



# BILATERAL AGREEMENTS AND OTHER FORMS OF LABOUR RECRUITMENT: SOME LESSONS FROM OECD COUNTRIES' EXPERIENCES

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# Overview

- Diversity of situations in OECD member countries concerning bilateral labour agreements and other forms of recruitment of foreign labour.
- Many and various reasons behind these recruitment schemes.
- Future perspectives to improve the current situation and to explore the interface between bilateral and multilateral agreements.
- The conclusion attempts to evaluate the effectiveness of bilateral agreements and the other forms of recruiting foreign workers.

# 1. Diversity of labour recruitment schemes

- Bilateral labour agreements are part of a long tradition in some European OECD member countries.
- Some OECD countries, however, have little experience of bilateral agreements.
- While active recruitment schemes differ across OECD member countries, they can be grouped into two main categories: bilateral labour agreements and other forms of labour recruitment.
- A variety of labels are given to these agreements by different countries.
- The legal status of such agreements may vary.
- More than 176 bilateral agreements and other forms of labour recruitment were in force in 2004 in OECD countries.
- Western European countries, including Belgium, France, Germany, the Netherlands and Switzerland, concluded a series of bilateral agreements with Ireland, southern Europe (Greece, Italy, Portugal, Spain), Turkey, the former Yugoslavia and North Africa.

- In Asia, bilateral agreements were concluded mainly by the Philippines, Thailand and Vietnam. Limited labour mobility within North America was formalised with the signature and ratification of the North American Free Trade Agreement (NAFTA).
- As a consequence of the newly opened borders of central and eastern European countries, the number of bilateral agreements quintupled at the beginning of the 1990s.
- More recently, many OECD member countries have amended legislation or developed new migration policies to facilitate the entry of skilled foreign workers.
- The diversity of labour recruitment schemes among OECD member countries reflects the different economic environments, specific labour market conditions, as well as political concerns.
- Some agreements concern temporary migration (e.g. seasonal workers), as labour recruitment is generally considered to be a short or medium-term policy goal. Some schemes can lead to permanent settlement through changes in status to permanent residence or even naturalisation.

## *Bilateral labour agreements: variety of existing schemes*

- **Seasonal worker agreements**
- **Contract worker and project-linked worker agreements**
- **Guest worker agreements**
- **Trainee agreements**
- **Cross-border worker agreements**
- **Working Holidaymaker Schemes**

## *Other forms of labour recruitment*

- Some OECD member countries are reluctant to sign bilateral agreements and have implemented other means of recruiting foreign labour:
  - **Sector-based schemes**
  - **Skill-based schemes**

## 2. Beyond labour objectives: reasons behind recruitment schemes

In addition to responding to labour shortages, labour recruitment schemes were developed in response to other concerns of an institutional, economic or social nature. Among these are:

- *Protecting special post-colonial or political relationships*
- *Promoting cultural ties and exchanges*
- *Protection of workers' rights*
- *Combating unemployment in the sending country*
- *Easing labour mobility and integration into regional economies*
- *Increasing the training of migrants*
- *Managing migration flows*

### 3. Implementation and management of bilateral agreements: public and private stakeholders

- Bilateral agreements and other forms of labour recruitment involve the participation not only of government agencies, migrant workers and employers, but also of an increasing range of private and non-governmental organisations.
- Usually, senior staff in employment, labour or immigration ministries conduct the negotiations with other governments.
- ❖ In most Asian bilateral labour agreements, the selection and transfer of workers is administered by private recruitment agencies.
- ❖ In other regions, the public administration controls the process.
- ❖ There is evidence in some countries that the involvement of government authorities in the administration of the recruitment process guarantees better protection of workers, lower cost for the beneficiaries and greater control over the performance of employers.

## *Public/private partnerships*

- Employers and their organisations play an important role in the overall process, and success depends on balancing the interests of all parties.
- In receiving countries, on the other hand, employers, trade unions and other non-governmental organisations are involved throughout the recruitment process, from the definition of labour shortages to the monitoring of recruitment schemes.
- Relaxation of certain conditions for permit applications has occurred following pressure from employers facing hiring difficulties. Employers are often responsible for ensuring that candidates meet the required entry criteria for the recruitment scheme. In some countries, employers or their intermediaries must also verify credentials and, in some cases, apply language proficiency tests before requesting permits. Labour market testing often remains the responsibility of the employer.



## *Private recruitment agencies*

- The role of private agencies can vary from a simple matching function to a comprehensive hiring package consisting of recruitment, skills testing, travel, visa and living arrangements.
- In several European sending countries (e.g. Bulgaria, Czech Republic, Hungary, Poland, Romania), public labour offices recruit and fill more vacancies abroad than private agencies.
- In the United Kingdom, under the Seasonal Agricultural Workers Scheme, a number of non-profit making organisations (known as “charities”) are responsible for linking local farmers with foreign agricultural students who, in turn, are selected by the sending country universities.
- Criticism of private recruitment agencies occurs mainly when there is evidence of corruption in some agencies that do not provide socially protected jobs.

## *Regional partnerships*

- Some OECD national governments are very proactive in recruiting foreign workers. Some countries allow regions to become involved in recruitment (e.g. Australia, Canada, Italy).
- In 2001, the province of Ontario, Canada, created a sectoral agreement in partnership with a consortium of employer and training representatives to facilitate the recruitment of qualified foreign workers in some manufacturing trades facing skill shortages.
- Some Italian and French regions have worked with the Romanian government to provide language and professional training for Romanian workers to migrate temporarily to these two countries.

## **4. *Impact on labour market, employers and migrant workers***

### ***Labour market impact***

- The impact of employment agreements on the labour markets in most sending countries remains limited.
- In certain Asian countries, however, there is considerable labour-related migration. For example in the Philippines and Thailand, the impact on the sending country's labour market can be significant.
- The effect on the receiving country's labour market varies according to the characteristics of the agreement or recruiting scheme. Sectoral agreements, for example, significantly reduce employment shortages in those sectors, allowing them to remain viable and, in some cases, become more competitive.
- Finally, recruitment schemes may have the potential benefit of moving workers from an irregular employment situation into the regular labour force.
- The debate is moving now towards the working and welfare conditions offered to foreign workers, compared to domestic workers.

## *Impact on employers*

- Employers have access to the labour needed and this encourages them to expand their business.
- Interviews with employers and employer organisations revealed that:
  - Bilateral agreements have a very strong positive impact on bilateral business relations.
  - Companies often create their contacts directly in the sending country, through public or private intermediaries, and obtain better access to those labour markets (particularly in the case of project-linked employment).
- Several OECD member countries mandate conditions for temporary employment. For example, employers may have to provide seasonal workers with adequate housing or assistance in obtaining suitable accommodation at a reasonable price (e.g. Germany, Italy, United Kingdom), or with rent-free government approved housing (United States H-2A agricultural worker programme).

## *Impact on migrant workers*

- Interviews conducted with foreign workers who obtained employment through bilateral agreements show that :
  - The work experience obtained tended to be short and concentrated in a number of sectors (e.g. agriculture, hotel and catering, medical and healthcare).
  - Migrants' skills and education levels were often below the level of upper secondary education.
  - Workers participating in bilateral agreements were more mobile than the remainder of the labour force.
  - Workers participating in bilateral programmes tended to obtain information about foreign employment opportunities through personal networks.
  - In terms of professional development, available research does not show that migrants develop strong entrepreneurial attitudes, or plans, and re-entry into the local labour market was often difficult.
- The impact of migrants' earnings on the development of the sending countries is not easy to assess (see *Migration, Remittances and Development*, OECD, 2005).

## **5. *Prospects and improvements***

- The interested parties are generally satisfied with the outcomes and operation of bilateral agreements.
- The prospects of bilateral labour agreements in Europe will partly be influenced by the new agreements developed by the countries of southern Europe, as well as by the impact of EU enlargement.
- Mexico has been enthusiastic about negotiating new bilateral arrangements with the United States, but discussions stalled following 11 September 2001.
- Prospects did not seem promising until January 2004, when the United States government announced a proposal for new legislation that would enable undocumented foreign workers and their families to obtain temporary residence status in the United States for a period of three years.
- In Asia, there is a growing view that the protection of migrants' rights cannot be achieved bilaterally, but rather on a multilateral level.

## *From bilateral to multilateral agreements*

- Because of increasing labour shortages in some specific sectors and occupations, some countries have developed multilateral recruitment schemes that target a large group of sending countries.
- Other countries have instituted programmes and policies that are open to all applicants who qualify, regardless of their nationality.
- The similarities in labour demand across receiving countries, as well as the emerging competition for labour from sending countries, may support a multilateral approach, or at least co-ordinated policies among receiving countries.

- Recent experiences in several OECD countries suggest that multilateral schemes can help meet domestic labour market needs successfully. This framework supports the need for multilateral protection for the rights of migrant workers.
- Multilateral regulation of private recruitment agencies is needed, in order to set up international rules and prevent trafficking.
- At an international level, the ILO was joined in its efforts to protect migrant workers rights by the United Nations General Assembly, which adopted the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families in 1989.
- Notwithstanding this, adjustments need to be made in the creation of multilateral agreements, or other forms of labour recruitment, in order to match existing schemes governing migration.



## *Conclusions*

- There is a gap in the knowledge of whether bilateral agreements and other forms of labour recruitment actually meet their initial goals.
- The effectiveness of these agreements is not easy to assess when there are so many objectives.
- Agreements that are too bureaucratic, complex and costly have every chance of failing.
- For longer-term adjustment, as in the case of workers in the information and communication technology or healthcare sectors, migration alone cannot alleviate labour shortages. Basically, the solution lies in the structural reform of host country labour markets and training systems.
- Given the size of the immigration flows required to alter the structural trend towards population ageing, it is unrealistic to believe that immigration alone can offset demographic decline. Furthermore, an important increase in migration flows would pose serious integration problems.

- To prevent shortages of skilled labour in the OECD area by the year 2030, and maintain high levels of growth, it is time for member countries to begin to think about how better to mobilise their untapped labour reserves, and ensure that human resources in general continue to acquire the required skills through lifelong learning.
- As for objectives such as combating illegal immigration, or improving migration management, bilateral agreements are not always very effective. In fact, all depends on the type and content of the agreement.
- Some countries have experienced other approaches than bilateral agreements (e.g. United States and Canada). Such systems can be effective also in meeting the medium-term needs of the labour market. However, because they require the introduction of new, lengthy procedures, they prove to be less effective in meeting the short-term needs of the labour market. Over the longer term and for skilled labour in particular, a comprehensive approach (based on selective policies as in Australia, Canada and New Zealand, for instance, or special visas, as in the United States) is probably more effective than bilateral agreements.