



West African Studies

# West African Mobility and Migration Policies of OECD Countries





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by  
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Editing and co-ordination: Marie Trémolières



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## THE SAHEL AND WEST AFRICA CLUB IN A FEW WORDS

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### History

The SWAC was established in 1976 at the initiative of the OECD member countries in response to the droughts that had ravaged the Sahel and the subsequent food crisis. In 2001, its Board of Directors extended its geographic coverage to encompass all of West Africa, i.e. the 15 Member States of the Economic Community of West African States (ECOWAS), as well as Cameroon, Mauritania and Chad.

Administratively attached to the OECD, the SWAC is led by a Secretariat based in Paris (France), which is supported by a network of partners and experts from West Africa and OECD member countries. Its specificity lies in its approach, which combines direct field-level involvement with analyses of West African realities. The SWAC promotes the regional dimension of development, supports the formulation of joint or inter-governmental policies as desired by the region's countries and promotes dialogue with OECD countries for a coherent understanding of the changes and dynamics taking place in West Africa.

## Work on Migration

- In 2006, an Atlas on migration in West Africa was produced in co-operation with ECOWAS, using statistics and maps in order to analyse migratory dynamics and the stakes involved. It is a reminder that mobility has enriched and created circulatory areas such as the European Union (EU) and ECOWAS.
- The SWAC has collaborated in the development of a common regional ECOWAS approach to migration that preserves the free intra-regional movement of persons. It has also participated in preparatory workshops within the framework of the process initiated by the Rabat Conference (July 2006) and the Euro-African partnership for migration and development.
- In partnership with the Institut de recherche pour le développement (IRD) (co-ordinator), Dakar's Cheikh Anta Diop University and Warwick University's Centre for Research in Ethnic Relations, a programme funded by the European Commission began in 2008. It focuses on six countries in the region so as to have a better understanding of West African migration, evaluate its evolution from the south, and review migration-related legislation in order to foster concerted dialogue between ECOWAS and the EU.

For more information, please go to:

**[www.westafricaclub.org](http://www.westafricaclub.org)** and  
**[www.atlas-ouestafrique.org](http://www.atlas-ouestafrique.org)**

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## FOREWORD

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Collecting information as well as language homogeneity proved arduous in producing this synthesis of data and migration policies of OECD and ECOWAS countries.

Often terms such as “irregular migrants”, “clandestine” or even “foreigners” were over- or improperly-used. Statistics on inflows varied according to its definition within each country. Unless a veritable survey was being carried out, it was not easy at the very least to classify all of the migration-related legislation because information was not centralised within one ministry, or even within promulgated but not yet signed Agreements.

Furthermore, not all countries, in particular West African countries, have national migration policies. This publication focuses on the main OECD countries receiving West African migrations. It does not include countries receiving few West Africans although the proportion of the latter in regard to the total number of immigrants can be significant. It takes into account the recent evolutions of migratory dynamics notably by including Spain and Italy in the analysis.

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It is important to provide some figures. Today, there are 200 million migrants in the world, or 3% of the total population. This number has more than doubled since 1970. The main receiving regions are, in descending order, Asia, North America, Europe, states of the former Soviet Union and then Africa. OECD countries host almost 100 million people of which 40% are originally from another OECD country. African migration is marginal: 7.2 million people in 2000 of which 3.8 million are North African and 1.2 million are from West Africa.

For many years, the OECD has been addressing migration from a statistical as well as analytical standpoint. Here, the Sahel and West Africa Club Secretariat (SWAC), attached to the OECD, provides a specific contribution “from the perspective of West Africa.” This analysis completes the recent co-publication – in collaboration with the Economic Community of West African States (ECOWAS) – of an Atlas on West African migration.

In January 2008, ECOWAS Heads of State adopted a common approach on migration. This initiative, in which the Sahel and West Africa Club participated, contributes to the original North-South dialogue on migration. On some issues, West African countries have expressed the desire to band together to address migration policies of OECD countries.



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They are convinced that this approach would be advantageous for their countries as well as the OECD.

We hope that the information and analyses contained in this publication will contribute to develop this multilateral dialogue.

We cannot conclude without sincerely thanking the Italian Ministry of Foreign Affairs who provided financial support and without which this work could not have been carried out. These acknowledgements are also extended to the members of the SWAC team who have contributed to this publication.

**Normand Lauzon,**  
**Director of the Sahel and West Africa Club**

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## LIST OF ACRONYMS

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ACP	Africa, Caribbean, Pacific
AU	African Union
CAI	<i>Contrat d'Accueil et d'Intégration</i> (France)
ECOWAS	Economic Community of West African States
EPA	Economic Partnership Agreement
EU	European Union
FRONTEX	European Agency for the Management of Operational Co-operation at the External Borders
ILO	Immigration Liaison Officer
IND	<i>Immigratie- en Naturalisatiedienst</i> (Immigration and Naturalisation Service) (the Netherlands)
MEDSEA	Mediterranean Coastal Patrol Network
OECD	Organisation for Economic Co-operation and Development
PALOP	Portuguese-speaking African Countries
SIS	Schengen Information System
SWAC	Sahel and West Africa Club
WAEMU	West African Economic and Monetary Union

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## SUMMARY

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Human mobility and migration, in particular, have become crucial elements of globalisation and should be better understood by states and international organisations (the United Nations system, regional co-operation organisations, dialogue processes between G8 and OECD member states and non-members states, and so on). While the proportion of migrants in the world population constantly grew between 1970 and 2005, official statistics show that migration remains modest in both absolute and relative terms compared to other dynamics<sup>1</sup> of globalisation. In a global population of 6.5 billion in 2005, there were 205 million migrants, or 3.15% of the total (UNDESA 2006).

This state of affairs illustrates one of the characteristics of the debate over migration: the gap between statistical data and the extent of the concerns the phenomenon has generated in government and public opinion. The approach adopted at the national, regional and international levels can thus only be political. Its principal instruments are national policies governing the admission and integration of migrants, on the one hand, and dialogue and co-operation at various levels between parties whose interests often diverge, on the other.

On both sides of the EU and ECOWAS circulation zones, discussions are underway in favour of a co-ordinated approach to migration. In order to better clarify the changing context surrounding the issue of migration, this document compiles and summarises the policy and legislative initiatives in developed countries where West African migration is to be found. It also analyses the processes of dialogue concerning migration issues in which West African states are involved. Its aim is to facilitate debate on the impact of international measures and migration policies on the ECOWAS circulation zone and to contribute to dialogue between regions as well as host and source countries by offering a summary assessment of migratory legislation and dynamics.

The analysis is based on two characteristics put forward by the *Atlas on Regional Integration*,<sup>2</sup> by Oxford University's "International Migration Institute" and the University of Ghana's "Centre for Migration Studies":<sup>3</sup>

1. Intra-regional migration is much more significant than extra-continental migration: 7.5 million West African migrants in West Africa compared with just over one million in Europe and North America. This tradition of mobility reflects historical and socio-cultural factors and factors relating to the search for economic opportunity that have been in place since the pre-colonial period.
2. The distinction is becoming less clear between the various migration models, migrant typologies and the status of migration sites (transit-host-source). Migratory spaces together form a complex system, as shown by the ever closer ties between migrations in West Africa and those towards North Africa and the European Union. Within these three spaces, there exist interests and needs that are particular to each country or group of countries depending on their geographical position, the historical ties among actors in the migratory system and the political, economic and social issues linked to migration questions and their treatment. As a result of these factors, defining migration policies and international initiatives is a difficult and long term exercise.

This study is divided into four chapters:<sup>4</sup>

1. The first consists of an overview of national migration policies in Belgium, France, Germany, Italy, the Netherlands, Portugal, Spain and the United Kingdom (European Union countries where West African migrants are most numerous). The North American experience is also important. In the last few years, Francophone as well as Anglophone West Africans have been attracted by the opportunities for study and work offered by the United States and Canada in the framework of a strategy to diversify destinations outside of Africa. Recent developments in European migration policies, moreover, have been inspired by measures long ago adopted in Canada (the points system) and the United States (the quota system, the Green Card). For these reasons, these two countries are included in the present overview.
2. The second chapter describes processes towards adopting a global European policy in the area of migration that would make action centred on Africa and the Mediterranean its priority.
3. The third chapter specifically concerns West Africa. It recounts the evolution of the ECOWAS approach to migration issues at the regional level and in its relations with its international partners. This is followed by a brief survey of the common position of the African Union and trends in national migration policy.
4. Finally, on the basis of an analysis of the approaches presented here, conclusions are drawn in order to contribute to the debates that will take place in the course of the upcoming scheduled meetings to discuss migration between regional blocs (Europe, North Africa, West Africa).

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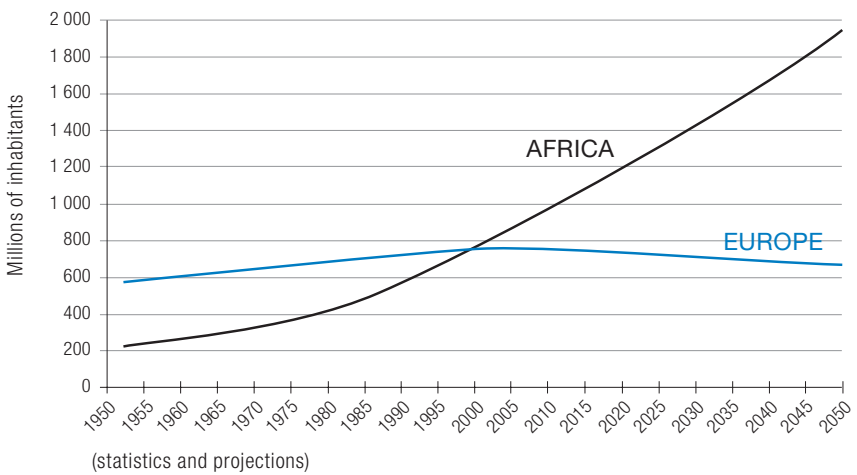
1 *Growth and development in movements of financial capital, information, etc.*

2 *Atlas on Regional Integration in West Africa, chapter on "Migrations", SWAC-OECD in partnership with the ECOWAS, [www.atlas-ouestafrique.org](http://www.atlas-ouestafrique.org).*

3 *See the final report of the workshop organized on this question at Accra (18–21 September 2007).*

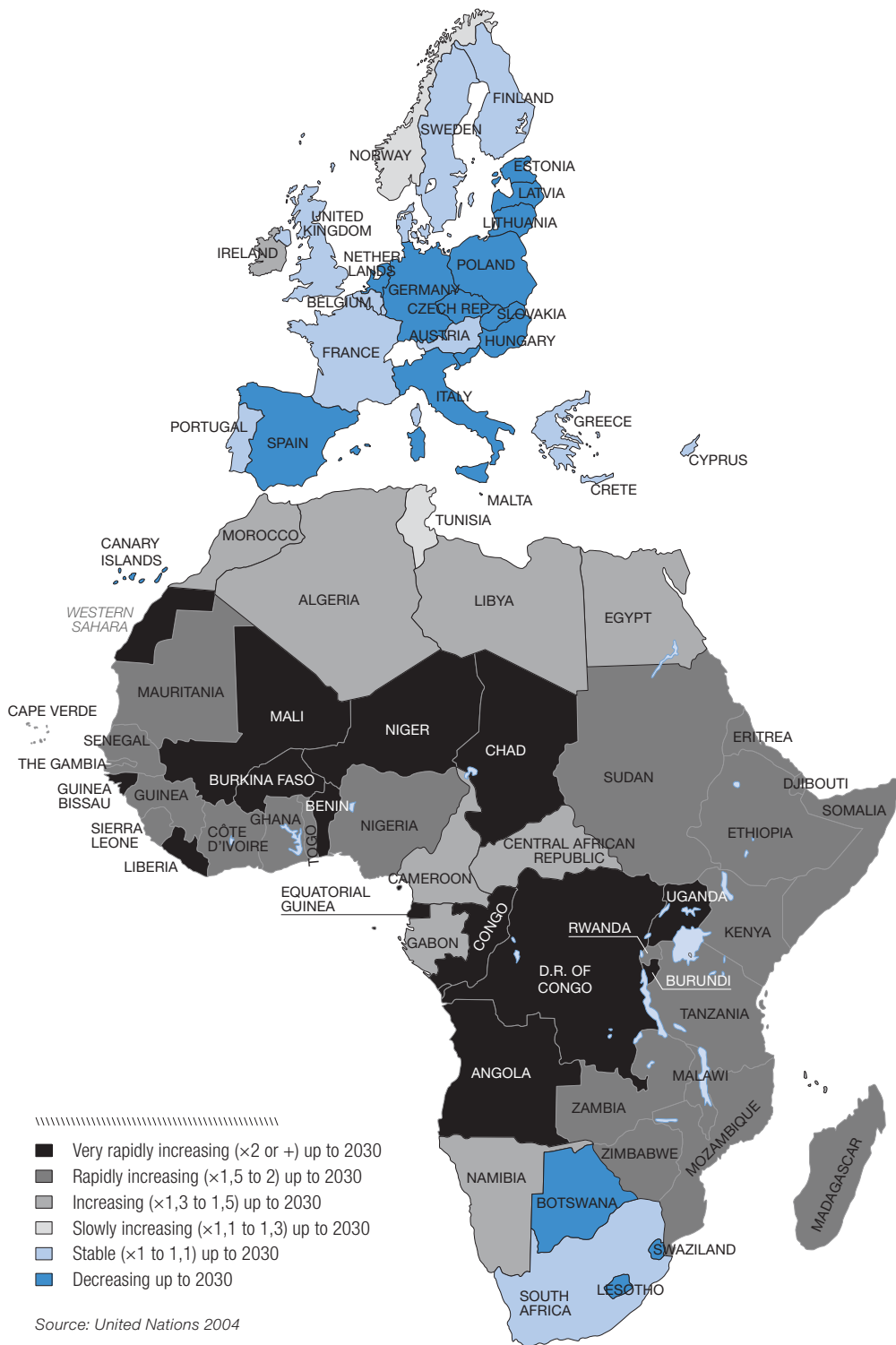
4 *As it focuses on the instruments for managing international migration, this document offers no analysis of the phenomenon of West African migration. On this matter, readers are asked to consult the bibliography.*

EVOLUTION OF THE POPULATION:  
DECLINE AND GROWTH IN EUROPE AND AFRICA

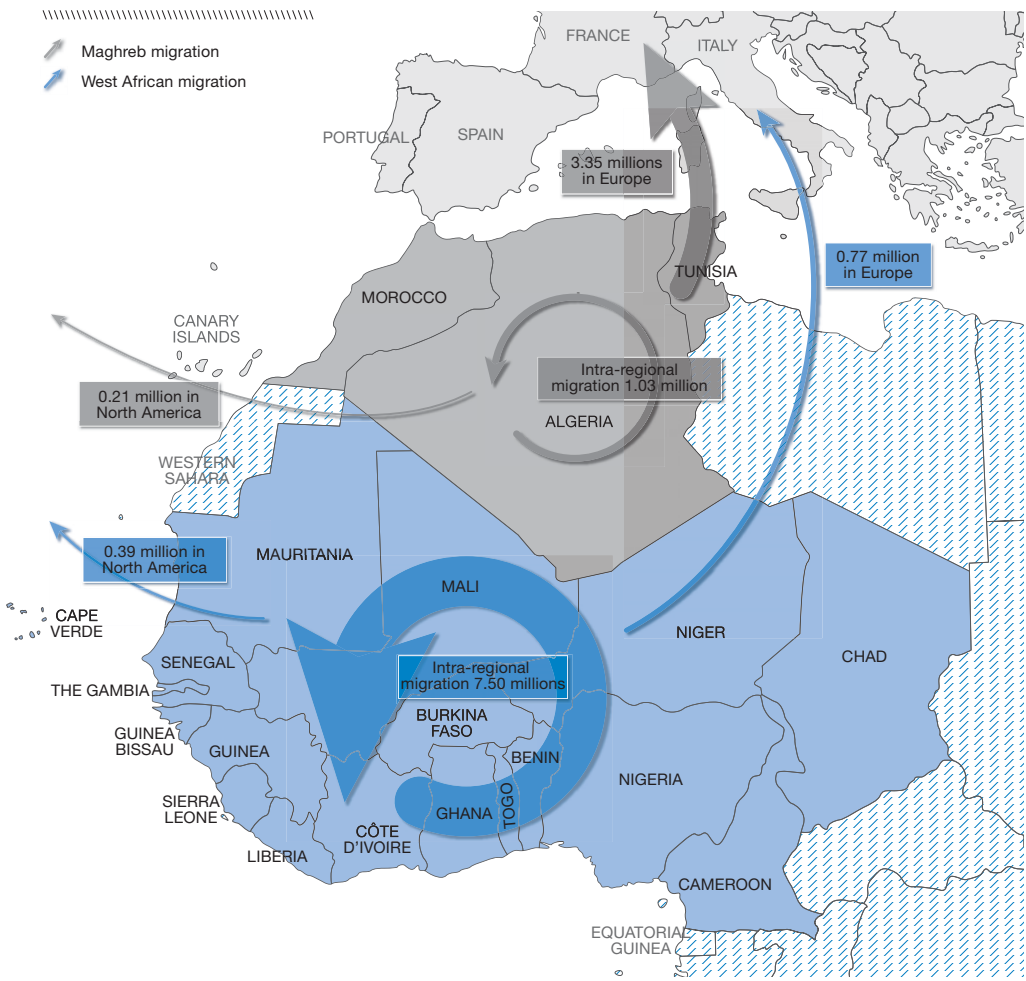


Source: United Nations 2004





# AFRICAN MIGRATION



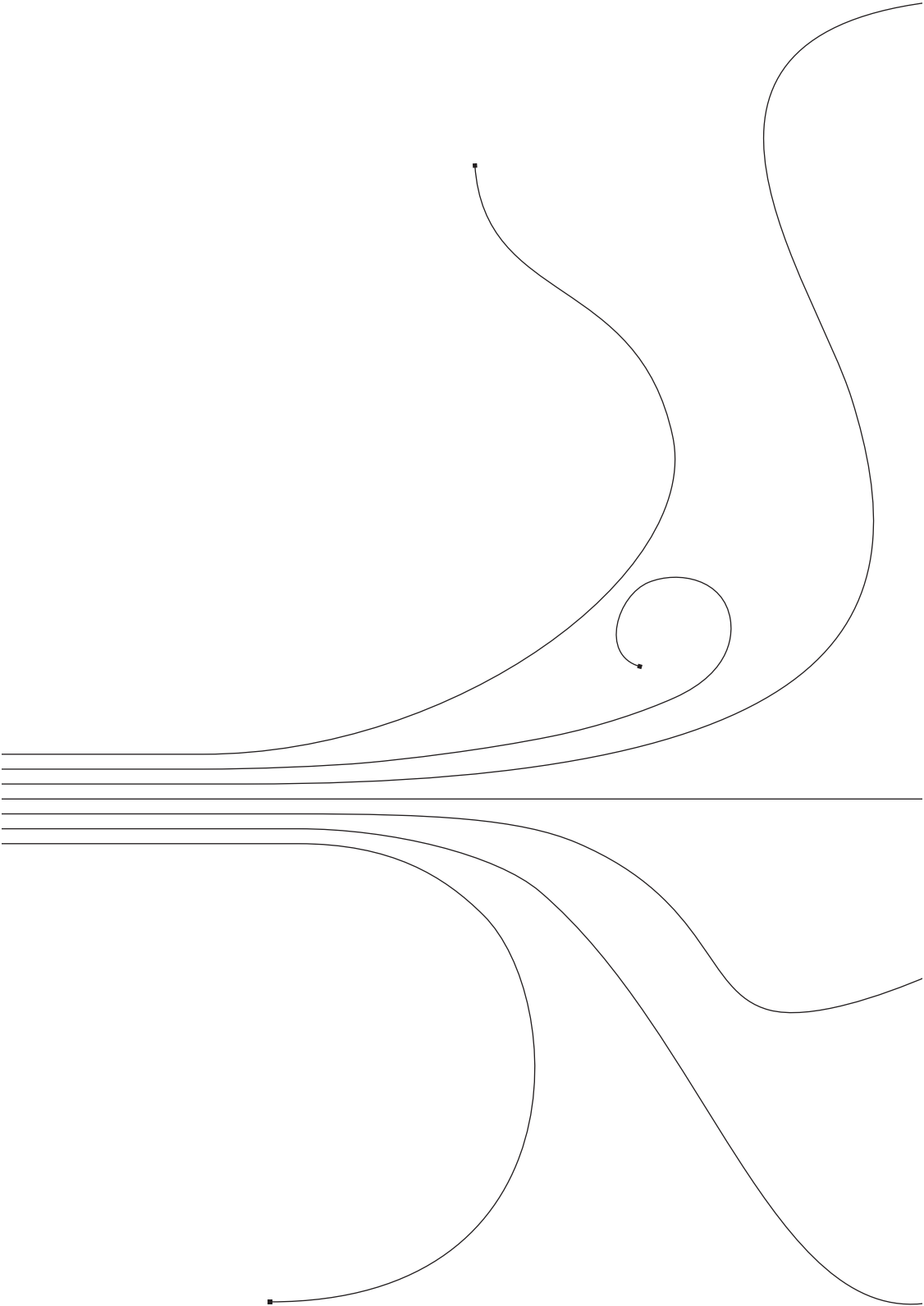
Sources: DELSA-OECD/Migration Policy Institute 2000

Major host countries in OECD  
excluding Germany  
in the 2000s

Number of immigrants  
in thousands

									8
	USA	France	Great Britain	Italy	Portugal	Canada	Belgium	Switzerland	TOTAL
Benin	1,1	12,0	0,2	0,8	0,0	0,4	0,4	0,2	15
Burkina Faso	0,7	4,7	0,1	2,5	0,0	0,4	0,4	0,2	9
Cameroon	12,4	36,0	3,2	2,3	0,1	2,4	2,4	2,5	61
Cape Verde	27,1	12,4	0,3	3,3	44,9	0,3	0,4	1,2	90
Chad	0,4	4,4	0,2	0,1	0,0	0,6	0,2	0,2	6
Côte d'Ivoire	7,6	45,2	2,8	7,2	0,1	1,9	1,4	1,1	67
The Gambia	6,0	1,0	3,9	0,3	0,0	0,2	0,2	0,2	12
Ghana	67,2	4,4	56,1	17,5	0,1	17,1	2,7	1,7	167
Guinea	5,2	7,8	0,3	0,7	0,3	1,4	0,8	0,4	17
Guinea Bissau	0,5	7,6	0,4	0,2	21,4	0,1	0,1	0,1	30
Liberia	40,9	0,7	1,6	0,2	0,0	0,7	0,3	0,3	45
Mali	2,8	40,2	0,1	0,3	0,0	0,9	0,3	0,2	45
Mauritania	2,2	9,6	0,0	0,2	0,0	0,2	0,3	0,1	13
Niger	1,1	3,4	0,1	0,1	0,0	0,2	0,2	0,1	5
Nigeria	140,2	2,6	88,4	15,4	0,1	10,7	1,5	1,5	260
Senegal	10,9	82,1	0,7	29,4	0,6	1,9	1,5	1,0	128
Sierra Leone	21,3	0,7	17,0	0,5	0,0	1,0	0,4	0,5	42
Togo	3,0	12,8	0,6	0,8	0,0	0,8	1,0	0,5	19
West Africa	351	288	176	82	68	41	14	12	1031

Source: DELSA-OECD Database 2004

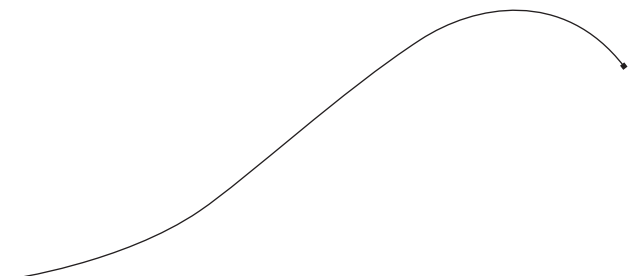
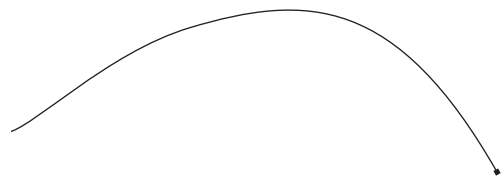
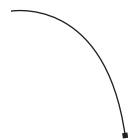




Chapter 1



# OVERVIEW OF SELECT OECD COUNTRY MIGRATION POLICIES



Labour needs, foreign policy priorities, national and electoral political issues, public opinion and private lobbyist are among the factors determining migration policies regarding migration inflows or outflows. However, recently, public debates on much politicised, often controversial, migration issues are placing ever more emphasis on the security aspect. This atmosphere raises the problem of a better co-ordinated approach among European Union member countries and the (non) convergence of their nationally-based migration policies. Discussions are also being re-launched concerning bilateral agreements. These agreements should be examined for the impact they may have on dialogue between Europe and West Africa as well as in-between their States.

## 1

## OVERVIEW

Despite substantial differences in objectives, content and specific measures, migration policies of European countries have many points in common.

First, they have evolved over the course of migratory phases that closely follow Europe's history: 1) post-war reconstruction and decolonisation (1945-1960); 2) the takeoff in labour migration during the period of economic growth between 1960 and 1973; 3) the restrictions imposed during the 1970s recession, leading to family reunification and humanitarian migration; and 4) the reorganisation of migratory flows following the collapse of the Soviet Union and the global geopolitical changes resulting from it (Zimmermann 2005, Pastore 2007).

Second, the requirements of the labour market and foreign policy priorities are not the only factors that determine migration policies. Public debates on migration issues are very politicised, often tending to polemic and exaggeration. They prompt concerns regarding the fundamental issues that societies today are confronting and to which governments are striving to respond:<sup>7</sup> terrorism, crime and security; the reform of the Welfare-state; the transformation of employment, job markets and national identity in the era of globalisation (Boswell 2003). According to this author,

the politicisation of migration issues is responsible for the general trend towards placing restrictions on immigration conditions and opportunities in Europe since the 1980s. Other experts add that stricter migration policies are the reason for increased unauthorised immigration, particularly from sub-Saharan Africa to Southern European countries by way of Maghreb (de Haas 2007a, UNDESA 2004).

A third factor influences the definition of the migration policies of OECD countries: the action of interest-groups within societies (private sector, ethnic minorities with political rights), public institutions defending liberal-democratic principles (constitutional courts, tribunals) and international obligations (Universal Declaration of Human Rights) that encourage human mobility and the defence of migrants' rights.

Migration policies entail two fundamental dimensions (Papademetriou 2006):

- The *admission* of candidates for immigration (external dimension),
- The *definition of their rights and responsibilities* and sometimes even their *integration* into host societies (internal dimension).

Experts identify three constraints on the conception and implementation of migration policies over the last fifty years. First, these policies have been based on the assumption that all migration is temporary. Consequently, the "internal" and "external" dimensions are often addressed separately from a political and legal point of view, resulting in migration policies that, taken as a whole, are inconsistent. In general, priority is given to defining admission criteria and entrance controls to the detriment of the social and economic insertion of immigrants and their families. Furthermore, the management of labour and "humanitarian" (refugees and asylum seekers) immigration is often operationally linked but in the absence of an integrated conceptual approach. In 2003, Boswell explained the historic and political causes of this situation, emphasising that it had led to deterioration in the conditions of assistance and protection for asylum seekers in Europe. This category of migrant might ultimately suffer further exclusion in industrialised countries.



The "internal" and "external" dimensions are often addressed separately resulting in migration policies that, taken as a whole, are inconsistent.

Focusing on the issue of migration, the *United Nations 2004 World Economic and Social Survey* described recent trends in immigration policy on the basis of eight key topics: overall immigration levels; skilled worker migration; low-skilled migration; family reunification; the integration of non-nationals; undocumented migration; the regionalisation of policies; and links between migration and trade (UNDESA 2004).<sup>2</sup> These trends, summarised in → [Table 1.1](#), are largely representative of the situation of European countries.

Table 1.1:  
Global Immigration Policy Trends

<b>I</b> Immigration levels
<p>The management of migration is thus a priority policy intervention area. Restrictive measures are adopted as soon as migrants make up more than 5 % of the national population. In 2003, one third of United Nations countries pursued an immigration reduction policy.</p>
<b>II</b> Skilled worker migration
<p>Following the example set by the United States in 1965, immigration of foreign labour was based simply on competencies and skills. Increasingly the selection of immigration applicants is based on the host country's job market needs. Adoption of ad hoc programmes notably in the health and technology sectors.</p>
<b>III</b> Low-skilled migration
<p>The needs of foreign unskilled labour are not widely taken into account (construction, agriculture, services), notably in Europe and North America. Hence, these needs are filled by unauthorised immigrants whose presence is tolerated, to a certain extent, by host country governments (through regularisation and amnesties).</p>
<b>IV</b> Family reunification
<p>Utterior understanding of the implications of family reunification on existing migratory systems (duration of migration, integration needs and modalities, etc.). As of 1990 (since 1998 in EU legislation) it is a recognised right in most European countries. Due to a lack of other opportunities, it has become the main legal justification of migration towards OECD countries. With a view to reducing migratory flows, several governments limit entrance conditions of legal migrant family members and take a hard stance on controls for admission, prompting many disputes.</p>
<b>V</b> Integration of non-nationals
<p>In 2003, 61 countries making up the majority of the group of industrialised countries, adopted programmes to facilitate the integration of migrants through intercultural dialogue and diversity management. These programmes are based on lessons learned from traditional integration approaches relying on assimilation and multiculturalism<sup>3</sup>, deemed ineffective. The increase in immigration has led several departure countries to offer double nationality meanwhile some host countries (ex: Germany) make the naturalisation process more flexible in order for immigrants, notably second generation, to have civil and political rights. However this trend has not been taken on board throughout Europe.</p>



## VI Undocumented migration

One of the reasons inciting governments to deal with migration issues. On one hand, measures are undertaken to curb undocumented immigration: combating human trafficking; bilateral agreements between transit countries, host countries and more recently countries of origin; strengthened regional co-operation in order to control external borders; introducing difficult-to-counterfeit travel documents; and awareness-raising campaigns on the risks of undocumented migration. On the other hand, in some countries with labour shortages, the underground economy and the number of undocumented migrants are high, governments proceed with regularisation campaigns.

## VII Regional and sub-regional harmonisation

At the global level, several consultative processes were created to exchange information and co-ordinate actions, for example to counter undocumented migration. The harmonisation of national migration policies, the adoption of a common approach and shared objectives as well as the measures implemented depend on the level of political integration reached by each regional bloc.

## VIII Links between migration and trade

The World Trade Organisation through the General Agreement on Trade and Services identifies temporary movement of qualified workers as one of the modes of services (number 4). In order to respect this clause, signatory States must enable foreign service providers to circulate and temporarily reside on their territory in order to carry out their job. This provision is always difficult to convey in national legislations, States fear thus losing control on admitting foreign citizens on their territory.

*Source: UNDESA 2004*

Given their historical, political and economic links with former colonial powers (Belgium, France, Portugal and the United Kingdom) and because of geographic proximity (Spain, Italy), African migratory flows from the continent are mainly directed towards Europe (ECOWAS/SWAC 2006). Until 2000, however, this immigration had no particular or specific impact on the direction taken by European national policies relative to those of other communities coming from Eastern Europe, North Africa and Asia. Since 2002, by contrast – and even more so since 2005 – images of West African migrants in Spanish enclaves in Morocco or on Europe's southern coasts have provoked a public debate that has been exacerbated by what some call the "myth of invasion" (de Haas 2007a).<sup>4</sup> These debates and their political consequences are largely at the origin of the renewed dialogue between Europe and Africa and the tightening of policies. They have revived processes for developing a global approach to migration by the EU.

## BELGIUM EMPHASISES INTEGRATION, IN KEEPING WITH ITS HOST TRADITION

In 2004, 9% of the national population (slightly over 10 million) was foreign born. 60% of them were European citizens, most of whom lived in and around Brussels.<sup>5</sup> Italians (200,000) comprise the largest group followed by French, Dutch, and Germans. Outside the EU, Moroccans and Turks dominate with 107,000 and 56,000 individuals, respectively (SPFETCS 2003). The Democratic Republic of the Congo is the only African country among the 12 most heavily represented foreign nationalities, with 11,000 nationals. In 2001, the number of West Africans in Belgium did not exceed 10,000, including Ghanaians and Cameroonians (1,700 each) as well as Nigerians (1,000) (OECD online database). During the 1990s, a large number of individuals from the Great Lakes region and the former Yugoslavia sought asylum in Belgium, with 22,000 applicants in 1998, of whom less than 10% were accepted. The high rate of unauthorised migration led to a regularisation campaign in 2000.<sup>6</sup>

Migratory flows to Belgium declined at the beginning of the decade. In 2005, however, migration rose by 7 points compared to 2004. These flows involved Europeans, in particular: Poles are thus the main beneficiaries of temporary work permits (OECDa 2007). Another key piece of data concerns naturalisations: there are 31,000 per year on average. This number has remained stable for several years and is higher than that of other OECD countries. It is explained by the history of immigration in Belgium and the place occupied by integration in its approach to migration.

Belgium's status as a host country dates from the beginning of the 20th century. Until the 1970s, the country attracted low-skilled foreign labour to work in Wallonian mines through bilateral agreements with Algeria, Greece, Italy, Morocco, Spain, Tunisia, Turkey and Yugoslavia. In addition to labour migration, starting in the 1980s family reunification was eased in order to achieve a second objective, namely, propping up the country's low demographic growth rate. Entry conditions for foreign labour were alternately tightened and loosened in keeping with the national economic situation. Belgium distinguished itself by its immediate openness to other types of migration. In particular, Belgium promoted student migration from developing countries: 12,300 students attended French-speaking universities in 2001–2002.<sup>7</sup> In addition, with the end of

labour migration in 1974, the country came to focus increasing attention on integrating foreigners and their descendents.

Naturalisation is the favoured mode of integration. The Belgian Nationality Law was first reformed in 1984 and then again in 1992 in order to simplify access to Belgian nationality for second generation immigrants by awarding it upon request from foreign parents or, in the case of third generation immigrants, automatically. In 2000, new provisions entered into force abolishing any fees linked to gaining nationality, simplifying the procedure and eliminating the controversial notion of “a desire to integrate” (SPFETCS 2003). Between 1995 and 2000, Moroccans and Turks comprised the largest number of those who acquired Belgian nationality. At the same time, the Government adopted an Action Plan to combat all forms of discrimination and racism leading to the adoption of the Anti-discrimination Law of 25 February 2003. Created in 1993, the Centre for Equal Opportunities and Opposition to Racism monitors the implementation of anti-discrimination measures. Parliamentary debates focused on the opportunity to include religious beliefs and opinion among discrimination criteria, reflecting concerns regarding the spread of the Muslim religion and the growing power of extremist political parties. Furthermore, more recent debates have focused on the possible collection of ethnic statistics in order to evaluate discrimination in various areas of public life (access to employment, housing, etc). In the 2007 political elections, the diversity agenda was hotly contested by the nationalist fringe of the political spectrum (Flemish and Walloon alike).

Another integration measure concerned the extension of voting rights in local elections to non-European foreigners, who exercised this right for the first time in October 2006. Their very low turnout rate (only 17% of those with the right to do so, registered to vote) was due to an inadequate public information campaign and unwieldy registration procedures. Recent immigrants were particularly penalised by this situation given that those who have been in the country for a long time often hold Belgian nationality and already have the right to vote.



The voting rights in local elections are extended to non-European foreigners. This right was exercised for the first time in October 2006.

The internal dimension of Belgian migration policy is based on the Law of 15 December 1980 concerning Access to Territory, Residence and the Establishment and Removal of Aliens and amended in 1981, 1999, 2003 and 2006. The federal government is responsible for defining the categories of foreigners with right of access to the national territory. Authorised immigration involved the free movement of EU nationals, immigration in the framework of family reunification, admission of students for the duration of their studies, labour migration for those holding a permit and, finally, reception and protection of persons in danger. The regions<sup>8</sup> are

responsible for granting work permits and implementing integration measures while the communes are responsible for administrative monitoring of emigrants.

In the area of labour migration, there are two categories of work permit (Law of 30 April 1999 on the employment of foreign workers): Permit A is of unlimited period for all salaried professionals and Permit B is valid for a maximum period of twelve months and only allows the holder to work for a single employer.

Since 1999, the Government's priority has been to redefine the conditions of family reunification (the most important source of non-European immigration in Belgium) and reform asylum procedures. In the former case, this has involved taking a more restrictive stance: in 2006, the minimum age at which foreigners living in Belgium may marry someone from outside an EU-27 country rose from 18 to 21. Conjugal life is monitored for three years following reunification. In the latter case, it has involved simplifying procedures in order to more effectively manage applications. The new procedure consists of two phases, neither of which lasts more than one year: in the first phase, the application's admissibility is initially reviewed with the possibility of being processed urgently; in the second, the application is thoroughly examined. During the phase in which admissibility is being examined, candidates for asylum are placed in ad hoc receiving centres. There, they are only provided with material assistance thereby reducing the system's attractiveness and helping to fight fraud. Organisations defending migrants' rights strongly object to these measures. An application's rejection leads to deportation. Since 1993, asylum seekers whose applications have been refused can be detained for up to two months in the housing centres prior to deportation. This applies to all foreigners who represent a threat to security and public order. These measures also target those involved in human trafficking. Since 2007, victims of human trafficking have the right to reside in the country.

In conclusion, for forty years Belgium has received uninterrupted migration and become an ever more diverse society. While the asylum system and the fight against unauthorised migration are both sensitive issues, the most topical concern is that of integration, reflecting broader unease borne of separatist pressures within the country's two indigenous groups, the Walloons and the Flemish.

Canada is a traditional country of immigration and settlement. The first major migratory flows from Europe coincided with the great contemporaneous migration between 1820 and 1910. These flows have not halted since (they slowed between 1973–1984 but less so than in other industrialised countries). According to the 2001 census, Canada has a foreign-born population of 5.8 million, or approximately 18% of the total population. During the last ten years, it has received on average 221,000 people annually (Government of Canada website). The trend remains high: in 2005, 260,000 individuals were admitted as permanent residents, 11% more than in 2004 (OECD 2007a).

Furthermore, the origin of migratory flows has changed greatly since the 1970s: today, almost 50% of migrants come from Asia, 20% from Africa and the Middle East and only a little more than 15% are from Europe.<sup>9</sup> The share of African immigration is partly explained by the country's generous asylum policy (7,330 Somalis resided in Canada in 2001). North Africans (Algerians, Moroccans and Egyptians) are the most numerous. In 2001, there were 18,770 West Africans residing in Canada for various reasons, with approximately 6,000 Nigerians and Ghanaians respectively. The Ivoirian and Cameroonian communities each counted a little more than 1000 individuals (OECD online database).

It is not only the origin of the migratory flows that has changed over the last thirty years, but also their nature. Contrary to the trend of other OECD countries, less than one third of migration to Canada is family-related whereas work migration has risen to approximately 60%.<sup>10</sup> This situation depends on the choice of migration policies adjusted to the evolution of global migratory dynamics underway since the 1960s.

Canada has incorporated the concept of permanent migration and has an active policy of increasing immigration. Its approach is based on the establishment of annual entry quotas (from 220,000 to 225,000 people) which depend on job market conditions and the use of admission procedures based on the human capital supplied by applicants. The Immigration and Refugee Protection Act (2001, Ch. 27) sets out the following authorised categories: skilled or independent workers, close relatives (spouse, civil partner, child, parents and grandparents) of citizens or Canadian residents, refugees, foreign students, and temporary workers.

Introduced for the first time in 1967, a point system is used to verify the admissibility of applicants as skilled workers with the right to a permanent permit. Six criteria are taken into account: education, linguistic aptitude, work experience, age, arranged employment and adaptability. Each criterion corresponds to a number of points: 25 for education, 24 for language ability, 21 for work experience, and 10 for others. In order to be admissible, an applicant must have a total of 67 points out of 100. Skilled workers and their spouses can also obtain temporary visas through government programmes targeting software development professionals.

Canadian provinces can launch international labour recruitment programmes by signing bilateral agreements with the country of origin. These agreements often involve the immigration of low-skilled seasonal

Canadian provinces can launch international labour recruitment programmes by signing bilateral agreements with the country of origin.



workers (mostly in the agriculture sector). Employers must send a specific request specifying the number of workers needed, the duration, the location as well as work and living conditions. Two procedures are avail-

able: going through provincial government services or accepting individual applications from the country of origin. Permits do not exceed eight months, do not provide the right of residence nor the possibility of accepting another job or a supplementary job without prior authorisation from the authorities. It is however possible to renew this permit upon returning to their country of origin. These programmes are deemed positive because they allow for an increase in seasonal migration while at the same time seeing to it that fewer migrants stay on once their permits expire, a sign of confidence and a shared interest between host countries, countries of origin and migrant workers.

Starting in 1976, Canada established a system to manage the arrival of refugees and asylum seekers participating in its global migration policy. The 2001 law provides increased protection for asylum seekers independently of their ability to set up residence in Canada. One particular aspect of the law is that groups and individuals can sponsor a person in danger or in need of protection provided that this person is eligible for admission. In 2004, 10% of asylum seekers obtained such sponsorship. Over the last few years, applications have declined. In 2005 there were 20,000 such requests, the lowest number since the 1980s.

The increase in student migration is a priority for developing the “knowledge economy”. Each year, approximately 70,000 foreign students, mostly Asian, are enrolled in Canadian schools, high schools and universities. Since 2005, those who complete their graduate degrees in Canada are allowed to continue their stay for two more years.<sup>11</sup> Since 2006, students can work off-campus while studying.

Permanent residents 18 years of age<sup>12</sup> or older can apply for citizenship. They must have lived in Canada for at least three out of the last four years and be able to sufficiently speak one of the two official languages. These residents must demonstrate their understanding of the country's culture, history and political system by taking a "citizenship exam". If the application is accepted, citizenship is obtained in the course of a citizenship ceremony in which applicants take an oath and receive their certificate. Around 160,000 foreigners obtain citizenship each year, or 85% of the migrants who enter annually (Government of Canada website).

Since the 1960s, Canada has been applying measures to adapt to global migratory dynamics to ensure that these contribute to the aims of national growth and prosperity. Thus, cultural diversity is among the fundamental principles of the Canadian state. European states seeking to reform their approach often draw inspiration from these migration policies (selection based on foreign human capital, quotas, co-operation between federal and provincial levels, citizenry exams and ceremonies, etc.). Due to a selective migratory system, Canada's foreign population is on average better educated than that of Europe. Some experts, however, question the degree to which real opportunities for professional development and social mobility are available to new immigrants in Canadian cities.<sup>13</sup>

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#### 4 FRANCE RESTRUCTURES ITS APPROACH, EMPHASISING SELECTIVE MIGRATION AND CO-DEVELOPMENT

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The composition of migratory stocks and flows illustrates this country's long-standing tradition of receiving immigrants. Of a population of almost 61 million in 2005, 8.1% were foreign born (OECD 2007b). It is also one of the rare OECD countries where African immigration dominates,<sup>14</sup> with 1.2 million of Maghreb migrants and 368,000 Sub-Saharanans in 2005.<sup>15</sup> The largest communities are Algerian (565,000) and Moroccan (470,000), followed by Senegalese (50,000), Malian (45,000) and Cameroonian (31,000). Almost two thirds of the total recent flows are from Africa. Algeria and Morocco are at the top of the list of countries of origin. Cameroon and Côte d'Ivoire are respectively in fifth and seventh place (OECD 2007a). After having grown since the mid-1990s, total flows were steady at about 135,000 in 2005 as a result of the reduction in family reunification and European enlargement. The number of direct entries on the job market and asylum seekers has slightly increased.<sup>16</sup>

The migratory approach is influenced by – and in its turn influences – foreign policy, notably with regards to Africa. Domestically, it is closely linked to social and economic changes within society and especially to increasing cultural and increasing religious. France terminated its foreign labour recruitment programme in 1974. Up to that date, immigration from European countries (Belgium, Italy, Poland and Spain) and former colonies was not restricted in order to facilitate post-war reconstruction.<sup>17</sup> The halt to labour migration was not reflected in a drop in entries. It was replaced by family migration in order to facilitate the integration of immigrant labourers residing in France.

In the 1980s, migration issues became more politicised as extreme right movements such as the National Front grew. The anti-immigration agenda (new entries and integration conditions) dominated the political debate. Based on a political discourse of “zero immigration”, the Pasqua laws<sup>18</sup> of 1993 toughened conditions for obtaining family reunification and asylum and organised the deportation of undocumented immigrants. They also prohibited foreign students from working during or after their studies. Similarly, these laws changed the Nationality Code: naturalisation was no longer automatic upon their 18th birthdays for foreign children born in France. They must now apply for French nationality between 16 and 21 years of age. The interval for acquiring it through marriage increased from six months to two years. Following the opposition’s victory in the 1997 legislative elections, these laws were reformed in 1997 and 1998. New provisions focused on the regularisation of around 90,000 undocumented immigrants, increasing student and skilled labour immigration and ensuring the right to nationality for the minor children of foreigners living in France.

In the first decade of the century, security aspects and managing cultural diversity in relation to migration issues continued to be a national preoccupation.<sup>19</sup> They were the focus of the 2002 and 2007 electoral campaigns and subsequently resulted in legislative reform. Key texts are:

- Law 1119 of 26 November 2003 regarding controlling immigration, the length of foreigners’ stay in France and nationality;
- Law 119 of 24 July 2006 regarding immigration and integration; and
- Law 1361 of 20 November 2007 regarding controlling immigration, integration and asylum.

As of 2007, the Ministry of Immigration, Integration, National Identity and Development Partnership is responsible for implementing these laws. The Ministry’s title illustrates the conceptual and operational approach adopted by the new Government with regard to migration.

Traditional objectives concerning immigration have been maintained and even strengthened: reducing unauthorised immigration and controlling migratory flows. Priority has been given to deportation operations,



which had already increased since 2001 (the annual quota of 25,000 deportations was almost reached in 2007). These efforts to control flows, moreover, reflect the new objective of reducing family migration while giving priority to professional migration in order to respond to economic needs while taking into account the host country's capacities:

- Conditions for family reunification have become more restrictive: every non-European foreigner requesting family reunification must demonstrate legal presence in the country for at least eighteen months and income without benefits at or above the minimum wage depending on family size. The 2007 Law introduced an obligatory evaluation of the applicant's linguistic skills in the country in which the visa application is submitted. A long-term residency permit is no longer issued if there is a lack of linguistic understanding.<sup>20</sup>
- Labour migration is actively solicited: low qualified labour is selected from a list of sectoral deficit occupations that can be filled by foreigners from developing countries (30 occupations). Foreign workers obtain a one-year renewable residence permit for the length of their contracts. By means of bilateral "concerted management of migratory flow" agreements with the principal countries of origin (→ [Table 1.2](#)), other non-opposable professions may be added to this list. Similarly, new temporary residence permits were created for: a) skilled workers ("competencies and talent" card for three years, approximately 2,000 per year); b) wage earners temporarily posted to France by their employers; and c) seasonal workers. Students obtained the right to work up to 60% of the legal work time. Upon completion of their studies, they can remain six months longer in order to find employment. If employment is found, they can apply for a change in status.
- Procedures for changing status have been amended: obtaining a long-term residence visa is a prerequisite to obtaining a residence permit under three conditions linked to integration (see below); if a residency permit is refused, the applicant may have to leave the territory; automatic regularisation after 10 years residence in France has been suppressed.
- Administrative responsibility for receiving and processing asylum applications was transferred from the Ministry of Foreign Affairs to the Ministry of Immigration. The delay for processing applications and the possibilities of recourse have been reduced.

New measures introduced a Reception and Integration Contract [*contrat d'accueil et d'intégration (CAI)*] obligatory for all non-EU foreigners entering as permanent residents. This contractual agreement sets out the reciprocal rights and responsibilities of France and its migrants, who are seen as active agents of integration. Willingness to integrate is demonstrated by fulfilling three fundamental conditions:

1) a personal commitment to respect the principles governing France; 2) effective respect of these principles; and 3) an adequate understanding of the language. Since 2007, there is also a CAI for the family that commits parents to ensuring that their newly arrived children are well integrated. Noncompliance could lead to the suspension of the family allowance and a judge's intervention on behalf of the children. The state, for its part, is committed to facilitating integration through action in three priority areas: housing, academic success and professional insertion. Specific measures are being studied for 2008 for new arrivals, immigrants who have long lived in France and their progeny. With regard to integration, the Ministry works in collaboration with the National Agency for the Reception of Foreigners and Migration and the *Haute Autorité pour la Lutte contre les Discriminations et l'Égalité*.<sup>21</sup>

Finally, co-development, a concept borrowed from the development aid and, more particularly, decentralised co-operation policy, became a full-fledged lever of immigration policy. It concerns *"all development aid involving immigrants living in France whatever the nature or modalities of this contribution."*<sup>22</sup> Its specific objectives are to facilitate circular mobility between countries of origin and host countries (including voluntary return), support development projects involving migrants, and support and strengthen the action of co-development actors including states as well as territorial entities, civil society organisations, universities and businesses. An example of this is supplied by the "co-development savings account" (Law 2006-119) offering tax benefits to migrants investing in their country. Co-development conventions signed with partner countries (Mali, Morocco, Senegal) in the framework of French development assistance govern the details of the measures taken. These conventions are now part of concerted migratory flow management agreements (→ [Table 1.2](#)), with France striving to promote consistent policy in regards to migration and development aid within the government.

Co-development and controlling unauthorised migration are the two priorities pursued by France within the European migration agenda. France's draft of a European pact on immigration and asylum met with "broad agreement" – including among countries such as Spain that had

been reluctant – within the European Union at the Cannes meeting of 7 July 2008. At Cannes, the Interior and Immigration Ministers of the twenty-seven Member States held a meeting to smooth over differences concerning

Co-development and controlling unauthorised migration are the two priorities pursued by France within the European migration agenda.



this document, which France, currently President of the EU, wishes to see adopted by the European Council in October. The aim of this text is to express a strong political commitment on the part of European governments to work both separately and together on the basis of shared

principles for guiding migration policies in a spirit of solidarity and responsibility. Yet another project dear to the French presidency of the EU is the new framework linking Mediterranean countries and European Union Member States to one another on the basis of the Barcelona process. “The heads of state and of government share the belief that this initiative can play an important role in what concerns common challenges facing the Euro-Mediterranean region, such as: social and economic development; the global crisis in the area of food security; the degradation of the environment, including climate change and desertification, in order to encourage durable development; energy; migration; terrorism and extremism; the promotion of inter-cultural dialogue.

This proposal has Italy and Spain’s support but is less popular with other European countries that are more concerned with migration related to the accession of the Eastern European countries.

Table 1.2

Bilateral Agreements linked to the Readmission between France and West and North African countries (as of 10 January 2008)

Country	Type of Agreement	Year
Algeria	Law enforcement Co-operation and Re-admission Agreement	2003
Benin	Agreement for the Concerted Management of Migratory Flows, in negotiation	
Mali	Re-admission agreement, in negotiation	
Mauritania	Re-admission agreement, in negotiation	
Morocco	Law enforcement Co-operation and Re-admission Agreement	2001
Nigeria	Re-admission agreement, in negotiation	
Senegal	Re-admission Convention Agreement for the Concerted Management of Migratory Flows (includes three parts: legal immigration, unauthorised immigration and co-development)	2000 2006
Tunisia	Exchange of letters Re-admission Agreement, in negotiation	1984–1994
Togo	Re-admission Convention	1996

Source: [www.mirem.eu/donnees/accords/rapports-et-documents/france](http://www.mirem.eu/donnees/accords/rapports-et-documents/france)

France is currently restructuring its approach on migration to promote labour migration, combat unauthorised migration and forge closer links between migration and its development aid policy in Africa. Co-operation with European partners, transit and origin countries and international organisations on the topic of “migration and development” is an important instrument of this renewed approach. The creation of a Ministry of Immigration, Integration, National Identity and Development Partnership seems to reflect a desire to address the internal and external aspects of these policies in a systematic and coherent manner. Currently, the measures that have been undertaken favour temporary migration and in some cases circular migration whereas the integration model described above highlights foreigners’ individual responsibility to successfully integrate into society.

## 5

## GERMANY HAS DIFFICULTY CONSIDERING IMMIGRATION AS A STRUCTURAL PHENOMENON

In 2005, 20% of the population (82.4 million in 2006) was composed of immigrants or children of immigrants, all nationalities collectively. The number of foreigners totalled 7 million (OECD 2007a). There were approximately 700,000 refugees and 300,000 asylum seekers.<sup>23</sup> Poland and Turkey were the main countries of origin of labour migration and family reunification. Taken together, these two countries accounted for almost 35% of migratory stocks, followed by the former socialist bloc countries where German economic influence has historically been strong and which contain significant German-speaking communities (OECD 2007a). Only a small percentage of Germany’s foreign population originates in the countries of Sub-Saharan Africa. Scattered around the country and often unauthorised, it is difficult to evaluate its size:<sup>24</sup> approximately 85,000 people (ECOWAS/SWAC 2006). The most recent data concerning West Africa dates from 2003<sup>25</sup> and mentions: 11,645 migrants from the former German colonies of Cameroon (2,543) and Togo (1,109) together with Nigeria (2,091) and Ghana (1,646).

In 2005, there was a sharp decline in all migration flows into Germany (OECD 2007a). Between 2004 and 2007, the countries of Eastern and Central Europe joined the European Union. Europe’s enlargement was one of the factors that prompted the adoption of the new law on immigration of 5 August 2004 which for the first time addressed issues relating to labour migration, humanitarian migration, integration and national security.

Due to its strategic position along the axis of East/West confrontation and its economic boom, as early as 1950 the Federal Republic of Germany was attracting large numbers of asylum-seekers and generally low-skilled immigrant workers. They were absorbed by the labour market through guest worker programmes<sup>26</sup> that allowed them to work for one or several years in Germany without being able to establish residency. Once their contract terminated, they had to return to their countries, from which they could be recalled once a new demand for foreign labour on the domestic labour market. Conceived to manage temporary low-skilled migration and respond to the context of the 1970s and 1980s, these programmes in fact enabled workers and their families from Mediterranean countries to establish permanent residency without however addressing the issue of their integration into German society.

This situation illustrates the difficulty experienced by Germany in accepting its status as a country of immigration. It fuelled debates on national identity and sparked tensions, especially during the period of unification from 1989 to 1992 (Boswell 2003). After an end was put to guest workers programmes in 1974, a return assistance law was adopted at the beginning of the 1980s, though it had little real impact. Similarly, a series of laws enacted between 1981 and 1998 discouraged asylum seeking and reduced the cost of managing the system. The Aliens Act of 1990 introduced some exceptions to the overall end to recruiting immigrant workers, allowing for bilateral seasonal recruitment (Eastern Europeans).

In 1998, the Social-Democratic and Green coalition government relaxed the legislation. Major innovations involved: 1) the new Nationality Law<sup>27</sup> of 2000, which allowed children with at least one foreign parent residing in Germany for eight years to be naturalised; 2) a Green Card system valid for five years, facilitating immigration of information technology professionals; and 3) the new Immigration Law of 2004, which included the following key measures:

- The new law authorises only two types of permit: a temporary residence permit for a specific motive (training, paid or independent employment, humanitarian, political or family reasons) and a permanent residence permit after five years under certain conditions. Skilled workers obtain the latter upon arrival and their dependents similarly have the right to work.
- Foreign students are given the possibility of remaining for one year after completing their studies in order to seek employment consistent with their training.
- An across the board halt to recruitment of low-skilled labour.
- Granting refugee status in the event of persecution by non-State actors.



The law of 5 August 2004 for the first time addressed issues relating to labour migration, humanitarian migration, integration and national security.

- Promoting “integration by law” through an integration course administered for permanent residents, refugees and asylum seekers by the Federal Office for Migration and Refugees. The course is mandatory for immigrants who do not have sufficient oral command of the language.
- Reforming the deportation system with emphasis placed on security threats and terrorism.

These new provisions raise three interesting issues for the European debate on migration.

- First, the new permit system can complicate the admission of non-European foreigners into the German job market. In order to benefit from these measures, they must usually obtain a work contract while in their country of origin, which is difficult in practice for labourers in developing countries, even if they are skilled. Foreign students, however, have new rights under this law. They are the ones ultimately targeted by the provisions concerning the freedom of establishment. Many studies have nevertheless shown that foreign students or students of a foreign origin are more likely to suffer from discrimination in hiring than European citizens. These students are rarely employed at a level corresponding to their skills, especially at the beginning of their careers. This fact raises the two following points:
  - The stakes of integration. One of the merits of this law is that, for the first time, integration is among its principal objectives but the instruments set up for this (integration courses) are for the moment modest. The integration of the various components of German society and the promotion of diversity are the main challenges for the country’s future yet they are absent from the political agenda because they remain controversial (Miera 2007).
  - The migration of low-skilled labour. The law leaves the pre-existing system unchanged in a context in which the needs of an ageing society in demographic decline are growing. As a consequence, these needs are often filled by unauthorised migrants or skilled foreign workers (not employed to the extent of their capacity) who have not been able to fully integrate into the job market, a situation that is advantageous neither for the immigrants nor for the German economic system.

6 IN ITALY, WHERE IMMIGRATION IS A RECENT ISSUE,  
RESPONSES VARY BETWEEN A LAISSEZ-FAIRE  
ATTITUDE AND A SENSE OF URGENCY

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Like Spain, Italy was a traditional emigration country until the 1970s. Within thirty years, it became a southern European transit country for Eastern European and African migrants en route to continental Europe and later a host country. In 2005, Italy had the world's third most rapid rate of growth of permanent legal migration (OECD 2007a). That same year, 4.6% of its 58 million inhabitants were foreigners (OECD 2007b).

The first flows came from Mediterranean countries (Tunisia, Morocco, Albania) followed by traditionally Catholic countries such as Poland, the Ukraine, and the Philippines. Subsequently, flows diversified with the increase of entries from Romania, China and Africa. North Africans remain the majority compared to those from sub-Saharan Africa, who numbered slightly fewer than 80,000 in 2001 (OECD online database). Among migrants from sub-Saharan Africa, Senegalese (29,000), Ghanaians (17,000) and Nigerians (14,000) were the most numerous whereas Moroccans were estimated at 150,000. These numbers are hardly representative of the current situation given the upward swing of flows originating from Africa, and in particular Senegal, as well as the significant number of unauthorised immigrants in Italy. The latter mainly consist of individuals who remain in the country after their permits have expired.<sup>28</sup> This explains the frequent recourse to regularisation and amnesty as migration policy instruments between 1982 and 2007, no matter the political orientation of the acting government.

The fact that immigration is a rapidly developing recent phenomenon underpins the evolution of Italy's approach. Between the 1980s and 2002, it has evolved from a laissez-faire attitude to one of urgency. At a time when other European countries were bringing an end to their foreign labour recruitment programmes, the first provisions taken by the Italian government (1986) encouraged salaried labour migration. This opening up was a result of the economic boom and a locally segmented job market. The needs, centralised in the north-east, were for low qualified labour (Campani 1999). In 1990, Law 39 was the first attempt to address migration from several angles: regularisation of unauthorised migrants, the length of stay and work, introduction of the right to asylum and stricter border controls. This law aimed to attract the attention of Europe's partners to

the distribution of responsibility and costs of migratory flows transiting through Italy towards other European destinations. Likewise, it demonstrated the country's willingness to play "European border guard" in the Mediterranean at the beginning of the Schengen process. Deemed ineffective due to, among other reasons, insufficient funds to handle the large flows from Albania and the former Yugoslavia, then in the midst of war, Law 9 was replaced by Law 40 of 6 March 1998. In one text, this Law brings together provisions related to immigration and norms regarding the foreigner's condition. This Law was passed at the end of elections within an anti-immigration climate established by the Lega Nord and the emergence of the "*scafisti*"<sup>29</sup> in the Mediterranean (Campani 1999). From this point on, the themes of immigration and security have often been perceived by the general public as intimately linked.

Law 40 answers the need to address the integration of foreigners living permanently in Italy while more effectively combating unauthorised immigration and responding to the security issues that had been troubling public opinion. The following provisions form the core of this approach:

- A quota system set by annual decree according to the job market.<sup>30</sup> These quotas concerned foreign residents who are directly recruited by an employer in Italy. They also aimed to grant entry visas for those directly seeking employment with the support of a sponsor (individuals, associations, municipalities). This possibility opened the way to regularisation of foreigners already in Italy at the time the decree was published. Preferential quotas were given to countries that agreed to sign re-admission agreements for their nationals subject to deportation (Albania, Morocco, Tunisia).
- Replacement of a long-term one-year renewable residence permit by a permanent residence card for foreigners legally residing for more than five years with sufficient income.
- Decentralisation of integration initiatives to regions and municipalities capable of adapting intervention to the local context.
- Family reunification as a right for foreigners with permanent residence.
- The creation of law enforcement-controlled "detention centres" where foreigners remain for a maximum of 30 days awaiting deportation, rejection of their candidacies or in the event there are hindrances to immediate execution of a particular operation (non-identification due to lack of papers).
- Sanctions against individuals promoting unauthorised immigration and trafficking of women.

Contested by the centre-right opposition, this law was not abolished until a new majority came to power in 2001. Law 189 of 30 July 2002



tightened conditions for entry, length of stay and access to jobs and asylum for non EU foreigners but left the original framework intact. Law enforcement co-operation with Maghreb and Balkan countries concerning re-admission, for example, was in keeping with the operations of the 1990s. In addition, some new measures were deemed illegitimate by the Constitutional Court due to Italy's international commitment to protect the rights of migrants and asylum seekers. Yet others (the abolition of a sponsor system for entry visas, a halt to regularisations) were proven inapplicable due to labour shortages, including in those regions where the Northern League was strongest. This situation shows that, in Italy, migrants find themselves subject to legislative ambiguity. The centre-left government's 2006 programme included a global reform and a migration policy that recognised the structural and necessary character of immigration for society, taking into account demographic decline and globalisation. Three areas of intervention were identified:

1. Integrating immigration and foreign policy in keeping with the objectives of promoting peace and development. Supporting the global European approach to migration and the project for a Mediterranean Union (initiated by France and supported by Spain) and reinforcing bilateral co-operation with countries of transit and origin (→ [Table 1.3](#)) are part of this framework.
2. Giving priority to integration, promoting cultural diversity, loosening the rules governing naturalisation, ensuring access to local citizenship and family reunification, strengthening anti-discrimination legislative tools and the played by cultural mediators at the local level are at the foundations of Italian integration policy.
3. Simplifying administrative procedures for obtaining work and residence permits and for changing status by relying on the centralised processing system already in place.

Two bills concerning the reform of citizenship legislation and immigration were submitted to Parliament by the Ministers of the Interior and Social Solidarity in spring 2007. The anticipated close of the legislative session in early 2008 renders the future of these reforms uncertain.

In conclusion, given the relative novelty and extent of migration, Italy is struggling to implement a coherent global approach. Thus, while unauthorised immigration is sometimes tolerated in order to ease local job market shortages, the system for receiving refugees and asylum seeking system is one of the strictest in Europe. In operational terms, there is a contradiction between the national level – at which action is blocked due

« The migration policy recognised the structural and necessary character of immigration for society, taking into account demographic decline and globalisation.

to partially inapplicable legislation – and a very dynamic local level at which municipal administrations and civil society have created innovative programs for receiving and integrating migrants. Furthermore, while there is no consensus at the political level upon which a national immigration policy might be built, there is unanimous support for participating in European and international processes in the area. The same holds for border controls to slow the illegal immigration to which Italy is exposed across the length of its maritime borders. Community-based associations and the media, moreover, question decision-makers on humanitarian and security issues related to an increase in foreigner detention centres – a very visible problem in Italy which has become a concern for all of Europe.<sup>37</sup>

Table 1.3

Bilateral agreements linked to re-admission between Italy and West and North African countries (as of 10 January 2008)

Country	Type of Agreement	Year
Algeria	Signed Re-admission Agreement (but not in force)	2000
Côte d'Ivoire	Re-admission agreement, in negotiation	
Ghana	Re-admission agreement, in negotiation	
Libya	Law enforcement Co-operation Agreement linked to re-admission	2007
Morocco	Signed Re-admission Agreement (but not in force)	1998
Nigeria	Law enforcement Co-operation Agreement linked to re-admission	2000
Senegal	Re-admission Agreement, in negotiation	
Tunisia	Law enforcement Co-operation Agreement linked to re-admission	1998

Source: [www.mirem.eu/donnees/accords/italie](http://www.mirem.eu/donnees/accords/italie)

## 7 THE NETHERLANDS IS RESTRUCTURING ITS IMMIGRATION AND INTEGRATION POLICIES IN RESPONSE TO CURRENT EVENTS

In 2005, there were 16.3 million inhabitants in the Netherlands of whom 10.6% were foreign born (OECD 2007b). The flows were mainly from neighbouring countries as well as the United States, followed by Turkey and Morocco. Arrivals from the latter two countries began in the 1970s. This initially involved labour immigration, which was eventually replaced by family reunification. In 2001, 79,000 people of Moroccan origin resided in the Netherlands (OECD online database). Few West Africans migrated to the Netherlands compared to other European destinations. English-speakers were the majority: approximately 4,000 Ghanaians and 2,000 Nigerians, for the most part health sector professionals. There were approximately 1,800 Sierra Leoneans and 1,000 Liberians, most of whom have been granted asylum. The latest trends show a drop in family and humanitarian flows and a rise in temporary labour immigration and return migration towards Turkey and Morocco.

The Netherlands' approach to migration has historically been based on three points: 1) a restrictive internal dimension, 2) an external dimension centred on integration and multiculturalism, and 3) a generous asylum policy. Considered as exemplary in Europe, this approach was profoundly called into question after the events of 2002 (the assassination of Pim Fortuyn, leader of the anti-immigration nationalist political party); 2004 (the assassination of Theo Van Gogh by a Dutch citizen of Moroccan origin in reaction to a film in which the director denounces the abuse of Muslim women); and 2006 (Ayaan Hirsi Ali, a Parliamentarian of Somali origin who entered the Netherlands as a refugee, revealed the circumstances of her naturalisation exposing holes in the system and its potential for abuse). From that point on, a new immigration, asylum and integration policy was developed. The Ministry of Immigration and Integration is now responsible for developing this policy, which will be implemented by the Immigration and Naturalisation Service (IND) with the Ministry of Justice. The principles guiding the new policy are:

- Admission criteria based on selectivity and flexibility in accordance with society's needs as well as the Netherlands' economic system as well as on foreigners' capacity to contribute to and participate in public life and the country's economy.

- All administrative admission procedures have been simplified. The admission model contains five “residence tiers”: temporary workers, students and low-skilled workers, highly skilled workers, family migration and humanitarian reasons. Each tier corresponds to a variety of rights and responsibilities.
- The responsibility – in particular, financial responsibility – for the migratory project is shared between relevant State institutions, migrants and sponsors in the Netherlands (e.g. employers, universities).

Concerning labour migration, residence and reception conditions and procedures vary depending upon whether low-skilled or highly skilled employment is involved. In both cases, the work permit must be requested by the employer in the Netherlands. For skilled labour, employment provides the right to a residence permit for the length of the work contract over a maximum period of five years. A “special talents” programme also exists to target foreigners who wish to set themselves up as independent workers or entrepreneurs. Admission is based on a point system. For semi or low-skilled work, the principle of national or European preference remains in force. The residence permit issued does not go beyond three years. Any change of employer requires a new request for a temporary residence permit. Specific provisions concern the admission of nationals from less developed countries seeking work in sensitive sectors (e.g., health) in order to prevent the brain drain. This measure has been applied in the past to Ghanaian health workers.

Rules governing student migration assume that foreign students are coming to complete their post-university education in the Netherlands and seek to encourage this. They give the right to a one-year renewable residency permit depending on the length of the academic programme, plus two extra years. Any change of academic degree course or university establishment first requires a new residence permit. Under some conditions, it is possible to change status upon the completion of studies.

Beneficiaries of family reunification must be at least 18 years of age and possess sufficient financial resources. They must pass a “civic integration” test in the country in which the visa application is submitted (some countries are exempt). This test evaluates linguistic and civic knowledge according to the “*Civic Integration Abroad Act*” of 15 March 2006. Salaried workers’ spouses obtain a one year residency permit while their children have a right to reside in the country for the duration of the parent’s work permit.

Asylum requests are initially handled by two IND centres located in the Amsterdam Schiphol Airport and in Ter Apel. 60% of responses are delivered within six months. If a request is accepted, the refugee obtains a temporary residence permit which can be changed into a permanent residence permit, although the change of status is not automatic. Asylum seekers whose application has been refused must leave the territory.

Since 2003, the government has increased the rate of forced repatriation, provoking bitter protests. Debates concerning the validity of offering an amnesty to asylum seekers in unauthorised situations contributed to the government crisis of 2006. In 2007, the new government endorsed this measure in order to enable those who had submitted their request before 2001 to benefit from the new procedures shortening the waiting period for processing requests. A “repatriation assistance service” within the Ministry of Justice facilitates the return of refused asylum seekers. Long-standing immigrants wishing to return to their country of origin benefit from similar measures. Their trip is paid for and they receive financial assistance to assist their socio-economic reinsertion. This programme is primarily aimed at Turkish and Moroccan nationals.

The new integration policy draws on the past fifty years of experience, namely, the need to jointly take admission and integration into account. As set out by the Law on the Civic Integration Test for Foreigners, this process begins when the applicant applies for a visa for professional or family reasons. The Law on Civic Integration, in force since 1 January 2007, then makes receipt of a permanent residence card contingent upon completion of an integration programme (within three and a half years after arrival, extended to five years for refugees and other foreigners who have not taken the test prior to their arrival in the Netherlands). The integration programme consists of a theoretical section (evaluated by a test) and a practical section (voluntary work, professional internships, etc.). Preparatory courses are paid for by the applicant although municipalities offer courses for some categories: refugees, social assistance beneficiaries, religious officials, etc. Completing the programme is a necessary condition for naturalisation. Since October 2006, citizenship is granted at a naturalisation ceremony. Municipalities must organise at least one ceremony per year. Other integration measures involve intensifying social dialogue and support for local initiatives encouraging cultural diversity. “How to promote social cohesion while respecting diversity” was one of the themes of the electoral campaign at the end of 2006 and remains an item on the Government’s agenda.



“How to promote social cohesion while respecting diversity” remains an item on the Government’s agenda.

In conclusion, the Netherlands has restructured its approach to migration issues with a view to developing a new migration management system by the end of 2008. Emphasis has been placed on the direct link between admission, integration and expulsion by establishing clear and simplified procedures and through effective implementation. Overall, this approach is more selective and restrictive. Far from representing a purely technical issue, this reform has stimulated public debate on diversity and social cohesion as well as activism within civil society and political parties.

## PORTUGAL'S LONGSTANDING TRADITION OF AFRICAN IMMIGRATION UNDERLIES REGULARISATION AND INTEGRATION POLICIES

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In 2005, the Portuguese population was estimated at 10.5 million inhabitants of whom 6.3% were of foreign origin (OECD 2007b). Traditionally, immigration to Portugal originated from three areas: Eastern Europe (following accession to the European Community in 1986) and Portuguese-speaking countries in Latin America and Africa. The principal flows are from Brazil, followed by Cape Verde (approximately 12% of the total). Guinea Bissau was the sixth nationality of origin in 2005. Recent trends indicate a fall in flows and in the work permit renewal rate, a rise in entries for family reasons, training programs permitting a right to temporary residence and the feminisation of flows (women represented 58% of total migrants in 2005) (OECD 2007a).

African immigration began in the 16th Century (almost 10,000 African slaves resided in Lisbon). During the colonial period, and in particular during the 1960s, African labour was recruited from Cape Verde to work in the construction and manufacturing sectors. They replaced the Portuguese workers who had emigrated to other European countries, Brazil and the United States. African flows increased during decolonisation and wars of independence from the 1970s onwards. An estimated one half million PALOP<sup>32</sup> nationals were living in Portugal at this time, notably in Lisbon and its surrounding areas. Among them were many “retornados”, Portuguese nationals or their descendents residing in Africa but also many indigenous Cape Verdeans and Angolans. Confronted with this situation, nationality legislation was modified so that nationality was no longer automatic for those born in Africa without Portuguese ancestry. During the 1980s and 1990s, immigration towards Portugal, increasingly skilled, diversified by origin and type (more qualified). Though African immigration declined, its characteristics remained unchanged: it continued to be of principally sub-Saharan origin, low-skilled work or humanitarian. Despite more permissive asylum laws in 1998, only 20% of the applications received were accepted in 2001–2002.

Foreigners' basic rights and those of migrants, in particular nationals of Portuguese-speaking countries, are set out in the 1976 Constitution. Legislative reform in the 1990s and 2000s accompanied the evolution of migration towards Portugal. The first legislative provisions responded to

pressure from public opinion and civil society in reaction to the increase of flows and the poverty of African-origin migrants living for over fifteen years in Portugal. These measures take into account both regularisation and integration. Regularisation campaigns were organised before introducing more restrictive admission conditions in order to harmonise national legislation with that of European legislation in 1993 and 1994. It was foreseen that the Government anticipate the annual labour needs and priority sectors. Bilateral migration management agreements were signed with the countries of origin.

Furthermore, multicultural education is promoted in primary and secondary schools. Employment rights, access to housing and social security were extended to legal foreign residents. In 1995, the High Commissioner for Immigration and Ethnic Minorities was set up, followed in 1998 by the Consultative Council for Immigration Affairs, which includes representatives of the State Secretary for Portuguese Communities, the Ministry of Foreign Affairs, trade unions, civil society and recognised immigration associations. These two institutions play a key role in the evolution of anti-discrimination legislation and in the promotion of the diversity agenda. Local municipalities are also involved in the implementation of migration policy as well as in carrying out national measures (e.g. regularisation) and developing innovative initiatives in the area of integration.

Laws 27 and 65 of 2000 (amended in 2001) govern the entry, residence, and deportation of foreigners in Portugal. A new law has been under study since 2006 to simplify the visa system according to the type of authorised migration: labour, training, family reunification and humanitarian reasons. Currently, there are seven generic visa categories, four types of work visas as well as other visas related to temporary or permanent migration. A temporary residence permit is valid for two years and renewable for three. For family reunification, the permit granted to the beneficiary is renewable for one year. The length of stay is two years if the foreigner applying for his/her family has a permanent residence card. After two years, if the family continues to be a unit, the member of the family obtains an independent right to residence. PALOP nationals can obtain a residence card after five years of legal residence.

The new nationality law adopted in April 2006 allows children born in the country to foreign-born parents to obtain nationality if one of them legally and continuously resides in Portugal for at least five years. If one of the two parents was born in Portugal, the child obtains nationality at birth. The procedure is facilitated for children who have attended school in the country.

In conclusion, migration issues have always been hotly debated within the political system and in Portuguese public opinion due to the Portugal's twofold status as a country of emigration and a country of immigration.

The colonial past influenced the evolution of the approach emphasising access to nationality for nationals of Portuguese-speaking countries and their descendents, the integration of African communities and combating discrimination. Dialogue and consultation are preferred in an effort to follow the example of other European countries while tightening entry controls. The evolution of Portuguese legislation also owes much to the country's membership in the European Community. While holding the rotating presidency of the EU and on the occasion of the December 2007 Africa-Europe Summit held in Lisbon, the government reaffirmed these principles.

Table 1.4

Bilateral Agreements on Migration between Portugal and West and North African Countries (as of 10 January 2008)

Country	Type of Agreement	Year
Morocco	Law enforcement Co-operation Agreement linked to Re-admission	1999
Guinea Bissau	Agreement on Migration	1981

Source: [www.mirem.eu/donnees/accords/portugal](http://www.mirem.eu/donnees/accords/portugal)

9

SPAIN ATTRACTS LABOUR MIGRATION AND SEEKS  
A COMMON EU APPROACH

In 2005, the foreign population represented 6.2% of 43.3 million inhabitants (OECD 2007b). The same year, entries reached 680,000, or 40,000 more than in 2004 (OECD 2007a). An historic country of emigration up to the 1970s, today Spain ranks among the countries in which immigration is most rapidly increasing. Its economic boom explains its attractiveness as a destination for nationals from poorer countries while demographic decline has increased the need for foreign labour. The first migratory flows originated from Spanish-speaking Latin American countries. The fact of geographic proximity subsequently led to immigration from Morocco and Algeria: more than 230,000 Moroccans and some 24,000 Algerians were living in Spain in 2001 (OECD online database). In the aftermath of Italy's move to tighten entry conditions, some Romanians



have been choosing Spain as a destination within the European Union (94,000 entries in 2005).<sup>33</sup>

By virtue of Spain's geographic position on the western flank of the Mediterranean, its historic ties with Maghreb countries and its trade with West African countries (Senegal, Mali), it has relatively high levels of African immigration. In 2001, it had more than 47,000 West African residents. Among them, there were eleven nationalities counting more than a thousand individuals on Spanish territory, with Senegal (10,953), Nigeria (8,748) and Gambia (6,083) heading the list.<sup>34</sup> With the exception of Morocco, no African country figured among the ten largest sources of immigrants to Spain between 1995 and 2005. African immigration has nevertheless generated much attention as it is largely undocumented. Several studies have substantiated the characteristics of undocumented immigration from and through West and North Africa towards Mediterranean European Union countries.<sup>35</sup> They have described the routes taken, the profiles of the migrants and the impact of this immigration on trans-Saharan dynamics or between Maghreb and Southern Europe. Two conclusions can be drawn from these studies:

- Undocumented immigration is less significant than the media attention devoted to it would suggest.<sup>36</sup> Since the end of 2006, it has declined as a result of the monitoring of maritime borders carried out off the coast of the Canary Islands by several European countries under the auspices of Frontex.<sup>37</sup>
- Political solutions are needed to sustainably limit undocumented immigration. Reinforced monitoring of external borders alone can only temporarily reduce migration flows as new routes will be found. This was demonstrated by the increase of flows along maritime routes following the introduction of tougher controls in Ceuta and Melilla, Spanish enclaves in Morocco.

Recent immigration, and particularly its unauthorised dimension,<sup>38</sup> has influenced the Spanish Government's choice of policies and initiatives. The development of this approach owes much to Spain's membership of the European Union. Immigration was placed on the Government's agenda for the first time in 1985 on the eve of Spain's entry into the European Community. The Law on the Status of Foreigners (*Ley de Extranjería*) entered into force the same year. It emphasised monitoring foreigners already in the country, who were supposed to work only temporarily. Procedures for renewing residence permits were complicated and sanctions for employers hiring foreigners without permits increased. During the 1990s, it became obvious that immigration was not a passing phenomenon. New rules were introduced. These limited entries, through annual quotas (1994) but also extended rights for immigrants in education, sought to promote equal opportunities, provided access to legal aid in their

contacts with the authorities, created a permanent resident status and provided for the possibility of family reunification (1996).

Some political parties present immigration as a risk to society's stability and security and it was an important issue in the electoral debates leading up to the 2000 legislative elections. Once in place, the new conservative majority amended the Law 4/2000 on the Rights and Freedoms of Foreigners in Spain and their social insertion. The new, more restrictive Law (8/2000) opened the way to reforms, relying on:

- Bilateral co-operation agreements with the main countries of origin in order to control flows. These agreements regulated job opportunities and entry conditions for nationals from signatory countries.
- The development of a global and co-ordinated approach to immigration consistent with European commitments.
- Increasing the responsibility of regions in the development and implementation of integration policies.
- The implementation of humanitarian migration initiatives.<sup>39</sup>

In 2002, Spain took over the European Union's rotating Presidency. It encouraged strengthening external border controls and drew a link between undocumented migration and international terrorism. This link was seen as all the more important following the terrorist bombings in Madrid on 11 March 2004, which involved residents of Moroccan origin. The Socialist government of José Luis Rodríguez Zapatero, which came to power as a result of the 14 March 2004 elections, nevertheless adopted a different approach, linking the fight against unauthorised migration to the management of legal migration. Its policy was based on four pillars:

1. A 2005 regularisation and amnesty campaign.<sup>40</sup> This was incorporated into a reform of legislation already in force as one-off regularisations had already taken place in 1986, 1991, 1996, 2000 and 2001. This last campaign was conceived to bring the underground economy into the open and reduce job market tensions while protecting foreign workers' rights. Compared to precedent regularisations, that of 2005 was accompanied by reinforced controls (at borders, in workplaces).
2. The migration management system's domestic dimension: a list was created and locally updated of job sectors in which there were labour supply shortages; flexible quotas were created to enable job seekers in sectors in which a personnel interview is essential (home care) to obtain three-month visas to find these jobs; the waiting period for requests for temporary family reunification was reduced to one year; local community and immigrant integration funds for social and economic insertion were increased.
3. The migration management system's international dimension: dialogue and co-operation with origin and transit countries were

strengthened through bilateral agreements (e.g., with the Ukraine in 2007). Agreements concerning Africa are listed in the → [Table 1.5](#) below.

4. Spanish leadership in the process of a global and integrated European approach on migration (→ Chapter 2) which includes demands from southern EU countries. Spain occupies this role sometimes in harmony, sometimes in competition with France and Italy, in particular in what concerns initiatives of interest to North and West African States.

In conclusion, in order to come to grips with significant recent immigration, Spain is developing an approach in which limiting unauthorised immigration and facilitating job-related semi- or low-skilled migration are given priority. Migration issues and the Spanish approach depend mostly on European migratory dynamics and EU level decisions. At present, Spain seems to be playing a more active role relative to its partners than it had in the past. It has contributed to placing the Mediterranean issue once again on the migration agenda, which has up to now been occupied with questions relating to the accession of former Eastern Bloc countries.

**Table 1.5**

Bilateral Agreements regarding re-admission between Spain and West and North African countries (as of 10 January 2008)

Country	Type of Agreement	Year
Algeria	Agreement for the Re-admission of Algerian nationals with unauthorised status in Spain	2004
The Gambia	Agreement to control maritime areas to combat clandestine immigration* Immigration Agreement	02/08 2006
Ghana	Re-admission agreement currently in negotiations	
Guinea	Agreement to control maritime areas to combat clandestine immigration Immigration Agreement	02/08 2006
Guinea-Bissau	Agreement to control maritime areas to combat clandestine immigration* Provisional Re-admission Agreement	02/08 2003
Libya	Re-admission agreement currently in negotiations	

Mali	Co-operation Agreement Related to the Regulation and Management of Migratory Flows. It foresees the repatriation of Malians with unauthorised status in Spain. 800 visas issued to seasonal labourers	2007
Mauritania	Agreement for the Repatriation of West African Migrants having Transited in Mauritania with unauthorised status in Spain Co-operation Agreement Related to the Regulation and Management of Migratory Flows	2003 2007
Morocco	Agreement for the Re-admission of Moroccan and Sub-Saharan Nationals (transiting through Morocco) with unauthorised status in Spain	2007
Nigeria	Immigration Agreement	2001
Senegal	Memorandum of Understanding for the re-admission of Senegalese nationals with unauthorised status in Spain Creation of a Spanish Employment and Social Affairs Council in Senegal Agreement of providing contracts to Senegalese labourers (2 000 in fisheries and 700 in agriculture)	2006 2007

Source: [www.mirem.eu/datasets/agreements/espagne](http://www.mirem.eu/datasets/agreements/espagne);  
\* = [www.lesoleil.sn/article.php3?id\\_article=34002](http://www.lesoleil.sn/article.php3?id_article=34002).

## THE UNITED KINGDOM TIGHTENS ENTRY CONTROLS AND PROMOTES DIVERSITY

In 2005, there were 60 million inhabitants in the UK of whom 9.7% were foreign born (OECD 2007b). Flows originating from non-EU countries are between 85,000 and 90,000 persons per year. Between 1995 and 2005, South Africa was among the first ten nationalities of origin (OECD 2007a). Flows from West Africa were close to 12,000 people in 2005, including Nigeria (5,500), Sierra Leone (3,500) and Ghana (3,000). West African immigration is not the majority although it has risen since 1991. The analysis of migrant stocks better indicates the scale of African migration in the UK and the influence it has had on evolution of approaches and policies: in 2001, 830,000 individuals of African origin lived in the country (of whom 201,000 were of West African origin and 90,000 were Nigerian). Africa is thus the second immigration-origin continent after Asia.<sup>41</sup>

Up to 1962, nationals of former colonies could move about and establish themselves freely in major cities as British subjects. In order to limit these flows, the “*Commonwealth Immigrant Act*” introduced a distinction between citizens born in the UK with a right to a British passport and individuals born in former colonies who no longer had that right. This measure aimed to slow permanent migration from Asia, Africa and the Caribbean during and after decolonisation. In the short term, the new provisions had the opposite effect: foreign temporary workers chose to establish themselves in the UK for fear that they would no longer be able to freely move between their country of origin and their place of work, and they were soon followed by their families. During this period, British society became more multicultural, particularly in the large cities. Legislation passed in 1971 and 1981 thwarted this trend by first facilitating migration from Commonwealth countries in which populations descended from English settlers lived (Australia, New Zealand, South Africa) and subsequently restricting the right to residence to British citizens.<sup>42</sup>



In 2001, 830,000 individuals of African origin lived in the country. Africa is thus the second immigration-origin continent after Asia.

Between 1993 and 2004, five new laws were adopted to better manage ever more complex and diversified flows and to reform an asylum system that had become a favoured path for admission. When the Labour party came to power in 1997, 52,000 asylum applications were unresolved (Spencer 2007). Legislative reforms supported strengthening human, financial and technological resources available to the Border and Immigration Agency within the Home Office. Under pressure from public opinion and the media, migration issues gradually gained visibility in the Government’s programme between 1997 and 2007. A policy vision was gradually forged on the basis of two white papers: the first in 1997, entitled “*Fairer, Faster, Firmer*”, prepared the ground for the “*Immigration and Asylum Act*” of 1999. The second, in 2002, entitled “*Secure Borders, Safe Havens: Integration with Diversity in Modern Britain*”, for the first time set out an integrated approach. On the eve of the 2005 elections, the Government presented its five-year strategy in its report, “*Controlling our Borders: Making Migration Work for Britain*”. Its fundamental recommendations included tightening border controls and introducing a point system based on the North American model in order to simplify the management of labour and student migration. This strategy is in the process of being implemented. Recent innovations as well as the bulwarks of current legislation concerning migration are as follows:

- Tightening of border controls is a priority. Henceforth all visas are biometric, passports of foreign nationals presented when entering and exiting the country are scanned and, as of March 2008, digital fingerprints of all visa applicants are to be stored in a database. Furthermore,

the UK supports European co-operation through the exchange of data and tightening the Union's external border controls.<sup>43</sup>

- A programme for skilled workers is accessible to foreigners already in the UK or while they are still in their country. Eligibility depends on the number of points obtained taking account of skills, experience, age and current salary level. This programme enables access to salaried or independent work (without the need of an offer) and ultimately permanent residence.
- Permits for non-opposable work have been re-organised into six categories (previously eighty categories). These permits are issued to an employer based in the UK to employ from abroad a pre-identified individual for a specific job. Permit validity length varies according to the sector. Some permits provide the right to permanent residence.
- In 2006 the "*International Graduate Scheme*" was created for students having undertaken post-university training in the UK. It enables them to prolong their stay for twelve months and to work with the possibility of changing status if they meet the conditions.
- The asylum application processing time was reduced to six months. Refugee status provides the right to an initial five year residence for the applicant and their dependents. In the event that an application is refused, it is possible to obtain asylum for humanitarian reasons with a temporary residence permit. Refused applicants can benefit from a voluntary return and re-insertion assistance programme. If they remain illegally, they may be detained and forcibly deported.
- For family reunification, the spouse of a permanent resident over 18 years of age and with sufficient income can obtain a two-year residence and work permit. If the marriage continues beyond this period, the spouse can apply for permanent residence. This provision is also valid for parents and grandparents over 65 years of age as well as those of the applicant's children, brothers and sisters, uncles and aunts who are at least 18 years of age.
- Concerning citizenship, adults having lived the last five years (three years if married to a British citizen) in the UK can apply for naturalisation. Application criteria include good knowledge of the language and civilisation and proof that the applicant respects the rights, freedoms and responsibilities of all British citizens. Naturalisation is granted at a citizenship ceremony during which an oath of fidelity to the Crown and a promise of loyalty to the UK is made.

In the UK, integration is addressed less in terms of migration than with reference to the relationships between different ethnic communities making up society. Multiculturalism as a model of integration is often associated with Anglo-Saxon countries: in the UK, it is reflected in a desire for peaceful co-existence among communities (eliminating discrimination

and actively promoting equal opportunities, Boswell 2003). Until 2007, the Commission for Racial Equality was responsible for monitoring integration policies and anti-discrimination legislation. These missions are now overseen by a new Commission responsible for equal opportunities and human rights. The July 2005 terrorist attacks, in which involved British citizens of foreign origin and Muslim faith, have re-opened the debate on the limitations of the integration model based on multiculturalism. The diversity approach is now preferred by the Government, which has chosen “*Diverse Britain*” as its slogan, though the conceptual grounds and practices of this approach have yet to be fully settled upon.<sup>44</sup>

In conclusion, border control, management of highly diversified flows and integration issues are high on the Government’s agenda. It has reached a clearer vision of the objectives to be pursued and the means necessary for attaining them. Currently, priority is given to simplifying the migration management system and increasing controls. Co-operation with European partners is sought for the exchange of information and the control of external borders. In other sectors, the UK seems to want to follow a more autonomous path towards greater selectivity and the closing its borders to unskilled labour from outside of Europe.

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## 11 IN THE UNITED STATES, SECURITY CONCERNS DELAY GLOBAL REFORM OF THE SYSTEM

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The United States remains the number one immigration country in the world, ahead of such settlement and immigration countries as Australia, Canada and New Zealand. In 2005, the percentage of the foreign-born population rose to 13 % (out of a total population of 296 million inhabitants) (OECD 2007b). Official migratory flows reached 1.1 million, as compared to 0.7 million in 2003 (OECD 2007a). Mexico is still the leading country of origin of official migratory flows although the volume of Mexican immigration has dropped, reflecting an increase in unauthorised immigration as well as diversification in the origin of flows. China and India are the main beneficiaries. Not one African country is among the top ten countries of origin. Nevertheless, in 2005, 85,000 Africans obtained residence permits, or 30% more than in 2004. This trend illustrates the diversification of extra-continental African flows in response to the more restrictive policies being applied in Europe.

In 2000, some 230,000 West Africans were living in the United States (OECD online database),<sup>45</sup> the main communities being from Nigeria

(around 85,000), Ghana (45,000), Liberia (28,000) and Sierra Leone (14,000). Cape Verde nationals comprise the largest group non-English-speaking African immigrants (almost 15,000) but the number from French-speaking countries is growing (Cameroon, Côte d'Ivoire, Mali and Senegal). The Senegalese in particular are becoming more prominent due to their successful integration over the last twenty years. In 1987, they settled in New York taking on itinerant work.<sup>46</sup> Without mastering the language, they were able to take advantage of favourable legislation for new workers, independently of the manner in which they entered American territory. Today they are boutique owners in Harlem (a section of Manhattan) and many have acquired American citizenship. This immigration opened up the path to a new generation of migrants educated in American universities. In 2006, 1,367 permanent residence permits were granted to Senegalese.<sup>47</sup>

The policy of the current government is based on the 1965 *Immigration and Nationality Act Amendments* which abolished national quotas and introduced a seven-category preferential system to allocate visas. A general quota is maintained to set annual entries. This quota does not take into account family reunification; no cap has been placed on the numbers who may enter the country in this way. In 1990, the *Immigration Act* reformed admission (permanent migration) and entry (temporary migration) categories in order to increase the level of expertise of new immigrants. Ten years later, the *American Competitiveness in the 21<sup>st</sup> Century Act* helped increase the number of issued temporary skilled work visas (visa H-1B), mostly for professionals in the new technologies sector. The 2007 quota, set at 85,000<sup>48</sup> for all specialised professions, was filled well before the end of the year, an indication of the difficulty – common among countries applying the quota system – of establishing appropriate limits to real job market needs.

Reducing unauthorised migration became a priority in the 1980s. In 1986, sanctions for employers employing permit-less foreign labour were adopted. During the 1990s a series of laws restricted access to basic social services for immigrants. Those having committed crimes could be deported. Arrest, detention and deportation of non-citizens for security reasons and combating terrorism already authorised by the *Anti-Terrorism and Effective Death Penalty Act* became more frequent under the *USA Patriot Act*, which entered into force in October 2001. The security approach was confirmed in 2006 when Congress, with the *Secure Fence Act*, refused to adopt the global reform of migration measures desired by the President: greater border security, increased supervision, creation of a new temporary worker admissions system, a reduction in unauthorised migration without resorting to amnesty, promoting integration, etc.

The American system makes a clear distinction between permanent and temporary migration.



1. An alien may obtain a Green Card in four ways which will allow him to permanently reside in the United States: a) sponsorship by a relative whose status permits family reunification; b) participating in an employment sector preference programme; c) obtaining refugee status; d) winning the *Diversity Lottery Program*,<sup>49</sup> which targets nationalities that are under-represented in the United States. After five years as a *Lawful Permanent Resident*, the Green Card holder can apply for naturalisation. To receive it, the candidate must pass a citizenship test and display an adequate understanding of the language. The applicant must have resided on American territory in the thirty months preceding the application.
2. An alien enters the United States as one of the following types of “non-immigrant”: a) as a tourist; b) to study; or c) to work temporarily in certain specific sectors. There are eighty types of temporary visa,<sup>50</sup> most of which are valid for one year and renewable. Those entering on a student visa can stay, depending on the visa, for an extended period once the curriculum is completed in order to gain professional experience. The status of skilled worker and foreign student provides the opportunity of eventually obtaining a Green Card (procedures for adjustment of status). For a fee, it is now possible to have a response in fifteen days once the application has been supplied to the American Citizenship and Immigration Service.

The United States is an historic destination for refugees and asylum seekers. After a downward trend, approved applications in 2005 rose to 140,000 (OECD 2007a), close to the numbers that preceded the September 2001 attacks. The refugee resettlement programme sets an annual flexible for applications by region: Eastern and Southern Asia, the Middle East, Africa, the former socialist bloc, Latin America and the Caribbean. The recently created *Refugee Corps* speeds up the processing of applications. Present in fifty countries around the world, it enables applicants to be interviewed and asylum applications to be processed in the initial host country.

« Migratory dynamics are at the centre of American economic development and occupy an important place in the debate over the country's future.

In conclusion, migratory dynamics are at the centre of American economic development and occupy an important, if only rarely strategic, place in the debate over the country's future. The events of 11 September 2001 raised concerns regarding illegal immigration and its possible ties to terrorism. From that point on, security concerns have stood in the way of bringing to completion the global reform of the system. Student immigration – in particular from emerging countries where Islam is the

dominant religion – has been heavily penalised. The economic repercussions remain to be seen at a time when several European countries encourage this type of migration as the basis for a more selective policy. Security within national borders and the growing visibility of the Hispanic community call into question the “melting pot” version of the concepts of integration and national identity.

## WILL OECD COUNTRY MIGRATION POLICIES EVENTUALLY CONVERGE ?

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The above overview of select OECD member countries reveals a common trend in the development of new migration policies. However, these countries do not always share the same interests, constraints and, consequently, the same perceptions and approaches regarding the most appropriate choice of measures to best manage migrant admission and integration. The similarities and differences are focused on seven points:

- **Renewed interest in labour migration.** The majority of countries that stopped recruiting foreign labour in 1974 are currently studying new ways to attract migrant labour and, in particular, skilled workers:
- *Special recruitment programmes and/or targeting particular sectors:* Canada, Germany, United Kingdom and the United States.
  - *Ad hoc work permits facilitating residence and status change:* France, the Netherlands, United States.
  - *Admission based on a point system:* Canada, the Netherlands, United Kingdom.
  - *Development of individual contracts and the promotion of self-employment:* Canada, Germany, the Netherlands, United Kingdom, United States.
  - *Link between student migration and job market access upon completion of schooling:* Belgium, Canada, France, Germany, the Netherlands, United Kingdom, United States.

Recruiting unskilled foreign labour is also important due to shortages in domestic job markets. Measures have been taken to guarantee the temporary nature of this type of migration, for example:

- *Bilateral agreements to manage seasonal migration notably in agricultural and service sectors:* Canada, France, Germany, Italy, Portugal, Spain

- *Annual entry quotas*: Italy, Spain, United States
- *More residence permits for temporary work*: Italy, Portugal, Spain, United Kingdom, United States
- *Management of flows taking into account local needs for unskilled labour*: Canada, France, Italy, Spain
- *Targeted regularisation and amnesty campaigns*: Italy, Portugal, Spain.

→ **Importance of student migration.** This is part of a strategy to attract the best talent (“war for talent”) world-wide to develop a knowledge-based economy and strengthen host countries’ political, economic and strategic influence over countries of origin. The following measures have been established:

- *Promoting student migration as a specific objective of migration policy*: Canada, the Netherlands, United Kingdom.
- *Residence permits related to schooling providing the opportunity to remain upon curriculum completion and to benefit from professional experience*: Canada, France, Germany, the Netherlands, United Kingdom, United States.
- *Facilitating status change and naturalisation for post-university foreign students*: Canada, the Netherlands, Portugal, United Kingdom, United States.

→ **Two distinct types of systems for permanent and temporary migration.** The admission channels, procedures, rights and responsibilities associated with the two regimes are now distinct. In several countries, notably Germany and Belgium, this situation has resulted in a reduction in the number of residence permits issued.

→ **More restrictive conditions regarding family reunification for some categories of foreigners.** This trend counter-balances policy orientations in favour of greater labour migration. In particular, it benefits those holding temporary work and residence permits, less-skilled workers as well as refugees and asylum-seekers. Some of the most common measures are:

- *Raising the age at which reunification can be claimed*: Belgium
- *Sufficient income excluding assistance and allowances*: France, Italy, the Netherlands, United Kingdom.
- *Granting temporary residence permits to those claiming reunification even if the applicant already has a permanent or long-stay residence permit*: Spain, the Netherlands, United Kingdom.
- *Sufficient language comprehension evaluated prior to arrival in the country*: Canada, France, the Netherlands, United Kingdom.

Some countries such as Canada and the US, as well as Italy and Spain, continue to consider family reunification as a fundamental tool of

integration. Thus, reducing migratory flows for family reasons is not a stated objective of their policies.

→ ***Simplified and accelerated processing of asylum applications along with stricter admission conditions.*** Some rules are negotiated at the EU level (Chapter 2). Among the most commonplace national measures are:

- *Reorganising administrative services responsible for processing applications:* Belgium, France, the Netherlands, United Kingdom.
- *Setting maximum deadlines for each step of the process:* Belgium, United Kingdom.
- *Retaining asylum seekers in ad hoc centres reducing their ability to move about freely:* Belgium, Italy, United Kingdom.
- *Creating assistance and reinsertion programmes following application rejection:* the Netherlands, United Kingdom.
- *Forced deportation of rejected applicants:* Belgium, France, Italy, the Netherlands, United Kingdom.

→ ***Priority given to migration security issues and strengthening border controls.*** Managing migratory flows and combating undocumented migration are among the fundamental objectives of OECD country migration policies reviewed here. All seek to co-operate with countries of origin and transit particularly regarding expulsion and readmission. There are law enforcement-related co-operation agreements with transit countries in order to control external European Union borders, notably in the Mediterranean and Eastern Europe. Furthermore, EU member countries have intensified information and data exchange between each other, carry out joint external Union border control operations under the co-ordination of Frontex and are progressively harmonising the visa system for non-EU citizens. Like the United States, the United Kingdom already uses biometric passports. Other European countries are currently experimenting with this system. Available funds for this area of migration policy are constantly increasing.

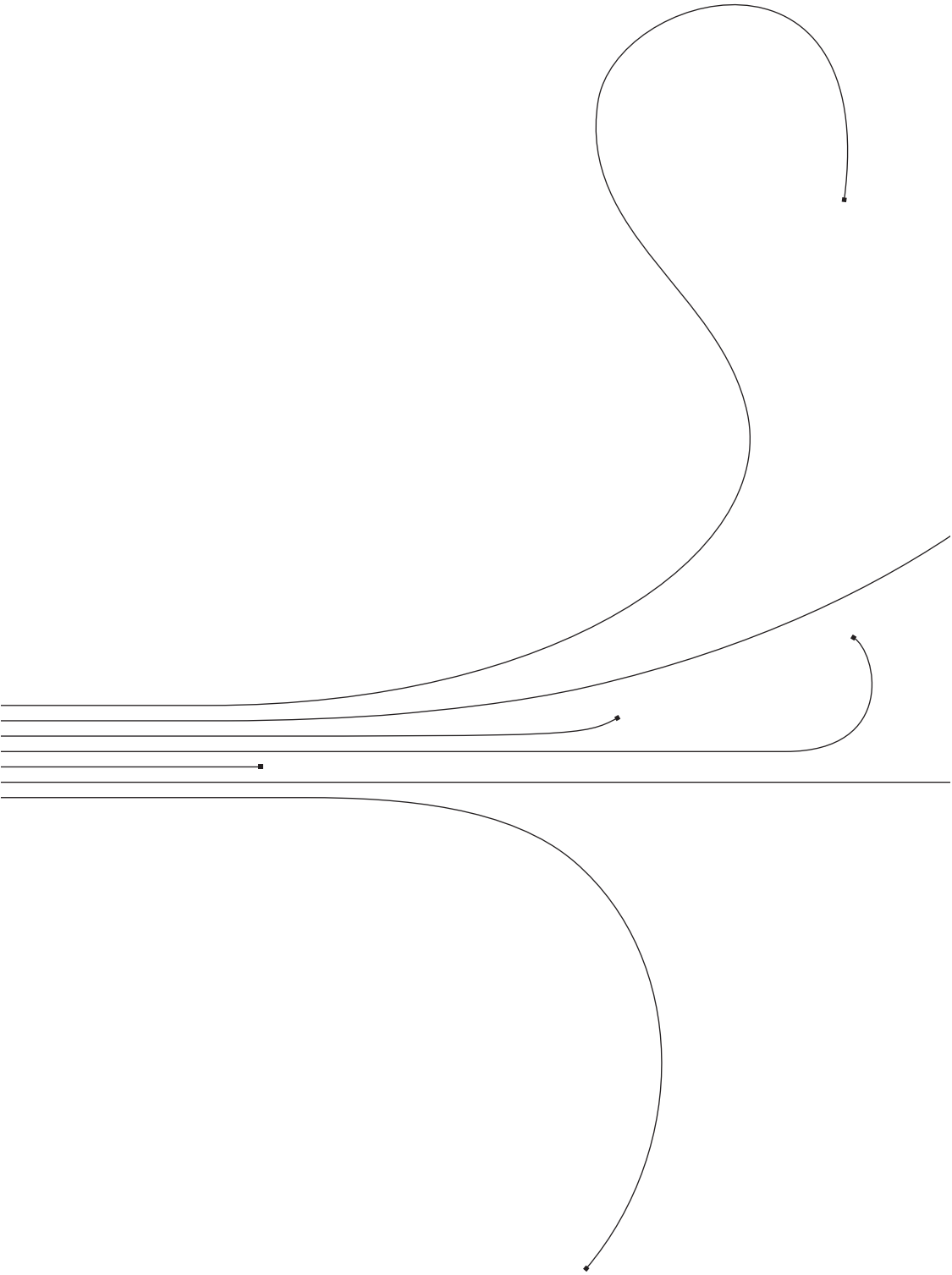
→ ***Integration, a new priority for host countries.*** Historic and more recent host countries seem ready to give priority to the social integration of migrants and their descendants. They recognise the importance of successful integration if society as a whole is to prosper and be secure. The new measures that have been proposed consider integration as a process in which responsibilities, rights and duties are reciprocal between host countries and migrants, the latter being primarily responsible for their integration. Among these measures:

- *Compulsory exams to evaluate immigration applicant's capacity to integrate notably through their linguistic and civic understanding of the receiving country:* Canada, France, Germany, the Netherlands, United Kingdom.
- *Solemn and symbolic vows upon gaining citizenship with an event such as signing of a contract, taking an oath or participating in a ceremony:* Canada, France, the Netherlands, the United Kingdom, United States.
- *Promoting integration as a strategic and integral objective of migration policy:* Belgium, Canada, the Netherlands, United Kingdom.
- *Reforming legislation regarding nationality to provide permanent residents and second generation immigrants better access to citizenship:* Germany, Portugal. Other countries (France, United Kingdom, etc.), on the other hand, make these conditions more restrictive.
- *Institutional reorganisation to address integration issues in a more targeted manner:* France, the Netherlands, Portugal, Spain.
- *Devolving authority for the development and implementation of integration initiative to local communities:* Italy, Spain.
- *Strengthening legal instruments against discrimination:* Belgium, Portugal, Spain.

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- 1 Eurobarometer survey for 2006 cited by Spencer 2007 indicates that international migration ranks fourth among issues concerning European public opinion.
- 2 Today at the centre of debates, the "migration and development" topic was not included in this survey at the time. It was addressed at the High-level Dialogue on International Migration and Development organised by the United Nations in New York in September 2006. See: [www.un.org/french/migration/](http://www.un.org/french/migration/).
- 3 For the definition of integration, assimilation and insertion see: [www.ladocumentationfrancaise.fr/dossiers/immigration/definition.shtml](http://www.ladocumentationfrancaise.fr/dossiers/immigration/definition.shtml). See also the UK Equality and Human Rights Commission's work on diversity, multiculturalism and integration: [www.equalityhumanrights.com/en/Pages/default.aspx](http://www.equalityhumanrights.com/en/Pages/default.aspx).
- 4 This is not to deny that there has been an increase in West African migration towards Europe over the last decade (authorised and unauthorised), De Haas is arguing against "the apocalyptic image of an increasingly massive exodus of desperate Africans fleeing poverty".
- 5 See [www.migrationinformation.org/Feature/display.cfm?ID=606](http://www.migrationinformation.org/Feature/display.cfm?ID=606).
- 6 This campaign concerned 140 nationalities. 50 000 applications were received, 23,000 of which were from minors. Approximately 25 000 cases were regularised. Congolese and Moroccans represented respectively 18 and 12% of the applications. See: [www.migrationinformation.org/Profiles/display.cfm?ID=164](http://www.migrationinformation.org/Profiles/display.cfm?ID=164).
- 7 *Ibidem*.
- 8 Since 1994, Belgium is a Federal State composed of three regions: Flanders, Wallonia and Brussels (the capital).
- 9 2004 Data. Between 1956 and 1976 migration flows from Europe rose to 64%. See: [www.migrationinformation.org/Profiles/display.cfm?ID=348](http://www.migrationinformation.org/Profiles/display.cfm?ID=348).
- 10 2004 Data. In 1985, the proportion of family reunification was 50% and that of work 30%. See: [www.migrationinformation.org/Profiles/display.cfm?ID=348](http://www.migrationinformation.org/Profiles/display.cfm?ID=348).
- 11 They must however settle in towns outside of Montreal, Toronto and Vancouver.
- 12 Different provisions apply to minors whose application must be submitted by their parents. See: [www.cic.gc.ca/francais/citoyennete/devenir-admissibilite.asp](http://www.cic.gc.ca/francais/citoyennete/devenir-admissibilite.asp).
- 13 Where a great majority have settled. See: [www.migrationinformation.org/Profiles/display.cfm?ID=348](http://www.migrationinformation.org/Profiles/display.cfm?ID=348).
- 14 In 2000, the Sub-Saharan Africa and North Africa proportion of the foreign population was respectively 10 and 48% (OECD 2007a).
- 15 [www.diplomatie.gouv.fr/fr/pays-zones-geo\\_833/afrique\\_1063/sommets-afrique-france\\_326/xxiveme-sommet-afrique-france\\_15947/place-une-gestion-concertee-flux-migratoires\\_45862.html](http://www.diplomatie.gouv.fr/fr/pays-zones-geo_833/afrique_1063/sommets-afrique-france_326/xxiveme-sommet-afrique-france_15947/place-une-gestion-concertee-flux-migratoires_45862.html).
- 16 These trends were provisionally confirmed for 2006–2007 by the government. See: [www.ladocumentationfrancaise.fr/rapports-publics/074000765/index.shtml](http://www.ladocumentationfrancaise.fr/rapports-publics/074000765/index.shtml).
- 17 Migration from Algeria was open and unregulated leading to massive flows during the Liberation War and post independence. Special provisions remain in force concerning the immigration of Algerians in France.
- 18 Named after the Minister of the Interior of the Conservative Government at the time.
- 19 As shown by the debates on the law regarding conspicuous religious symbols in public places in 2002, the reaction to the situation in the banlieue in 2005 and the reinforced identity controls introduced to counter unauthorised immigration.
- 20 The 2007 Law also introduced preliminary genetic testing, carried out by the State, for nationals of countries where there is "no civil State or a failing civil State". Genetic testing could only be carried out with a judge's injunction and the written consent of the applicant. The Constitutional Council raised specific reserves to applying this provision.
- 21 High Authority For Combating Discrimination and For Equality.
- 22 See: <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000232/0000.pdf> and [www.co-developpement.org/?p=534](http://www.co-developpement.org/?p=534)
- 23 See: [www.unhcr.fr/cgi-bin/texis/vtx/statistics/openssl.pdf?tbl=STATISTICS&id=4486ceb12](http://www.unhcr.fr/cgi-bin/texis/vtx/statistics/openssl.pdf?tbl=STATISTICS&id=4486ceb12).
- 24 See: [www.lagazettedebertin.de/3559.0.html](http://www.lagazettedebertin.de/3559.0.html).

- 25 See: [www.migrationinformation.org/GlobalData/countrydata/data.cfm](http://www.migrationinformation.org/GlobalData/countrydata/data.cfm).
- 26 *The first was concluded with Italy in 1955. The other countries concerned were Greece, Morocco, Portugal, Spain, Tunisia, Turkey and Yugoslavia (Martin 2006).*
- 27 *Until the adoption of this law, Germany was one of the only countries in the world to continue to base nationality on jus sanguinis (ethnicity) instead of jus loci (place of birth). This law replaced a precedent law adopted at the beginning of the 20th century.*
- 28 *Not more than 15% of the unauthorised immigrants arrive in Italy by boat. In 2005, 22 000 people were apprehended off the southern coasts (OECD 2007a).*
- 29 *Boat-using smugglers often involved in cigarette contraband and other products between the Balkans and Apulia as well as in the trafficking of women feeding into the prostitution network in Europe.*
- 30 *These quotas have risen from 53,000 to 170,000 between 1999 and 2007 for salaried, non-seasonal and autonomous work. In 2007, available quotas for West African countries were: 1,500 for Nigeria, 1,000 for Ghana and 1,000 for Senegal. For Maghreb: 4,500 for Morocco, 4,000 for Tunisia and 1,000 for Algeria. In 2008, the quota for season labourers rose to 80,000 units. Not one West African country was involved. See: [www.interno.it](http://www.interno.it).*
- 31 See *Courrier International* No. 897 from 10 to 16 January 2008, p. 14.
- 32 *Paises Africanos de Lingua Oficial Portuguesa (Association of Portuguese-speaking African countries) including Angola, Guinea-Bissau, Mozambique, and Sao Tomé e Príncipe. See: [www.migrationinformation.org/Profiles/display.cfm?ID=77](http://www.migrationinformation.org/Profiles/display.cfm?ID=77).*
- 33 *Romania joined the European Union in 2007 but Spain imposed a transitional period before opening its borders to free movement of Romanians and Bulgarians.*
- 34 *In descending order: Senegal, Nigeria, the Gambia, Mauritania, Mali, Ghana, Guinea, Guinea-Bissau, Cape Verde, Cameroon, and Sierra Leone. OECD database.*
- 35 See for example *Adepojou 2006, Berriane 2007, Coslovi 2006, De Haas 2007a and IMI 2007* in the bibliography.
- 36 *In Spain there were 15 000 entries per year of which the majority are Senegalese and Ghanaians.*
- 37 *European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union.*
- 38 *A figure of 1.2 million unauthorised immigrants was put forward at the end of 2004. [www.migrationinformation.org/Feature/display.cfm?ID=331](http://www.migrationinformation.org/Feature/display.cfm?ID=331).*
- 39 *The last three points are part of the 2001–2004 GRECO Plan. This law was amended in 2003.*
- 40 *In total, almost 700,000 regularisation requests were presented between February and May 2005. The regularisation provides the right to a one-year residence and work permit. See: [www.migrationinformation.org/Feature/display.cfm?ID=331](http://www.migrationinformation.org/Feature/display.cfm?ID=331).*
- 41 See: [www.migrationinformation.org/GlobalData/countrydata/data.cfm](http://www.migrationinformation.org/GlobalData/countrydata/data.cfm).
- 42 *The 1981 Law identifies three types of citizenship: British, British overseas territories, British overseas. See: [www.bia.homeoffice.gov.uk/britishcitizenship/aboutcitizenship/](http://www.bia.homeoffice.gov.uk/britishcitizenship/aboutcitizenship/).*
- 43 *On the other hand, the UK has negotiated a clause exempting measures taken by the EU with regard to asylum and migration management.*
- 44 *It is based on the idea that each individual/community has something to offer the others based on their specific characteristics. This diversity and a common vision of living together should be emphasised. Shared objectives should be defined collectively. To this end, it is essential to further intercultural dialogue and re-examine the idea of “us” and “them” in order to maximise the benefits of diversity and minimise negative consequences.*
- 45 *In 2006, 280 000 West African nationals or of West African origin were counted by the Migration Policy Institute. See: [www.migrationinformation.org/datahub/countrydata/data.cfm](http://www.migrationinformation.org/datahub/countrydata/data.cfm).*
- 46 *The article appeared in the Senegalese daily newspaper *Le Soleil* on 19 September 2007 painting a portrait of Senegalese migration in New York. See: <http://fr.allafrica.com/stories/200709190839.html>.*
- 47 [www.migrationinformation.org/datahub/countrydata/data.cfm](http://www.migrationinformation.org/datahub/countrydata/data.cfm).
- 48 *65,000 set in 2006 plus 20,000 more, OECD 2007a.*
- 49 *50,000 entries are permitted per year. See: [http://travel.state.gov/visa/immigrants/types/types\\_1322.html](http://travel.state.gov/visa/immigrants/types/types_1322.html).*
- 50 *The visa types are categorised by letters. “F” is for students and “H” for workers. Some student and skilled worker visas allow a maximum stay of six years. For those who have earned a medical diploma, they must return to their country or go to another country for two years before returning to the United States (OECD, 2007a).*





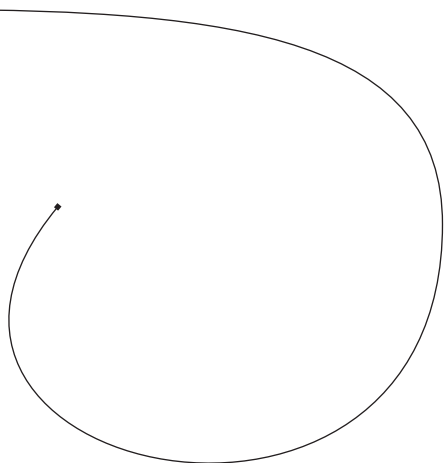


Chapter 2



# TOWARDS A COMMON EU IMMIGRATION AND ASYLUM POLICY: WHAT ARE THE STAKES FOR WEST AFRICA ?

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Europe is sometimes defined as a land of immigration, despite itself. With the progress of the regional integration process since the 1950s,<sup>1</sup> it has become a magnet. Immigration was initially considered a temporary phenomenon. Security considerations subsequently took precedence while such issues as the “need for labour” and “social inclusion” were given little attention. Yet the trend towards demographic decline and population ageing has made them relevant (Withol de Wenden 2007). The European approach has gradually become richer and more complex in both conceptual and institutional terms. While it nevertheless attempts to incorporate other domains such as relations with third countries, development aid and employment and integration, the security paradigm remains dominant.

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## 1 MIGRATION, A MATTER FALLING UNDER THE PURVIEW OF EUROPEAN INSTITUTIONS: STAGES

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Europe’s migration policy and approach have relied on several provisions and rules contained in the Union’s treaties as well as on decisions, programmes and initiatives undertaken by Community institutions since the mid-1980s.

- In 1985, the Schengen Agreement showed a desire to facilitate intra-regional human mobility. It promoted intergovernmental co-operation aimed at removing domestic borders between the signatories (Belgium, France, Germany, Luxembourg and the Netherlands) and created a single external border where the same procedures would apply to entry checks. The **Schengen area** then expanded several times – the last time in December 2007, bringing the number of its member countries to 24.<sup>2</sup> The latter apply common rules with regard to visas, the right to asylum and border controls.

- In 1990, an agreement on **Schengen co-operation** was signed, with all European countries participating at different levels, including the United Kingdom and Ireland (law enforcement and legal co-operation in criminal matters). This co-operation included the creation of an information system – SIS (its version II is currently being developed) – for networking and co-ordination between national authorities and administrations responsible for law enforcement and customs controls.
- In 1990, the **Dublin Convention** replaced the Schengen Agreement’s provisions on asylum and established each country’s competence with regard to the receipt and processing of applications.
- In 1992, the **Maastricht Treaty** defined European citizenship, introducing a distinction between Europeans and non-Europeans (Art. 8). It reorganised the Union’s areas of competence into three pillars.<sup>3</sup> Free circulation, immigration and asylum were incorporated into the third pillar – Justice and Home Affairs – and were subject to the inter-governmental method with regard to decision-making.
- In 1997, the **Amsterdam Treaty** extended and simplified the “co-decision” procedure between the European Parliament and the Union’s Council of Ministers with regard to the fields of competence falling under the third pillar. The Council maintained its unanimity with regard to issues relating to immigration and asylum for a period of five years. A Joint Protocol to the Treaty incorporated the Schengen system into Community legislation. The second pillar, “Common Foreign and Security Policy”, was strengthened. Within this framework, a new approach to migration emerged, focusing on “root causes” in order to reduce the political, economic and social factors that push migrants to leave their countries of origin in quest of better livelihoods and work opportunities.
- In 1998, the **Vienna Action Plan** referred to a European immigration and asylum system based on the model of concentric circles (→ Chapter 2, point 2).
- In 1999, the **Tampere European Council** undertook to promoting “an area of freedom, security and justice in the European Union” requiring a common European policy with regard to asylum and migration. This was to be based on four factors: partnership with the countries of origin, a common European asylum system, fair treatment for third country nationals and the management of migratory flows. The European Commission was invited to submit proposals.
- In 2000, the **Lisbon European Council**, devoted to employment, economic reform and social cohesion, proposed labour migration as an essential tool for ensuring growth and development strategy in the knowledge economy given the challenges posed by globalisation and Europe’s ageing population. These considerations were included in

the 2000–2010 Lisbon Strategy. Furthermore, the EU and the 77 African, Caribbean and Pacific States (ACP) extended their development co-operation until 2020 through the **Cotonou Convention**. Co-operation and partnership were expanded to include political dialogue and migration. A clause on the readmission of nationals present illegally within the territory of an ACP or EU state was introduced in Article 13 (→ [Box 2.1](#)).

- From 2002 to 2004, the **Seville, Thessalonica and Hague Summits** deliberated on the security issues raised by undocumented or illegal migration. Within this framework, new co-ordination and control mechanisms were added to the SIS: the Integrated External Vigilance System, the “Eurodac” system for fingerprint comparisons of asylum seekers and the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union – Frontex.
- In 2003, the Dublin Convention was incorporated into European legislation (Regulation 343). The **Dublin II Regulation**<sup>4</sup> reaffirms that European States would select, based on objective and hierarchical criteria, the state responsible for examining an asylum application submitted on their territory.
- In 2004, the Hague Council approved the **Multi-annual programme on strengthening justice and home affairs** in order to implement the conclusions of the Tampere Summit by the year 2010. Specific measures were envisaged for drafting a common immigration and asylum policy. Common procedures were given priority, along with a common status with regard to asylum, the promotion of legal labour migration from non-European countries, the establishment of a European framework in order to guarantee the successful integration of foreigners in European societies and the facilitation of expulsions and the return of illegal migrants.
- In 2005, the Council adopted its **global approach to migration issues** giving priority to action in Africa and the Mediterranean (Informal Hampton Court European Council). The Commission published the Green Paper on an EU approach to managing economic migration (EC 2005) in order to initiate discussions on the conditions and procedures for the admission of non-European workers.
- In 2006, the Commission sent a Communication to the European Council and Parliament (EC 2006) on the progress achieved in implementing the global approach. It proposed that the latter be extended to all countries of origin beyond the Mediterranean and Africa.
- In 2007, the Commission published a **Green Paper on the future Common European Asylum System** (EC 2007a) with a view to drafting an Action Plan in 2008. The consultation concerned, among other matters, asylum seekers’ reception conditions, processing of

applications, granting protection, integration, sharing of responsibilities and the external dimension of asylum with the establishment of regional protection programmes within the regions of origin or transit. The European Refugee Fund (2000–2004) was extended in order to finance a wide range of actions and, in particular, to reduce inequalities in treatment within the Union.

On the basis of this historical overview, it would appear that the migration issue is deeply rooted within the European agenda and involves an entire range of institutions and actors. Disputes over jurisdiction and conflicts of interest are therefore possible between regional and national levels as well as among Community institutions. This is all the more so given that the migration issue is at the crossroads of several sectors of strategic interest for the Union and its Member States: security, justice and home affairs, employment and social cohesion as well as relations with third countries and development aid. This situation could lead to further complications in the implementation of the common immigration and asylum policy, even though the process is already well underway. Over the last two decades, the strategic choice of the EU's Member States implies a gradual and growing opening up to migrant flows from Eastern Europe, counterbalanced by an effort to halt flows from the African continent (CeSPI 2007).<sup>5</sup> With Europe's expansion, Africa has become the preferred terrain for testing and applying the European migration policy and approach.

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## 2 THE FOUNDATIONS OF EUROPE'S MIGRATION POLICY AND APPROACH

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The tragic incidents in Ceuta and Melilla in the autumn of 2005 in which a dozen African immigration seekers lost their lives while attempting to climb the fence separating these Spanish territories from Morocco, fostered strategic thinking on the limitations of the existing approaches. They also drew attention to issues specific to Africa within the migration system centred on Europe. Community intervention in the drafting and implementation of innovative solutions thereby gained legitimacy.

The EU's common migration policy relies on a global approach based on three principles: **solidarity** between Member States, **partnership** with third countries and **protection** of migrants, especially vulnerable groups. The Union would like to develop an innovative migration policy

(CeSPI 2007) relative to those of its Member States, one that would enable it to:

- Facilitate a balanced approach between restriction and control activities and actions aimed at supporting legal mobility and the integration of migrants.
- Address the migration phenomenon and its complexity through the adoption of several intervention tools and instruments as well as by means of an inter-institutional and interdisciplinary approach.
- Address the root causes of migration while highlighting the positive impacts of human mobility through a more proactive rather than reactive approach to migratory dynamics.
- Facilitate more negotiated and consensual solutions with transit and origin countries.

However, according to some observers (CeSPI 2007, Lindstrøm 2006, Brady 2008), the EU has difficulty freeing itself from the priorities and approaches of its Member States in the implementation of a common policy. This has contributed to consolidating the security, control and mobility deterrence aspects of its policy to the detriment of other considerations. The **concentric circles' model** introduced through Schengen co-operation has thus reinforced the tendency to externalise the control of migratory flows, particularly in regards to Africa. The system has become increasingly complicated with diversification and multiplication of spheres and modalities of control both within and outside of national borders and those of the Schengen area.

- The **inner circle** brings together Schengen area Member States in which controls are carried out in the workplace or randomly at internal borders. The surveillance of external borders is co-ordinated and strengthened by the activities of Frontex (→Chapter 1, point 5; Chapter 2, points 1 and 3.3).
- The **second circle** brings together countries participating in the European Neighbourhood Policy<sup>6</sup> (immediate land or maritime neighbours of the Union). Migration is not a specific area of this mainly economic co-operation. However, their status as transit countries makes them suitable actors in the establishment of the Community migration management system. These countries now participate in migratory flow controls through law enforcement and customs co-operation agreements. They are requested to harmonise their migration policies with those of the Schengen system with regard to visas, controls and repatriation. Some of them (North Africa, Turkey, former Soviet countries) are also involved in the fight against illegal immigration and human trafficking. European controls are externalised to the borders of transit countries upon both entry and exit. Such controls are carried out by public and/or private actors (e.g. airlines).

Apart from playing a buffering role with regard to migratory flows from Asia and Africa, this group of countries is also the source of considerable migration to Europe (→Chapter 1) – thus the increased interest in building a dialogue with them.

- The **third circle** presently consists of sub-Saharan African countries but the EU would like it expanded to include Asia and Latin America so that its approach might become truly global (EC 2006). As in the case of the second circle, European controls are externalised to the exit borders of certain African countries and are carried out by government authorities and/or private actors. Moreover, agreements on joint management of migratory flows and the readmission of nationals living illegally in Europe are being signed, accompanied by other measures aimed at removing the root causes of immigration.

While the European approach emphasises the need for integrated and negotiated global treatment of these issues, the control and deterrence of human mobility from third countries continue to prevail. This reality has not only influenced the initial implementation of the European approach as described below but also the EU's relations with non-European countries as a whole (neighbourhood policy, external aid programmes, regional co-operation, etc).

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### 3 IMPLEMENTATION OF THE EUROPEAN APPROACH AND PROSPECTS WITH THE AFRICAN CONTINENT

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In 2006, the European Union established a working programme with Africa focusing on the following five themes:

1. Facilitating legal migration.
2. Promoting integration and intercultural dialogue.
3. Combating illegal immigration and human trafficking.
4. Providing asylum and refugee protection.
5. Strengthening dialogue and co-operation with African origin and transit countries.

The progresses made in areas **1.** to **4.** is presented below. Point **5.** above is the focus of a specific chapter (→Chapter 2, point 4).

### 3.1 Facilitating legal migration

The EU's goal is to simplify the admission of certain categories of (skilled or seasonal) African workers and grant legally residing foreign workers a secure legal status shared by several European countries. A Communication from the Commission (EC 2007b) suggests that these objectives could be achieved through the creation of "mobility partnerships"<sup>7</sup> and a better organisation of circular migration between European and third countries that have signed joint migratory flow and readmission management agreements. One support measure would consist of establishing specific migration centres with European financial aid. Such centres would provide information and guidance on working in Europe, advertise job offers in EU countries linked to visas, offer language courses and other technical training and supply financial support for the reintegration of returning migrants. A pilot centre is currently being set up in Bamako, Mali, called the Centre for Migration Information and Management. It is to provide information regarding job offers in neighbouring countries given that most of the emigration from Mali is towards the rest of West Africa. The EU supports the establishment of an operational network of centres such as the one in Mali as a milestone in the development of a common regional migration policy. This would help facilitate legal migration while combating unauthorised migration.

### 3.2 Promoting integration and intercultural dialogue

The Commission expects the link between immigration and integration to be a priority issue for the EU. The measures already undertaken or presently under consideration concern: establishing a platform for integration that would enable migrants to participate more actively in European public life; strengthening the role of local governments in the design and execution of European integration policies; developing a website, publishing a manual on integration and an annual report on immigration and integration in Europe (the third edition was published in 2007). In 2008, intercultural dialogue was selected as a preferred integration tool.<sup>8</sup>

### 3.3 Combating illegal immigration and human trafficking

From 2006 to 2007, Frontex co-ordinated many of the Union's maritime border surveillance operations as well as the search and rescue of non-European nationals in distress in Mediterranean waters (Operation Hera II off the coast of the Canary Islands and North and West Africa, Operation Nautilus in the Central Mediterranean). Frontex co-ordinates the dispatch of experts to European countries (Spain, Malta) affected by the arrival of migrants by boat in order to facilitate their repatriation.



Their role is to identify migrants' nationalities. Frontex is examining the possibility of establishing a network of constantly active Mediterranean coastal patrols (Medsea), with the participation of Member States in the South of the Union and neighbouring countries. Moreover, a surveillance system covering the entire southern maritime border of the EU and the Mediterranean Sea (Bortec) and a mechanism for the creation and deployment of Rapid Border Intervention Teams (Rabits) are well on the way to being implemented.

An immigration liaison officers' (ILO) network is being set up in North and West Africa. Each European State sends an ILO to its consulate in a third country. These officers are in charge of maintaining direct contacts with the host country's authorities concerning migration flows, especially illegal migration, in order to improve information exchange. The various ILOs on assignment in the same country form a network under the co-ordination of whatever country is currently occupying the EU's rotating Presidency. The creation of this network helped advance the implementation of the Migration Routes Initiative launched during the Rabat Conference in July 2006 (→Chapter 2, point 2.4). The ILOs prepare reports on illegal migration and human trafficking in the country/region to which they are assigned. Based on this information, Spain, France, Italy and the United Kingdom are responsible for drafting and co-ordinating action plans for better management of flows along the four main migration routes identified in West/North Africa and the Balkans. The home and transit countries are involved in their implementation, which is also supported by Frontex and Europol.

The European Commission would like to encourage controls and penalties for European employers who recruit undocumented foreign labour by creating new community legislation. The Commission analyses current practices and the effects of national amnesty and regularisation campaigns in order to assess the advisability of creating a common legal framework for regularisations at the European level. It gives priority to helping Member States respect United Nations protocols regarding the trafficking of persons and migrants. For the return and readmission of migrants, the Commission recommends extending voluntary return programmes to all host countries and recourse to forced return plans, including joint removal flights.

« The Commission analyses the advisability of creating a common legal framework for regularisations at the European level.

### 3.4 Asylum and protecting refugees

This aspect pertains to dialogue and co-operation with third countries. It is supported by regional protection programmes. These are multi-year programmes whose design and implementation are partially

entrusted to the HCR. They provide for a series of measures targeting refugees’ region/country of origin or first asylum in order to: strengthen protection capacities, establish a biometric registration system, set up resettlement programmes in Europe, provide assistance for the improvement of local infrastructure and the integration of refugees and asylum seekers, offer co-operation with regard to legal migration and migration flow management and establish return policies. These programmes should lead to sustainable solutions such as the repatriation, in-country integration or third country resettlement of refugees. Their implementation is based on existing technical and financial assistance instruments and initiatives with third countries, for instance, “Aeneas”.<sup>9</sup> By discussing the future common European asylum system referred to earlier, the Commission would like to ensure that access to asylum procedures is guaranteed to persons intercepted in anti-illegal immigration operations who require international protection.

4

DIALOGUE AND CO-OPERATION WITH AFRICAN ORIGIN AND TRANSIT COUNTRIES

This aspect should be addressed separately as it has been the largest part of the global approach’s implementation since 2006 and involves a variety of initiatives at the bilateral, regional and continental levels.

4.1 Bilateral level: Migration in the Cotonou Agreements

In accordance with Articles 8 and 13 of the Cotonou Agreements<sup>10</sup> between the European Union and the 77 ACP countries, the signatories agreed to establish regular policy dialogue among themselves, in particular, concerning migration issues. This dialogue, which is intended to foster information sharing, mutual understanding and the definition of common priorities and principles, is one of the Cotonou Agreements’ instruments. It is based on three pillars: the policy dimension (Pillar I), the promotion of participatory approaches (Pillar II) and development strategies and the focus on poverty reduction (Pillar III). This dialogue, which is both formal and informal, includes co-operation strategies as well as general and sector policies, including that of migration. Regional and sub-regional organisations and civil society representatives are also involved in the dialogue. Article 13 (→Box 2.1) outlines a common European policy on migration. It contains the principles, approaches (both “root causes” and

“security”) and priorities and modalities of co-operation between migration system actors around Europe. Apart from the fight against illegal immigration, integration and non-discrimination are also at the forefront.

### Box 2.1

#### Article 13 of the Cotonou Agreement

- |   |   |
|---|---|
| 1 | The issue of migration shall be the subject of in-depth dialogue in the framework of the ACP-EU Partnership. / The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.   |
| 2 | The Parties agree to consider that a partnership implies, with relation to migration, fair treatment of third country nationals who reside legally on their territories, integration policy aiming at granting them rights and obligations comparable to those of their citizens, enhancing non-discrimination in economic, social and cultural life and developing measures against racism and xenophobia.   |
| 3 | The treatment accorded by each Member State to workers of ACP countries legally employed in its territory shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals. Further in this regard, each ACP State shall accord comparable non-discriminatory treatment to workers who are nationals of a Member State.   |
| 4 | The Parties consider that strategies aiming at reducing poverty, improving living and working conditions, creating employment and developing training contribute in the long term to normalising migratory flows. / The Parties will take account, in the framework of development strategies and national and regional programming, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate and of reducing poverty. / The Community shall support, through national and regional Co-operation programmes, the training of ACP nationals in their country of origin, in another ACP country or in a Member State of the European Union. As regards training in a Member State, the Parties shall ensure that such action is geared towards the vocational integration of ACP nationals in their countries of origin. / The Parties shall develop co-operation programmes to facilitate the access of students from ACP States to education, in particular through the use of new communication technologies. |
| 5 | <p>a) In the framework of the political dialogue the Council of Ministers shall examine issues arising from illegal immigration with a view to establishing, where appropriate, the means for a prevention policy.</p> <p>b) In this context the Parties agree in particular to ensure that the rights and dignity of individuals are respected in any procedure initiated to return illegal immigrants to their countries of origin. In this connection the authorities concerned shall extend to them the administrative facilities necessary for their return.</p>   |

→

- c) The Parties further agree that:
1. each Member State of the European Union shall accept the return of and readmission of any of its nationals who are illegally present on the territory of an ACP State, at that State's request and without further formalities; each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities;  
The Member States and the ACP States will provide their nationals with appropriate identity documents for such purposes.
  2. at the request of a Party, negotiations shall be initiated with ACP States aiming at concluding in good faith and with due regard for the relevant rules of international law, bilateral agreements governing specific obligations for the readmission and return of their nationals. These agreements shall also cover, if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons. Such agreements will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return. Adequate assistance to implement these agreements will be provided to the ACP States.
  3. for the purposes of this point (c), the term "Parties" shall refer to the Community, any of its Member States and any ACP State.

Inspired by the provisions of Article 13, in 2006 the EU initiated dialogue on migration with the Mauritanian, Senegalese and Malian authorities as provided for in the implementation programme of the European global approach. Other West African countries have been asked to participate in this dialogue: Cameroon, Ghana, Nigeria, and Niger. On the suggestion of Belgium and Germany, Guinea Conakry and Burkina Faso were added to the list for 2007–2008. Once the negotiations started, they were followed-up by the EU Head of Mission in the country of origin. Migration has thus *de facto* become a fully-fledged domain of political and technical co-operation between the EU and West African countries. Two facts reinforce this state of affairs: first, the 10th European Development Fund provides financial coverage for programmes and projects in this domain; second, a national migratory profile must now be included in Country Strategy Documents if the country in question is at the origin of migratory flows into other ACP states and/or Europe.

#### 4.2 Rabat Euro-African Partnership Conference on Migration

The organisation of the Rabat Ministerial Conference on 10 and 11 July 2006 went beyond the provisions set out in the Cotonou Agreement. Hence, North African countries, not belonging to the ACP but linked to the EU through other partnership and co-operation agreements, including those

regarding migration (Barcelona Process, EUROMED, the MEDA programme, etc.), need to be brought into the dialogue on migration. This need stems from their dual status as countries of origin and transit for African immigration towards Europe. Furthermore, the Rabat Conference enabled the regional dimension of policy dialogue leading to a concerted management of flows to be discussed. Included in the Agreements, this approach needs to be put into operation.

On the initiative of Morocco, Spain and France, with co-funding from the European Commission, the EU member countries' foreign affairs, development aid and migration authorities met their counterparts in West, Central and North Africa<sup>17</sup> to discuss the "Euro-African partnership for migration and development". The discussion focused on the phenomenon of **migration routes in West Africa**. The final Declaration and Action Plan stressed the importance of a global, balanced, pragmatic and operational approach based on the respect of migrants and refugees' rights and dignity in order to jointly manage flows along these routes.



The Rabat Conference enabled the regional dimension of policy dialogue leading to a concerted management of flows.

The Declaration endorsed the following three key principles of the European migration approach vis-à-vis Africa and the Mediterranean:

- International migration has a positive effect on the host, transit and home countries if the flows are properly managed;
- Migratory flow management cannot be reduced merely to control measures;
- It must be carried out within the framework of a partnership to reduce poverty and promote sustainable and joint development.

The Action Plan transformed these principles into a series of short-, medium- and long-term measures organised into four strands: migration and development; legal migration; illegal immigration; and operational law enforcement and judicial co-operation and assistance to victims. One of the main priorities was the promotion of regional integration and tripartite co-operation between the EU, North African and West African countries. The others have been summarised in the →[Box 2.2](#) below. The Rabat Conference's outcome was incorporated into ECOWAS' efforts to formulate a common approach on migration (→Chapter 3) as well as into the other international events and processes on "migration and development" that filled the international policy agenda in 2006–2007.

## Box 2.2

### Rabat Action Plan Areas

#### Migration and Development

##### *Promoting development*

Support to trade, conflict prevention; regional integration; employment generating projects in emigration zones; European and African partnerships bringing cities together, etc.; co-development project along migration routes, etc.

##### *Financial instruments for co-development*

For legal migrants residing in Europe, co-funding their projects in their home countries; establishment of joint funding bodies, etc.

##### *Developing knowledge and know-how*

Expanding African students' access to universities and institutes for higher education in Europe and Africa; incentive policy for students to return; establishment of "centres of excellence" in the South, etc.

##### *Partnerships between scientific and technical institutions*

Networking among researchers in Europe and Africa, etc.

##### *Reinforcing co-operation in training*

Student mobility within Africa and towards the EU, etc.

#### Legal Migration

##### *Co-operation in managing legal migration*

Strengthening of administrative services in countries of origin and transit; training of potential migrants adapted to the needs of immigration countries; migrant integration initiatives in host countries, etc.

##### *Facilitating the mobility of workers and persons*

Facilitating immigration procedures for skilled/unskilled workers through voluntary bilateral agreements; information on labour markets in immigration countries; support for free intra-Community movement of persons within regional organisations; facilitating circular and temporary migration, etc.

#### Illegal Immigration

##### *Co-operation in combating illegal immigration*

Logistics and financial support for voluntary return in transit countries; re-admission mechanisms between all the concerned countries; facilitation of re-integration of illegal migrants; information and awareness campaigns; financial aid to countries in emergency situations with regard to illegal migration, etc.

##### *Border control capacity building in transit and departure countries*

Training of competent departments; provision of a computerised database; early warning system similar to the European system, etc.

### Operational law enforcement and judicial co-operation and assistance to victims

Co-operation to combat human trafficking and illegal immigration networks

Co-operation to dismantle criminal organisations that control cross-border trafficking

Ratification and greater recourse to mechanisms provided in the UN Convention on Transnational Organised Crime

Implementation of the Ouagadougou Action Plan for combating human trafficking, especially that of women and children

Projects aimed at helping and facilitating the re-integration of human trafficking victims

The Plan envisaged an institutional implementation follow-up mechanism involving a joint EU–ECOWAS working group on migration (→Chapter 3). The Rabat Conference follow-up mechanism will also ensure that the measures undertaken are consistent with policies and initiatives within the framework of parallel processes in which several actors present in Rabat are also involved (ECOWAS, EUROMED, 5+5 Process). This concern for coherence has been stressed by several experts (CeSPI 2007). The overlapping of bilateral, multilateral and regional levels is often problematic for African States because objectives and instruments can prove to be inadequate or contentious. Indeed, how is the free movement of persons within the ECOWAS region to be reconciled with stronger controls in departure and transit countries in support of a partnership with Europe to combat undocumented immigration? The multiplication of co-operation processes and initiatives among those concerned has undermined the institutional concerted migration management system, which can be detrimental to its effectiveness and sustainability.

### 4.3 EU-Africa dialogue: from Tripoli to Lisbon

In keeping with the European global approach centred on Africa and the Mediterranean, political dialogue and partnership on migration at the continental level are necessary. To this end, the conference held in Tripoli, Libya, on 22–23 November 2006 for the first time brought together EU and AU representatives as well as the leaders of their member countries. The global approach was raised at the Bamako Ministerial Troika meeting in December 2005 (→[Box 2.3](#)) responsible for framing dialogue between the EU and Africa on issues regarding social cohesion, economic integration and development. At the same time, the AU adopted a common position on migration and development (→Chapter 3) that provided the basis for discussions in Tripoli as well as for the EU's global approach.

**Box 2.3****What is the Ministerial Troika ?**

Within the EU, a Ministerial Troika is formed for each sector by the concerned Minister of the State holding the Council of the European Union's rotating Presidency as well as his or her counterpart in the State that will take over the Presidency the following semester and the European Commission's representative in the specific sector.

Since October 2001, the EU Ministerial Troika has regularly met the Organisation of the African Union (now African Union) and/or ECOWAS. These meetings are in line with the April 2000 Cairo Summit's Action Plan. The Summit enabled the EU to strengthen its dialogue and partnership with the entire African continent, bearing in mind that its relations with African countries are organised on the basis of two regional groups: the ACP countries for the sub-Saharan States and the Euro-Mediterranean partnership and European Neighbourhood Policy for North African States. The dialogue led to the development of a Strategy for Africa in 2005 in order to support Africa's efforts to achieve the Millennium Development Goals.<sup>12</sup>

Migration has been on the EU-Africa Ministerial Troika meetings' agenda since the very beginning:

- Brussels, October 2001
- Ouagadougou, November 2002
- Rome, November 2003
- Dublin, April 2004
- Addis Ababa, December 2004
- Luxembourg, April 2005
- Bamako, December 2005
- Vienna, May 2006
- Brazzaville, October 2006
- Niamey, October 2006 (only ECOWAS-EU)
- Brussels, May 2007
- Luxembourg, April 2007 (only ECOWAS-EU).

The Troika prepared the second EU-Africa Summit held in Lisbon in December 2007.

Similar results to those of the Rabat Conference were expected in Tripoli, although the meeting covered a much broader field both in terms of its participants<sup>13</sup> and the issues that were addressed (not just the global migration approach but also peace, security and human rights issues). The Final Declaration acknowledged the fact that the Euro-African partnership on migration and development was inspired by ongoing initiatives carried out at several levels (United Nations, Mediterranean countries, etc). It reaffirmed the need for partnership between origin, transit and destination countries for managing migration better on the basis of an exhaustive, holistic and balanced approach, for shared responsibility and co-operation. The commitments and actions to be undertaken must be based on a shared



recognition of the opportunities and challenges involved in migration and on a concerted definition of the most appropriate measures. Nine fields of activity were identified: migration and development; migration management; peace and security; human resources and the brain drain; respect for human rights and individual well-being; the sharing of best practices; opportunities for legal migration; illegal migration; and the protection of refugees. Policy harmonisation and coherence between initiatives at different levels were explicitly cited as part of a more effective migration management system. In addition, strengthening regional integration processes and facilitating the free movement of workers throughout Africa in line with the Abuja Treaty are essential to economic growth and poverty reduction. The other measures were based on the proposals made in Rabat. A new thematic meeting was called for 2009 to take stock of the progress achieved by the EU-Africa partnership. At the same time, both parties undertook to formulate a Europe-Africa Strategy to replace the one developed in 2005. This strategy was endorsed by the Lisbon Summit (December 2007), which had a very heavy agenda, migration being one topic of discussion.

The Lisbon Summit was above all marked by the disagreement between the parties regarding the signature of the economic partnership agreements (EPA) provided by the Cotonou Agreement.<sup>14</sup> Differences on how to re-organise trade between the two continents influenced discussions in other fields, too, which led commentators to infer that the Summit – the first in seven years – ended with a rather modest outcome. Despite this, a 2008–2010 Action Plan was adopted, paving the way for the implementation of the EU-Africa Common Strategy for long-term partnership. In the Final Declaration, the two continents’ representatives acknowledged their crucial inter-dependence in the globalisation process and the need to work together in the face of major contemporary political challenges: energy and climate change, **migration**, and gender issues.



The Declaration reaffirmed the need for partnership between origin, transit and destination countries in respect of shared responsibility.

Migration, mobility and employment were a pillar of the Lisbon Action Plan and Strategy.<sup>15</sup> In the short term, three priority actions were identified: implementation of the Tripoli Declaration on migration and development; implementation of the EU-Africa Action Plan on human trafficking; and implementation and follow-up of the Ouagadougou Declaration and Action Plan on employment and poverty reduction. Generating better quality jobs and improving migratory flow management were the Plan’s final objectives. The Plan established the objectives, results, activities, actors and financial means required, ensuring continuity with existing commitments and approaches. This also holds true for the post-2010 Strategy (→[Box 2.4](#)).

**Box 2.4**

**Lisbon Summit Action Plan and Strategy on migration and mobility**

<b>Objectives</b>
Facilitate mobility and free movement of persons in Africa and Europe and better manage legal migration between the two continents
Resolve the deeper causes of migration and refugee flows
Find tangible solutions to issues raised by illegal migratory flows
Resolve issues of migrants residing in Europe and African countries
<b>Results expected</b>
<i>Migration</i>
Better use of potential synergies between migration and development
Progress in the human resource situation in critical sectors including the health sector
Enhanced co-operation in managing migration in Africa and the EU
Enhanced co-operation in all fields in combating irregular or illegal migration (e.g.: re-admission agreements)
Better international protection capacities for persons requiring it
Better integration of African migrants in their country of residence in Africa or the EU
<i>Mobility</i>
Subsequent reduction of obstacles to free movement within Africa or the EU
Reinforced mechanisms to facilitate circular migration between Africa and the EU
<b>Activities</b>
<i>Migration</i>
Integrate issues concerning migration, mobility and employment in poverty reduction strategies and Country Strategy Papers, in particular through support for the improvement and updating of country migratory profiles, illustrating the differences and inequalities in skill levels in the labour market
Ensure progress in the implementation of an AU migration framework, especially in the capacity building sector
Promote regional initiatives on the theme of “migration and development”, in order to strengthen co-operation between countries of origin, transit and destination along migration routes
Consolidate co-operation in the field of international protection
Create a network of observatories on migration in order to gather, analyse and disseminate data on migration flows

→

Ensure progress in providing support for more secure, faster and less costly financial transfers (including investments), ensure that the necessary data, know-how and analyses are available to governments and promote innovative solutions

Act against the exploitation, discrimination and social exclusion of migrant workers

Strengthen joint actions to combat illegal immigration and human trafficking

Mobilise the necessary resources from existing Programme Funds and mechanisms for the effective implementation of the Tripoli Declaration

Encourage the European Commission and African Union Commission to examine the possibility of setting up a Fund as provided for in the Tripoli Declaration

Establish a regular dialogue on African migrants residing in Europe or Africa to find solutions for their concerns

### *Mobility*

Promote dialogue and co-operation on visa issues

Promote “ethical recruitment” policies in both continents in order to minimise factors leading to a brain drain in some sectors; support the application of retention strategies in order to counterbalance factors that drive workers to migrate

Develop training in sensitive sectors in order to respond better to labour needs in local, national and international job markets

Set up appropriate incentive mechanisms encouraging the retention and return of skilled personnel

Help African governments in the implementation of Migration Information and Management Centres (*Centres d'information et de gestion des migrations*) to improve the management of labour migration within Africa and between Africa and the EU

Facilitate the movement of members of the diaspora or migrant communities so that they are able to assume the role of development agents, identify existing diaspora organisations and support co-development projects

Support partnerships and twinning between institutions based in Africa and the EU (universities, etc.)

### **Actors involved**

AU/NEPAD Commission, African States, Pan-African Parliament, regional integration organisations, African Development Bank, local African authorities.

European Commission, EU member States, European Parliament, European Investment Bank.

Civil society actors, migrant associations, research institutes.

The United Nations System's organisations and other specialised international organisations.

#### 4.4 Preparatory meetings for the Conference of Paris

The preparatory meetings for the 2nd Euro-African Ministerial Conference on “Migration and Development” (Paris, 20–21 October) have also contributed to Euro-African dialogue.

The first preparatory meeting of experts, co-chaired by the Moroccan and Italian Governments, was held in Rabat on 3 and 4 March 2008. It focused on legal migration and examined the collective, trans-regional, multi-dimensional, structural and respectful aspects (...) of the human rights of migrants and refugees. The following themes were addressed during the experts’ presentations:

- Cooperation with regard to legal migration:
  - The exchange of good practices on the management of legal migration flows.
  - Facilitating the movement of workers and migrants: circular migration of seasonal workers and other categories of people.
- Local/national intermediation services to match international offers and demands and to provide information on employment abroad.
- Social protection of migrant workers.

The main recommendations included:

- Cooperation programmes related to the management of legal migration.
- Shared strategic thinking on migrants’ pension rights.
- Measures facilitating the movement of labourers and persons.
- Means likely to facilitate circular migration.
- Continue dialogue on new forms of co-operation.

The second preparatory meeting of experts focused on controlling irregular migration. It was organised in Ouagadougou (Burkina Faso) under the auspices of the Burkina Faso and French Governments. The following topics were addressed:

- Cooperation related to improving civil-state systems in Africa.
- Cooperation with regard to controlling borders.
- National and regional prevention strategies for human trade and trafficking, raising awareness of illegal migration and the protection of victims, notably women and minors.
- Cooperation related to re-admission agreements.
- Cooperation regarding voluntary return to the countries of origin.

At the second meeting, two interventions focused on re-admission procedures and co-development policies. Some questions were raised: how would ECOWAS States benefit from helping to control migratory flows? As less people are involved, would it not be more advantageous to facilitate intra-regional migration which is much greater than migration

exiting the region? Finally, a contribution concluded thus: “Although they have occurred very recently in the migratory process(at the end of the 1990s),co-development initiatives have presented a major interest, having shown that migratory flow management policies cannot be limited to the control of borders and the fight against illegal immigration without considering its deeper causes. However, we can concern ourselves with the fact that the co-development that favours assistance for voluntary return occurs most often in Southern countries that have heavy migratory movement toward destination countries in the North. In fact, we have been able to confirm that Burkina Faso, an emigration country with the majority of its flow moving toward Southern countries, does not truly benefit from co-development strategies. On the other hand, the Southern countries that have a migratory flow mainly toward Northern countries are experiencing co-development and benefit from the assistance available to their emigrants for voluntarily returning. Regarding this fact, we are lead to believe that the greatest concern in encouraging and aiding voluntary return and reintegration is in limiting immigration in Northern countries, rather than in promoting local development in the country of origin.”<sup>16</sup>



How would ECOWAS States benefit from helping to control migratory flows? Would development aid depend upon readmission agreements?

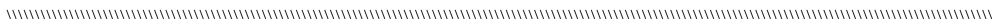
The third preparatory meeting of experts examined migration and development. It was held in Dakar on 9, 10 and 11 July 2008 under the auspices of the Senegalese and Spanish Governments. The following sometimes recurrent topics were addressed:

- Establishment of migration information, management and support mechanisms.
- Development of employment training systems.
- Social protection and the creation of support networks.
- Support for mechanisms aim to promote migration’s economic and social effects on development.
- Promotion of links between the diaspora and country of origin.

The feminisation of migration and inter-regional migration was addressed transversally. Importance was given to the need for dialogue between countries of origin, transit and destination of migratory flows. Most of the interventions focused on supporting migrants and their remittances to their country of origin. Very little emphasis was placed on development projects in West African countries and even less on the regional dimension.

Following these three preparatory meetings for the Euro-African Ministerial Conference, the initial observations are:

- The regional dimension is largely taken into account in debates on irregular migration. These discussions support the Rabat-spirit according the need for simultaneous dialogue between host, transit and departure countries.
- This approach defined at Rabat, however, lacks proposals concerning “legal migration” and “migration and development” which are mainly based on a Northern and Southern countries’ bilateral approach and which hardly take the realities of West African movement into account. For example, the challenge of the development of West African economic growth areas and the co-operation with North Africa is not addressed. By reviewing the interventions and conclusions of the work undertaken, it is difficult to truly measure the progress of the Rabat Action Plan except for maybe border controls. Thus it is a far cry from the initial willingness of “making the most of (...) the contribution of (migratory movements) undeniable for development within our bi-continental space, both in the North, and in the South”.



## 5 WHAT'S AT STAKE FOR WEST AFRICA?

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Migration has fallen under the purview of Community institutions since the mid-1980s. With the introduction of the Schengen system, it came to be treated as a critical justice and home affairs issue. This system made it possible to harmonise border control and visa issuance policies and procedures. It is a key instrument for the free movement of persons within the European countries that are members of it.

The Maastricht Treaty recognised the European Union’s specific migration- and asylum-related functions. In the 1990s, the comparative advantage of taking the regional level into consideration in matters of foreign policy and joint security was recognised not just for home affairs but also for relations with third countries. The regional dimension provided a space for experimenting with and negotiating migration policies targeting the general interest in the long term. This space is, at least partially, free from threats of being used as a pretext for electoral or short-term purposes, as often occurs on the domestic level. Inter-institutional dialogue has since intensified between the European Commission, Council and Parliament in order to develop an approach and policy on migration different from those of their Member States. In the first decade of the century, the “development aid” component was integrated, enabling the use of specific instruments for external action by the EU to deal with migration.

The EU's global approach seeks to be integrated, balanced, negotiated and consensual. It shows that migration is now one of the strategic domains of negotiation between the Community and third countries. From the operational perspective, however, the "control" issue is overriding and liberating national agendas from it is often difficult. Such is the assessment resulting from the first year of its implementation in 2006–2007. It illustrates a trend that has been observed over the last two decades towards gradual opening up to flows from Eastern Europe (in preparation and support for the EC's enlargement) and of gradual closure to migration from the South. Thus the attention paid to Mediterranean and African migration issues (around which the approach was initially centred).

European States seek greater dialogue and co-operation with countries of origin and transit by using the framework and instruments provided by the Union in its relations with Africa. From Rabat to Lisbon to Tripoli, the salient characteristics of the growing Euro-African migration partnership can be identified. Apart from the characteristics that were discussed earlier, three factors should be highlighted due to their implications for intra-regional migratory dynamics and the prospects for regional development and co-operation in West Africa.

1. By its approach and action, the EU affirms that the European and West African migration systems are complementary and interdependent. The Union is thus keenly interested in understanding and regulating intra-African migration. It encourages the continent's national and regional decision-makers to prioritise migration flow management and policy convergence. The adoption of a common approach by ECOWAS and the AU in 2007 was in this regard partially the result of pressure from their European partners. The fact that the regional dimension of African migration is recognised vis-à-vis international migration is in itself positive. However, the true bargaining strength of the countries of origin and transit associated with the implementation of the EU's global approach needs to be considered, especially when the measures undertaken on behalf of the Euro-African partnership contradict certain regional commitments (e.g. the delegation of European controls to local authorities on the basis of the concentric circle model and the free movement of persons within the ECOWAS zone).
2. On the other hand, by furthering dialogue and co-operation with African partners to implement the global approach, a consensus has emerged – theoretically, if not for the moment practically – on the strategy linking "migration and development". This concept has affected not only the relations between European and African countries but has also done so globally in the United Nations' migration agenda. In addition, several elements of the EU's global

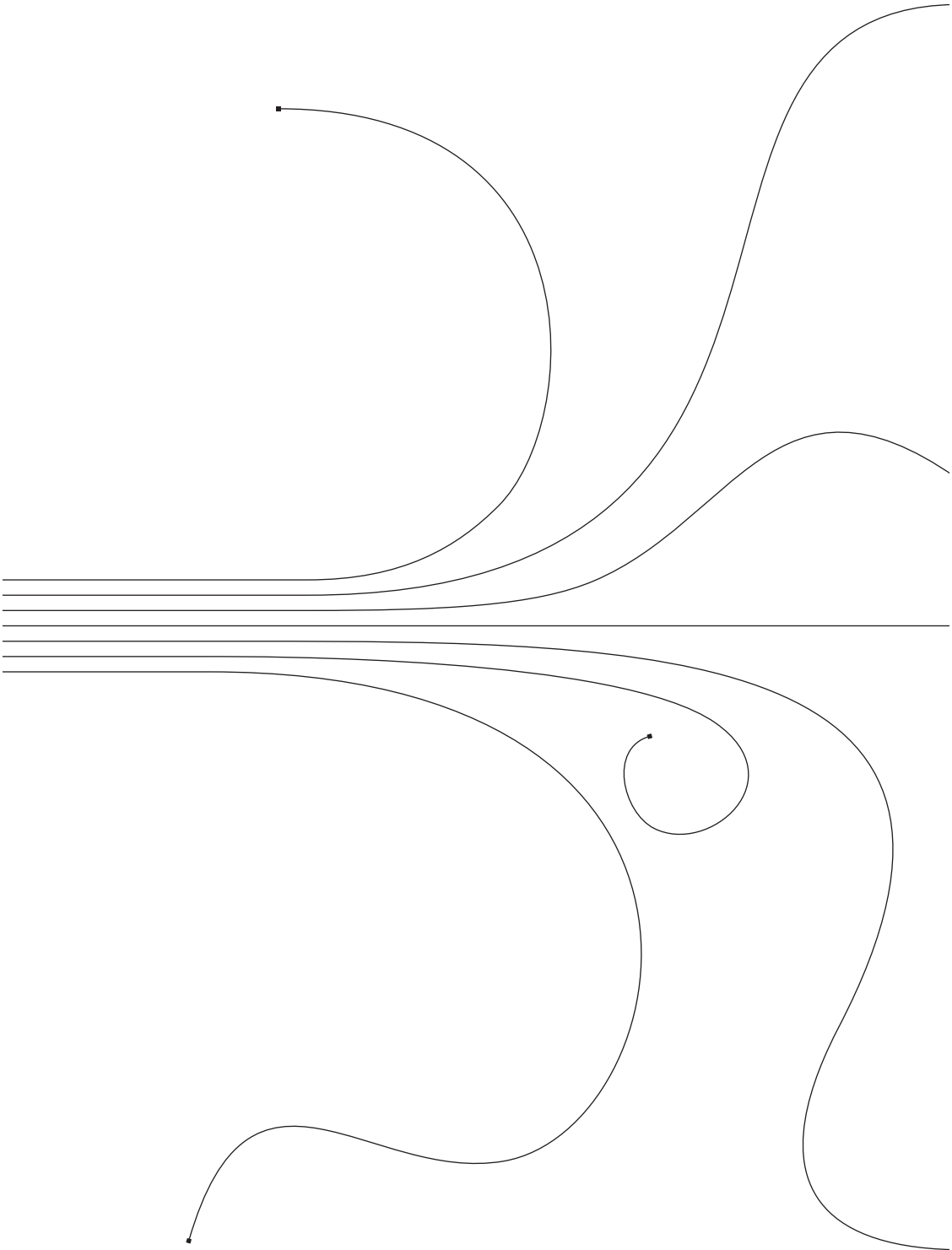
approach (and the ECOWAS and AU's common approaches → Chapter 3) are based on UN initiatives such as the High-Level Dialogue on International Migration and Development (New York, 2006) and the Global Migration Group. While there is consensus on the foundations of this approach, the system of governance with which it is associated is currently dispersed among a multitude of poorly co-ordinated continental-, multilateral-, regional- and bilateral-level activities and processes. A precise definition of the respective missions of often overlapping initiatives is lacking and this could create conflicts of competence and interest, thereby compromising the Africa-Europe dialogue. This is all the more the case given a context of limited capacities and resources allocated to this purpose, especially by African institutions.

3. Some experts have called into question the legitimacy of the EU's "migration and development" approach towards Africa as a means for co-ordinating migration and identifying solutions that would benefit migrants as well as countries of origin and transit (de Haas 2007b, 2008). Others add that current knowledge of intra-African migratory dynamics as well as their ties with extra-continental migration and current policies does not presently permit tailored interventions capable not just of reacting but also of making the most of migration (CeSPI 2007, IMI 2007). A sustainable Euro-African partnership should therefore stress the need for acquiring more information and sharing knowledge in order to facilitate decision-making in Europe, Africa and in the relations between the two continents.

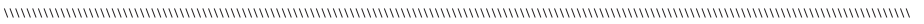


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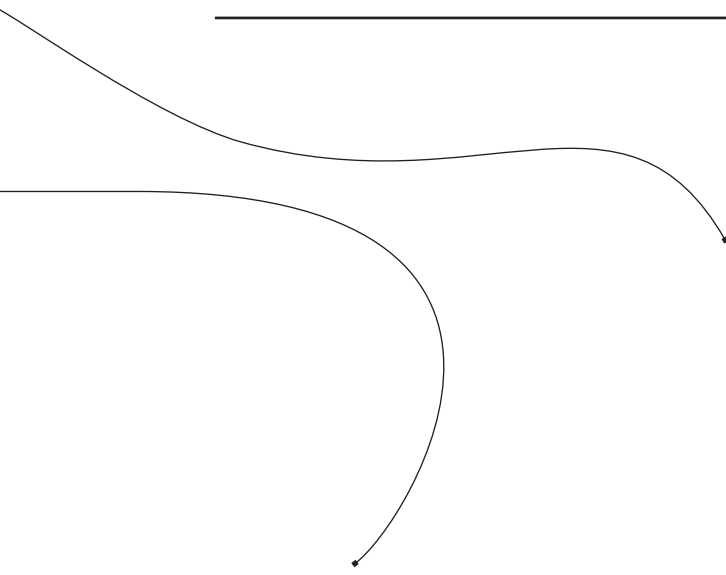
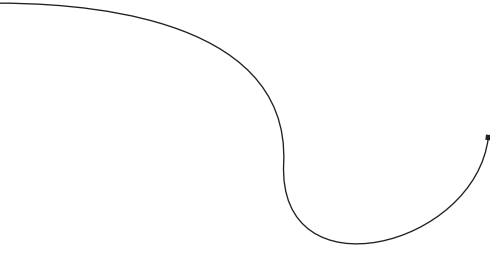
- 1 In early 2006, the EU was host to 18.5 million third country nationals (Romanians and Bulgarians not included), i.e. 3.8% of its total population (European Commission 2007a).
- 2 Austria, Belgium, Czech Republic, Denmark (common visa policy), Estonia, Finland, France, Germany, Greece, Hungary, Iceland (associated country), Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Norway (associated country), Poland, Portugal, Slovakia, Slovenia, Spain and Sweden.
- 3 1) Community pillar concerning the three Communities (EC, ECSC and EURATOM 2) Common Foreign and Security Policy (CFSP). The third pillar is called Justice and Home Affairs (JHA), including liberty and security.
- 4 Regime: Set of agreements, rules, procedures and institutions devoted to a given subject, etc. The term regime is used in recognition of the fact that it goes beyond a Convention as such.
- 5 For instance, since 2001, a visa has been required from all African nationals visiting a Union country, even if it is for tourism or business.
- 6 [http://ec.europa.eu/world/enp/policy\\_en.htm](http://ec.europa.eu/world/enp/policy_en.htm).
- 7 <http://europa.eu/scadplus/leg/fr/lvb/l14564.htm>.
- 8 <http://europa.eu/scadplus/leg/fr/lvb/l29017.htm>.
- 9 [http://ec.europa.eu/europeaid/where/worldwide/eidhr/index\\_en.htm](http://ec.europa.eu/europeaid/where/worldwide/eidhr/index_en.htm) and [www.etui-rehs.org/education/EU-Information-Service/Library/European-Union-Programmes-and-Budget-Lines/Programme-AENEAS](http://www.etui-rehs.org/education/EU-Information-Service/Library/European-Union-Programmes-and-Budget-Lines/Programme-AENEAS).
- 10 For a summary of the Agreement's main principles, go to <http://europa.eu/scadplus/leg/fr/lvb/r12101.htm>.
- 11 The following countries were represented in Rabat: Austria, Belgium, Benin, Bulgaria, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Egypt, Equatorial Guinea, Estonia, European Commission, Finland, France, Gabon, The Gambia, Germany, Ghana, Greece, Guinea Bissau, Guinea, Hungary, Iceland, Ireland, Italy, Latvia, Liberia, Libya, Lithuania, Luxembourg, Mali, Malta, Morocco, Mauritania, Netherlands, Niger, Nigeria, Norway, Poland, Portugal, Romania, Senegal, Sierra Leone, Slovakia, Slovenia, Spain, Sweden, Switzerland, Togo, Tunisia and the United Kingdom.
- 12 <http://europa.eu/scadplus/leg/fr/lvb/r12540.htm>.
- 13 The Tripoli Conference was attended by all AU member countries, Morocco and the Sahrawi Arab Democratic Republic, EU member states and the European Commission, as well as several organisations as observers: African sub-regional institutions including ECOWAS, UN System organisations, the World Bank, etc.
- 14 [www.delcaf.ec.europa.eu/fr/accord\\_cotonou/cotonou\\_resume.htm](http://www.delcaf.ec.europa.eu/fr/accord_cotonou/cotonou_resume.htm).
- 15 [http://ec.europa.eu/development/icenter/repository/EAS2007\\_action\\_plan\\_2008\\_2010\\_en.pdf#zoom=100](http://ec.europa.eu/development/icenter/repository/EAS2007_action_plan_2008_2010_en.pdf#zoom=100).
- 16 Good practice in respect of voluntary returns – A. Traore, [http://dialogueafrica.net/archivos/EN\\_bonnes\\_pratiques\\_en\\_matiere\\_de\\_retours\\_volontaires\\_a.traore.pdf](http://dialogueafrica.net/archivos/EN_bonnes_pratiques_en_matiere_de_retours_volontaires_a.traore.pdf)



Chapter 3



# THE AFRICAN APPROACH ON MIGRATION



Discussions of intra- and extra-continental migration are now on the agenda in Africa. ECOWAS and African Union initiatives are reviewed below followed by an overview of West African national migration policies (more extensive research is necessary<sup>1</sup>). By observing the relations between actors in the African mobility system, it is possible to analyse the relative consistency of bilateral and regional goals and commitments. This information will be useful to understanding the issues involved in a common African approach on migration.

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## 1 ECOWAS AND REGIONAL MOBILITY

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The mission of the Economic Community of West African States (ECOWAS) is to promote integration in all of its areas of economic activity. The free movement of community citizens and their right of residence and establishment in another country other than their country of origin are part of this mission.<sup>2</sup> Since the 1990s, the political dimension of integration has also fallen under its purview. In order to strengthen the principle of supra-nationality, ECOWAS restructured its institutions beginning with the Secretariat, which was transformed into a Commission in 2005. Similarly, the establishment of common rules deviated from the inter-governmental method through conventions and protocols entering into force after national ratification. The new system foresees a series of community legislative acts,<sup>3</sup> among which those of the Council of Ministers can be enforced and implemented directly in Member States. ECOWAS is the focal point of integration and co-operation initiatives in West Africa: economic partnership agreements with the EU, the implementation of NEPAD,<sup>4</sup> etc.

## 1.1 Free Movement of Persons within the ECOWAS zone

In application of Article 27 of the Treaty establishing ECOWAS, Protocol A/P.1/1/5/79 confers upon community citizens the right to enter all Member States provided they possess travel documents<sup>5</sup> as well as the right of entry, residence and establishment. The successive texts complementing the free movement regime are:

- Supplementary Protocol A/SP.1/7/85 on the code of conduct for the implementation of Protocol A/P.1/5/79;
- Supplementary Protocol A/SP.1/7/86 on the second phase (right of residence) of the aforementioned Protocol;
- Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the aforementioned Protocol;
- Supplementary Protocol A/SP.2/5/90 on the implementation of the third phase (right of establishment) of the aforementioned Protocol.

These provisions apply to an area of traditional mobility where there is considerable cross-border movement by persons who often lack identity papers. Long-distance movements between complementary agro-economic zones are just as numerous and rooted in West African history (ECOWAS/SWAC 2006, Fall 2004, 2007). Confronted with this high degree of human mobility, the newly independent states attempted to regulate movement by applying strict border and migration controls. Having only just won national sovereignty, states were initially reluctant to fully implement the Protocol on the Free Movement of Persons according to schedule.

Indeed, the progressive implementation of the free movement regime should have been extended over a fifteen year period as soon as the Protocol entered into force. Even after the number of ratifications necessary to its application had been obtained, however, difficulties of application persisted, hindering effective movement. The decision to maintain and in some cases increase the number of border control posts (where different official languages are employed) impeded smooth movement. It encouraged administrative hassles and extortion in places where travelers often do not have a full understanding of their rights as ECOWAS citizens. The historical context in which the Protocol was approved also helps to explain its partial implementation, namely the economic recession affecting the main host countries such as Nigeria. In 1983, Nigeria expelled foreign workers, citing the clauses authorising the suspension of free movement. Other countries have also called upon these clauses: Liberia in 1983, Senegal in 1990, Benin in 1998 and Côte d'Ivoire in 1999 (Adepojou 2005 cited in Agyei & Clottey 2007). Moreover, delays in liberalising intra-regional commercial trade weakened the integration agenda, including that aspect of it concerning the "free movement of persons."

Finally, participation in several convergent initiatives and conflicts of interest between members of different regional groups have also been partly responsible for this situation. Nevertheless, in the last few years, several measures have been undertaken to try to make up for lost time, in particular:

- The harmonising of passports since 2000. Today, six countries use the regional passport: Burkina Faso, the Côte d'Ivoire, the Gambia, Ghana, Guinea, Niger, Nigeria and Sierra Leone.
- The creation of joint border posts since 2005, in co-ordination with WAEMU (→ [Box 3.1](#)). The most heavily trafficked of them – for example, the Aflao post between Ghana and Togo – are given priority for computer equipment.
- The organisation of training and awareness-raising workshops for border police and customs officers with funding from development partners.

### Box 3.1

#### WAEMU and the free movement of persons

ECOWAS countries who are also members of the West African Economic and Monetary Union (WAEMU) are creating a common market based on the free movement of persons, goods, services and capital and the right of establishment of persons carrying out an independent or salaried activity (Articles 4, 91 and 92 of the WAEMU Treaty). These countries are Benin, Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo.

In 2005, the Conference of WAEMU Heads of State and Government approved the progressive approach proposed by the Commission in view of the implementation of freedom of movement of persons, residence, provision of services and the right of establishment. This suggests the adoption of regional codes of freedoms and rights of movement as well as harmonisation measures. They concern four areas:

- Right of establishment for the freedom to carry out self-employed professions.
- Under equal conditions, access to higher education establishments.
- Establishing a community visa for nationals of countries outside the WAEMU or ECOWAS zones.
- Building control posts juxtaposed on both sides of the border of member countries.

In 2006, regulations were adopted on free movement and establishment of workers having specific professions (experts-accountants, pharmacists). In 2007, the building of joint border posts progressed in some border areas between Burkina Faso and Niger, Burkina and Togo, Burkina and Mali. Today, the Commission is working on a draft common policy in the areas of movement and stay of third country nationals.

See: [www.uemoa.int/Publication/rapport%20activite%20UEMOA/Rapport2007Com.pdf](http://www.uemoa.int/Publication/rapport%20activite%20UEMOA/Rapport2007Com.pdf)

The free movement of persons is more and more often raised at ECOWAS Heads of State and Government summits as among the priority action areas for integration. The development of a common position on migration in keeping with the construction of the Euro-African partnership has contributed to reframing the debate by giving it a second wind. The absence of mechanisms suitable for controlling the infiltration of criminals into national territory, the lack of harmonisation among migration policies and legislation and the inadequate state of the infrastructure necessary if borders are to be “erased” are the main obstacles to the free movement of persons from the perspective of a regional approach to migration (Agyei & Clotey 2007).

## 1.2 ECOWAS’ common Approach on migration

The 33<sup>rd</sup> Summit of Heads of State and Government held in Ouagadougou, Burkina Faso on 18 January 2008 adopted the ECOWAS common approach on migration on the basis of a draft approved by the Council of Ministers in June 2007. The approach consists of two parts: the first is devoted to the legal framework and key principles; the second contains the “migration and development” action plan.

The influence of Europe, which is the main extra-continental destination of West African immigration, is obvious from the very outset of the document. Policy dialogue in keeping with the Cotonou Agreement between the EU and Africa, the Rabat Final Declaration and the Tripoli Declaration and Action Plan (→Chapter 2) are integral components of the legal framework as are the ad hoc resolutions and conventions of the United Nations.

The interconnection between regional and intercontinental migration dynamics/dimensions and the cause and effect relationship between migration and development in West Africa shape the fundamental principles of the approach, of which there are six:

1. Ensuring the free movement of persons as both a priority and driver of integration;
2. Promoting legal migration outside the region as a development factor;
3. Reducing human trafficking as a moral and humanitarian imperative;
4. Harmonising at three levels: bilateral agreements are to be consistent with community texts, economic, trade and development aid policies are to be consistent with migration policies of Northern countries; West African national migration management policies are to be consistent with sector development policies;
5. Protecting the rights of migrants, asylum-seekers and refugees;
6. Integrating the gender aspect of migration policies.

The Action Plan includes a series of measures putting these principles into practice. The direct link between migration and development emphasised in Tripoli is taken on board here to simultaneously address the two components and harmonise the corresponding policies. → [Box 3.2](#) presents the Plan in detail and shows the convergences and overlaps with the commitments made in Rabat and Tripoli. An ad hoc ministerial committee (still being assembled) will supervise the implementation of the common approach.

### Box 3.2

#### Action Plan for the ECOWAS Common Approach on Migration

##### **Free Movement**

###### *Implementation of the Protocol*

Circulation and securing of ECOWAS travel documents; information, awareness raising, training and education on community citizens' rights and responsibilities with concerned officials and populations; ratification of United Nations-related conventions and lobbying EU countries for them to do the same; harmonisation of labour laws related to independent professions; eliminating administrative harassment on roads.

###### *Operationalisation of regional cross-border co-operation funds*

Financing of concrete mobility facilitation actions in border areas; supporting populations living along borders; facilitating good neighbourly relations.

###### *Regional territorial planning strategy*

Developing new growth areas in potentially attractive zones, improving infrastructure in the most disadvantaged zones.

##### **Legal Migration**

###### *Regional and national pilot experience*

Creation of receiving, information, orientation and support centres for potential migrants and returning migrants in view of their re-insertion; building ECOWAS' capacities to analyse and share information related to immigration and the return to country of origin.

###### *Students and young professionals*

Better access to higher education institutes in Africa, North America, Europe, Asia, etc.; facilitated return to country of origin for students upon completion of their education; exchange agreements in order to improve language and professional understandings, to acquire professional experience in another country with measures assuring return at the end of the stay; partnership between West African and global scientific and technical institutes; broadening the fields of study taking into account labour market needs; strengthening excellence and training centres for entrepreneurship and business development support structures.

→



*Diasporas*

Strategic thinking on capitalising on West African diasporas' competencies and financial resources; proposing joint actions to facilitate financial and investment remittances in zones of origin; diasporas' participation in development projects in these zones.

**Policy Harmonisation***Monitoring migration and migration policies*

Create an observation and information system on: flows, instigating factors, regional socio-economic trends, migrant profiles.

*International collaboration to harmonise migration and development policies*

Broadening the competencies of mechanisms monitoring and clandestine migration by sea to protect and conserve water resources in West African territorial waters; taking into account the correlation between subsidised or used product exports and unemployment or under-employment.

**Combating irregular migration and human trafficking***Irregular migration and trafficking*

Information and awareness-raising campaigns; reinforced co-operation at the regional level and between ECOWAS and receiving countries outside of West Africa (dismantling mafia networks, clandestine migration, logistical support and joint management of voluntary returnees); principle of returning irregular migrants respecting dignity and human rights; implement reinsertion measures for returning migrants; technical and financial co-operation for managing emergency situations; respect international commitments.

*Strengthening dialogue with transit and receiving countries*

ECOWAS framework for dialogue on combating irregular migration, repatriating and readmission in addition to bilateral agreements.

*Strengthened capacity for managing migration*

Training of national immigration services personnel; creation of digitised and shared databases; establishing an ECOWAS early warning system

*Strengthening protection and assistance for trafficking victims*

Law enforcement-related and legal co-operation; co-operation on border controls; ratification of the United Nations Convention on combating organised transnational crime; victim assistance and reinsertion projects; creation of national solidarity funds for victims; harmonisation of national legislation in accordance with international standards; co-operation for humanitarian assistance for trafficking victims in distress.

**Migrants, asylum-seekers and refugees' rights***Protection of migrants' rights*

Integration policy for migrants and combating xenophobia; awareness-raising for the ratification of the United Nations Convention on rights of migrants and their families; regional monitoring mechanism of the implementation of this Convention.

→

*Protection of asylum-seekers' and refugees' rights*

Mechanism guaranteeing the right of residence and establishment in member countries for community national refugees.

*Gender and migration*

Integrating the gender aspect into migration policies; intensified training in entrepreneurship; eliminating illegal trade obstacles which disproportionately penalise women.

### 1.3 Dialogue with the EU

The process leading to adoption of ECOWAS' common approach was influenced by the follow-up to the Rabat Conference in which regular meetings were held between West African and European partners. Meeting in Madrid in June 2007, the two parties exchanged views on the progress of their respective approaches and agreed to facilitate the co-ordination of migration initiatives in order to assure success. In this way, they created a network of contact points in each country or organisation involved in the Euro-African partnership on migration.

The discussions were initially integrated into the work undertaken by the EU-ECOWAS Ministerial Troika. In October 2007, the Ministers present in Ouagadougou agreed to use ECOWAS' approach as a basis for further dialogue between Europe and West Africa beyond the commitments made in Rabat. They re-organised their co-operation by once again addressing certain areas of action set forth by the ECOWAS approach: migration and

In October 2007, the Ministers agreed to use ECOWAS' approach as a basis for further dialogue between Europe and West Africa beyond the commitments made in Rabat.



development, legal migration, undocumented migration, strengthening operational co-operation, migration and the diasporas and migration and gender. It would seem that the respective EU and ECOWAS approaches have evolved by reciprocally influencing

one another, at once at the level of each bloc and in relations between blocs.

Secondly, a joint EU-ECOWAS working group was created to facilitate political dialogue between the two parties and to act as a decision-making assistance mechanism for migration. It supports the Troika Ministerial and executes its decisions. Its specific objectives are: to analyse and address essential information for decision-making; the link between African and European expertise and the political level; the co-ordination and visibility of EU and ECOWAS initiatives vis-à-vis civil societies and other involved international entities; the proposal of concrete and detailed work programmes.

The Group's composition follows the structure of the EU-ECOWAS Troika Ministerial. Its participants are high-level civil servants involved

in and with expertise on migration issues. Yet its size can vary according to the issues under discussion. If need be, civil society representatives or specialised United Nations agencies may be invited. The Group organises ad hoc meetings outside of the Troika calendar. Decisions are made by consensus. The group will meet for the third time in May 2008 in Brussels.

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## 2 THE AFRICAN UNION DRAWS ATTENTION TO THE CHALLENGE FOR DEVELOPMENT POSED BY MIGRATION

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Since 2006, the AU has been considering developing an orientation framework for its member States' migration policies while at the same time participating in the UN initiatives and dialogue with the EU on "migration and development". An experts' meeting held in Algiers in March led to a common draft position statement that was ratified by the Heads of State and Government at the Banjul Summit in July 2006. African leaders presented it to their European partners during the Tripoli Ministerial Conference in December.

In its position statement, the African Union emphasised that it considers migration a major challenge for the continent over and above the migration and development agenda.<sup>6</sup> In fact, it has become necessary to work towards better management and treatment taking account of stability and security, the rights of individuals and human resources (e.g. the brain drain). Migration has in this respect been the object of strategic thinking on the part of Pan-African institutions for fifteen years now.<sup>7</sup>

The AU identified nine themes, divided into sub-themes (AU 2006), in order to come up with recommendations that were specific enough to support regional and national policy reforms (→ [Box 3.3](#)). These guidelines are not restrictive but rather provide states with a framework for implementing measures that have already been advocated by other national, regional and international bodies.

The AU deemed it necessary to submit for member country approval certain priorities that diverged, at least partly, from those identified by the Euro-African partnership. Border controls, labour migration and the consequences of migration for security and stability, including extended forced displacement situations, were at the top of the list of Member States' concerns and priorities, reflecting the diversity of national perspectives among them. "Migration and development" was treated separately at the end of the document and was primarily concerned with the African

diaspora's contribution to economic growth, investment and business on the continent. The Framework proposed by the AU is an ambitious project because it seeks to bring migration policies up to international standards, harmonising them at the regional level and ensuring that they are consistent with all other government efforts at the domestic level. Although it presupposes a different approach, the Europe-Africa Strategy adopted in Lisbon (→ [Box 3.3](#)) supports the Framework's implementation. This was a success for the African Union, which was present at the Summit. Furthermore, the two agendas concur on the issue of capacity-building for national and regional structures involved in managing migration as well as on the importance of dialogue and partnership among all actors and levels concerned, from the local to the international.

### Box 3.3

Themes, sub-themes and proposals for strategies to be implemented in the AU's guidelines

<b>Labour Migration</b>
<p><i>National policies, institutions and legislation</i> Ratification and implementation of ILO Conventions; harmonisation of labour and migration legislation, international recruitment and admission programme reforms, including social security issues for migrant labour; focal points on labour migration in all ministries concerned; promotion of equal opportunities; programmes targeting migration and gender, migration and spread of HIV/AIDS; promotion of social dialogue; quotas for migration of low-skilled labour from neighbouring countries; etc.</p>
<p><i>Regional co-operation and labour migration policies harmonisation</i> Permanent contact between countries of origin and destination to follow-up on migrant workers' living and working conditions; data collection, analysis and exchange; harmonisation of sub-regional policies/legislation on free movement and the right of residence; etc.</p>
<p><i>Labour mobility and regional economic integration</i> Implementation of free movement system in regional economic communities; labour exchange programmes</p>
<b>Border Management</b>
<p>Adoption of precise criteria and categories for admission, expulsion and grant of protection; border control and management technology optimisation, staff training; information campaigns targeting potential migrants; co-operation and co-ordination of judicial, customs and migration officers at the national level; regional and international co-operation for information sharing; etc.</p>

**Irregular Migration**

*Clandestine migration*

Ratification and implementation of ad hoc UN Conventions; regional counter-measures to dismantle organised crime networks and promote legal migration; regional consultative processes and national/regional policy harmonisation; joint border control between neighbouring countries; information sharing; etc.

*Human trafficking*

Reform and strengthening of legislation by incorporating ad hoc UN Conventions; capacity-building and information campaigns targeting vulnerable groups; physical and legal protection of victims and pursuit of traffickers and their accomplices.

*Return and readmission*

Procedures and standards coherent with international legal instruments concerning return, readmission and reintegration; protection of migrants' rights in case of forced return; facilitation of voluntary return; regional/international return and readmission agreements; readmission commissions to assist in reintegrating repatriated migrants; etc.

**Security and Stability**

National and international efforts to curb illegal cross-border flows; strengthening conflict prevention and management mechanisms.

**Forced Displacement**

*Refugees and asylum seekers*

Ratification and implementation of ad hoc UN Conventions; capacity-building of officials involved in the identification, protection and assistance of asylum seekers; governmental focal points for mass migration flow management; local protection capacity-building; information and awareness raising against xenophobia; bilateral co-operation; etc.

*Internally displaced persons*

Ratification and implementation of ad hoc international instruments; collaboration with specialised international agencies for the protection of and assistance to internally displaced persons; mobilisation of resources to strengthen the concerned national bodies; etc.

*Prolonged displacement*

Improvement of refugees' capacity to meet their own needs (access to employment and land, free movement, socio-economic rights); education and training ensuring their integration into the host communities/reintegration in their own countries; global and integrated approach based on international solidarity and cost sharing in order to guarantee voluntary return, local integration or re-settlement; environmental protection programmes; etc.



*Crisis/conflict prevention, management and resolution*

Diplomatic initiatives and international co-operation; integrated migration policies based on ad hoc provisions of regional crisis prevention, management and resolution mechanisms; post-conflict reconstruction; early warning system for conflict-related mass population flows; disarmament, demobilisation and reintegration of former combatants.

**Migrants' rights**

*Policies and legislation*

Strengthening of national systems, including through the harmonisation of national policies with the international migrants' protection system; fair treatment of detained migrants; equal access to justice; integration strategies; information campaigns; facilitation for the establishment of migrants' associations; etc.

*Non-discrimination*

Ratification and implementation of ad hoc international instruments; raising awareness of personnel concerned with migrants' rights and gender issues; etc.

*Integration and reintegration*

Fair treatment of migrants; equal access to education, training and economic opportunities for migrants' children, their naturalisation and facilitation of family reunification; bilateral programmes between countries of origin and destination; etc.

*Stateless persons*

Reform of nationality laws; etc.

**Internal Migration**

Combating poverty and environmental degradation; information to potential migrants.

**Data and Statistics**

*Collection and analysis*

Ad hoc legislation; national co-ordination; mobilisation of international funds; digitisation of files in embassies and consulates; implementation of NEPAD's priority area of new technologies.

*Regional data exchange*

Development of regional data collection and processing standards; regional information sharing and good practices' exchange forum; etc.

**Migration and Development**

*Collaboration with the African diaspora*

Mobilisation of international partnerships to strengthen links between the diaspora and Africa; political, social and economic incentives for returnees; African database on the diaspora; North-South and South-South partnership; incorporation of documents negotiated with financial backers (annexes on migration and development in strategic poverty reduction documents) in national development plans; etc.



*Brain drain*

Implementation of NEPAD's human skills retention goal; facilitation of circular migration at regional level; better private sector opportunities; etc.

*Transfer of funds*

Ad hoc policies for attracting investments; financial sector reforms; post office network and credit institution strengthening support (in rural areas); collaboration with all stakeholders, including funding agencies, to facilitate investments in productive sectors; quality improvement of data available; etc.

**Inter-State and Inter-Regional Co-operation**

Harmonisation of laws, standards and procedures, pooling of information and data, and efficient use of these resources; migration and forced displacement considered as integral parts of Africa's security and development agenda; Euro-African partnership; etc.

**Other social issues to take into consideration**

*Migration, poverty and conflict*

Management of the deeper causes of migration; environmental protection; promotion of democracy; strengthening of African conflict prevention, management and resolution mechanisms; etc.

*Migration and health*

Equal access of migrants and forcedly displaced persons to the health systems of host countries; implementation of ad hoc regional strategies; reinforcing knowledge; harmonisation of migration and health policies; etc.

*Migration and environment*

Taking environmental issues into consideration in migrants' management; environmental protection programmes.

*Migration and labour movement*

Facilitation of short-term skilled migration; regional and inter-continental co-operation; implementation of the WTO agreement's ad hoc provisions; relevant training to officers in charge of migration and labour movement, etc.

*Migration and gender*

Protection of migrant women's rights; combating trafficking and trading; raising awareness regarding gender issues in addressing migration.

*Migration, children and youth*

Protection of children's rights by ratifying the ad hoc implementation of UN Conventions; equal access to the health system, education and housing; link between migration and family legislation; exchange programmes for African integration.

*Migration and senior citizens*

Protection of their rights; access to pension; training, resettlement and family reunification.

## MIGRATION FROM THE PERSPECTIVE OF WEST AFRICAN STATES

In 2003, 38 of Africa's 53 countries did not have specific policies regulating immigration and 43 did not have a voluntarist policy with regard to emigration (UNDESA 2004). In West Africa, very few States had well-defined migration policies, which are moreover unevenly implemented from one country to the next (IMI 2007). Domestically, these policies may fall under the purview of different ministries, departments or agencies or, in some cases, several institutions at the same time, leading to problems in co-ordination and the likelihood of competition in their implementation (Agyei & Clottey 2007). In Burkina Faso, for instance, the Ministry of Labour, Employment and Youth Affairs is responsible for emigration

How do bilateral agreements influence the implementation of the regional free movement system and the migration dynamics observed on the ground?



controls, the Ministry for Territorial Administration and Decentralisation for managing all migration issues while the Ministry of Foreign Affairs and Regional Co-operation is in charge of promoting integration, including

the free movement of persons and the strengthening of institutions such as ECOWAS.<sup>8</sup> There is a shortage of readily available information concerning the distribution of authority regarding migration in each country and this undermines co-ordination, not only at the national but also the regional level.

Upon gaining independence, some West African states promulgated laws governing the entry, stay and settlement of foreigners within their territory or tackled the issue through labour legislation. Since the phenomenon of conflict-related, forced displaced persons emerged in the 1990s, the most affected countries (Mali, Niger, the Côte d'Ivoire, Senegal, Ghana, etc) adopted ad hoc legislative measures consistent with international standards. The → [Table 3.1](#) below lists some recent and less recent national laws in force. According to information made available by the ILO, Ghana is the only country to have adopted a global law on migration since 2000. However, in 2007 Agyei & Clottey underscored the fact that this law did not have any specific provisions for ECOWAS nationals, thereby failing to link migration management with the regional integration process.



Table 3.1

Legislation concerning migration in some West African countries<sup>9</sup>

Benin	Labour Law, Act no. 98-004 of 27 January 1998 Act no. 86-012 of 26 February 1986 on regulations concerning foreigners in the People's Republic of Benin
Burkina Faso	Decree no. 2007-308/PRES/PM/MAECR of 24 May 2007 on the creation, attributions, organisation and operation of the High Council for Burkina Faso nationals abroad Labour Law, Act no. 98-750 of 23 December 1998
Cameroon	Act no. 2005-006 of 27 July 2005 on the status of refugees 2000/286 Decree of 12 October 2000 specifying the conditions of entry, residence and departure of foreigners in Cameroon Labour Law, Act no. 92-007 of 14 August 1992
Chad	Act no. 038/PR/96 of 11 December 1996 on the Labour Law
Côte d'Ivoire	Act no. 2002-003 of 3 January 2002 related to the identification of persons and stay of foreigners in Côte d'Ivoire
Ghana	Regulation on Immigration 2001 (l.i. 1691) Act on Immigration no. 573, 2000-02 Act on refugees no. 305D, 1992
Guinea	Order no. 054/PRG/SG/87 of 22 July 1987 on the conditions of entry and residence of foreigners in the Republic of Guinea
Mali	Act no. 04-058 of 25 November 2004 related to the conditions of entry, stay and settlement of foreigners Act no. 98-040 of 20 July 1998 on the status of refugees Act no. 92-020 of 18 August 1992 on the Law in the Republic of Mali
Mauritania	Decree no. 36-89 of 15 June 1989 on the establishment of a High Commission for Employment and Reintegration Decree no. 74-92 of 19 April 1974 establishing the conditions of employment for foreign labour and instituting a work permit for foreign workers
Niger	Act no. 97-16 of 20 June 1997 on the status of refugees Act no. 33/CN of 31 October 1991 on the creation of a Higher Council for Overseas Nigerians
Nigeria	Act no. 52 of 1989 (ch. 244) on the National Refugee Commission Regulation on Immigration, l.n. 93 of 1963

→

Senegal	<p>Decree no. 2003-291 of 8 May 2003 on the establishment of a National Committee for the Management of Refugees, Repatriates and Displaced Persons</p> <p>Act no. 97-17 of 1 December 1997 on the Labour Law</p> <p>Decree no. 91-041 of 16 January 1991 on the establishment of an Emigrants' Policy Co-ordination Committee</p> <p>Act no. 71-10 of 25 January 1971 related to the conditions of entry, stay and settlement of foreigners</p>
Togo	<p>Act no. 19 of 29 December 2000 on the status of refugees in Togo</p>

*Source: Natlex, ILO Database and Droit-Afrique (African Law) online portal.*

According to these authors, though West African states do not have official migration policies, they display a general tendency in favour of restricting immigration that runs counter to the spirit of the Protocol on Free Movement they had nevertheless signed. One reason for this is the difficulty of extending to foreigners social protections that, due to limited financial resources, are already scarcely available to nationals. States thus prefer to regulate issues related to free movement, labour recruitment, conditions of residence and social protection reciprocity for foreigners in a bilateral manner. Some agreements have been listed by the ILO and are set out below in chronological order. Although they may be rather old and only cover labour migration, they clearly describe existing migratory relations among West African countries and between those countries and their North African counterparts.

- Agreement between Burkina Faso (then Upper Volta) and the Côte d'Ivoire on hiring and employment conditions for Upper Volta labourers, 1961.
- Agreement on the settlement and movement of persons between Burkina Faso and Mali, 1969.
- Agreement on the employment and residence of Mauritanian workers in Senegal and Senegalese workers in Mauritania, 1972.
- Agreement on the movement, employment and residence of Congolese workers in Senegal and Senegalese workers in the People's Republic (now Democratic Republic) of Congo, 1974.
- Agreement between Burkina Faso and Gabon on technical co-operation on labour issues, 1974.
- Agreement on the settlement and movement of persons between Niger and Libya, 1988; and
- Agreement on labour and the use of human resources between Algeria and Mauritania, 2004.

Over the years, these agreements have been suspended then re-instituted depending on the needs, national economic and political

conditions and the state of relations between the parties (e.g., agreements between Burkina Faso and the Côte d'Ivoire on the recruitment of foreign labour<sup>70</sup>). How do bilateral agreements influence the implementation of the regional free movement system and the migration dynamics observed on the ground?

This question is of great relevance today, with new agreements under discussion between African countries, not only with regards to labour migration but also concerning readmission and the fight against unauthorised migration. Information on their content and the manner in which they are being implemented by the countries concerned is scarce and difficult to trace. However, such information is of strategic importance in order to have complete view of the constraints and opportunities associated with the implementation of the free movement regime and a common regional approach to migration.

The final observation concerns the changing attitudes of national governments in regards to the need for a proactive approach to migration management. Since the UN published the results of its Survey on Migration in 2004, West African States have become increasingly involved in this issue. Restrictive measures have been succeeded by a clear desire to fully manage the phenomenon in keeping with the "migration and development" perspective. In the end, the current situation seems at times to work in favour of a regional migration management system, and at times against it.

It works in the regional system's favour when migration issues are incorporated into the regional integration agenda pursued by the states as a strategy for optimally integrating Africa into the globalisation process. But it goes against it when West African States consider it preferable and advantageous to negotiate their migration policies mostly or even exclusively with their European partners. If the discussion takes the form of negotiations between quotas, readmission and development aid, this situation is likely to give rise to a form of competition vis-à-vis their European interlocutors to the detriment of co-operation among neighbouring countries.

## SEVERAL KEY FACTORS OF REGIONAL AND NATIONAL APPROACHES

Over the last few years, several attempts have been made at the continental, regional and national levels to regulate migratory dynamics in Africa. They have sought to create systems capable of addressing both the historical characteristics of migration (its circularity, extensive and informal character, the co-existence of individual and group migration decisions, both short and long distance, rapid directional changes depending on opportunities, etc) and more recent issues (prolonged, forced, mass displacement, integration of second or third generation migrants in host societies, etc.). Whereas ECOWAS underscores linkages between migration, development and regional integration in the implementation of its approach, the African Union and national states tend to be more sensitive to the security and stability issues raised by human mobility.

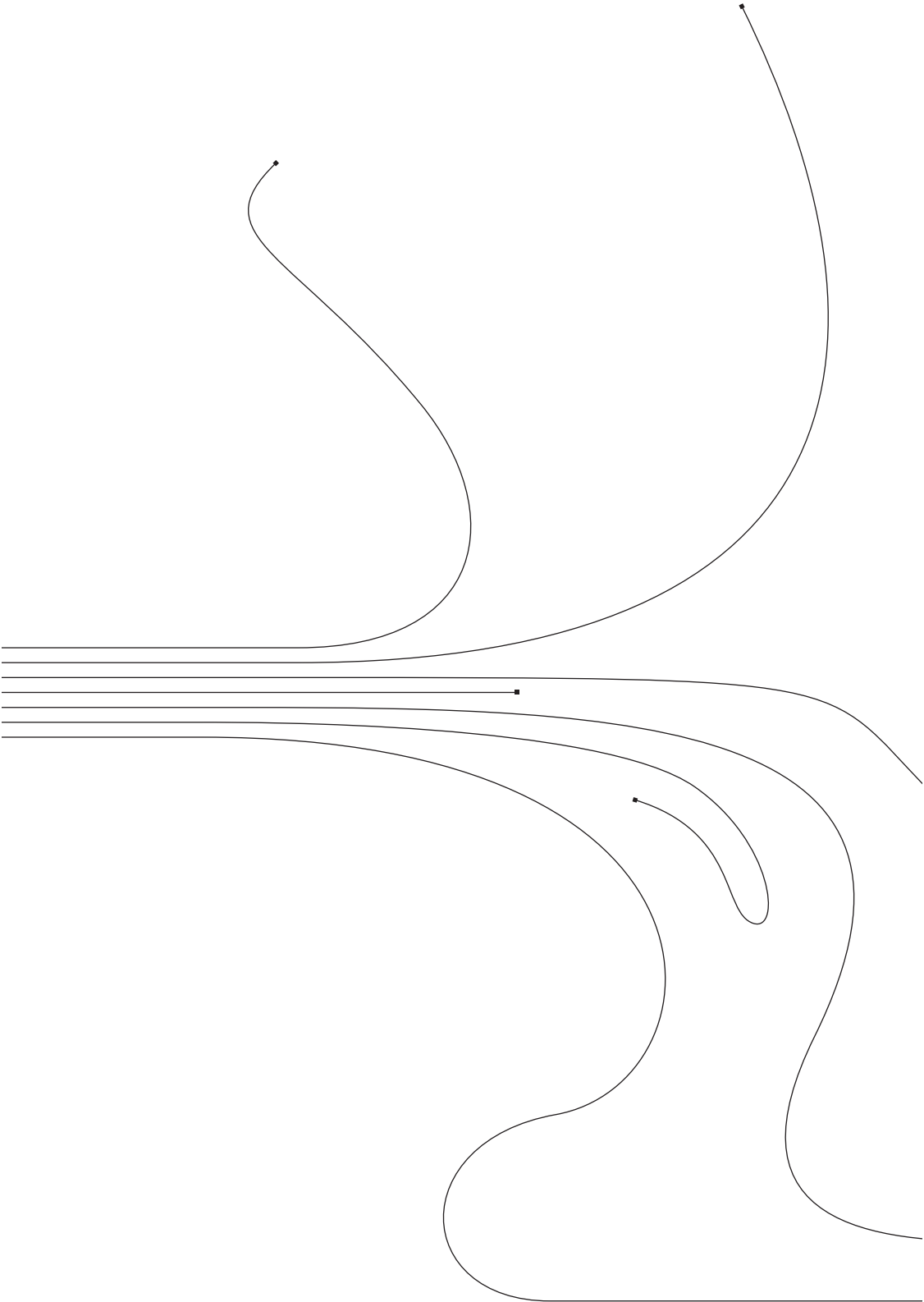
Although the different actors' perspectives are not identical, the approaches developed at the pan-African, regional and national levels have three factors in common:

- The role of European partners – both collectively under EU leadership and/or individually through their political and economic ties with Africa – in defining the measures to be prioritised and their funding.
- The importance given to harmonising policies: a) within African governments among different sector policies; b) among member countries of regional co-operation and integration institutions with regards to national migration management systems; and c) on the part of partners in the North in their global relations with third countries.
- The commitment to dialogue, partnership, co-ordination and collaboration among all stakeholders. Since 2005, this has been evident from the frequency with which various meetings on the subject, in Europe and Africa, have brought together representatives from both continents.

Migration is therefore at the forefront of Africa's political agenda, just as it is in other international contexts. In this framework, the system of governance for African and Euro-African migration management regimes urgently needs to be discussed if the commitments that have been made and the approaches agreed upon are to last. The meagre input of civil society to the debate and the persistent imbalance between the parties involved is nevertheless to be regretted.

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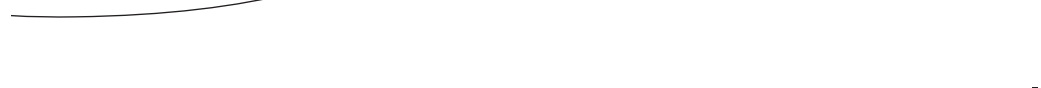
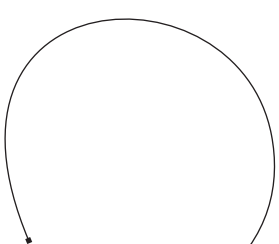
- 1 *Furthermore, this strategic thinking is in line with the objectives of the "West African International Migration Observatory" programme for renewed co-operation between West Africa and the European Union, co-ordinated by IRD (EuropeAid/124151/C/ACT/Multi).*
- 2 *Created in 1975, its member States are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. The free movement of goods and persons is among the fundamental principles governing co-operation among member countries, the others being equality, inter-dependence, solidarity, collective autonomy, co-operation, harmonisation, economic integration, non-aggression, maintenance of peace, respect, protection and promotion of human rights, economic and social justice, the promotion and strengthening of democracy.*
- 3 *Additional acts, regulations, guidelines, decisions, recommendations and opinions.*
- 4 *See: [www.nepad.org/2005/fr/home.php](http://www.nepad.org/2005/fr/home.php). Integration and regional co-operation, thus free movement, are considered priorities as they contribute to establishing favourable conditions for sustainable development and poverty reduction.*
- 5 *Valid travel documents and health certificates provide the entry right without a visa and to stay for a maximum of 90 days in a member country. A state however has the right to deny entry to a community citizen if this citizen is considered inadmissible according to the laws of the country.*
- 6 *There are 50 million African migrants out of a total of 200 million; 50% of internally displaced persons are displaced in an African country and 28% of refugees in the world are Africans. See [www.africa-union.org/root/au/Conferences/Past/2006/April/SA/Apr5/meeting\\_fr.htm](http://www.africa-union.org/root/au/Conferences/Past/2006/April/SA/Apr5/meeting_fr.htm).*
- 7 *E.g.: Abuja Treaty in 1991, urging the implementation of free movement, the Durban Conference on Security, Stability, Development and Co-operation in Africa in 2002, the AU's work with the African diaspora, NEPAD, etc.*
- 8 *[www.primature.gov.bf/gouvernement/attributions.php#mae](http://www.primature.gov.bf/gouvernement/attributions.php#mae).*
- 9 *Furthermore, this strategic thinking is in line with the objectives of the "West African International Migration Observatory" programme for renewed co-operation between West Africa and the European Union, co-ordinated by IRD (EuropeAid/124151/C/ACT/Multi).*
- 10 *On 22 February 2008, the Burkina Faso Minister for Foreign Affairs and Regional Co-operation visited Côte d'Ivoire to discuss the conditions necessary for re-instating their bilateral co-operation. The free movement of persons and goods between the two countries was one of the items on their agenda. See [www.lefaso.net/spip.php?article25754](http://www.lefaso.net/spip.php?article25754).*



Chapter 4



# CONCLUSIONS



This document has examined management instruments for migration issues concerning West Africa. The overview of the approaches and policies of OECD member countries that are destinations of West African migration reveal the following trends:

- 
- **Belgium** is working towards integration by promoting access for Non-European nationals to citizenship and combating discrimination. However, asylum seekers' reception conditions are less generous than in the past.
  - **Canada** is a model of flow management and the creation of global integrated measures. It makes the most of migratory dynamics by associating admission conditions with foreigners' ability to integrate (principle of selectivity). Unskilled labour migration management has been decentralised to the provinces (circular migration and partnership with countries of origin).
  - In **France**, recent innovations concern the return to labour migration and the promotion of selective migration. The establishment of the Ministry of Immigration, Integration, National Identity and Development Partnership is an illustration of the conceptual and operational framework of ongoing reforms. "Control and security" remain a priority, coupled with the "migration and development" agenda in foreign policy.
  - In **Germany**, reform in favour of a global approach is beginning to emerge but nevertheless fails to resolve the question of how to fill



low-skilled labour needs and how to promote the integration of foreign residents and their descendants.

- **Italy** aspires to develop a global approach that is consistent with increasing migration. Its priorities are controlling unauthorised migration, managing security challenges due to the rapid increase in flows and addressing integration beyond the local level. It fully supports European initiatives.
- **The Netherlands** has adopted a new, more restrictive and selective management system since the limitations of its traditional approach were revealed. This system has given particular attention to integration issues, protection and assistance to asylum seekers.
- **Portugal** receives a large African migrant population because of its colonial history. Combating discrimination and promoting integration are key objectives of its migration policy, and social dialogue and consultation are its preferred methods.
- In **Spain**, the debate is focused on unskilled labour migration and controlling undocumented migration, with both often being addressed from the perspective of security concerns. Since it joined the EU, Spain has sought to collaborate with its European partners on migration issues. It plays an active role in EU relations with African origin and transit countries.
- The **United Kingdom** advocates the effective management of flows in order to maximise the benefits of human mobility while reducing its costs. Despite particular attention given to the promotion of cultural diversity, the “control and security” aspect remains at the heart of the measures in place.
- In the **United States**, global reform is necessary but lacks unanimous support due to the combination of several factors: security issues raised by the 2001 attacks, the control of illegal flows and growing labour needs. Stronger security measures seem to have negatively impacted student immigration. But African students are less affected than those from other communities.

**The trends observed in OECD member countries are rather convergent.** They indicate a renewed interest in labour migration, especially skilled labour. To attract unskilled labour migration remains a persistent trend given the ageing of the population. States, however, do not seem to be ready to encourage it as much as skilled labour or at least seek to contain it by favouring, for example, circular and/or temporary migration. The distinction between temporary and permanent migration systems is becoming more evident as the conditions for family reunification are tightened for foreigners who do not have the right to reside in the host country. A reform of the management system based on simplifying procedures and expanding controls underlies this new approach. It also concerns

the treatment of asylum applications for which entry conditions have also become more stringent. By means of “mixed flows”, the admission of persons in need of protection and possibilities of abuse or exploitation by illegal migration networks have been linked. Because of this, border control has become one of the top priorities for institutions responsible for developing and implementing migration policies. Migration issues are usually considered from the perspective of the security concerns they raise: the approaches and instruments specific to the national security policy are thus applied. Recent policy developments have drawn lessons from the experience acquired since the post-war years. Migration is now a major area of government intervention. The importance of integrating migrants into their host societies is beginning to emerge as a priority. For the moment, however, it is more a matter of principle than a tangible approach. Traditional integration models (assimilation, multiculturalism) are controversial and the initial attempts to establish new ones have been modest, though encouraging at the local level. In the meantime, the choice has been made to make admission conditional upon the ability of migrants to integrate into the host country’s socio-economic system. This amounts to a short-term strategy rather than a desire to consider migration as one of the factors moulding the long-term development of industrialised societies.

**A trend specific to European countries concerns the readiness to delegate the formulation of common rules for migration management to the EU.** On one hand, this shows that the interdependence between the migratory dynamics specific to each country and those of neighbouring countries has been acknowledged in light of the regional integration process in which they are all involved (free movement of European citizens and foreign nationals with right of residence in a member country, the Union’s expansion, policy harmonisation) and globalisation. On the other hand, it reinforces the tendency of industrialised countries to promote dialogue with countries of origin and transit in the interests of shared migration management. The European Union provides the necessary framework, facilities and resources for dialogue by virtue of the instruments available in the areas of Justice and Home Affairs, common Foreign and Security Policies and Development Aid.

**Africa is the preferred region for applying European migration initiatives** now that EU expansion eastwards has nearly come to an end. Geographical proximity, historical ties, long-standing political and economic relations and new issues that have emerged with the rise of China and India as the continent’s strategic partners mean that the EU will be even more interested in furthering its dialogue with Africa on this issue in the future. The European approach is guided by the principles of solidarity between member States, partnership with countries of origin

and transit and protection of migrants. It aims to be balanced, proactive, integrated, negotiated and consensual. Thus, the agenda of European officials and their African counterparts is filled with meetings to decide on the approach's implementation (Ministerial Troika, Rabat and Tripoli Conferences, Lisbon Summit, etc). In the course of these meetings, the European Union has pursued the same objectives while gradually opening the partnership to the continent as a whole. The 2006–2007 work programme for the implementation of the global approach as well as the Rabat, Tripoli and Lisbon Action Plans complement and reinforce each other. However, the three following factors are likely to limit the EU's capacity to achieve the results it expects from its approach:

- The 2006–2007 work programme was initiated before the member countries' policy harmonisation process and the implementation of a common European migration policy had been completed. These processes were supposed to develop at the same time and in correlation with each other but the current situation has had three *de facto* consequences: 1) in the approach's implementation, priority was given to activities in the home and/or transit countries, thereby displacing the focus from within to outside the EU; 2) activities targeting European countries more directly are limited to "security" and "border control", consensual objectives where harmonisation is perceived as much more urgent, necessary and easy to achieve; and finally 3) some activities, considered strategic according to the "migration and development" approach, are difficult to achieve at the European level due to the lack of a single operational definition. Such is the case with circular migration, in particular (Brady 2008).
- Migration is a cross-cutting theme within the Union. Several institutions are involved at different levels and in various capacities in the development, implementation and follow-up of all related measures and activities. Thus, the migration management system's governance structure is highly complex. Mere co-ordination among EU institutions, between EU institutions and member States, and between EU institutions, member States and African partners could prove to be inadequate to guarantee the sustainability of the existing system.
- Finally, there is no consensus among experts regarding the validity of the "migration and development" approach (de Haas 2007b and 2008). Links between the two phenomena are far from being as direct and static as presented by the theories underlying the dominant approach today. In the short term, development tends to increase mobility in the sense that a larger number of people are attracted to migration in search of opportunities. Furthermore, the control of migratory flows and the sustainable development process belong to two distinct time-frames (short-/medium-term for one, long-term for the other) that are difficult to align.

**The progress towards creating a European migration system has led to a search for similar initiatives across the African continent.** The common ECOWAS approach as well as the framework for migration policy reforms and the common position developed by the African Union owe their adoption partly to lobbying by European partners. Lobbying was carried out by EU member States and Community institutions by making the facilities needed, to move the continent's dialogue process forward, available to African partners as well as through foreign and development aid policies. Since the two continents share most of the same fundamental principles, areas of intervention and stipulated activities, implementation of the African approach raises much the same issues as those set out above in regards to the ability of the European approach to meet its objectives. Acknowledging the interdependency and complementarity of the African and European mobility systems is a positive step towards partnership-building and should be emphasised. However, the excessive attention paid to security issues may, in practice, hamper the innovative value of partnership, i.e. the importance of supporting migratory dynamics in both regions and their inter-linkages.

**Human mobility is one of the key objectives of Africa's regional co-operation organisations since the free movement of persons** integrates the lifestyles of the continent's populations. This shows that over and above the European influence, the common migration management system is an integral part of Africa's political agenda. In West Africa, legal instruments regulating regional mobility, though never fully applied, have been in place since the 1980s. At the bilateral level, countries of origin and destination for African labour have agreed to manage flows in a concerted manner, despite the issues that are sometimes raised by new political or economic conditions concerning their achievements. However, migratory dynamics withstand not just restrictive measures but also restructure and reorganise themselves in consequence thereof, without losing their intensity. Moreover, historical solidarities among populations living on either side of borders, the latter's porosity and the presence of flourishing cross-border economies have made mobility a reality that goes beyond official treaties. It is a positive factor in the life strategies of populations. For regional organisations, it is a *raison d'être* in view of economic and political integration.

It is at State level that resistance to the free movement of foreign nationals has most often emerged in the name of national sovereignty. Given this situation, prioritising two types of measures in ECOWAS and AU action plans would seem useful. In fact, the system presently being constructed would not be very effective in the absence of clear political will coupled with facilities and resources capable of converting high-level commitments into realities on the ground:

- The first measure concerns **promoting informed dialogue** between representatives of member countries so that they can identify and appreciate their respective interests in the free movement of persons and the concerted or even common management of migration issues, both at the regional level and vis-à-vis Europe. In this regard, it would be useful to further the debate in order to establish what States can negotiate bilaterally with European countries (within the framework of concerted management of migratory flows) and what they should negotiate together in order to maximise the benefits of intra-regional and off-continental migration.
- The second measure concerns **capacity-building, including training personnel** in the public administrations responsible for implementing the migration management system.

A wide variety of subjects, issues and action priorities have been considered in this document, as defined by the relevant actors (industrialised countries, the European Union, West African countries and African regional co-operation organisations). The only perspective missing is that of migrants, the other recognised actors in any migratory system, which is due to their marginal involvement in the formulation of policy concerning migration in Europe and Africa alike. The recent European Commission initiatives have sought to take into consideration the points of view and experiences of migrants (since their interests and benefits are already incorporated into the “migration and development” approach).

Among the issues raised, four are proposed in this conclusion. They are as relevant to the development of a European and African migration system as they are to promoting partnership between the two continents. To wit:

- Improving understanding of migratory dynamics and issues and making this information available to decision-makers and public opinion. Involuntary migration deserves special attention in Europe (more restrictive admission conditions, treatment of mixed flows) and in Africa (massive long-term flows, economic and social repercussions).
- Policy harmonisation at all levels in order to enable the actors concerned to more effectively address migration from its onset beyond its security dimension.
- Governance system reform of the migration regime at the European, African and Euro-African levels towards simplification rather than just co-ordination.
- Prioritising integration (the internal dimension of migration policy) as a crucial issue for the development of contemporary societies rather than a sector or local policy topic.



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ANNEXES

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Annex I contains graphs and bar charts using data from OECD statistics. It is important to take into consideration that data collection and compilation of migration inflows varies and is specific to each country. However, the major trends become evident. → [Figures I.1–I.10](#)

Annex II sets out a chronology of significant events and meetings that occurred in 2005 (the tragic incidents in Cueta and Melilla). The human and above all security dimensions will henceforth be extremely important in the “management” of migration issues.

Figure I.1

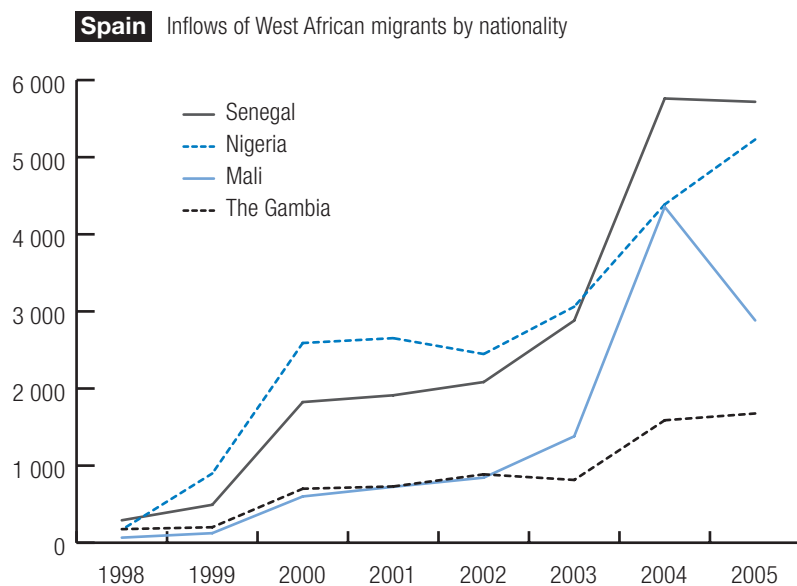


Figure I.2

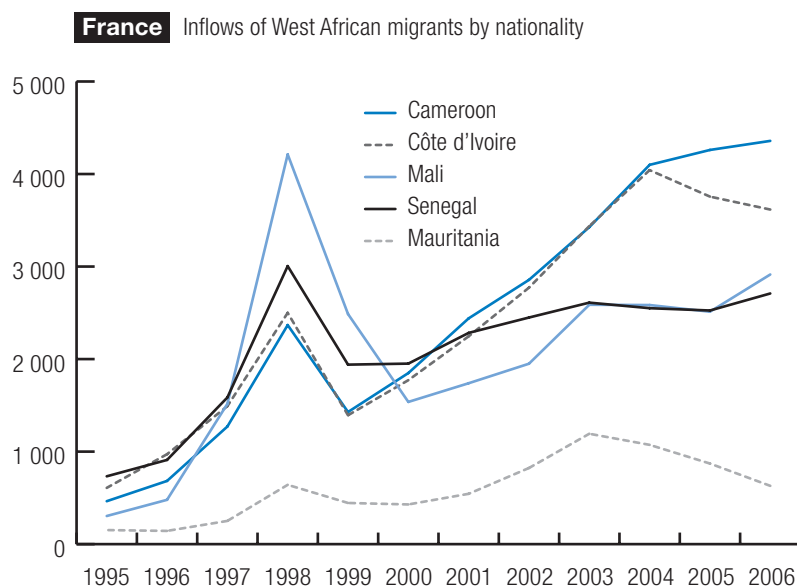




Figure I.3

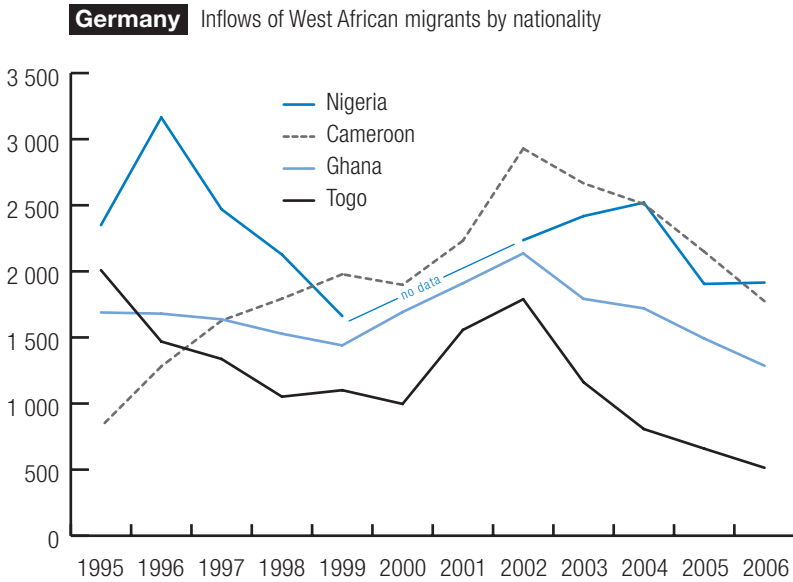


Figure I.4

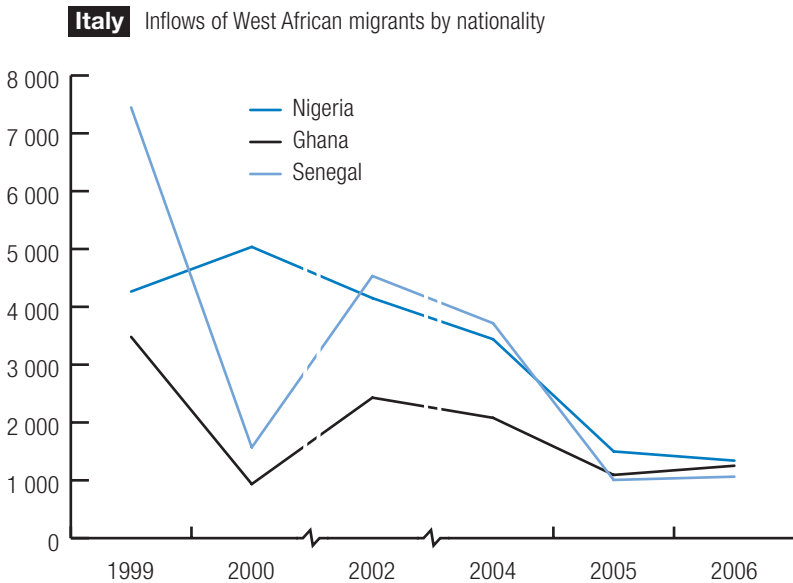


Figure I.5

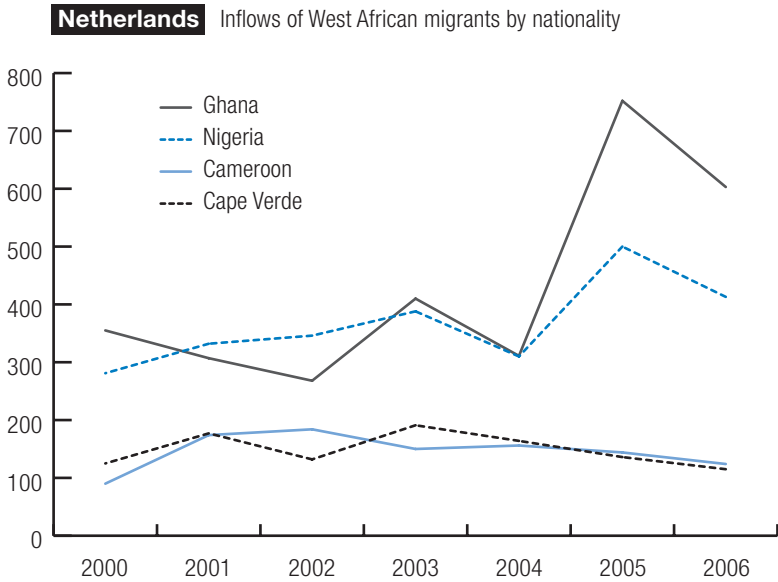


Figure I.6

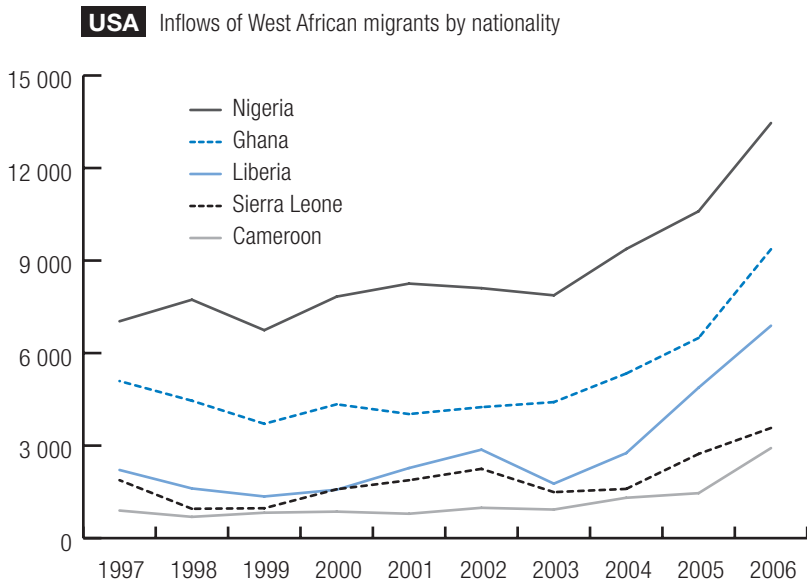


Figure I.7

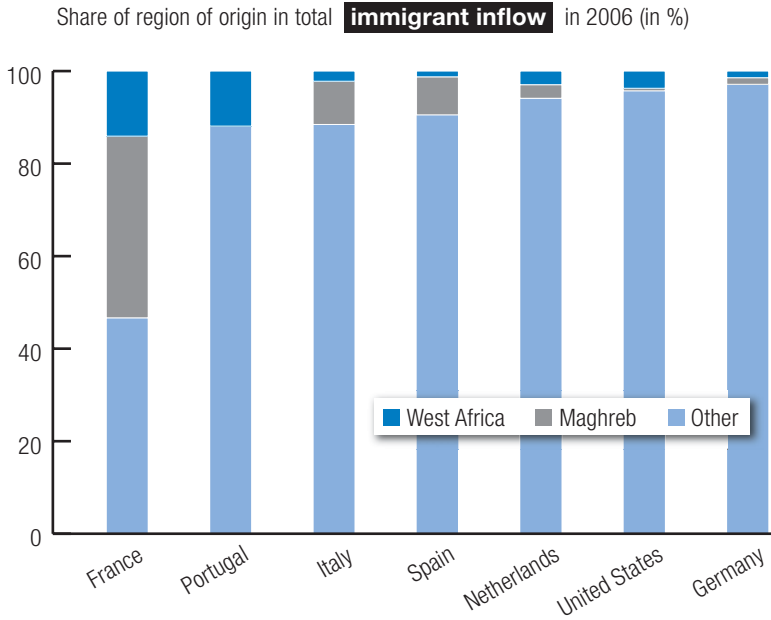


Figure I.8

**Total** number of migrants from Maghreb and West African countries in 2006, in thousands

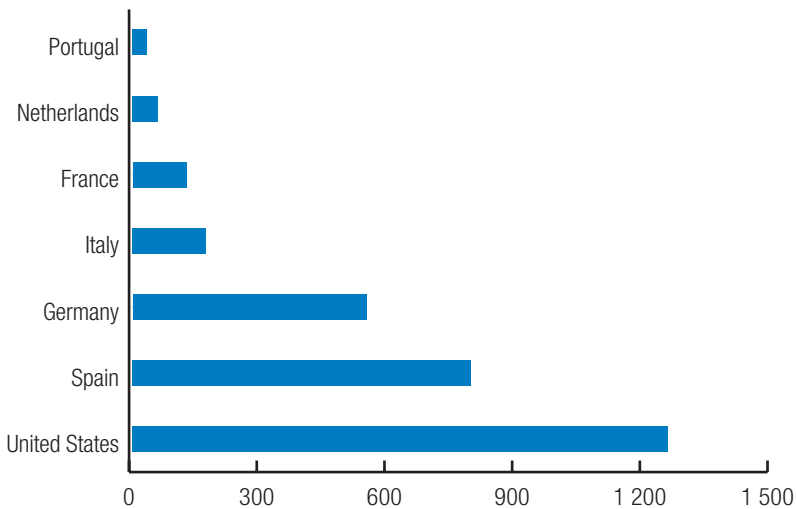


Figure I.9

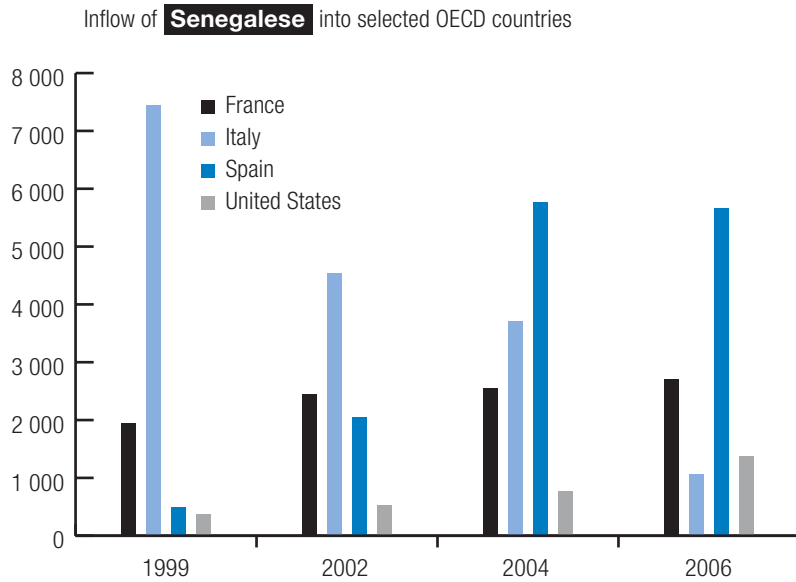
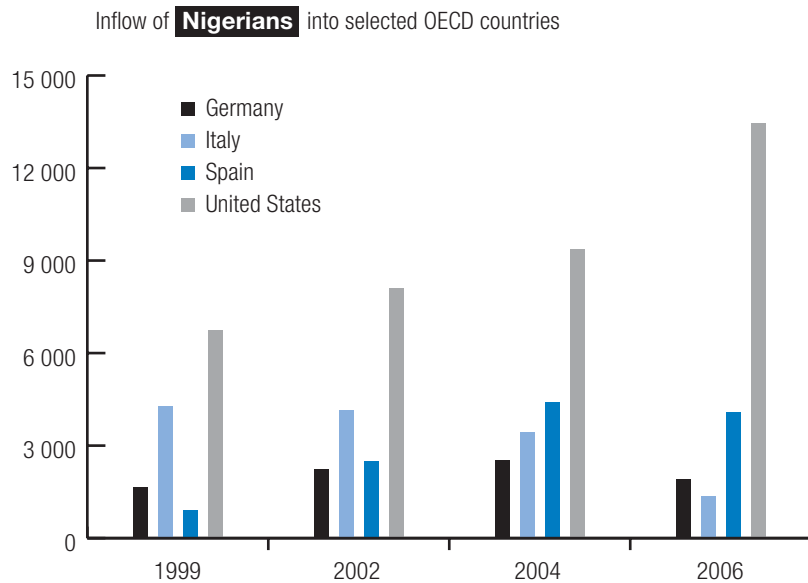


Figure I.10



## Chronology<sup>1</sup>

### Global approach to Migration

#### 2005

##### September

#### **Hundreds of immigrants try to enter the territories of Ceuta and Melilla.**

→ For four days hundreds of immigrants, mainly young men from Sub-Saharan Africa who would do anything to get to Europe, try to enter the Spanish cities of Ceuta and Melilla.

##### October

#### **European leaders meet informally to try and respond more effectively to the problems of migration.**

→ On 27 October EU leaders meet at Hampton Court (UK) to discuss the growing problem of illegal immigration and the urgent need to take action, not least to prevent the loss of human life among illegal immigrants.

→ Recognising the need for EU intervention, given the increasingly strong public interest in these issues, they call for action and dialogue in a spirit of partnership between all the countries involved (in particular the countries of North and Sub-Saharan Africa).

##### November

#### **Communication from the Commission to the Council and the European Parliament – Priority actions for responding to the challenges of migration – First follow-up to Hampton Court**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0621:EN:NOT>

##### December

#### **The European Council adopts the Global Approach to Migration**

Brussels European Council, 15 – 16 December 2005, 15914/1/05 REV1  
[www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/87642.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/87642.pdf)

Focusing on Africa and the Mediterranean, this approach aims to implement comprehensive and coherent actions, recommending in particular:

→ cooperation with third countries and regional organisations in all related areas (legal and illegal immigration, development, refugee protection, human trafficking);  
 → coordination of different policies: external affairs, development, employment, justice and interior affairs.

The approach assumes:

→ strengthened cooperation between EU Member States;  
 → a dialogue with Africa;  
 → a dialogue with neighbouring countries in the Mediterranean region.

#### 2006

##### January

#### **Work starts on implementing the plan.**

European Commission, EU Member States, Frontex, Europol, international organisations (UNHCR, IOM).

*May*

**Immigration is one of the main items discussed at the Ministerial Troika Meeting** between the Economic Community of West African States (ECOWAS) and the EU. A joint working group on migration is set up.

[www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/er/91464.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/91464.pdf)

*May*

**The Commission initiates a bilateral dialogue with Mauritania and Senegal on the basis of Article 13 (Migration) of the ACP-EC Cotonou Agreement.**

- The Commission establishes a bilateral dialogue with priority countries of Sub-Saharan Africa. Meetings are held in Mauritania and Senegal in May and in Mali in September. Similar meetings are planned with other African countries to review all migration issues relevant to the EU and Africa.
- The dialogue on immigration continues within the framework of the regular political dialogue between the local missions of the Commission and the authorities of the countries concerned.
- EU Commissioner Frattini travels to Libya to explore opportunities for dialogue and cooperation on migration issues.
- There is an improvement in dialogue and cooperation between the EU and North African countries, including Morocco, Algeria and Libya, which are important transit countries.
- Libya, which is recognised as an important partner in migration issues, invites a team of experts to visit its southern borders. Later in the year Libya hosts the EU-Africa Ministerial Conference on Migration and Development.

*June*

**Euromed Ministerial meeting on migration.**

- An agreement is reached to gather information on projects and best practices regarding legal and illegal immigration, migration and development, human trafficking and return issues, to enable the Commission to draw up a more detailed plan of action.

*As of June*

**Networks of Immigration Liaison Officers are established along four key migration routes.**

- The network of Immigration Liaison Officers will be linked to the migration routes initiative.
- The network will cooperate with EU Member States, Frontex [[www.frontex.europa.eu](http://www.frontex.europa.eu)], Europol [[www.europol.europa.eu](http://www.europol.europa.eu)] and the Commission delegations in African countries to establish an information system on illegal immigration and human trafficking.
- Regional networks of Immigration Liaison Officers are established along the four specified key migration routes.
- The Liaison Officers are to draw up reports on illegal immigration and formulate concrete recommendations to increase cooperation along migration routes.
- Each regional network has a Member State named as leader: Spain, Portugal, France, Italy and the United Kingdom. Each of these countries organises regional meetings to draw up operational plans of action for each route.

*July***The Commission proposes the creation of Rapid Border Intervention Teams.**

→ Managed by Frontex and made up of national experts from various EU Member States, these Intervention Teams can supply rapid technical and operational assistance in case of a mass influx of immigrants. Regulation (EC) No 863/2007  
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R0863:EN:HTML>

*July***Participants in the Euro-African Ministerial Conference held in Rabat focus on the western and central migration routes that cross Africa towards Europe.**

[www.maec.gov.ma/migration/En/documentation.htm](http://www.maec.gov.ma/migration/En/documentation.htm)

→ The participants [[www.maec.gov.ma/migration/En/participants.htm](http://www.maec.gov.ma/migration/En/participants.htm)] agree to look at these migration routes together and to adopt concrete proposals of cooperation [[www.realinstitutoelcano.org/materiales/docs/RabatDeclaration\\_ActionPlan.pdf](http://www.realinstitutoelcano.org/materiales/docs/RabatDeclaration_ActionPlan.pdf)] between the countries of origin, transit and destination along specific migration routes.

→ A budget of 2.45 million Euros is allocated to Mauritania to finance measures related to the rapid reaction mechanism.

The measures relate, among others, to:

- capacity building in the areas of detection (patrol boats) and arrest (staff training);
- humane detention conditions and return of migrants;
- re-examining current legislation;
- raising awareness;
- supporting the new Mauritanian unit responsible for immigration.

→ Frontex presents a feasibility study concerning a Mediterranean Coastal Patrol Network [[www.europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/454&format=HTML&aged=1&language=EN&guiLanguage=en](http://www.europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/454&format=HTML&aged=1&language=EN&guiLanguage=en)] (MEDSEA).

→ MEDSEA studies the possibility for a central command structure in the Mediterranean and recommends the establishment of national coordination centres in the EU Member States.

→ A second study concerning the technical feasibility of a surveillance system for the southern maritime borders of the EU and Mediterranean (BORTEC) is completed in December 2006.

*Summer*

**Frontex coordinates joint operations in the Mediterranean and Atlantic** for the surveillance of the southern maritime border of the EU and saving illegal immigrants in danger of dying at sea.

Operations include:

→ joint operations off the Atlantic coast of North Africa during the summer to offer operational assistance to Spain (patrols and humanitarian aid);

→ Hera I and Hera II in the Canary Islands: granting technical assistance to Spain to organise the return of identified illegal immigrants and establish joint patrols. Several EU Member States participate in these operations;

→ joint patrols in the Mediterranean (southern Sicily, Lampedusa and Malta).

*September***United Nations High-Level Dialogue on International Migration and Development in New York.**

[www.europa-euun.org/articles/en/article\\_6221\\_en.htm](http://www.europa-euun.org/articles/en/article_6221_en.htm)

This dialogue :

- strengthens links between migration policy and development policy;
  - endorses the idea of a Global Forum on Migration and Development.
- The Commission contributes a communication on EU policies.

*November***The first EU-Africa Ministerial Conference on Migration and Development takes place in Tripoli.**

[http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/docs/AU-UE-22.11.06.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/docs/AU-UE-22.11.06.pdf)

At this conference the EU and Africa agree to:

- cooperate in the management of migratory flows in a spirit of mutual partnership and shared responsibility;
- commit to a partnership between countries of origin, transit and destination;
- make political commitments and take concrete actions, in the knowledge that appropriate policy responses can best be found together;
- take measures in the areas of migration and development, management of migratory flows, peace and security, human resources and the brain drain, human rights and the well-being of the individual.

*30 November***Communication from the Commission to the Council and the European Parliament – The Global Approach to Migration one year on: Towards a comprehensive European migration policy**

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0735:EN:NOT>

In summary:

- Significant progress has been made with African countries and regional organisations on migration issues. Discussions could also be undertaken with other regions (Eastern Europe, Latin America and Asia).
- Proposals include strengthening the dialogue and cooperation with Africa on all migration issues: legal and illegal immigration, improved refugee protection, strengthening of links between migration policy and development policy. Specific proposals include Migration Support Teams, the European Job Mobility Portal, migration centres and Mobility Packages.

**2007***April***The joint ECOWAS-EU Working Group on Migration meets in Luxembourg alongside the ECOWAS-EU Ministerial Troika Meeting**

[www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/er/93800.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/93800.pdf)

- A dialogue with the key African countries involved is launched in accordance with Article 13 of the Cotonou Agreement.



16 May

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on circular migration and mobility partnerships between the European Union and third countries**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0248:EN:NOT>

→ The Commission proposes new measures for incorporating legal migration opportunities into the EU's external policies and presents means to facilitate and encourage circular and temporary migration. The communication underlines the need to improve mobility between the EU and third countries and better adapt to the EU's labour needs. It proposes establishing tailor-made mobility partnerships with countries and regions of origin and transit.

16 May

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – *Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union***

[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0247R\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0247R(01):EN:NOT)

→ The communication widens the geographical scope of the Global Approach to Migration and presents recommendations for improving dialogue and cooperation with the countries concerned.

October

**EU-ECOWAS Ministerial Troika Meeting**

[www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/er/96478.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/96478.pdf)

November

**First Euro-Mediterranean Ministerial Meeting on Migration**

[www.eu2007.pt/NR/rdonlyres/8D86D66E-B37A-457E-9E4A-2D7AFF2643D9/0/20071119AGREEDCONCLUSIONSEuromed.pdf](http://www.eu2007.pt/NR/rdonlyres/8D86D66E-B37A-457E-9E4A-2D7AFF2643D9/0/20071119AGREEDCONCLUSIONSEuromed.pdf)

December

**EU Africa Summit**

[www.eu2007.pt/NR/rdonlyres/BAC34848-05CC-45E9-8F1D-8E2663079609/0/20071208LISBONDclaration\\_EN.pdf](http://www.eu2007.pt/NR/rdonlyres/BAC34848-05CC-45E9-8F1D-8E2663079609/0/20071208LISBONDclaration_EN.pdf)

→ The declaration affirms cooperation between the EU and Africa, also in the area of immigration, and outlines the cooperation and processes in progress (see above the EU-Africa Ministerial Conferences held in Tripoli and Rabat) in a general political framework. The concrete actions are outlined in the Joint Strategy.

[www.eu2007.pt/NR/rdonlyres/D449546C-BF42-4CB3-B566-407591845C43/0/071206jsapenlogos\\_formatado.pdf](http://www.eu2007.pt/NR/rdonlyres/D449546C-BF42-4CB3-B566-407591845C43/0/071206jsapenlogos_formatado.pdf)

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*5 December*

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – *Towards a Common Immigration Policy***

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0780:EN:NOT>

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*10 December*

**Council Conclusions on mobility partnerships and circular migration**

[www.eu2007.pt/NR/rdonlyres/4B8B3D1F-86EA-4591-93ADC09DAAD6D42E/0/97508.pdf](http://www.eu2007.pt/NR/rdonlyres/4B8B3D1F-86EA-4591-93ADC09DAAD6D42E/0/97508.pdf)

→ The Council invites the Commission and Member States to finalise pilot mobility partnerships with Cape Verde and Moldova.

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[www.un.org/esa/population/migration/hld/index.html](http://www.un.org/esa/population/migration/hld/index.html)  
<http://www.un.org/migration/>  
[www.un.org/esa/population/publications/ReplMigED/migration.htm](http://www.un.org/esa/population/publications/ReplMigED/migration.htm)
- United Nations – Development Policy and Analysis Division  
[www.un.org/esa/policy/wess/index.html](http://www.un.org/esa/policy/wess/index.html)
- World Bank  
[www.worldbank.org/](http://www.worldbank.org/)



**Electronic Resources by country**

## Belgium

[www.belspo.be/belspo/home/publ/pub\\_ostc/agora/ragee058\\_fr.pdf](http://www.belspo.be/belspo/home/publ/pub_ostc/agora/ragee058_fr.pdf)  
[www.migrationinformation.org/Profiles/](http://www.migrationinformation.org/Profiles/)  
[www.belgium.be/eportal/application?pageid=charterPodPage&navId=30523&languageParameter=fr](http://www.belgium.be/eportal/application?pageid=charterPodPage&navId=30523&languageParameter=fr)

## Canada

[www.cic.gc.ca/francais/ausujet/immigration/index.asp](http://www.cic.gc.ca/francais/ausujet/immigration/index.asp)  
[www.migrationinformation.org/Profiles/](http://www.migrationinformation.org/Profiles/)

## France

[www.premier-ministre.gouv.fr/chantiers/immigration\\_865/](http://www.premier-ministre.gouv.fr/chantiers/immigration_865/)  
[www.vie-publique.fr/th/acces-thematique/immigration.html](http://www.vie-publique.fr/th/acces-thematique/immigration.html)  
<http://lesrapports.ladocumentationfrancaise.fr/BRP/074000232/0000.pdf>

## Germany

[www.auswaertiges-amt.de/diplo/fr/WillkommeninD/EinreiseUndAufenthalt/Zuwanderungsrecht.html](http://www.auswaertiges-amt.de/diplo/fr/WillkommeninD/EinreiseUndAufenthalt/Zuwanderungsrecht.html)  
[www.migrationinformation.org/Profiles/](http://www.migrationinformation.org/Profiles/)

## Italy

[www.interno.it/mininterno/export/sites/default/it/temi/immigrazione/](http://www.interno.it/mininterno/export/sites/default/it/temi/immigrazione/)  
[www.migrationinformation.org/Resources/italy.cfm](http://www.migrationinformation.org/Resources/italy.cfm)

## Netherlands

[www.ind.nl/EN/](http://www.ind.nl/EN/)  
[www.migrationinformation.org/Resources/netherlands.cfm](http://www.migrationinformation.org/Resources/netherlands.cfm)

## Portugal

[www.acime.gov.pt/](http://www.acime.gov.pt/)  
[www.migrationinformation.org/Profiles/display.cfm?ID=77](http://www.migrationinformation.org/Profiles/display.cfm?ID=77)

## Spain

<http://extranjeros.mtas.es/>  
[www.migrationinformation.org/Profiles/](http://www.migrationinformation.org/Profiles/)

## United Kingdom

[www.ind.homeoffice.gov.uk/](http://www.ind.homeoffice.gov.uk/)  
[www.bia.homeoffice.gov.uk/](http://www.bia.homeoffice.gov.uk/)

## United States

[www.dhs.gov/ximgtn](http://www.dhs.gov/ximgtn)  
[www.migrationinformation.org/Resources/unitedstates.cfm](http://www.migrationinformation.org/Resources/unitedstates.cfm)



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 GLOSSARY<sup>1</sup>


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**Alien:** A person who is not a citizen of the country in which he or she lives. A “legal alien” is someone who lives in a foreign country with the legal approval of that country. An “illegal alien” (or undocumented alien) is someone who lives in a foreign country without the legal approval of that country. A distinction is made between illegal immigrants and illegal aliens; the former being someone who wishes to settle permanently in the new country. A distinction is made between illegal immigrants and illegal aliens – the former being someone who wishes to settle permanently in the new country.

**Circular migrant:** One who moves regularly between his or her home country and a foreign country for employment-related reasons. Typically, though not exclusively, circular migrants do agricultural or construction work, returning home when employment opportunities wane, or when they have made a bit of money. The term “circular migrant” is not entirely synonymous with guest worker, because the latter term implies that the individual fits into a specific employment-visa category of the host country; a circular migrant can be in a host country illegally or legally. Further, a guest worker may come to a host country for a set period of time and only return home when the visa expires – in other words, there is no back-and-forth and hence no circularity.

**Economic migrant:** *Sometimes used as an equivalent to the term labour migrant or migrant worker. However, the two concepts may cover different categories. The term “labour migrant” can be used restrictively to only cover movement for the purpose of employment while “economic migrant” can be used either in a narrow sense, which includes only movement for the purpose of employment, or in a broader sense that includes persons entering a State to perform other types of economic activities such as investors or business travellers.*

**Expulsion:** A decision by a public authority, either administrative or judicial ordering an alien who has been lawfully resident to leave the country. This order might or might not include a ban on return. Seen in phrase: expulsion of foreigners.

**Flow:** *The term used for the unstable and changing portion of an overall population figure*

**Forced departure:** *So as to avoid using the word “expulsion” (a legal-technical term in State immigration law), we speak of “forced departure” of an alien in cases in which authorities enforcing the decision of expulsion have used physical or other pressure to force an alien to leave his former country of residence.*

**Illegal migrant:** A person who comes to settle in a country without the correct legal documentation, or who lives there using false identification or no documentation at all (“sans papiers” - without papers), or who otherwise resides in a country without formal permission. E.g., a person who enters a country on a tourist or student visa and then overstays his or her visa becomes an illegal immigrant.

**Intergovernmental method:** *Negotiation sessions between representatives of national governments*

**Irregular migration:** It is defined by the Global Commission on International Migration as a complex and diverse phenomenon in which the main focus is irregular flows and entries, rather, for example, than the various challenges posed by stocks or irregular migrants such as undocumented work.

**Labour migration:** Movement of persons from their home State to another State for the purpose of employment.

**Migrant smuggling; smuggling of migrants:** Defined in the relevant Protocol as follows: “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.

**Naturalization:** in law, refers to an act whereby a person acquires a citizenship different from that person’s citizenship at birth. Naturalization is most commonly associated with economic migrants or refugees who have immigrated to a country and resided there as aliens, and who have voluntarily and actively chosen to become citizens of that country after meeting

specific requirements. However, naturalization that is at least passive and often not voluntary, can take place upon annexation or border adjustments between countries. Unless resolved by denaturalization or renunciation of citizenship, naturalization can lead to multiple citizenship.

***Non-refoulement:*** *A core principle of refugee law that prohibits States from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle is usually considered a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention relating to the Status of Refugees.*

**Refugee:** Defined under the 1951 Convention relating to the Status of Refugees (article 1) as “any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country”. In France, refugee status is a legal status recognised by the Office français de protection des réfugiés et apatrides (OFPRA), in accordance with the Geneva Convention of 28 July 1951 as well as the law of 25 July 1952 (in its draft of the law of 11 May 1998) referring to two categories of persons: anyone meeting the definitions set out in Article 1 of the Geneva Convention of 28 July 1951 related to the status of refugees; “any person persecuted due to his/her actions on behalf of freedom” (L. 11.5.1998, Article 29).

**Return migration:** I.e., migrants returning to their country of origin – going home

**Stock:** *In migration statistics, used to describe the stable portion of an overall population figure*

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1 *The text in italics has been translated based on the official source text. [www.iom.int](http://www.iom.int) and United Nations Multilingual Terminology Database <http://157.150.197.21/dgaacs/unterm.nsf>*

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## West African Studies

# West African Mobility and Migration Policies of OECD Countries

Most of West African migration is intra-regional (86% *i.e.* 7.5 million people). The remaining 1.2 million are dispersed between North America and Europe. Heated political debates and media reports distort statistical realities. While humanitarian and security aspects should not be overlooked, the focus is on human mobility in terms of development and dialogue concerning host, transit and departure countries. To address the challenges of globalisation, policies should seek a co-ordinated response to the demands of the Economic Partnership Agreement and the European and African demographic dynamics.

This publication contributes to the Euro-African dialogue initiated at the Rabat Conference in July 2006: it reviews migration policies in the main OECD countries receiving West African migrants and analyses the recent discussions within Europe. This report lists common approaches undertaken in Europe, Africa and West Africa and aims to shed light on decision makers' strategic thinking. It provides the greater public with an objective understanding of this recent dynamic.

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