to in terms of “pillars”. Catholic and protestant communities lived their lives within one (vertical) pillar by, for example, going to catholic or protestant schools, supporting catholic or protestant political parties and by belonging to catholic or protestant unions until the 1960s, when society became more secularized. Immigrants formed new minorities, but they were horizontally integrated into Dutch institutions, not vertically integrated in a distinct pillar of their own. As immigrants integrated with each other into the working class, the Dutch Government took steps to promote integration. For example, the Dutch pioneered so-called integration contracts in the 1996 Newcomers Policy. Since September 1998, foreigners sign contracts upon arrival that require them to take 500 hours of Dutch classes and 100 hours of classes on Dutch civic lessons, and those who refuse to participate suffer a reduction in their welfare benefits.

Foreigners who have been in the Netherlands for at least five years can obtain a permanent residence permit (three years if they have joined established family members). Since 1985, children born to non-Dutch parents who were themselves born in the Netherlands can automatically obtain Dutch nationality if they elect to between the ages of 18 and 25 – they are then to give up their former citizenship. But proof that they have given up their parents’ nationality is subject to local variations, with the government ordering local authorities since 1992 to give the benefit of the doubt to the foreigner.

Like other European countries, the Netherlands signed recruitment agreements with southern European and northern African countries in the 1960s,<sup>40</sup> and the population share of Moroccan and Turkish origins soon increased significantly.<sup>41</sup> The labour recruitment system required employers to seek local workers before receiving permission to recruit non-EU foreign workers. During the 1960s, many intending guest workers entered the Netherlands as tourists and found jobs, and Dutch authorities often legalized them. Unlike Germany, the Netherlands did not formally halt labour recruitment, but the demand for unskilled foreign workers decreased after 1973, and few new foreign guest workers were admitted. However, settled guest workers could unify their families and obtain work permits. For example, the Act on the Employment of Foreign Workers (November 1979) allowed those born in the Netherlands, as well as those who immigrated to join family members, to “declare” that they were entitled to work permits. These declarations became routine, and 10,000 were recorded as having been made by Turks and Moroccans in 1995, when the 1979 act was replaced by a new Law on the Employment of Foreigners.

During the 1980s, there was rapid job growth. The Dutch developed a “*Polder*” economic policy in 1982, under which business, unions and government negotiated wage agreements aimed at restraining inflation, employers promised to hire more workers, and the government reduced labour costs by curbing increases in wage-related taxes and social-security contributions. The result was “the Dutch miracle” that brought the unemployment rate down to 2.7 per cent in 2000, the lowest rate in 20 years. This economic boom attracted EU workers – an estimated 5,000 a year in the late 1990s, as well as non-EU citizens – some 27,700 employment permits were issued to non-EU nationals in 2000, most to professionals. Beginning in 2002, non-EU professionals who were paid at least EUR 50,000 a year could be admitted via an accelerated procedure (no Dutch labour-market test) if their contracts were for less than four and a half years.

The Dutch labour force stood at 7.2 million in 2000, including 270,000, or 3.8 per cent, unemployed workers. Dutch labour force data distinguish between natives and non-natives, and in 1998, 67 per cent of natives aged between 15 and 64 (6.3 million), and 57 per cent of non-natives (663,000), were in the labour force. Despite their higher labour force participation, the jobless rate for Dutch workers stood at 4 per cent in 1998, and at 13 per cent for foreigners. Partly to increase the labour force, in 2000 the government lifted its prohibition on granting asylum seekers work permits while they waited for decisions on their applications. There were also efforts to increase the labour force through a renewed effort to find jobs for second-generation foreigners, many of them jobless, and to reduce taxes to encourage women at home to work at least part

time. Many employers want to restrict generous payments to the disabled – about 950,000 people, almost 10 per cent of the adult population, are considered at least partially disabled.

The Dutch have had an ethnic minorities policy since 1983 with the aim to prevent the formation of ethnic minorities: “integration should take place without the loss of cultural identity”. Muus (2002) concluded that the Dutch minorities policy worked well except in the labour market, where in 1990 persistently high unemployment led to a refocusing of integration efforts on individuals instead of on groups, which assumed concrete form under the integration contracts.

## **5.2 Immigration controls in the Netherlands: external**

The Netherlands spends at least US\$ 1 billion a year on immigration enforcement and asylum processing and care, for an IND staff of 3,500 (at US\$ 50,000 each this comes to US\$ 175 million), COA care for 30,000 first-time asylum seekers, plus another 30,000 who are appealing first rejections (60,000 at US\$ 10,000 each = US\$ 600 million), and at least US\$ 225 million for the costs of related agencies, such as the Royal Netherlands Military Police, Aliens Police, and visa issuance etc. The 2002 budget of the Ministry of Justice was EUR 4.8 billion, of which EUR 1.3 billion, or 27 per cent, was reserved for asylum and migration, including care for asylum seekers and their return.

The Immigration and Naturalization Service (IND), a department with a staff of 3,500 in the Ministry of Justice, has primary responsibility for Dutch migration policy. Other agencies involved in immigration enforcement include the local police, the Royal Netherlands Military Police (border patrol and removal of foreigners), Aliens Police (issuing residence permits, detention), the Agency for the Reception of Asylum Seekers (COA), and the Ministry of Foreign Affairs. In addition, all legal residents of the Netherlands must register with the Municipal Personal Records Archive (GBA), operated by the Department of Civil Affairs of each local council (<http://www.vng.nl/>). The 2003 budget for the Ministry of Justice is EUR 4.5 billion, including EUR 1.1 billion for asylum and migration, for, among others, the reception, processing and return of asylum applicants.<sup>42</sup>

Family reunification and asylum continue to bring foreigners to the Netherlands, but both entry doors have been modified by the policies introduced in

the 1990s. Non-EU foreigners wanting to bring family members to the Netherlands need a settlement permit and housing that satisfies minimum norms as well as an income above a certain threshold. Family members must obtain an Authorization for Provisional Stay (*Machtiging Voorlopig Verblijf*, MVV) from a Netherlands consulate abroad; it cannot be obtained in the Netherlands. Muus (2002) concluded that these efforts to make family reunification more difficult did not actually prevent it.

The second major group of newcomers are asylum seekers. As in other EU countries, the rising number of asylum applications has turned the granting of asylum into a political issue. The first crisis occurred in 1985, when large numbers of Tamils applied for asylum, and prompted the development of general regulations for asylum seekers in 1987, including providing them with room and board in so-called Reception of Asylum Seekers (ROA) houses, but not work permits.<sup>43</sup> In 1991 a TPS status (*gedoogden*) was introduced for those who were not refugees, but could not be removed – they could obtain work permits after two years. In January 1994, TPS was changed to provide conditional stay permits (*Voorwaardelijke Vergunning tot Verblijf*, VVtV) for three years, with a work permit in the third year, and then converted to a permanent residence permit in the fourth year if the foreigner could not be removed.

Asylum applications rose again in the late 1990s, from 22,857 in 1996 to 34,000 in 1997, to a peak 48,000 in 1998 – there were 27,570 in 1999. Between 1994 and 1998, some 236,000 asylum applications were dealt with, and 32,000 applicants were recognized as refugees and another 32,000 were granted TPS – 172,000 applications were rejected. Many of those rejected remained in the Netherlands. The new aliens law of 2001 aims to render decisions on asylum applications within six months. However, most rejected asylum seekers are told to leave; they are not usually detained or removed forcibly. The government earmarked US\$ 850 million for refugee processing expenditures in 1999. In many cases, applicants can appeal rejections and remain in the country for two to three years. Other policies aimed at controlling the entry of non-EU foreigners include visa policies, carrier sanctions and assistance to high-risk countries aimed at identifying fraudulent documents.

### **5.3 Immigration controls in the Netherlands: internal**

Estimates of irregular migrants in the Netherlands for 2001 range from 46,000 to 110,000. Two-thirds of these are concentrated in the four largest cities:

Amsterdam, Rotterdam, Utrecht and The Hague. Most migrants had arrived from Suriname, the Antilles and North Africa, and many had entered legally on tourist visas to visit relatives and had subsequently settled in the Netherlands. However, their irregular status prevents many from being able to work, and some turn to criminal activities – if caught, they often destroy their papers to make their removal difficult.

Employer sanctions were introduced in 1979, but not very vigorously enforced. In 1975, about 18,000 foreigners in the Netherlands benefited from an amnesty programme if they had been in the country since at least 1 November 1974, had regular jobs and no criminal record. This was followed in 1980 by another, smaller regularization programme. Muus (2002) concludes that during the 1980s there was no strict internal control at the work place, nor checks on the legality of a migrant's presence in the country when registering with the population register, or applying for the Dutch social financial (SOFI) number, which is required for registration in the social security and taxation system. In 1991, applicants for a SOFI number had to have a valid residence permit.

The issue of unauthorized foreigners attracted notice in 1992, when an airplane crashed into a high-rise apartment complex in Amsterdam that housed large numbers of unauthorized foreigners, who were allowed to regularize their status – the regularization attracted far more people than could have possibly lived in the complex.<sup>44</sup> In July 1994, sanctions were tightened – employers were required to copy the residence and work permits of newly hired foreigners. Another regularization programme in 1997 targeted so-called “white illegals”, persons having lived and worked illegally in the Netherlands for at least six years. In 1998, a new law (the *Koppelingswet*: freely translated into “cross referencing” or “linkage” law) allowed cross checks to be made between aliens registers and other databases. Muus (2002) asserted that the *Koppelingswet* made it virtually impossible to work or to participate in any aspect of the Dutch welfare state, such as housing, education or health care if one did not have a valid stay permit.

**Asparagus Case Study.** The 1,200 Dutch growers of white asparagus hire 8,000 to 10,000 seasonal workers for the harvest in May and June. Most of the asparagus is grown under plastic sheets, dug up and sold fresh to Dutch and German customers. The average farm is small, with perhaps one hectare of white asparagus, and most farmers hire four or five workers per hectare. Most harvesters are Dutch, but the efforts of some farmers to hire Polish workers

generated controversy in the mid-1990s, and highlighted differences between German and Dutch treatment of Polish “tourist workers”. Since the early 1980s, Poles as tourists in the Netherlands have been employed in the bulb-growing industry in the province of North Holland. In 1990, the Employment Service (ES) threatened to stop unemployment insurance payments to unemployed Dutch workers if they refused to accept seasonal farm work.

In 1992-93, the focus shifted to labour shortages for the asparagus and strawberry harvests in Limburg. When the media spotlighted the hiring of Poles without work permits, 600 work permits were made available to hire foreign workers in 1993, together with a warning to employers to get serious about finding and hiring Dutch workers. Seasonal workers, employed for less than two months, account for about 5 per cent of the total work force. In 1994, the Minister of Social Affairs, with responsibility under the *Wet Arbeid Vreemdelingen* (Foreign Labour Act) to issue work permits to non-EU foreigners, refused to issue work permits for seasonal Polish workers in the Limburg area, promised tougher enforcement against illegal workers, and advised farmers to make use of a special project (ASA) to find seasonal help from among the local unemployed workers. However, the employers countered that they wanted to hire Poles and the Limburg employers group (LLTB) sued the government to get work permits for Poles – and won. However, they were in turn charged by a union, *Voedingsbond FNV*, for underpaying foreign workers. The ASA project, a government-financed effort to place unemployed Dutch workers in seasonal farm jobs, was deemed a disaster, with every hour of farm work provided actually costing the government US\$ 30.

In 1995, the government again denied permits for Polish workers and farmers again sued, but this time the farmers lost – no permits were issued to Poles. *Voedingsbond FNV* announced that it would pay strike benefits to Dutch workers who refused sub-minimum wage jobs harvesting asparagus. In 1996, there were no disputes, although harvest workers were recruited in Ireland and Portugal. Both Dutch and EU law require Dutch employers wanting to hire non-EU foreign workers to request workers from the Employment Service, accept referrals from anywhere in the EU, and to provide foreign workers with in-bound transportation and accommodation. In 1986, court rulings obliged employers and seasonal workers to pay social insurance contributions, although subsequent *ad hoc* decisions have permitted some seasonal farm workers to remain outside the system. Unemployed Dutch workers were also allowed to earn up to 600 guilders a month in agriculture and still draw UI benefits.

## 5.4 Assessment

The major new immigration development in 2002 was the success of the Fortuyn List, which became part of the first centre-right coalition government in 25 years. Pim Fortuyn, a former sociology professor who launched the party, achieved publicity by challenging the Dutch tradition of tolerance that welcomed immigrants. He said: "I think 16 million Dutchmen are about enough. This is a full country." Fortuyn argued that immigrants must learn the Dutch language and integrate into Dutch society, and called for a halt to new arrivals until those already in the country had been fully assimilated. He was particularly scornful of Muslims: "How can you respect a culture that requires the woman to walk several steps behind her man, to stay in the kitchen and keep her mouth shut."

Fortuyn was assassinated a week before the elections, but his party was given the immigration ministry. The coalition government issued a statement that read: "A restrictive aliens policy is necessary, and illegal immigration should be fought with vigour." The new government announced plans that asylum seekers would be obliged to pay a EUR 7,000 deposit for compulsory Dutch language and citizenship lessons, to further restrict family reunification, and to improve the enforcement of employer sanctions. The new government also promised to remove rejected asylum seekers more speedily. But, the government collapsed and new elections are scheduled for January 2003.



## **6. UNITED KINGDOM: LIMIT ENTRIES, LIMIT PROBLEMS**

The United Kingdom has also been attracting increasing numbers of foreigners. In 1999, the government raised projected net immigration from 65,000 to 135,000 a year, and net immigration topped this range in 2000 at 183,000. The UK has traditionally had an island strategy to deal with unwanted foreigners – tight screening at ports of entry, and relatively few internal controls. This policy has been sorely tested in recent years, especially by foreigners arriving from continental Europe on trains, trucks and other vehicles, and applying for asylum. The UK has dealt with the issue in two ways: preventing the entry of foreigners who may seek asylum, and changing the asylum system. To limit the employment of illegal foreign workers the government is combining carrot and stick: larger programmes and stricter enforcement.

### **6.1 The British immigration system**

Historically, Britain was a country of emigration, with large numbers of the population emigrating to Australia, Canada and South Africa in the 1950s. With the appearance of labour shortages, Irish workers were thought to be able to fill them as they were free to move to the UK. Based on such expectations, the arrival and settlement of migrants from the ex-colonies in the Caribbean and the Indian subcontinent in the 1950s and 1960s was unexpected, and led to the introduction of the Commonwealth Immigrants Acts of 1962 and 1968 and the Immigration Act of 1971 in an effort to restrict immigration.

Throughout the 1970s and 1980s some 60,000 foreigners a year settled in the UK, but emigration generally exceeded immigration, and the UK did not become a net immigration country until the 1990s. For example, in 1998, the Office of National Statistics reported a record 400,000 foreigners who had come to stay in the UK for periods exceeding three months. Set against some 224,000 departures from the UK, net migration stood at 178,000, almost double the levels of 1997 and 1996. In October 1999 the UK Government projected a net immigration of some 65,000 a year, but raised that number to 135,000 a year in 2001. Most immigrants are concentrated in the greater London area.<sup>45</sup>

Some 90,000 foreigners were granted British citizenship in 2001, up sharply from 40,000 to 60,000 a year of the 1990s – reaching a peak of 118,000 in 1989. Of those persons naturalized in 2001, 45 per cent gained citizenship on

the basis of residence, 30 per cent through marriage, and 25 per cent were minor children. Forty per cent were from Asia and 35 per cent from Africa.<sup>46</sup>

There are three major immigration issues: rising numbers of asylum applicants, efforts to expedite the entry of skilled and professional foreigners, and race relations issues – or of how to deal with the integration of minorities, many from ex-British colonies. Illegal immigration is less of an issue in the UK than in many other countries, although there are periodic reports of special enforcement actions aimed at detecting unauthorized eastern Europeans filling low-level British jobs.

**Asylum.** In the 1990s the number of asylum applicants climbed steadily from 22,370 in 1993 to a peak 80,315 in 2000, falling again to 71,365 in 2001. The leading countries of origin in 2001 were Afghanistan with 9,000 principal applicants, Iraq (6,705), Somalia (6,465) and Sri Lanka (5,510) – accounting for 40 per cent of 2001 applications. As in the past, there were about two applications from foreigners inside the UK for every application filed at a port of entry.

In recent years, 28 per cent of asylum applicants have been allowed to stay in the UK, either because they were granted refugee status (15%) or exceptional leave to stay (13%). This means that most asylum applicants were refused permission to remain but, as noted in the UK Home Office RDS Occasional Paper 75: “Although some 80 per cent of asylum seekers are not granted asylum or exceptional leave to remain, nearly all of them need to be recorded as migrants as they stay at least a year while their application is decided and their appeal against refusal is heard.” (2001: 43).

The UK provides housing and other assistance to asylum applicants with no other means of support while they await the outcome of the determination procedure. The concentration of asylum applicants in London, as well as complaints that some asylum applicants were begging or crowding others out of scarce housing, led to the passage of the Immigration and Asylum Act (IAA) of 1999, which required the Home Office to make initial decisions on asylum applications within two months and deal with appeals within a further four months. The IAA also created a National Asylum Support Service (NASS) to distribute asylum applicants around the UK, and to provide them with vouchers instead of cash.<sup>47</sup> Dispersal and vouchers were controversial, but were defended by Home Office Immigration Minister Barbara Roche who argued that manifestly unfounded claims were coming into the system, undermining its very

TABLE 6.1  
ASYLUM APPLICATIONS IN THE UK: 1998-99 TO 2000-01

	Applications	First decisions	Result: Refugees	Result: ELR	Result: Refused	Backlog	IND operating costs (£m)	Asylum support (£m)
1998/99	51,255	24,325	16%	14%	71%		258	536
1999/00	76,155	52,040	24%	11%	65%	115,100	589	702
2000/01	79,125	132,840	11%	13%	77%	59,500	484	747
Total	206,535	209,205	15%	13%	82%		1,331	1,985

Notes: Principal applicants only; there are another 15,000 to 25,000 family members.  
ELR = exceptional leave to remain; IND = Immigration and Nationality Directorate.  
Source: <http://www.workpermits.gov.uk/default.asp?PageId=1206>.

integrity. Migrants were coming to the UK to seek a better life and the system could not sustain such economic migrants.

In the fall of 2001, the Home Office proposed vouchers to be replaced by “smart cards” with the applicants’ photograph and fingerprint; applicants would have to show the smart card to obtain room and board while a decision on their applications was pending. The government also announced plans for the establishment of accommodation centres and, if an applicant failed to report to such a centre, he would forfeit any support to which he might otherwise have been entitled.

The costs of the British asylum system are twofold: operating costs for the Immigration and Nationality Directorate (IND), and support costs for asylum seekers. More funds are spent on asylum support than for IND operations; £ 747 million in 2000/01 for asylum support, or one-and-a-half times the £ 484 million spent on IND operations. The UK provides legal assistance to asylum applicants;<sup>48</sup> totalling £ 6 million a year in the mid-1990s. Unsuccessful asylum applicants are supposed to leave the UK: some 8,925 unsuccessful asylum applicants were removed by the Immigration Service in 2000-01, together with 5,250 irregular foreigners.

In 2001-02, the French Red Cross centre in Sangatte, close to the entrance to the Channel Tunnel, became a flashpoint for French-British tensions over asylum. A converted warehouse in Sangatte housed 1,500 to 2,000 residents, 90 per cent Kurds and Afghans intending to enter the UK by jumping onto trains crossing through the 32-mile tunnel,<sup>49</sup> causing repeated complaints over the frequent interruptions of the train service. After several years of wrangling and assertions that the UK was a “soft touch” for asylum applicants and that France did not do enough for them, a compromise was reached under which France closed the Sangatte centre at the end of 2002 and strengthened its police force to prevent migrants from jumping onto UK-bound trains.

**Foreign Workers.** London is the financial hub of Europe, attracting professionals from EU countries in law as well as banking and finance. The UK actually facilitated access by non-EU professionals since, in the words of Barbara Roche, Britain was in competition for the brightest and best talents – the entrepreneurs, the scientists, the high-technology specialists who made the global economy tick. Roche took the lead in arguing that immigration was generally beneficial to the UK, a view confirmed by a January 2001 study, *Migration: An Economic and Social Analysis*. It concluded that Britain’s foreign-born population paid £ 2.6 billion a year or 10 per cent more in government revenues than

they received in government-funded benefits. Echoing a similar US report, the British report emphasized that the average gain from immigration masked both the significant benefits from well-educated and high-income immigrants, and the public finance deficits that often accompany unskilled migrants.

The UK runs four guest worker programmes: two for professionals and two for unskilled workers. British employers apply for work permits for non-EU foreigners with Work Permits UK, a Sheffield-based government agency attached to the Department for Education and Employment ([www.workpermits.gov.uk](http://www.workpermits.gov.uk)). About 150,000 such applications are made annually, usually for foreign professionals, of which around 90 per cent are approved. Work Permits UK recognizes “acute shortages” of doctors and nurses, as well as in electronic and structural engineering. Under the Highly Skilled Migrant Programme (also called the green card programme) an unlimited number of foreign professionals who score at least 75 points on a 100-point scale are admitted to the UK for one year. Thirty points are awarded for a Ph.D., 25 points for an M.A. and 15 points for a B.A. degree, with additional points awarded for work experience, past earnings and achievement.

The UK runs two major programmes for unskilled workers. Under the first, 40,000 young Commonwealth citizens (aged 17-27) a year are admitted to the UK as so-called “working-holiday makers”, a programme established in 1962. Working-holiday makers, most of whom arrive from Australia, New Zealand and South Africa, can stay in the UK for up to two years and work during half that time to support themselves without having to secure a work permit. The UK plans to recruit more young people from black Commonwealth countries, and may extend the working-holiday makers programme to 12 eastern European countries. The second programme admits up to 20,200 eastern Europeans for up to six months a year to fill seasonal jobs in agriculture. The further expansion of this programme is under discussion to allow eastern Europeans to fill jobs in the construction and hospitality industries.

**Race Relations.** Britain is changing, in part because of immigration – in 1999 net immigration stood at 182,000, the highest peacetime rate of net immigration since records began in 1855.<sup>50</sup> The UK population is projected to reach 65 million by 2025. Ethnic minorities account for 7 per cent of total British residents of 60 million, and one-third of London residents are non-white. There are two major minority groups: Afro-Caribbean (1 million), with origins in the West Indies and Africa; and Asian (2 million), of Indian, Pakistani, Bangladeshi and Sri Lankan origins.

A report on race relations and disturbances in several cities published in 2000 launched a debate over the integration of immigrants. The Commission on the Future of Multi-ethnic Britain issued a 400-page report in 2000 urging to stop using the term “British”, arguing that the term no longer describes residents of the multicultural United Kingdom: “Britishness, as much as Englishness, has systematic, largely unspoken, racial connotations. Whiteness nowhere features as an explicit condition of being British, but it is widely understood that Englishness and by extension, Britishness, is racially coded.” The report asserts that whiteness and Britishness go together “like roast beef and Yorkshire pudding”. The report was denounced by many politicians; Home Secretary Jack Straw said he was “proud to be English and proud to be British”.

Britain held national elections in June 2001, and the Government Commission for Racial Equality asked candidates to sign an anti-racism compact promising “not to pitch one group against another for short-term political or personal gain (...). The right to free political expression must not be abused in the competition for popular votes by causing, or exploiting, prejudice and discrimination on the grounds of race or nationality.” While most candidates signed the CRE pledge, some conservative MPs refused, and one took out newspaper ads highlighting alleged abuses of the asylum system. Immigration was a topic during the campaign, in part because Tory leader William Hague made a speech in March 2001 asserting that the UK was becoming a “foreign land” because of immigration. He pledged that, if elected, he would “give you back your country”. Hague was not elected – Labour won 42 per cent of the vote and 413 out of the 659 seats in the House of Commons, while Hague’s Conservatives won 32 per cent and 166 seats.

There were clashes between white and south-Asian youths in British midlands cities, such as Bradford, Burnley, Leeds and Oldham in May-July 2001.<sup>51</sup> Asians had started to arrive in these cities in the late 1960s and often worked the night shift in local textile mills. As the mills closed, many Asians opened stores or became taxi drivers. Many second-generation immigrant youths, jobless and frustrated, “took control” of the areas in which they lived, declaring them out-of-bounds for whites. This prompted the British National, and the National Front parties to retaliate with no-go areas for Asians. Following the riots, a report concluded that whites and non-whites in the UK led separate existences, with little social or cultural contact and no sense of belonging to the same nation. It held that many communities operated on the basis of a series of parallel lives. These lives did not seem to touch at any point, let alone overlap or promote any meaningful interchanges. Segregation, albeit self-segregation, was deemed to

be an unacceptable basis for a harmonious community and seen to lead to more serious problems if it was not tackled. Home Secretary David Blunkett<sup>52</sup> suggested that the immigrants were largely at fault, stressing their need to learn English: “This is not ‘linguistic colonialism’, as my critics allege, it is about opportunity and inclusion. This is not cultural conformity. There is no contradiction between retaining a distinct cultural identity and identifying with Britain.” He added that minorities could speed integration by adopting British “norms of acceptability” and suggested that newcomers take an oath of allegiance, study British history and culture and embrace “our laws, our values, our institutions”.

## **6.2 British immigration controls: external**

The UK’s IND agency spent about £ 1.3 billion in 2002, plus another £ 2 billion for asylum support, out of a total of at least £ 3.3 billion, or US\$ 5 billion (<http://www.workpermits.gov.uk/default.asp?pageid=1558>). Immigrants also earn incomes on which they pay taxes, and reports prepared for the Home Office in 2001 and 2002 concluded that they are a net economic asset for the UK, largely because many earn high incomes. In the period 1999/2000, immigrants paid £ 31 billion in taxes and consumed £ 29 billion in tax-supported public services, generating a fiscal surplus of over £ 2 billion (Gott and Johnston, 2002).

Britain inspected 90 million passengers arriving in 2000/01, at a cost of about £ 0.55 per person. Like the US, the UK has traditionally followed the island strategy of concentrating immigration controls at the border, and added carrier sanctions to make airlines, shipping companies, railway and truck operators bear the cost of careful screening. The Immigration (Carriers Liability) Act of 1987 introduced fines of up to £ 2,000 for each migrant found on cars, planes or ships entering the UK – the fine is waived if the migrant applies for, and is granted, asylum. Carrier sanctions were expanded to include trucks and other vehicles on 1 January 1999.<sup>53</sup>

Truckers received the largest fines. On average, four trucks a minute arrive from continental Europe, and 20,000 migrants arrived on trucks and applied for asylum in the UK in 2000. During the first year of carrier sanctions from April 2000 to March 2001, some 877 vehicle operators caught with 4,666 migrants were fined; however, only £ 1.1 million of the £ 9.3 million in fines assessed were actually collected.<sup>54</sup> On 19 June 2000, tragedy struck – 58 Chinese migrants were found suffocated in a Dutch-registered truck carrying tomatoes from

Rotterdam via Zeebrugge to Dover, a four-and-a-half hour ferry journey. The migrants were believed to have paid smugglers anywhere from US\$ 20,000 to US\$ 30,000 each, and were thought to have agreed to work in one of London's 10,000 Chinese restaurants to repay the smuggling debt. EU leaders who were meeting in Portugal at the time, condemned the "evil trade in people" and pledged to cooperate in "detecting and dismantling the criminal networks involved in this trafficking and to adopt severe sanctions against those involved".

To prevent asylum applicants from reaching the UK, British Airline liaison officers were stationed at 14 locations abroad to help airlines spot passengers without the right papers. British immigration officers check passengers boarding the Eurostar train in France to detect those without proper documents. However, a similar procedure introduced at Prague airport in July 2001 allowing British pre-inspections to obviate the need for visas for Czech citizens raised protests alleging racial profiling: the International Romany Union claimed that they were aimed against Roma to prevent them from going to Britain and asking for asylum there. The UK concurred stating that during the last three years too many people from the Czech Republic had sought to evade or abuse UK immigration laws and then applied for asylum, which they were not thought to qualify for. Roma consider themselves Europe's largest minority population – 8 million out of a total of 12 million live in Europe.

### **6.3 British immigration controls: internal**

In 2000, some 46,600 foreigners were refused entry at ports (38,300) or were removed after enforcement procedures (8,300). Some 50,600 foreigners were issued notices of intent to deport in 2000, nearly double the figure of 1999. About 81 per cent were asylum seekers.

The UK introduced employer sanctions under Section 8 of the Asylum and Immigration Act of 1996 ([www.hms.gov.uk/acts/acts1996/1996049.htm](http://www.hms.gov.uk/acts/acts1996/1996049.htm)), which provides fines of up to £ 5,000 for each unauthorized worker hired, as well as criminal penalties for repeat violations. Like the US, British employers are obliged to check documents to ensure that workers are authorized to work in the UK, although in so doing, they may not discriminate on the basis of race, colour, ethnic or national origin or nationality as this would violate the Race Relations Act of 1976. The Home Office's Immigration and Nationality Directorate, which administers employer sanctions, provides a list of documents that employers can check to verify a person's right to work in the UK. The key identifiers and



documents authorizing employment include a National Insurance number, British or EU passport or birth certificate, or another passport with a UK work visa. As in the US, at least 10 to 12 documents may be presented by job applicants proving authorization to work and employers are urged to make copies of these before hiring them so as to be able to defend themselves against a charge of hiring unauthorized workers.

In 1999, 23 employers were charged with violating Section 8 by employing an illegal foreign worker, and nine were found guilty in magistrates courts. In 2000, 32 charges resulted in 23 guilty verdicts.<sup>55</sup> Most enforcement reports refer to particular activities, especially in agriculture and related industries. An estimated 50 per cent of seasonal agricultural workers, such as fruit pickers, are organized into crews by gang masters (labour contractors) of whom many are British, prompting the UK Benefit Fraud Agency to verify whether any farm workers were claiming UI or welfare benefits while working in the fields. These BFA checks have found unauthorized migrants, many from eastern Europe.

Operation Gangmaster, a special enforcement effort introduced in Lancashire, the West Midlands, the south coast, the Southeast and the Southwest, required contractors or gangmasters to pay at least minimum wages and payroll taxes. Many gangmasters place ads in newspapers in eastern Europe seeking workers and, since visas are not required from most eastern European countries to enter the UK, the migrants are advised to identify themselves as tourists on arrival, and their passports are stamped: "Entry granted with no work or recourse to public funds". The gangmasters then put them to work. In April 2001, police stopped vans carrying suspected illegal migrant workers, many from Poland and mostly employed in the packaging and agricultural industries. Some 118 were apprehended in what was termed the largest crackdown by British authorities on illegal migrants.

After investigations in 1999 and 2000, several gangmasters were convicted of evading up to £500,000 in taxes. Some 60,000 pamphlets were distributed to farm workers, including 10,000 in Russian and Polish, warning workers about illegal employment. Simultaneously, the government increased the number of legal foreign farm workers who could be admitted seasonally from 10,000 to 15,000, and informed employers that they could hire some of the 40,000 "working-holiday makers" in the UK.

The use of gangmaster-organized crews of asylum seekers, illegal migrants and students has spread from agriculture in the eastern counties of England to

the construction, holiday and tourism, commercial packing and contract cleaning industries. The Home Office stated: “the gangmaster has traditionally organized labour for agricultural activities at certain times of the year (...). Often it involved people working while claiming social security. Now we are seeing people working illegally and the practice has spread to factories”. Unions demand that gangmasters be licensed, in the same way as farm labour contractors are in the US.

There is a common perception that laws against hiring unauthorized foreign workers are being routinely ignored, and Home Secretary David Blunkett, in the Nationality, Immigration and Asylum Bill in 2002, asked for authority to allow immigration officers to enter businesses to search for illegal migrants; employers who pay workers on a cash basis would be “compelled” to cooperate with inspectors seeking information. The proposal includes a provision increasing the maximum jail term for those convicted of harbouring or trafficking migrants from six months to 14 years. However, employers complain that they are caught between competing policies – sanctions to prevent the employment of illegal foreign workers, and anti-discrimination laws.<sup>56</sup>

## **6.4 Assessment**

British immigration, asylum and race relations policies and reality are in flux. Net immigration is increasing, in part because of rising numbers of asylum applicants, some of whom are recognized as refugees, settle in the UK and claim family reunification. Another important factor is the globalization of the world economy and London’s importance as a financial hub, which attracts foreign professionals.

Rising numbers of asylum applicants and clashes in several British cities in 2001 made immigration and integration into urgent public policy issues. The most immediate challenge is asylum: the Home Office claims that it spent US\$ 2.9 billion on asylum in 2001, 1,000 times the amount it contributes to UNHCR (US\$ 29 million). New laws and procedures have tightened and streamlined the processing system, but the UK Government has found it very difficult to remove foreigners unwilling to leave.

The UK is making it easier for foreign professionals to enter and work, and is expanding programmes admitting youth from Commonwealth countries for working holidays, as well as seasonal worker programmes for eastern Europe-

ans. However, regulating the gangmasters who organize seasonal workers into crews has been difficult, and if this regulation is not effective, legal guest worker admissions and unauthorized foreign labour migration may continue to increase in agriculture and related seasonal activities.

## 7. NORTHERN EUROPE

Sweden has been reasonably successful in applying both internal and external controls to manage migration in the 1990s, a success attributed to know-how and well-trained people, and well established aliens legislation (Brochmann and Hammar, 1999: 169). About 13 per cent of the nine million Swedish residents are immigrants or children of immigrants. There has been freedom of movement within the Nordic countries since 1954, and much of the labour migration that occurred in Scandinavia until the late 1960s involved Finns moving to Sweden. Guestworker migration from southern Europe began in the late 1960s, later than in France or Germany, and with an important legal difference after 1965 – non-Nordic foreigners needed to have a work permit before they arrived in Sweden. Guestworker migration into Sweden was concentrated in three years from 1969 to 1971, and was stopped because of union opposition in 1972 (Brochmann and Hammar, 1999: 174).

Many important migration policy decisions were made administratively rather than through parliamentary process. Swedish labour unions supported the government's policy of permitting guest workers to become permanent residents after one or two years' employment at the same wages as Swedes, and most guest workers soon became settled immigrants. Unlike Germany, there was never any widespread expectation that guest workers would rotate, leaving after one or two years to be replaced by newly arrived foreigners. The wives and children of guest workers already working could generally also obtain jobs in Sweden without difficulty. Sweden did not attempt to discourage family reunification by requiring newly arrived family members to wait several years before being allowed to work. Since settlement was the norm, to slow the growth of the foreign population, Sweden restricted the entry of foreigners.

In the late 1980s and early 1990s, Sweden experienced an immigration crisis. As the number of asylum seekers increased, the share of Nordics among newcomers fell from two-thirds to one-third. Several factors provoked an official response. First, high unemployment and the fiscal burdens on local governments who were obliged to integrate refugees at their expense prompted the city of Sjöbo to refuse refugees in 1987. Second, an anti-immigrant party was formed to capitalize on the discontent, and won 8 per cent of the national vote in 1991. However, the Swedish Government reacted quickly and developed an integrated immigration and integration system in the Aliens Act of 1989, which streamlined asylum processing and eliminated some categories of persons eli-

gible for temporary protection. The 1989 Act also liberalized the interpretation of the Geneva Convention of 1951, which allowed some foreigners to obtain refugee status rather than temporary protection.

Sweden has had few problems with illegal foreign workers, largely because of the widespread use of personal identification numbers linked to population registers and tax authorities, and because the labour market is well controlled by both private and public organizations. Hammar notes that some illegal work by foreigners is still tolerated, as when Poles are allowed to enter Sweden for up to 90 days without visas, even though it is widely known that many will fill seasonal farm jobs (Brochmann and Hammar, 1999: 188).

The issue of immigration and integration in Sweden has become more political. In the campaign preceding the 15 September 2002 elections, lack of immigrant integration became an issue because of Fadime Sahindal, a second-generation Turk in Sweden who was killed by her father after she refused to marry a cousin in Turkey. She moved away from home and sought police protection from her father and her 17-year old brother, and authorities prosecuted the father and brother for making threats, and fined them. However, they were not detained and Fadime, who worked for the Social Democratic Party, was killed by her father in January 2002. A 2002 poll of 3,400 Swedes revealed that 44 per cent held that reducing the number of immigrants would be a good thing, against 28 per cent who thought that Sweden should not reduce immigration.

Immigration restrictions in neighbouring Denmark may find an echo in Sweden. Denmark stopped recruiting guest workers in 1973, when the share of foreigners in Danish society had reached 1 per cent. In 2001, immigrants accounted for 4.9 per cent of Denmark's population of 5.2 million, or 7.4 per cent when foreigners who have acquired Danish citizenship are included. In 2001, about 13,000 immigrants were included in family reunification programmes.

On 1 July 2002, Denmark tightened its immigration and integration policies in response to pressure from the Danish People's Party (DPP), which won 12 per cent of the vote and 22 seats in the 179-member parliament in the 2001 elections. The new rules allow Denmark to withdraw refugee status from foreigners who travel to the countries that allegedly persecuted them; to increase from three to seven years the time necessary to become a permanent resident and receive full welfare benefits; and to require foreigners with the right to live in Denmark to be at least 24 years of age before bringing a spouse to Denmark.

Applicants for Danish citizenship must take a Danish language and citizenship test, and those convicted of crimes must wait at least two years before applying.

In implementing the new rules, Denmark's prime minister said: "The essence of our immigration policy is that immigrants who are willing to work in Denmark and are able to contribute to Danish society are most welcome. We are trying to stop immigrants who are going to take advantage of the very generous welfare system". In the summer of 2002, Pia Kjaersgaard, leader of the DPP, placed a full-page advertisement in Dagens Nyheter, Sweden's leading broadsheet newspaper, citing Swedes who wrote to praise Denmark's new immigration law.

## 8. SOUTHERN EUROPE

Greece, Italy, Portugal and Spain are new countries of immigration; they became net immigration areas only in the 1980s and 1990s. Unlike northern Europe in the 1950s and 1960s, economically motivated immigration into southern Europe occurred during an era of relatively fast economic growth as well as high unemployment rates, so that, e.g. Italy and Spain attracted migrants in the 1990s despite double-digit unemployment rates. The combination of immigration and high unemployment raised questions about (a) structural unemployment and lack of flexibility, as workers in southern Spain and Italy proved unwilling to accept some local jobs and were unwilling to migrate to jobs in the north and (b) extensive underground economies in which many of the “unemployed” actually worked for cash wages.

Many of the migrants arriving in southern Europe are from countries that are unlikely to be included within an expanded European Union any time soon, such as North Africa. The southern European response to immigration was to regularize some of the unauthorized foreigners, primarily those who found jobs with employers who were willing to declare them and pay taxes on their wages. For example, Italy had a regularization programme in 1982 under which employers registered some 16,000 unauthorized foreigners, another 107,000 were regularized under a 1986 law, and a further 234,000 applications for regularization were filed under a 1990 law.

In July 2002, Italy enacted a new law, the Bossi-Fini law, which, among other things, requires all non-EU immigrants to be fingerprinted and allows the use of navy ships to patrol Italian coastlines to intercept smugglers. Non-EU nationals must have received contracts from Italian employers before their arrival in Italy, and the new law links residence and work permits – a foreign worker who loses his job also loses his work permit. The validity of work permits for non-EU nationals is to be reduced from a maximum of four to a maximum of two years, and requests for renewals must be made 90 days in advance, up from 30 days. In order to become a permanent resident, non-EU nationals must have lived in Italy for six years, up from previously five, making two renewals necessary to obtain immigrant status. When leaving Italy, non-EU nationals will no longer be able to claim immediate refunds of the social security taxes paid to the retirement agency, INPS. This is a significant change, since pension contributions are 25 to 30 per cent of gross wages. The Bossi-Fini law increases the power of the Ministry of Interior and decreases the power of the Ministry of Labour to manage non-EU workers.

Italy has a population of 57 million, of which 1.7 million, or 3 per cent, are foreigners; the number of foreigners rose by about 150,000 a year in the past three years, with two-thirds arriving to join settled family members. Most of Italy's immigrants are from non-EU countries, with Morocco and Albania the leading countries of origin. The highest ratios of foreigners to local residents are found in the north-east, in regions such as the Veneto, where migrants are often employed in small and medium-sized manufacturing plants. Estimates of the number of migrants employed in agriculture, mostly in the south and mainly from eastern Europe, range from 35 to 40 per cent, so that 10 per cent of Italy's 800,000 agricultural workers may be migrants. Estimates of the number of unauthorized foreigners range from 250,000 in 2000 (Ministry of the Interior) to 350,000 (Caritas).

In 2000 and 2001, Italy established quotas for foreigners from particular countries in exchange for their cooperation in reducing smuggling, and to provide legal channels for migrant arrivals, e.g. in 2001 the quota for Albanians was 6,000, for Tunisians 3,000 and 1,500 for Moroccans. About 10 per cent of foreigners in Italy, 150,000 to 200,000, are Albanians who arrived in the 1990s. Italian-Albanian Government relations are described as the best ever, reflecting Italian-Albanian cooperation to prevent smuggling and trafficking, but anti-Albanian prejudice has grown steadily in Italy, fuelled by the media's concentration on a marginal but visible criminal minority.

Italy enacted the so-called Martelli law (Number 49) in 1990 to admit foreigners to fill vacant jobs. However, the government had no reliable indicator of either labour supply or demand, and thus no work permits were issued in 1993-94. In 1998, responsibility for the determination of the annual number of entry permits for work, family reunification or as refugees was given to a special commission.

The amount spent by Italy on immigration control in FY03 is estimated to be EUR 103 million, and to include EUR 68 million for law enforcement and EUR 35 million for the processing of refugee claims and the caring for asylum seekers. About 57 per cent of the enforcement costs are for detaining foreigners prior to their deportation.



## 9. WHITHER IMMIGRATION CONTROL?

Can migration be managed? Posing this question suggests the answer – of course. An essential feature and duty of sovereign nation states is the regulation of the entry and stay of non-citizens, which explains why all have established immigration control systems, and why expenditures on migration control increased sharply in most western democracies in the 1990s. The question is not whether nation states can manage migration in the twenty-first century, but rather (1) what their migration management goals should be, and what role regional and international institutions could and should play in determining a nation's migration goals and (2) how much effort or expenditure should be devoted to reducing the discrepancies between migration policy objectives and their actual achievement.

No country is either totally open or closed to migrants – none endorses the extreme policy suggestions to stem rising migration pressures in a globalized world, which culminate in the opposing slogans “no migrants”, and “no borders”. “No migrants” would require large expenditures on immigration control systems, and “no borders” would call for massive expenditures on integration and other policies. The “no migrants” slogan denies host countries the socio-economic benefits of the renewal inherent in migrant energy and ambition and the associated economic growth and job creation. In a world of extreme demographic and economic differentials the “no borders” slogan, would very likely result in “too many” migrants.

The growing migration policy goal-outcome gap is the result of the operation and interaction of three types of factors, none of which is likely to disappear soon:

- The demand-pull of jobs for foreign workers in some sectors of the western democracies;
- The supply-push of demographic and economic differentials in source countries inducing migrants to seek better economic opportunities abroad than at home;
- The networks or links that enable migrants to go abroad and obtain jobs or incomes.

Reducing the migration policy goal-outcome gap means reducing demand-pull, supply-push, and/or network linkages. Many researchers in emigration

countries emphasize demand-pull or what is often called the “structural dependence” of rich country economies on workers from poorer countries, which tends to put the blame for the gap on the receiving country.<sup>57</sup> One of the most widely accepted explanation of the persistence of the demand-pull factor is the existence of markets and entitlements – available jobs provide the incentives for workers to cross borders, and the rights granted to migrants and other actors make it difficult for governments to manage migration precisely (Hollifield, 1992).

Supply-push explanations for the goal-outcome gap include demographic differences as well as low wages and high unemployment in developing countries. The world’s population reached 6 billion in October 1999, and continues to grow at a rate of 1.4 per cent, or an additional 84 million, a year, with 97 per cent of population growth occurring in developing countries.<sup>58</sup> Population density is higher in developing than in developed countries – 29 persons per square kilometre in the high-income countries as against 51 in low and middle-income countries, according to the World Bank (2001: 275). Just as the nineteenth century was marked by migration from more densely populated Europe to the Americas and Oceania, so the twenty-first century may see people move from the more densely populated developing world to less densely populated areas in the developed world.

A comparison of the demographic evolution of Europe and Africa over the past 250 years is instructive. In 1800, about 20 per cent of world’s 1 billion people lived in Europe, and 8 per cent in Africa. In 2000, the populations of these two continents were almost equal in size – Europe’s population stood at 728 million and Africa’s at 800 million, representing 12 and 13 per cent, respectively, of the world’s population (PRB, 2000). If current population trends continue, the population size in Europe and Africa will diverge. Europe’s population is projected to shrink to 660 million by 2050, or to about 7 per cent of global population, while Africa’s population is projected to expand to 1.8 billion, or to 20 per cent of the world’s population. Historical experience suggests that some Africans will migrate to a Europe where there may be “excess” infrastructure and housing.

Economic trends provide a second example of a supply-push differentials contributing to potential migration. Global GDP was US\$ 30 trillion in 2000, and it is expected to double by 2030. The strongest economic growth is expected to occur in developing countries, but higher incomes in the industrial democracies means that many young persons from developing countries would be able

to earn in one hour the equivalent of a day's wages at home. According to the World Bank, global per capita income averages US\$ 5,000, but in 1999 per capita incomes in the 25 high-income countries averaged US\$ 26,000, and US\$ 1,200 in the poorer 175 countries. This means that the average income per person could increase by as much as 22 times by moving from a poorer to a high-income country. Such a large income gap explains why migrants often take huge risks to gain entry into richer countries.

There is a second dimension to economic differentials between high-income and poorer countries that points to increasing difficulties in controlling migration in the twenty-first century. In 1999 the global labour force stood at 2.9 billion, with 1.3 billion or 45 per cent active in agriculture. In developing countries, the income from agriculture is generally lower than from urban jobs. This income gap encourages rural-urban migration, leading to the growth of shanty towns on the edges of many cities in developing countries and increasing the urban population in the low and middle-income countries among them from 32 to 41 per cent between 1980 and 1999.

The "great migration" away from the land in many developing countries that are integral components of the world migration system and include China, Mexico and Turkey, is likely to continue in the twenty-first century, and this has three implications for global migration:

- Ex-farmers everywhere are most likely to accept so-called 3-D (dirty, dangerous, difficult) jobs in urban areas either in their own countries or abroad, as evidenced in Chinese coastal cities, where internal migrants fill 3-D jobs, and abroad, where Chinese migrants are employed from service jobs in restaurants to sweatshops.
- Ex-farmers who must find new jobs and sources of income are often compelled to undergo physical as well as cultural transitions when they decide to move from rural areas. This makes them more willing to go abroad if there is a recruitment or migration infrastructure to help them cross borders.
- Cities in developing countries represent nodes in the international migration infrastructure – cities are the places to which migrants go to get visas and documents for legal migration, or to make arrangements for illegal migration.

Network linkages between emigration and immigration areas that enable people to migrate are the third factor, and they illustrate how hard it is to break or infiltrate established networks through policy decisions. Migration networks

include friends and family members abroad who can provide credible information about jobs and other opportunities, perhaps finance the trip, and often provide shelter and employment after arrival. In the absence of friends and family, labour brokers, smugglers, employers and migrant organizations can substitute for this network.

Networks have been shaped and strengthened by three of the major revolutions of the past generation: the communications revolution, the transportation revolution, and the rights revolution. The communications revolution refers to the fact that potential migrants know far more about opportunities abroad than did turn-of-the-century migrants from southern and eastern Europe, setting out for North and South America and Australia. Migration can beget more migration, so the 150-160 million migrants already abroad can tell more people in their areas of origin about opportunities in Paris or Los Angeles. As cultural distances diminish around the world, it becomes easier to go abroad, especially for young people, and not feel too alienated.

The transportation revolution has brought about a sharp drop in the cost of travelling, while access to and the convenience of international travel increased geometrically. Even the most remote peasant is less than one week away from the bright lights of Berlin. The international network of flights can take the aspiring migrant anywhere within a day or two for less than the average monthly wages of even an unskilled and seasonal worker in an industrial country of US\$ 1,000 to US\$ 2,000. With information flowing instantly to young workers ready to migrate, and transportation systems enabling migrants to cover vast distances by legal or illegal means, migration can be very responsive to job opportunities. Some US employers boast that, after passing the word that more workers are needed, migrants from 2,000 miles away in Mexico show up within two to three days, risking illegal entry to get to the US workplace.<sup>59</sup>

The third network-related revolution that turns potential into actual migration is the rights revolution, or the spread of individual rights and entitlements to all residents of western democracies. Over the past 50 years, the western democracies have expanded their social safety nets, and strengthened individual rights *vis-à-vis* government agencies, so that more residents, including foreigners, have rights and are eligible for benefits. Many immigration countries have signed agreements that, for example, require them to examine each individual's claim of being persecuted, and commit them to provide refuge to those fleeing from persecution.<sup>60</sup> One outcome of this rights revolution is that after arrival in a western country, a foreigner can usually avoid deportation and often work,

legally or illegally, for two, three or even four years.<sup>61</sup> Longer stays may then lead to at least *de facto* permanent settlement.

Outlining these demand-pull, supply-push and network factors underlying the migration policy goal-outcome gap does not provide concrete guidance on optimal spending to reduce the gap. However, a review of the five factors – demand-pull jobs, supply-push demographic and economic inequalities, communications, transportation, and rights – makes it clear that the favourite policy instrument is usually rights. Governments create and enforce rights, and thus their instinct is to try to manage migration by manipulating the rights of migrants. Like a carpenter with only a hammer, who sees all problems as nails to be hammered, policy makers reviewing the factors that motivate migration often come to the conclusion that only by manipulating the rights of migrants can migration be regulated.

## 10. MIGRATION IN PERSPECTIVE

Migration, the movement of people over national borders, is a global phenomenon that can be put in perspective by comparing migration with other global phenomena. The data in this section highlight three:

- International trade and investments increased much faster in the 1990s than migration, up about 90 per cent versus 50 per cent, respectively.
- Remittances to developing countries rose more than 100 per cent in the 1990s, while official development assistance (ODA) was flat and subsidies to protect farmers in rich countries rose.
- Trade and migration are mutual substitutes in the long run, but in the short term trade and migration can rise together, producing a migration hump with closer economic integration, so that increased trade is not a substitute for migration controls in the short run (Faini et al., 1999).

The UN Population Division defines a migrant as someone outside the country of birth or citizenship for 12 months or more. UN estimates suggest that the number rose sharply by 46 per cent in the 1990s, from 120 million to 175 million. These migrants include refugees and asylum seekers, foreign students and other long-term visitors, unauthorized foreigners, and, e.g. naturalized foreign-born citizens of Australia, Canada and the US.

TABLE 10.1  
UNITED NATIONS ESTIMATES OF GLOBAL MIGRANTS: 1965-2000

	Migrants (mn)	World population (bn)	Migrants relative to world population	Decade change (%)
1965	75	3.3	2.3%	
1975	85	4.1	2.1%	12
1985	105	4.8	2.2%	24
1990	120	5.3	2.3%	
1995	148	5.7	2.6%	40
2000	175	6.1	2.9%	46

Source: UN Population Division.

In the 1990s remittances to developing countries more than doubled to US\$ 65 billion, after experiencing drops in 1991 (Gulf war) and again in 1998 (Asian financial crisis). If remittances to developing countries continue to grow, they should top US\$ 100 billion by 2006-07. The economic impact ratio of remittances in the areas that receive them is typically about 2 to 1, i.e. US\$ 1 in remittances generates US\$ 2 in local economic activity, if recipients buy goods or invest in housing, education, or health care.

TABLE 10.2  
REMITTANCES TO DEVELOPING COUNTRIES: 1988-99

	Remittances (US\$ mn)	Change (%)
1988	28,340	
1989	32,136	13
1990	39,052	22
1991	33,050	-15
1992	37,196	13
1993	38,872	5
1994	44,134	14
1995	50,632	15
1996	54,851	8
1997	65,021	19
1998	60,895	-6
1999	65,325	7
Total	549,504	

Source: IMF Balance of Payments Statistical Yearbook.

A handful of developing countries receive the largest part of remittances. In 1999 the three most important recipients – India, the Philippines and Mexico – received US\$ 25 billion, or 38 per cent of IMF-estimated remittances to developing countries. The remittances sent to the two top countries within each region often equal 30-60 per cent of the regional total. However, remittances are particularly important in smaller and island nations, where they can reach the equivalent of 20-40 per cent of GDP.

TABLE 10.3  
REMITTANCES TO DEVELOPING COUNTRIES BY REGION: 1999

Region	Remittances (US\$ mn)	Regional share of total	Country share w/in region
Africa	6,786	10%	
Morocco	1,938		29%
Nigeria	1,301		19%
Asia	27,676	42%	
India	11,124		40%
Philippines	6,896		25%
Europe	8,172	13%	
Turkey	4,529		16%
Spain	3,679		13%
Middle East	6,543	10%	
Egypt	3,235		49%
Jordan	1,664		25%
Western Hemisphere	16,148	25%	
Mexico	6,649		41%
Dominican Republic	1,631		10%
Total	65,325	100%	

Source: IMF Balance of Payments Statistical Yearbook.

Trade, the production of a good in one country for sale or use in another, is a visible manifestation of globalization and economic integration – international trade and investment flows have grown more rapidly than the world’s total economic output. Most global trade involves goods – the world’s exports of merchandise (US\$ 6.4 trillion) and imports (US\$ 6.6 trillion) in 2000 totalled US\$ 13 trillion, equivalent to 40 per cent of global GDP of US\$ 30 trillion. Most merchandise trade was between high-income countries – in 2000 exports amounted to US\$ 4.6 trillion, 72 per cent of the total, and imports to US\$ 4.9 trillion or 74 per cent of the total. However, merchandise trade rose faster in low- and middle-income countries during the 1990s.

In industrialized countries, about 70 per cent of employment is in the services sector, which is still growing. Trade in services involved exports worth



US\$1.4 trillion and imports worth US\$ 1.4 trillion. As with goods, over 80 per cent of trade in services were transacted between high-income countries.

TABLE 10.4  
GLOBAL TRADE IN GOODS AND SERVICES: 1990, 2000

Trade in 2000	Merchandise					1990	1990-2000
	Exports (US\$ bn)	Food (%)	Agricultural raw materials	Manufactured goods			
World	6,356	7%	1%	78%	3,433	85%	
High income countries	4,612	6%	2%	82%	2,423	90%	
High income countries(%)	73%				71%		
Low & middle income countries	1,743	9%	2%	61%	702	148%	
Trade in 2000	Merchandise					1990	1990-2000
	Imports (US\$ bn)	Food (%)	Agricultural raw materials	Manufactured goods			
World	6,565	7%	2%	74%	3,516	87%	
High income countries	4,949	7%	2%	75%	2,846	74%	
Low & middle income countries	1,616	8%	3%	71%	663	144%	
Trade in 2000	Services			1990	1990-2000		
	Exports (US\$ bn)	Transport (%)	Travel (%)				
World	1,431	23%	32%	750	91%		
High income countries	1,170	23%	30%	647	81%		
High income countries (%)	82%			86%			
Low & middle income countries	261	23%	43%	103	153%		

TABLE 10.4 (cont.)  
GLOBAL TRADE IN GOODS AND SERVICES: 1990, 2000

Trade in 2000	Services				
	Imports (US\$ bn)	Transport (%)	Travel (%)	1990	1990- 2000
World	1,400	28%	31%	775	81%
High income countries	1,103	27%	32%	643	72%
Low & middle income countries	297	33%	28%	131	127%

Notes: Transport services are produced by residents of one country for the residents of another.

Travel services include goods and services consumed by travellers while abroad.

Source: World Bank, Selected World Development Indicators, 2002.

Trade affects exporting and importing countries, and the economic theory of comparative advantage<sup>66</sup> posits that, (1) trade increases the economic output of participating countries and (2) trade narrows wage differentials across countries, and may, therefore, play a role in reducing economically motivated migration. However, when countries shift from little to more trade, the displacement and dislocation that often occurs can actually have the effect of increasing migration pressures, leading to a migration hump, or temporarily more migration. According to the World Bank, developing countries that (1) registered the most rapid increase of import and export ratios to GDP and (2) lowered tariffs between 1970 and 1999 the most, also posted faster economic growth. Annual per capita GDP of the nine “globalizer countries”, including China, India, Brazil and Bangladesh, grew by 3.8 per cent, while for 46 countries with a lower globalization profile, including Egypt, Indonesia, Kenya and South Africa annual per capita GDPs grew by only 1.8 per cent.

If labour is viewed as an export, and remittances as the foreign exchange earned from the export of labour, then the opening of borders could allow labour-surplus countries to export labour and earn remittances. In so doing, the transfer of labour from poorer to richer countries would increase world GDP (because workers earn more) and eventually reduce migration pressures as wages tended to converge as they rose in emigration areas and fell or rose more slowly in immigration areas. Economists Hamilton and Whalley (1984) divided the world into seven regions, assumed full employment in each region, and asked

what would happen if workers moved from lower to higher income countries. The projected outcome of this inquiry was that global GDP would more than double, which prompted economist Dani Rodrik to posit that “even a marginal liberalization of international labour flows would create gains for the world economy” far larger than the prospective gains from trade liberalization.<sup>63</sup>

Critics of liberalizing migration in a manner that treats migrants as “remittance-earning export goods” advance two counter arguments: flows would have to be huge and the necessary adjustments therefore significant to obtain the economic gains projected by the models. In the absence of full employment in either sending or receiving countries, the models underestimate the downward pressure on wages that would result from what critics perceive as a huge oversupply of workers. Second, critics emphasize that people are not like commodities that are indifferent to whether they are “consumed” in one country or another. People have rights and obligations, and once migrants enter a host society, governments must decide whether they are “them” or “us”, and at what point the status of a migrant changes. This has proven to be very difficult.

When countries are absorbed into the global economy, foreign direct investment can be attracted to build, e.g. factories and thus to limit the size and duration of any migration hump associated with the opening of a previously closed economy. Foreign Direct Investment (FDI) may be employed in the building or operation of a site outside the country where the savings/investment was generated; such imported savings in the form of FDI often come together with managers and equipment. FDI rose rapidly in the 1990s, growing 4.5 times in the high-income countries and 6 times in low and middle-income countries. However, the incentive to invest is driven by expected profits, not the need for jobs to reduce emigration. Moreover, much of the world’s FDI actually flows to low and middle-income countries that are already net immigration areas, such

TABLE 10.5  
FOREIGN DIRECT INVESTMENT: 1990, 2000

FDI (US\$ bn)	2000	1990	1990-2000
High income	1,001	176	469%
Low & middle income	167	24	596%
Total	1,168	200	484%

Source: World Bank, World Development Indicators, 2002.

as Malaysia (US\$1.7 billion in FDI in 2000), which attracts migrants from Indonesia (minus US\$ 4.5 billion, or disinvestment). In countries such as Mexico, FDI tends to flow into border areas that in turn attract internal migrants to fill the jobs created and not to those areas in the interior from where migration actually originated.

**ODA/Farm Aid.** Official Development Assistance (ODA) are grants and low-interest loans from one government to another. In 2000, the OECD nations members of the Development Assistance Committee provided US\$ 54 billion in ODA,<sup>64</sup> slightly higher than the US\$ 53 billion extended in 1990. Thus, while remittances to developing countries more than doubled during the 1990s, trade increased 1.5 times, and FDI grew almost sixfold, ODA was stable. Per capita ODA is relatively small in major emigration countries – e.g. India where per capita ODA stood at US\$ 1 in 2000 and in the Philippines, where it stood at US\$ 8.

In most developing countries, 40-60 per cent of the labour force is employed in agriculture, and farm goods are a major export. Most migration-receiving countries protect their farm sectors, generally by guaranteeing their farmers above-world prices for their produce, and then sometimes donating or subsidizing the sale of the surplus on world markets, depressing world prices for agricultural commodities. Between the late 1980s and late 1990s, when ODA reached US\$ 50 to US\$ 55 billion a year, the producer support equivalent (PSE) for the farm sector in the US, Japan and the EU rose from about four times ODA to five times ODA. In the late 1990s, when global exports of manufactured goods reached about US\$ 3.5 trillion a year, global exports of farm goods stood at less than US\$ 500 billion a year. For many developing countries agricultural commodities are either one or the major export item, with about one-third of global farm exports coming from developing countries.<sup>65</sup>

Between 1950 and 2000, global GDP increased four times to US\$ 30 trillion, and world trade grew 17 times to US\$ 13 trillion, and annual average world per capita GDP doubled to US\$ 5,000. The increase in trade was stimulated by a reduction in 2000 of the average tariff on manufactured goods from 40 per cent in 1950 to 4 per cent.

In September 2000, the Millennium Summit set eight goals, 18 targets, and 48 indicators to sustain development and eliminate poverty (World Development Indicators, 2002: 5, 16-17). Under the goal of creating a global partnership for development, development targets included the establishment of a further

TABLE 10.6  
ODA AND FARM SUBSIDIES: 1990s

	ODA (US\$ bn)	Farm Support Equivalent (PSE US\$ bn)	
	2000	1999	1986-88
DAC/OECD 24	54	252	221
United States	10	54	42
Japan	13	59	54
EU	28	114	95

DAC = Development Assistance Committee members of the OECD.

PSE = Producer Support Equivalent, representing the value of transfers from taxpayers (payments) and consumers (higher prices) to farmers.

Source: OECD.

global trading and financial system, more generous ODA, and debt relief; there was no migration target or indicator. One target was directed at the reduction of unemployment among youth in developing countries, an objective which could indirectly reduce migration.

One of the best ways to conceive of the migration management challenge is by analogy with globalization and economic development. On the basis of current economic theory and its application by international institutions, countries are urged to be open to trade and investment in order to speed development and reduce poverty. The fact that development can be slow, and that the development path is long and winding rather than short and straight, lead some to condemn the theory and the policies advocated by institutions such as the World Bank and the IMF, and to look for alternatives and quick fixes. But experience demonstrates that economic openness is the surest path to development, suggesting that a similar approach of incremental changes will prove more useful than radical policy changes. Just as it is easier to nudge an oil tanker into position rather than to turn it by 180 degrees, so incremental migration management policy changes are more likely to produce results than radical shifts.

## NOTES

1. Lubbers in a 5 July 2002, Ditchley Park speech, (<http://www.unhcr.ch/cgi-bin/texis/vtx/print?tbl=ADMIN&id=3d2ea6764>).
2. Lubbers also offered the advice to invest in source countries to deter unwanted migration, but did not explain how this could be done: “It is irrational for governments to spend millions of euros on reinforcing borders, various deterrence measures, custody and detention centers, (...) without simultaneously investing in solutions at the source of the problem.” (Quoted in *Financial Times*, 24 June 2002).
3. An in-between strategy is to enforce or modify laws. In California, if more than 15 per cent of drivers exceed the posted speed, the speed limit must be raised or tickets issued to speeders for violations are not valid; i.e. speed laws have to be enforced or modified if they are violated regularly. The analogy to migration is straightforward: if too many migrants continue to arrive or remain outside regular or established channels, governments can open enough channels to reduce the percentage of violators.
4. The INS obtains additional funds by charging fees for its services. It had 34,000 employees in 33 domestic and 33 overseas offices in 2002.
5. This is reportedly one reason why the top of the US-built border fence slopes into the US, making it hard for migrants in the US to return to Mexico when Border Patrol agents seek to apprehend them.
6. Most multilateral trade negotiations are held under the auspices of the World Trade Organization ([www.wto.org/](http://www.wto.org/)), an international organization established in 1995 as a successor to the former GATT (General Agreement and Tariffs and Trade) to supervise and liberalize world trade. WTO trade rules are based on two non-discrimination principles: national treatment (treating one’s own nationals and foreigners equally), and the most favoured nation clause (extending the same favourable treatment granted to one country to all other Member Countries of the WTO, based on the principle of reciprocity).
7. The GATS has 29 articles covering four major groups of services:
  - Services that are provided from the territory of one country to the territory of another, “cross-border supply”, such as international telephone calls;
  - Services provided within one country to consumers from other countries, “consumption abroad”, such as tourism or health services;
  - Services provided via a “commercial presence”, such as foreign banks or insurance companies setting up operations in a country;
  - Services provided through the “presence of natural persons” from one country in another such as fashion models, accountants, or consultants who cross borders.
8. This means that immigration regulations that require, for example, a manager in a multinational to first obtain a visa before arriving in another branch, are allowed under GATS.
9. OECD’s SOPEMI reports have made limited progress in standardizing migration stock and flow data, noting that “migration plays an active part in the process of globalization” but that more needs to be done to “increase cooperation between sending and host countries in order to better manage migration flows” (2001: 14). SOPEMI has developed a variety of measures of in-migration flows, but many of its measures do not

- distinguish between foreigners arriving for a short time (SOPEMI generally includes as resident foreigners all those present in European countries for 90 days or more) and immigrants.
10. Argentina in 2002 became the first nation to be removed from the US Visa Waiver Program: "Due to the current economic crisis in Argentina and the increase in the number of Argentine nationals attempting to use the program to live and work illegally in the United States, the Department of Justice, in consultation with the Department of State, has determined that Argentina's participation in the [Visa Waiver Program] is inconsistent with the US interest in enforcement of the immigration laws of the United States."
  11. "The Commission believes the most promising option is a computerized system for determining if a social security number is valid and has been issued to someone authorized to work in the United States." Testimony of CIR Chair Barbara Jordan, 29 March 1995.
  12. Mester Manufacturing was fined US\$ 3,000 for six violations, one of which was the company's continued employment of a worker for two weeks after receiving notice from the INS that he was not authorized to work in the United States (Murphy, 1989).
  13. Jerry Heinauer, 2000, ([http://migration.ucdavis.edu/rmn/changingface/cf\\_apr2000/heinauer.htm](http://migration.ucdavis.edu/rmn/changingface/cf_apr2000/heinauer.htm)).
  14. There were complaints that, e.g. the INS detained US citizens and legal immigrants because they did not have documentation on them when a plant was surrounded and all workers checked.
  15. This was the first monetary settlement under a 1999 EEOC policy that extends protection against discrimination to all workers in the US, including unauthorized workers.
  16. The Hoffman Plastic decision is at [www.supremecourt.us/opinions/01pdf/00-1595.pdf](http://www.supremecourt.us/opinions/01pdf/00-1595.pdf).
  17. The Gramm proposal is at: <http://www.senate.gov/~gramm/press/guestprogram.html>.
  18. During the 1990-91 recession that spawned Proposition 187, the unemployment rate peaked at 7.8 per cent.
  19. <http://cicnet.ci.gc.ca/english/pub/facts99/1imm-02.html>.
  20. Canada and Czech Roma, Migration News, October 1997, Vol. 4(10), (<http://migration.ucdavis.edu/>).
  21. ([http://www.tbssct.gc.ca/tb/estimate/20022003/page.asp?page=002\\_e\\_127.htm](http://www.tbssct.gc.ca/tb/estimate/20022003/page.asp?page=002_e_127.htm)).
  22. The Immigration and Refugee Board (IRB) generally makes decisions on asylum applications within 12 months. About half of the 25,000 to 30,000 applicants a year are accepted as refugees, which allows them to become landed immigrants in Canada. The IRB has been criticized for inconsistent decisions. In 1997/98, for example, the IRB's Montreal office approved 75 per cent of asylum applications from Bangladeshis, compared to 25 per cent by the Toronto office.
  23. According to the RCMP, Erie Meat was the fourth employer raided by immigration agents in November 2000.
  24. Bade (2002: 142) summarizes the estimates of transatlantic emigration, and concludes that the most likely number is 60-65 million emigrants, of whom 10-15 million returned.
  25. Prodi added: "Of one thing I am sure: Europe and Asia will never be melting pots, where cultures merge and disappear. Our cultures are too firmly rooted and too vital.

Our long histories have taught us to value and nurture our diversity.” (quoted in *Migration News*, August 2002).

26. The ratio of non-EU foreigner to the total unemployment rate is highest in northern and Western Europe, where the welfare state is best developed, and where a large public sector restricts government jobs to nationals or EU-nationals (Sapir, 2000).
27. Freedom of movement may be restricted, but not necessarily freedom of establishment. The European Court of Justice on 27 September 2001, ruled that EU countries cannot use nationality as a basis to discriminate against self-employed workers from countries that have signed Association Agreements (Europe Agreements) with the EU. The court rulings came in cases brought by Czech, Polish and Bulgarian workers against the British government’s refusal to grant permission for them to work on a self-employed basis; the court ruled that EU countries cannot use “economic considerations”, such as high unemployment, to curb the right of entrepreneurs from Association Agreement countries to set up or manage their own businesses.  
In the Czech case, two men applied in 1998 to work as a self-employed commercial cleaner and as a gardener after their applications for political asylum in the United Kingdom had been refused. Their applications to work on a self-employed basis were also rejected, with authorities declaring they were not satisfied that the projects were financially viable and that work would really be carried out on a self-employed basis.
28. The major reason for this drop is that after Germany was unified in 1990, Germans employed on the previous German-German border were added to the BGS.
29. BGS agents may stop cars and trucks within 30 km range of Germany’s external borders and search them for unauthorized foreigners; BGS agents also patrol trains and train stations.
30. If an employer places a foreign worker in a worse condition than similar German workers, or employs five or more foreign workers without permits for 30 days or more, or employs foreign workers without permits for a second or third time, then the employer faces a criminal charge and a sentence of three to five years in jail.
31. German enforcement of employer sanctions depends largely on complaints from employers, unions or workers, and on a computer comparison of two employee lists. The employers of “dependent” employees (those who earn less than DM 4500 a month) must register them with one of the social insurance programmes, and this list is then compared with the list of work permits issued in order to spot any discrepancies. Fines are stiffer for evading social insurance taxes which add 20-40 per cent to wages, and this duty to register for social insurance is believed to limit the employment of aliens without work permits. However, if the employer does not register employees for social insurance, this computer matching process fails to detect illegal aliens.
32. Britain objected to the draft directive because the criminal sanctions envisaged were held to infringe UK sovereignty. The illegal employment of foreigners was not a significant problem and the British feared that employer sanctions might exacerbate employment discrimination against minorities.
33. There are two major violations of German labour laws that involve foreign workers: illegal alien employment (both the employer and foreign worker violate para. #229 of the German labour law, AFG), and the unlawful transfer of foreign workers from one employer to another (*Arbeitnehmerüberlassung*). In 1996, about 87,000 or 18 per cent of the cases involved illegal alien employment, and 8,500 cases involved unlawful



worker transfers. In 1996, there were a total of 55,300 citations issued for employing illegal aliens, including 9100 criminal citations that involved DM 37 million in fines (US\$ 22 million), or an average fine of US\$ 2,400 (in 1995, there were 6,500 criminal sanctions and DM 33 million in fines). In 1996, labour inspectors checked 424,000 workers at work, and 1.1 million pay and work permit records.

The third enforcement task involving foreign workers is the new recruitment law (*Entsendegesetz*). Beginning 1 January 1997, all workers employed on German construction sites must be paid at least the minimum wage negotiated between German unions and employers.

34. In 1998, Berlin reportedly filled its detention facilities with apprehended foreign workers.
35. In Germany, UI benefits are 60-63 per cent of previous earnings for about two years, and then about 50 per cent of earnings indefinitely, while in the US, UI benefits are typically 50 per cent of previous earnings for a maximum of six months. Thus, a US\$ 1,200 monthly UI check is equivalent to US\$ 8.50 per hour for a 35-hour week, a fairly high wage for, e.g. a 45-year old unemployed construction worker. In addition, construction workers receive a Christmas bonus ("13th month's salary") that was 100 per cent, and is now 77 per cent of their usual monthly wage.
36. In addition, subcontractors could be required to post bond to cover the cost of unpaid wages and fines, which would permit the market to help determine their reliability, since the more reliable contractors could presumably get bonds more cheaply.
37. With 16 million residents, the Netherlands has a population density of almost 500 persons per square km (<http://www.cbs.nl/>).
38. By 2000, some 405,000 Dutch residents were either born in Indonesia, or had at least one parent born in Indonesia. The Indonesian-Dutch are considered the most integrated foreigners.
39. Some say that Surinam was granted independence in part to prevent more immigration. In 2000, there were 303,000 Dutch residents born in Surinam, or with at least one Surinamese parent. At the time of writing, there are no restrictions on migration from the Netherlands Antilles and Aruba, both Dutch territories.
40. The Netherlands signed recruitment agreements with eight countries: Italy (1960), Spain (1961), Portugal (1963), Turkey (1964), Greece (1996), Morocco (1969), ex-Yugoslavia (1970) and Tunisia (1970).
41. Labour recruitment agreements were signed with Italy (1960), Spain (1961), Portugal (1963), Turkey (1964), Greece (1996), Morocco (1969), Yugoslavia (1970) and Tunisia (1970).
42. About two-thirds of Dutch prisoners are from ethnic minorities, some of whom have Dutch citizenship; by some estimates, perhaps EUR 700 million are spent on crime and punishment involving immigrants.
43. The 1987 the Regulation on the Reception of Asylum Seekers (ROA) required that asylum applicants be distributed throughout the Netherlands in so-called ROA houses.
44. Amsterdam is a city of about 720,000, with 360,000 housing units – 95 per cent of the housing is rented, reflecting the Socialist housing policy. About 405,000, or 56 per cent, of Amsterdam's residents are Dutch; the major groups of foreigners include 70,000 Surinamese, 50,000 Moroccans, and 32,000 Turks. Amsterdam is projected to grow slowly to about 800,000 in 2015, when over half of the residents are projected to be

- foreigners. The Amsterdam labour force is 335,000, including 100,000 foreigners. Unemployment was 42,000 in 1998, over 10 per cent. Half of the unemployed were foreigners; 22 per cent of the foreigners in Amsterdam were unemployed.
45. Britain's International Passenger Survey defines a migrant as someone who intends to stay in the UK for a year or more, while the Labour Force Survey and the Census collect data on both foreign workers and foreign-born workers and their duration of employment in the UK.
  46. Nationals of Pakistan, India and Nigeria accounted for 26 per cent of naturalized UK citizens in 2001.
  47. For example, asylum seekers in London receive weekly allowances: single persons over 25 receive £ 37 a week, a couple receives £ 57, and children under 16 receive £ 31 a week. However, only £ 10 of these allowances are in cash; the rest is given as vouchers, which can only be used in certain stores and for which no change is given. The Home Office allows local governments that house asylum applicants to recoup up to £ 140 a week for a single applicant, or £ 300 a week for a family, to cover housing costs.
  48. Legal assistance is provided under Section 23 of the Immigration Act 1971 to the Immigration Advisory Service (IAS) and the Refugee Legal Center (RLC).
  49. One 2002 study found that most Sangatte camp residents were young (average age 25), single, relatively well-educated (one-fourth completed college) men who emigrated because of "daily insecurity and an incapacity to control their lives". The report continued: "smugglers exercise an all-encompassing monopoly, often accompanied by violence, on even the tiniest detail of the journey", so that migrants wound up at Sangatte because smugglers took them there after they paid an average US\$ 6,000 each to get to "Europe" (*Migration News*, July 2002).
  50. The regular immigrants included 30,900 foreign wives of British citizens, 15,800 husbands of British citizens, and 29,000 children of British citizens. Some 125,100 foreigners were granted the right to stay in the UK, "mainly due to a rise in asylum-related settlement", including 37 per cent each from Africa and Asia.
  51. Britain's worst racial violence broke out in September 1985 in Birmingham, Liverpool and in the London districts of Brixton, Peckham and Tottenham.
  52. Blunkett is sometimes tipped as a possible successor to Tony Blair as Labour Party leader, in part because of his willingness to make tough decisions on immigration issues (Miller, 2002).
  53. If migrants are found in, e.g. freight containers, carriers can mount a defense against the fines by showing that they had a system in place aimed at preventing the unknowing transport of migrants to the UK.
  54. In the first 18 months of carrier sanctions, some £ 14 million in fines were imposed on 1,300 truckers for having brought 7,000 foreigners into the UK, but only £ 2 million had been collected.
  55. Enforcement data are included in the annual Control of Immigration Statistics publication ([http://www.archive.official-documents.co.uk/document/cm53/5315-i/5315\\_i.pdf](http://www.archive.official-documents.co.uk/document/cm53/5315-i/5315_i.pdf)). These include enforcement against individuals and removals, illegal entrants, court actions, and types of deportations.
  56. For example, Angloflora Ltd. asked for 350 foreign workers to fill jobs on its farms in Mid-Cornwall during peak early spring. According to flower farmers, declining unemployment, combined with the growth of the flower and bulb-growing industry,

has meant that many farmers are unable to recruit enough local workers to ensure that their crop is harvested during February and March. James Hosking, of Tresillian Farm, said: “A lot of eastern European students who come over can work here legally, but it’s difficult to decipher the legal documents they provide from the illegal ones.” (quoted in *Migration News*, April 2002).

57. Miller (1994: 107) calls this the “critical transparency approach”: researchers restating government migration goals, such as the reduction or prevention of illegal immigration, and then showing that governments hypocritically “tolerate” the presence of unauthorized workers because powerful farm or other employer lobbies prevent effective enforcement of laws aimed at curtailing unauthorized migration.
58. According to the Population Reference Bureau ([www.prb.org](http://www.prb.org)), the world’s fastest growing population is in Gaza, where the population growth rate is 4.5 per cent a year, and the most rapidly shrinking population is in Russia, where it is declining by 0.5 per cent a year.
59. One Michigan agricultural employer reportedly maintains a toll-free telephone number in rural Mexico that legal and illegal workers there can call to learn whether they are needed in Michigan.
60. In many countries, refugees and persons granted asylum are also granted family reunification in their country of refuge.
61. Industrial democracies could detain migrants, but at an enormous cost. The average cost of detaining a prisoner in the US is US\$ 20,000 to US\$ 25,000 annually. If a government wanted to have migrants readily available to be deported, it must pay high detention costs. However, if migrants are allowed to live and work freely while their cases are considered, then the humanitarian right to due process can turn into a back-door guest worker programme.
62. To benefit from comparative advantage, countries specialize in producing goods in which they have a relative advantage over others, either because of their resources, location or capital and labour costs. Even if one country could produce all goods cheaper than another, it is still better off if it specialized in the production of those goods that are most profitable, and imported all other needed goods. Trade can also produce economies of scale, which lower the cost of production as output increases for a larger market, promotes technological change and increases competition and choice.
63. Journalist Samuel Brittan (*Financial Times*, 25 October 2001) argued that countries could open themselves to immigrants unilaterally, and benefit economically from the migrants’ presence, by imposing a waiting period before newcomers could receive welfare assistance.
64. A further US\$ 6.9 billion in official aid was provided to so-called Part II countries, mostly in eastern Europe and the ex-USSR.
65. Another comparison is with global arms sales, some US\$ 26 billion in 2001, down from US\$ 40 billion in 2000. About two-thirds of global arms sales go to developing countries – an average of US\$ 20-US\$ 22 billion worth of arms a year in the 1990s.

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### **United States**

#### **INS**

<http://www.ins.usdoj.gov/graphics/index.htm>

#### **Executive Office For Immigration Review**

<http://www.usdoj.gov/eoir/>

#### **Visa Services**

[http://www.travel.state.gov/visa\\_services.html](http://www.travel.state.gov/visa_services.html)

#### **DOL Foreign Labor Certification**

<http://www.ows.doleta.gov/foreign.asp>

#### **Census**

<http://www.census.gov/>

#### **US Budget**

[http://w3.access.gpo.gov/usbudget/fy2003/sheets/fpaa\\_11.xls](http://w3.access.gpo.gov/usbudget/fy2003/sheets/fpaa_11.xls)

### **Canada**

#### **Citizenship and Immigration Canada**

<http://cicnet.ci.gc.ca/>

#### **Citizen, the web magazine for Canadians**

<http://www.citzine.ca/>

#### **Immigration and Refugee Board of Canada**

<http://www.irb.gc.ca/>

#### **Statistics Canada**

<http://www.statcan.ca/>

#### **Royal Canadian Mounted Police**

[www.rcmp-grc.gc.ca/htm/imm.htm](http://www.rcmp-grc.gc.ca/htm/imm.htm)

#### **Treasury Board Budget Estimates**

<http://www.tbs-sct.gc.ca/tb/estimate/>

### **Germany**

#### **Bundesgrenzschutz**

<http://www.bundesgrenzschutz.de/start.htm>

#### **Ministry of the Interior**

<http://www.bmi.bund.de/frameset/index.jsp>

#### **Office for the Recognition of Refugees**

<http://www.bafl.de>



Labour Office

<http://www.bma.bund.de/index.cfm?C3880B99B56D46C1AFDEA51B7639FBDB>

Bundesanstalt für Arbeit

<http://www.arbeitsamt.de/>

Aliens Commissioner

<http://www.bundesauslaenderbeauftragte.de/>

EU Statistical Office

<http://www.destatis.de/>

EU Justice and Home Affairs

[http://europa.eu.int/comm/justice\\_home/unit/immigration\\_en.htm](http://europa.eu.int/comm/justice_home/unit/immigration_en.htm)

Employment and Social Affairs

[http://europa.eu.int/comm/employment\\_social/fundamri/movement/index\\_en.htm](http://europa.eu.int/comm/employment_social/fundamri/movement/index_en.htm)

## **The Netherlands**

Immigratie- en Naturalisatiedienst

<http://www.immigratiedienst.nl/>

Agency for the Reception of Asylum Seekers (COA)

<http://www.coa.nl>

Justice

<http://www.minjust.nl:8080/>

Employment and Social Affairs

[http://home.szw.nl/index/dsp\\_index.cfm](http://home.szw.nl/index/dsp_index.cfm)

Statistics Netherlands.

<http://www.cbs.nl/en>

Netherlands Migration Institute

<http://www.nmigratie.nl/>

## **United Kingdom**

Home Office

<http://www.homeoffice.gov.uk/> (<http://194.203.40.90/>)

Commission for Racial Equality

[www.cre.gov.uk/](http://www.cre.gov.uk/)

Office for National Statistics

[www.statistics.gov.uk](http://www.statistics.gov.uk)

U.K. Work Permits

<http://www.workpermits.gov.uk/default.asp?pageid=1558>

Home Office Statistics

<http://www.homeoffice.gov.uk/rds/index.htm>