Straubhaar, Thomas

Working Paper

New migration needs a NEMP (a new European migration policy)

HWWA Discussion Paper, No. 95

Provided in Cooperation with:
Hamburgisches Welt-Wirtschafts-Archiv (HWWA)

Suggested Citation: Straubhaar, Thomas (2000) : New migration needs a NEMP (a new European migration policy), HWWA Discussion Paper, No. 95, Hamburg Institute of International Economics (HWWA), Hamburg

This Version is available at:
https://hdl.handle.net/10419/19456

HWWA HAMBURG

DISCUSSION PAPER

New Migration Needs a NEMP (A New European Migration Policy)

Thomas Straubhaar

HWWA DISCUSSION PAPER

95

Hamburgisches Welt-Wirtschafts-Archiv (HWWA)
Hamburg Institute of International Economics
2000
ISSN 1432-4458

The HWWA is a member of:

- Wissenschaftsgemeinschaft Gottfried Wilhelm Leibniz (WGL)
- Arbeitsgemeinschaft deutscher wirtschaftswissenschaftlicher Forschungsinstitute (ARGE)
- Association d‘Instituts Européens de Conjoncture Economique (AIECE)

New Migration Needs a NEMP (A New European Migration Policy)

Thomas Straubhaar

This Discussion Paper is part of the HWWA's research programme „Internationalisation of Labour Markets".

HWWA DISCUSSION PAPER

Edited by the
PRESIDENTIAL DEPARTMENT

Hamburgisches Welt-Wirtschafts-Archiv (HWWA)
Hamburg Institute of International Economics

Öffentlichkeitsarbeit
Neuer Jungfernstieg 21 – 20347 Hamburg
Telefon: 040/428 34 355
Telefax: 040/428 34 451
e-mail: hwwa@hwwa.de
Internet: http://www.hwwa.de/

Thomas Straubhaar
Hamburg Institute of Internatinal Economics
Europa-Kolleg Hamburg
CEPR London
Telefon: 040/428 34 350
Telefax: 040/428 34 529
e-mail: straubhaar@hwwa.de

Contents

Abstract

In almost all European countries there is a wide and growing gap between the *goals* of national immigration policy and its actual *outcomes*. The main reason for the *failure* of national migration policies is the loss of effective competence to control today's migration flows on a national level. Once national governments had closed the *front door* of legal immigration more or less strictly, most of the entries to fortress Europe occurred through the *side door* (asylum seekers, refugees, family reunion) or through the *back door* (illegal immigrants). As a result, there is an increasing need for a common European migration policy. This paper outlines the framework of a **NEMP** - a **N**ew **E**uropean **M**igration **P**olicy. NEMP is a first step from national ad hoc regulations towards a *more conceptual European migration strategy*. The basic idea of NEMP is that it is not the entry or the movement of people from abroad that generates migration problems. Rather, it is "stay" and "work" that may become a controversial issue. Consequently, NEMP advocates a shift of the policy focus from the control of moves to the *control of residence* and especially control of the *illegal activities* of illegal foreign workers.

Zusammenfassung

In nahezu allen Ländern der EU öffnet sich eine Schere zwischen den Zielen einer nationalen Migrationspolitik und den tatsächlichen Ergebnissen. Der entscheidende Grund für dieses Versagen liegt im faktischen Kompetenzverlust, den Nationalstaaten erlitten haben. Sie glauben zwar, Migration regulieren zu können. Tatsächlich aber finden Einwanderungswillige Alternativen, um ihr Ziel zu erreichen. Wird die Fronttür der legalen Wirtschaftsmigration geschlossen, drängen Menschen durch die Seitenpforte in das Europäische Haus. Sie machen dann nicht wirtschaftliche, sondern humanitäre Motive geltend. Dazu gehören Asylsuchende, Flüchtlinge und Familienangehörige. Wem auch dieser Weg verbaut ist, kann es dann noch durch die verbotene Hintertür versuchen. Als Ergebnis zeigt sich, dass in einem Wirtschaftsraum ohne innere Grenzen eine gemeinsame Migrationspolitik erforderlich wird. Dieses Diskussionspapier skizziert die Eckpfeiler einer NEMP – einer Neuen Europäischen Migrationspolitik. NEMP ist ein erster Schritt von einer nationalen ad hoc zu einer konzeptionellen europäischen Migrationsstrategie. NEMP basiert auf dem Grundsatz, dass nicht das „Gehen", sondern das „Stehen" und das „Arbeiten" zu Migrationsproblemen führen kann. Deshalb sollte das migrationspolitische Schwergewicht nicht so sehr bei der Eingangskontrolle liegen, sondern bei Aufenthalt und Beschäftigung der Menschen von außerhalb Europas.

1. INTRODUCTION

In the last decade of the 20th century *Germany* has emerged as the *principal magnet society* in the Western hemisphere. After the fall of the iron curtain much more than one million people wanted to immigrate to Germany per year in the period 1989 to 1995 (Federal Statistical Office 1999, Table 3.36). Many of them were "Germans" from the former Eastern European socialist countries, that is "Aus- und Übersiedler". But still about 800'000 immigrants (with a peak of 1.2 million in 1992) were foreigners (which means they were everything but Aus- and Übersiedler). In the second half of the nineties there were still about 800'000 (1998) to 950'000 (1996) immigrants to Germany per year of which more than 600'000 to 700'000 were non-Germans (Federal Statistical Office 1999 and OECD 1999:Table A.1.1). Not even the traditional immigration countries US, Canada or Australia have reached these magnitudes of new entrants. In the period 1992 to 1997 the inflows of people to Germany (including the "Aussiedler") have been about 10% to 20% stronger than the inflows to the US and they were about four times as strong than the inflows to Canada and about ten times as strong than the inflows to Australia (OECD 1999:Table A.1.1).

However, despite the fact that Germany is one of the most attractive magnet societies, the official German position still denies that Germany is an "Einwanderungsland" (country of immigration). One main fear is that once Germany declares itself as an Einwanderungsland it would become an even stronger magnet and it has to define in which ways foreigners are supposed to be integrated in the German society and what rights and obligations should be given to the long term foreign residents. While in the very first phase of the post "Kohl-area", the red-green coalition has announced to modernize substantially the German aliens law and to allow for dual citizenship after eight years of permanent stay in Germany, the new government had slowed down the speed of change after the CDU has successfully launched a referendum in Hessen in early 1999. Since then, only some rather marginal changes have been made. A fundamental revision of the German aliens law and the establishment of a modern immigration law has been delayed. Just recently, however, after *chancellor Gerhard Schröder* has launched the so-called Green Card initiative, the immigration issue has gained political interest. The *German president Johannes Rau* has chosen the immigration issue as the main topic of his very timely Berlin speech in early *May 2000* (see: www.welt.de/go/rau for a full text version of this speech).

So, the issue of an Einwanderungsgesetz gains ground in the political debate in Germany. However, the question of a national migration policy will become obsolete in many ways. What has started with the Maastricht treaty in 1992 and has continued with the Amsterdam treaty in 1997 will lead to a European immigration policy sooner or later. In the European Monetary Union with a Common Labor Market and a free movement of people the enforcement of national immigration laws is costly and sometimes not feasible in practice. Consequently, political pressure is increasing to regulate immigration affairs on a European level. This article shows the driving forces behind this shift from national towards a European migration policy in the last decades. Additionally it sketches the frame of a **NEMP** - a **N**ew **E**uropean **M**igration **P**olicy.

In what follows, I will shortly tell the story of the German immigration experience in the last four decades (section 2). Section 3 describes the failures of national migration policies in Europe. Section 4 discusses the path towards NEMP. Section 5 concludes.

2. THE GERMAN IMMIGRATION EXPERIENCE 1960-2000

a) From economically demand-determined front door migration ...

At the beginning of the sixties, continental European countries had overcome the damages of the second world war. Structural shortages of unskilled labor occurred. They led European economies to open up their national labor markets and to welcome the immigration of unskilled workers who had some cultural or historical links to the immigrant societies.

Germany established the so called "*guest worker system*" inviting people or even actively recruiting workers from Mediterranean countries to bridge the surplus demand for low qualified (seasonal) jobs. Young men from Southern European economies, Turkey and Yugoslavia were supposed to come without their families, to work hard in low skilled, low paid jobs (i.e. construction, service sector), to save most of their income, to invest their savings in their home region (to stimulate local investments and growth there) and to return home to their families as relatively wealthy people after having spent their few years as "guests" in Germany.

In the understanding of the guest worker system, migration movements to Germany were expected to be *temporary*. Consequently, Germany did not pass an immigration law. There was just an ”Ausländerrecht”. Immigrants have been treated as ”foreigners” or in a more kindly formulation as ”guests”. Issues of permanent settlement and integration are hardly expressed and topics like (dual) citizenship or a change from the ”jus sanguinis” to the ”jus solis” principle have been addressed only recently.

Permanent immigration has been regarded as an *unwanted exception*. A rotation system was believed to be better: Once the guest workers have gone home, a next wave of young immigrants should replace the former one. This process should last so long as (low qualified) jobs remained open to foreigners due to the fact that no domestic workers could be motivated to work in such a job.

b) ... to humanitarian supply-driven side door or illegal back door immigration

In reality, the *guest worker system failed*. It turned out that nothing has been so permanent than temporary migration. The guest workers stayed and became residents. The German policy makers had to realise that by calling workers it would be human beings which arrived. And these foreigners did not behave like the technocrats expected since they remained within the country becoming permanent immigrants with the demand for family reunification. When German officials realized the inefficiency of the guest worker system they closed the front door in 1973. But now immigrants entered the holy house by the side door (i.e. family reunification, refugees and asylum seekers) or by the back door (i.e. illegally).

In the last decades, declared goals and actual outcome in German immigration policy have drifted substantially away from each other. Migration to Germany has started as a demand-driven economic phenomenon and has become a *supply-driven (humanitarian) self-feeding phenomenon*. After the iron curtain has pulled down, the movements of Aussiedler and Übersiedler has increased dramatically. Additionally, the migratory flows from third countries are increasingly dominated by humanitarian reasons (refugees and asylum seekers). This channel - like illegal migration - functions largely as a substitute for directly labor-market oriented immigration into the EU, which has been made considerably more difficult since the beginning of the 1980s.

To summarize the German migration experience, we could see a striking change: In the sixties it was thought that migration flows could be handled easily according to the will and rules of policy makers. Like water flows, it was supposed that politicians could turn the tap when there is a need for foreign labor force and that they could close the pipeline as soon as they want. However it turned out that people do not at all follow the simple mechanics of water flows. Immigrants accuired human and social rights that led to a chain migration process. Workers were allowed to bring in their families. Others arrived by humanitarian reasons (refugees, asylum seekers) or by specific German political reasons (Aussiedler and Übersiedler). Furthermore, the more intensive use of the back door did slim down the room for a labor market oriented (i.e. economically led) migration policy to a very narrow slot. The result is a political disaster: Germany, the officially non-immigration country has become the strongest OECD magnet for immigrants!

3. THE FAILURE OF NATIONAL MIGRATION POLICIES IN EUROPE

a) A "muddling through" approach

The German failure stays not alone. Most of the national migration policies in Europe have in common that they try to avoid *front door* immigration which means the legal entrance and residence of new members. They are largely reactive and defensive. Very often they act according to a short-term "muddling through" behavior. *Kubat* (1993:xxiv) sees migration policies as "a matter of waiting to see what will happen next while issuing ad hoc regulations". Of course this is mainly due to the fact that for tactical reasons politicians first tend to follow the interests of their voters (the citizens). Hence immigration policies are often changed immediately in favor of some vested interests.

However, it is also a common phenomenon in Europe that the restrictive attitude against immigration is not very successful. In almost all major industrialized democracies there is a wide and growing gap between the *goals* of national immigration policy and the actual *outcomes*. *Cornelius/Martin/Hollifield* (1994) empirically supported this "gap hypothesis" of declining efficacy of immigration policies for nine industrialized democracies.

The main reason for the *failure* of national European migration policies is the loss of effective competence to control today's migration flows on a national level. Once national governments closed the *front door* of legal immigration more or less strictly, most of the entrance to fortress Europe occurred through the *side door* (asylum seekers, refugees, family reunion) or through the *back door* (illegals). In many cases the seeking of asylum was a substitute for the stopping of legal economically motivated immigration. Similarly, illegal immigration was and is a response to the demand of the labor markets for cheap unqualified occupations that are not met by the domestic labor force for several reasons (regulations, minimum wages, non existing qualifications).

In a world with declining transaction and transportation costs for international business, migration policy becomes something like an *"international public good without international government*" (à la *Kindleberger* 1986). The national setting of rules spills over to other countries. Closed doors here might lead to increasing pressure in nearby countries, while more open doors might lower problems elsewhere. Independently designed and performed national migration policies are more and more unfeasible for economies that are opened up for international transactions in goods, services or financial markets.

b) From first common European migration steps ...

Within the Single European Market (that should have no internal border controls) it has been realized relatively early that nationally independent asylum-, immigration- and citizenship policies involve a number of problems. The freedom of movement for goods and factors in an area without borders was the ultimate goal when the European Economic Community (EEC) was established in 1957. However, the founding six member states (France, Germany, Italy and the Benelux countries) have always been very anxious about giving up their competence to design and execute a sovereign migration policy. They did only agree on the free movement of labor for their own citizens. No efforts were undertaken in order to go a step further and to think about a common European migration policy on the cross-border movements of people from outside the EEC. Already the inner EEC arrangements which ensured the free movement of labor for their *own citizens* provoked some serious fears in the Northern EEC member states (especially in France) to be invaded by masses if immigration flows from the poorer regions in southern Italy.

The free movement of their own citizens has been an *integral part* of the process of European unification since the Treaty of Rome of 25.3.1957 (Art.3, sub-paragraph c) and the Single European Act of 28.2.1986 (addition of Art. 8a to the EEC Treaty). The right of free movement has been successively extended. At the beginning of the EEC it was restricted (at least de jure) to the free movement of workers and people without a work contract had no right to stay in another member state. Later, it was enlarged to self-employed and to grant EU-wide freedom of supply of services, including the right to finance or to insure EU-wide economic activities. Furthermore, with the revision of the Treaty as of 7.2.1992 (Treaty of Maastricht, EC Treaty) the concept of ”*Union citizenship*” was introduced (Art. 8 EC Treaty). According to this article, a national of an EU member state is automatically also citizen of the Union. This involves a number of rights (and duties), such as the right to move and reside freely within the entire territory of the EU, as well as active and passive voting rights in the state of residence (and not according to nationality) at municipal elections and at elections to the European parliament. Union citizenship can be interpreted as the logical consequence to the free movement of persons. The originally economically motivated free movement of workers has finally become emancipated in the sense that it has become a basic *political right*. But the path towards a ”citizens' Europe” has not yet ended. The further realization of "Union citizenship" has played a role of central importance in the intergovernmental conference that has led to the Treaty of Amsterdam (signed in Amsterdam on 2.10.1997). One of the main goals of the Treaty of Amsterdam was to fill the concept of ”Union citizenship” with substance in all its aspects. In order to avoid ”misunderstandings” Article 8 (1) of the EC Treaty was clarified by the annex that ”Citizenship of the Union shall complement and not replace national citizenship”.

The EU regulation on the freedom of movement applied only to citizens of EU member states. EEC-member states remained completely free to define their policies concerning migrants from *outside* the EU. They independently set national rules of entry, exit and naturalization. Additionally, they were more or less sovereign to decide on rights and duties of third country nationals. Citizens of non-EU states, for instance, did not have the right to move freely within the EU. The crossing of the border from one EU country to another EU country by non-EU citizens was treated as an exit into, or entry from a third country.

The more the pattern EU-migration has been influenced by *workers from third countries*, the stronger have national differences in immigration policies and the denying of

free movement to third country nationals come into conflict with the basic economic aims of the Single Market. It ought to be the aim of the common EU-labor market to achieve the optimal utilization of the efficiency advantages of a single economic area via the geographical mobility of the factors of production. If, however, a part of the labor force living in the EU is excluded from the process of cross-border adjustment (as the workers from third countries) then the allocational efficient equalization of the marginal factor products cannot be achieved. Only if workers from third countries also had the right of free movement within the entire labor market would the EU-labor market be what it is intended to be: a common labor market with no barriers whatsoever to the mobility of the factors of production. Otherwise labor market rigidities will remain, particularly for “workers from a third countries”, with the result that all necessary adjustments will increasingly have to be made via the other two adjustment options - “wage reactions” and “unemployment”.

Furthermore, the larger the number of *asylum seekers* and *illegal immigrants* living within the EU and looking for employment, the more important becomes a common EU-wide asylum and immigration policy. If national policies differ too much it will not be possible to abandon the control of persons at the national borders. The control of persons would continue to be necessary from the viewpoint of the individual nation state in order to apply national laws and to prevent three-cornered migration. This means that asylum seekers and other non EU-immigrants could be tempted to circumvent the "stricter" immigration and residence conditions of one EU-country by going through another, "milder" EU country. They would at first be able to enter or immigrate into a "mild" EU country with relatively little problems and then cross the borders without restrictions into the "stricter" EU-country as an EU-internal migrant. This three-cornered migration is not to be judged negatively from an economic point of view. Three-cornered migration is in the final analysis nothing but an arbitrage phenomenon. It therefore cannot be negative from an economic point of view, even if it violates valid juridical laws. The example of three-cornered migration illustrates the fact that economic realities and political and legal norms differ too much. The more marked this discrepancy is, the more attractive will three-cornered migration be and the greater will be the pressure to adjust political and legal norms to economic realities. In the case of the European Union today's three-cornered migration is likely to become a great provocation for national political decision-makers and executive authorities (we could refer here to the boat people landing at the Southern European Mediterranean sea shore and transferring further to Germany). The effect could be that border controls and the control of

persons would be maintained or reintroduced. This would mean, however, that a border-free Europe and the advantages of the Single Market could not be completely achieved.

Differing *naturalization practices* in different countries constitute another problem. If the differences in the national regulations concerning the acquisition or loss of citizenship are too great there will exist incentives to circumvent them. Nationals of third countries could be tempted to chose the EU-member state in which it is easiest to acquire (and keep) citizenship of the Union. They would thus be able to acquire rights and entitlements which could not be acquired directly. It cannot be ruled out, for example, that a Swiss becomes a British, and thus a citizen of the Union, while maintaining his/her double nationality as a Swiss, which (as a rule) would not be possible if he/she became a citizen of the Union by taking on German nationality. Or an EU member state could "sell" its national citizenship. The problem, however, is that according to the EC Treaty Art. 8 citizenship of the Union is granted along with national citizenship. This involves rights which other EU-member states might not wish to grant so easily to persons from third countries. It is to be expected that a number of EU member states would put up resistance to the - from their point of view - too thoughtless granting of Union citizenship by other EU-member states, particularly when Union citizenship involves an increasing number of rights.

Until the 1990ties, the first attempts by the EU to make progress towards a common migration policy were driven almost exclusively by political facts. For this reason, they were directed towards asylum and refugee law and towards the problems connected with unauthorized immigration and with the primarily non-economically motivated migration of students, pensioners and tourists. The questions dealt with have usually been the enforcement, control and harmonization of national legislation. Apart from these questions the opinion was still dominant that migration policy towards third countries should be left to the national legislation of the individual EU-member states.

c) ... to the Schengen Agreement

The Schengen Agreement was a first step towards the comprehensive free movement of persons, but it remained primarily an instrument for the enforcement of border controls, for police co-operation on the territory of the EU and for the execution of asylum and refugee legislation. The Schengen Agreement was originally signed by Belgium, Ger-

many, France, Luxembourg and the Netherlands (Schengen I on 14.6.1985, Schengen II on 19.6.1990). Since then Italy (1990), Spain and Portugal (1991), Greece (1992), Austria (1995), Denmark, Finland and Sweden (1996) have joined (Denmark has not ratified the agreement yet). Norway and Iceland have become associated members with the implementation of the Schengen acquis and its further development on the basis of an Agreement signed in Luxembourg on 19 December 1996.

The Schengen Agreement has become effective at the beginning of 1998 when all border controls between Italy, Austria, and Germany were in fact given up. This step immediately provoked strong discussions about the *credibility and efficacy of external border controls*. Especially some German (Bavarian!) politicians and border police officers have been afraid of (too) easy access to Schengenland via the southern regions. A new form of control, the so called “Schleierfahndung” was established. It shifted control from outer border away towards an internal control of people.

The call for EU-wide free movement for workers from third countries can only have a real political chance if it is combined with *clear and transparent regulations*. Such should contain precise definitions who is to be allowed to enter the EU, details about the stay and work and specifications under which conditions and with which rights immigrants will live. The Maastricht treaty already contained a number of innovations which served as a basis for the Treaty of Amsterdam in 1997.

For instance Art. K.1 of the Maastricht Treaty declared ”asylum policy”, the ”rules governing the crossing by persons of the external borders of the Member States” and ”immigration policy and policy regarding nationals of third countries” to be ”matters of common interest”. Immigration policy thus became part of the third pillar of the treaties, the "co-operation in the fields of justice and home affairs". With the reservation that decisions must be unanimous, immigration policy was transferred to the competence of the Community. Art. K.9 of the Maastricht Treaty, together with Art. 100c EC Treaty, also offered a basis for a much more comprehensive joint approach. And indeed inserted the Treaty of Amsterdam in Part Three a Title IIIa ”Visas, Asylum, Immigration and Other Policies Related to Free Movement of Persons”.

The Amsterdam Treaty lays down that the Council of Ministers has to adopt measures which shall ensure the free cross border movement and the abolition of all controls of persons, no matter if they are citizens of the Union or nationals of non-member coun-

tries, within five years after the Treaty comes into force. In other words, in a very few years' time, the abolition of internal controls will be *completed within the Union*, but until then any decision within the Council will still have to be made by unanimity.

To summarize, European immigration reality has led the EU-nation states and their governments to find a more *pragmatic approach* in this field. Step by step the single nation states have transferred their sovereignty to EU-authorities in order to design a common migration policy. Thereby, they followed a quite innovative ”opting in” procedure. This means that only those states who wished to co-ordinate their immigration policy could do so without being blocked by those who still had national difficulties with the adoption of a common migration policy. What now remains to be done is to fill this framework with much more concrete substance. I will show in the next section what an economically efficient program could be.

4. THE PATH TOWARDS NEMP - A NEW EUROPEAN MIGRATION POLICY

a) Justification

The inefficiency and inefficacy of national migration policies has made it more than obvious that an independent procedure by single nation states is no longer adequate. What is labeled as ”globalization” and what has been adopted by the Single European market program (i.e. the increasing openness of goods and factor markets) at the beginning of the nineties and by the European Monetary Union at the end of the decade urges the political sphere to react properly. Policies bounded to their national territories are not competent to regulate activities with external effects that *overlap* several countries, such as migration. A Single European Market and a European Monetary Union without borders and with no control of intra-community economic activities requires a common policy to regulate the entry, stay and work of people from the outside.

However, simple solution for complex migration phenomena are either economically costly, politically naive or not more than populistic arguments. Neither an open Europe nor a fortress Europe are feasible alternatives. EU-voters are simply not in favor of open door policies - even if it was economically beneficial for the society as a whole. Distribution aspects of immigration make it unlikely that a completely free *laissez-faire* im-

migration policy towards the rest of the world will be socially and politically optimal. Still, a fortress Europe is also not acceptable for humanitarian grounds as well as for economic reasons. The openness of factor markets was one, is one and will be one of the most important aspects of economic growth. Even in the field of unskilled labor, some immigration will continue to be economically needed. More important, however, will be the immigration of highly skilled specialists. A fortress Europe would imply that also immigrants with higher skills or with large positive externalities would be excluded from entrance and work. This would definitely harm the economic success of the EU. In this regard, the so called "Green Card initiative" by the German chancellor *Gerhard Schröder* in the spring 2000 is only a first step. It leads at least to the opportunity for 10'000 information specialists to enter Germany and to work here for five years. Many more steps have to follow to be competitive in the worldwide race for the best brains in the future.

The European labor market problem in the 21st century is *low labor mobility* rather than mass immigration. The speed of world-wide structural change demands permanent reactions on the part of labor markets. In the 1970s and 1980s it became more than clear that the economies which were particularly successful in coping with structural changes were those in which the labor markets were open and unregulated. They were able to react more quickly and more flexibly to changes in the macroeconomic environment. The comparison of employment trends in the USA and in the EU offers convincing empirical evidence in support of this thesis (see *Blanchard/Katz* 1992 or *Obstfeld/Peri* 1998). The chronically high structural unemployment in the EU is also the result of macroeconomic rigidities on the goods and labor markets, of economic policy interventions which inhibit adjustment, but also of the lack of individual mobility of workers. This is contributed to by false signals set by social policy, which subsidize immobility and place disadvantages on mobility.

Inner-Community migration serves only to a very limited extent as an adjustment mechanism. The free movement of persons is still a neglected freedom within the Single Market. Less than 2% of EU citizens presently live in another EU country. In the near future, it therefore seems rather unlikely that too much rather than too little migration might cause any problems for the EU. *Instead it is urgently necessary to open up and to increase the flexibility of national labor markets in order to overcome regional or sectoral labor market disequilibria.* The problem of too little EU migration is even more acute in the Euro area. The theory of optimum currency area stresses that in a monetary

union with relatively unequal participants and relatively asymmetric shock absorption capacities, migration would be one of the adjustment valves. However, it looks like the European labor force will not be flexible enough to react quickly enough either by regional or sectoral (professional) mobility. So there seems to be quite a substantial danger that the ”unemployment” mechanism will be the most probable to adjust to structural changes in Euroland - or the more successful countries have to bear even higher transfer burdens!

Free mobility of labor is an important precondition for the exploitation of the benefits of economic integration. This is not only true for the inhabitants of a common market but also for *third country immigrants*. Henceforth, third country immigrants should not only be granted free mobility within a member country, but within the whole Single European market. If we allow for different migration policies within the same common market and do not grant free mobility to third country nationals, different policies act like different taxes. They correspond to location-specific changes in the endowment with immobile factors, only that they are not market based. Separate immigration policies and immobility of third country nationals between member countries of a common market give room for strategic action, distort comparative advantage and hamper efficient factor allocation. Nationally independent migration policy and inter-country immobility of third country nationals are in permanent conflict with the goals of free movements within a Single European Market. As a solution, one could grant third country nationals free mobility and leave nation states the sovereign right to define entry regimes. But provided that market mechanisms work this would mean that the EU country with the most open entry regulation would implicitly set the policy for the EU as a whole.

The EU countries and their governments realized rather early that they have to coordinate their migration policies. *Schengen* was a first step, *Maastricht* the next and the *Treaty of Amsterdam* is a useful framework for a further elaboration of a practical and economically efficient policy. How should and could a next step a ***NEMP***, a ***N***ew ***E***uropean ***M***igration ***P***olicy look like?

b) Fundamental Idea

NEMP is led by the *fundamental idea* that in a world of growing international interdependencies and extremely low transportation and communication costs it seems anach-

ronistic to control and regulate the (international) ***movements*** of people. Basically it is not the fact of entering the EU or moving within the EU that is problematic. Potential *problems* might stem from foreigners who want to *stay and work*. It is "stay and work" of people from outside that influences the allocation of production and the distribution of income. These consequences of "stay and work" might generate political or social problems or changes of public goods and transfers. Thus it is not movements or flows that have to be controlled. It goes about residents and workers. Consequently, NEMP should shift the focus from external entrance controls to internal enforcement of (existing) laws and rules. It is illegal employment of foreign workers with an illegal status that challenges politics and economics of the host society. Therefore illegality should be sanctioned drastically.

This fundamental idea means that NEMP has to concentrate on two crucial issues: It goes about ***control of entry at the outer border***. And it goes about ***control of stay and work*** to avoid illegal activities of people from outside. Therefore, NEMP has the following two pillars:

1. Systematic *controls of intra-EU movements would vanish*. Only entrance controls at the outer border of the EU would remain. Everybody (i.e. the EU citizens ***and*** the non-EU citizens) is allowed to move and travel freely within the EU. As it happened in Schengenland control of movements of people between EU member states should be dropped within the next five years. At airports and seaports, flights and ships from outside the EU should have separated gates and piers - as it is reality in Schengenland already today.

2. Of course, Europe needs an *external border control* for political reasons to demonstrate that not everybody could come to Europe for whatever purpose. An open door strategy is politically not feasible. However, the economic efficiency and efficacy of entrance controls remains an open question. Why should we carry the enormous costs to control moves and entries? The overwhelming part of cross-border movements are absolutely legal activities. Consequently, border controls generate immense costs above all for regular cross-border mobility. Just to detect a relatively very few attempts of illegal entrance, we should not expose all the other fully legal cross border movements to time taking and costly entrance controls. All we would need is a clear signal that not everybody has an undisputed "free" right to enter and to stay and that illegal behavior is sanctioned.

c) Control of Entries

NEMP should search for entrance control instruments at the outer border with strong symbolic power but low enforcement costs. A first idea towards such a strategy could be to offer two ways to enter Euroland. Both solutions focus on the transaction costs of entering. The first one increases the pecuniary transaction costs and lowers the non-pecuniary transaction costs. The second one concentrates on the non-pecuniary costs of queuing up in waiting lines, of being asked more or less intimate questions and of severe checks of baggage and personal items. The trick is that people have an ex ante choice for the one or the other way. In more detail, the options look as follows:

1. A first option levies a pecuniary transaction cost component to every entering person from outside with *no intention to stay* (i.e. tourists, visitors, business migrants). To demonstrate the credibility of the intention to leave Euroland after a while, entrants with no intention to stay permanently in Euroland have to make a quite substantial but refundable deposit (e.g. 500 Euro). The higher the deposit is, the stronger are the incentives to respect the temporary character of a visit, holiday or business project. In exchange for the deposit, entrants get a ticket that is valid for a specific period (weeks, months, year) and that allows to enter and travel freely within the whole EU. Within the validity period the owner of the ticket gets the deposit back by leaving the EU. The entrance ticket would substitute all the other entrance regulations especially all kind of visas. People with such an entrance ticket could entering Euroland and travelling within the EU more or less without further controls. Of course, the entrance ticket cannot avoid that people overstay but it makes such a step much more expensive and therefore it generates strong incentives to return home in time.

   Emission and control of entrance tickets could be arranged relatively easily in practice. Actually, there is not such a big difference to the questionnaire that every non-US citizen has to fill out while travelling to the US and that is collected by airports or seaports while leaving the US. Contrary to the US procedure the EU entrance ticket would require a refundable deposit. The entrance tickets could be issued by travel agencies, gasoline stations, railway stations airports or seaports. They could be a component of railway or aircraft tickets or other travel arrangement (like the airport user fees). There could be reserved fast tracks for ticket holders (similar to the customs clearance at European airports). People arriving by

car could get entrance stickers and could use separated fast lines. There could be specific cross-border trains where the refundable deposit is a part of the railway ticket arrangement. I think that in times of electronic transactions it is a question of political willingness and not of technical feasibility to control efficiently and emit effectively entrance tickets!

Such a refundable deposit to get an entrance ticket would be a valid option for most business migrants and many tourists. It increases the pecuniary transaction costs of cross-border movements but in exchange it substitutes for all other forms of transaction costs. Just get a ticket and you are in!

2. People that will not or that cannot afford the (refundable) entrance deposit (and consequently do not get an entrance ticket) have to carry much higher non-pecuniary transaction costs by entering Euroland. They have to accept time-taking waiting lines and intensive entrance checks. Like non-tariff barriers to trade there are many ways to burden potential entrants with all kind of non-pecuniary transaction costs. It remains a question of fantasy which could or should be applied at Euro-gates!

Of course, no such entrance procedure would be needed for asylum seekers and refugees. Asylum seekers and refugees do not need to fulfil any obligation to ask for asylum.

The refundable deposit for short term visits takes into account that so far most illegal residents and illegally employed foreign workers have entered the EU legally. Many have come as tourists, for contract work, as asylum seekers or refugees and have stayed longer than legally allowed. It is not their entry which is illegal but their stay or work. To ensure and enforce rules and laws the costs of an unlawful behavior have to be increased by stronger employer sanctions and higher fines.

d) Temporary Workers

People from outside the EU with the intention *to stay* longer in the EU have two possibilities to get this right. They could stay *up to one year on a national ticket as temporary workers* or they could *stay longer than a year on a EU immigration ticket*.

Temporary workers are only permitted to work on a specific contract offered by an EU-employer and issued by a single EU *nation*. This means that they have to find a European employer who is willing to pay a fee for a temporary work permit. The scale of the fee should follow market principles. Basically it is higher if the (national) demand for temporary foreign labor force is stronger. We could think about a national quota that is allocated by an auction process. The fee would be substantially higher if the foreign worker would like to bring along a family. The family members are not allowed to work or to move their residency away from the owner of the permit.

The *validity* of the temporary work permit should be strictly *restricted to one year* (and not 5 years as in the German Green Card case) to avoid the well known problems of the guest-worker programs. However, it could be renewed by another year (if the employer gets the permission again by paying the fee). Temporary workers are not entitled to work with another employer or to move from one place to another place in the EU. During the validity of the work permit they are bounded to the employer who had paid the entrance fee. Consequently the number of issued temporary work permits (i.e. the quota) and the level of their fee should be determined by the different national governments (or by an auction) and the fees should flow into their national budget.

Actually, this type of temporary specific work permit comes very close to the so called Green Card regulation that has been implemented in Germany in summer 2000. Both are issued under a national regulation to fulfil national labor market goals and to bridge national labor market shortages. However, there are *three important differences*: a) NEMPs temporary workers would be an option for *every* industry and service activity and not just for information specialists, b) they would *cost a fee* according to the demand of such temporary workers and b) the temporariness would strictly be *limited to one year*. After this period the contract has to be renewed again.

The temporary work permit for non-EU citizens could also be restricted to purely *seasonal* activities. Their validity would be between one month and one year. Again, this segment of the labor force is immobile and fixed to the employer. The national governments decide how many seasonal workers from outside the EU they are willing to accept. They also fix the level of the fee and collect it.

Refugees would also be allowed to stay and work temporarily as long as their lives would be threatened in their home countries. Once the danger would be over they

should be supposed to return home. If the temporary period lasted more than a certain amount of time (e.g. 18 month) they should get asylum and become permanent residents.

e) Permanent Residents

People from outside who want to stay *longer than a year* could become *permanent* residents if they fulfil certain criteria that are defined on a *EU-wide level*. The right to stay *permanently* could either be obtained by humanitarian reasons over international asylum law or by an economically driven selection process. There is no connection between these two possibilities to get permanent residency. This makes clear that NEMP fully respects international asylum law. If, according to the asylum procedure, people ask for asylum with good reasons they have to be accepted and they get the right for permanent residence. If they fail to show good reasons they have to leave the EU.

There are several ways to become a *permanent EU-resident by economic criteria*:

a) P*ermanent* residents could be chosen according to a *point system* similar to the one in Canada (*box 1*). It is important to explicitly stress the fact that besides the ”typical” selection criteria also the willingness to pay an entrance fee should be given some points. Of course, it is not important at all whether the fee is paid by the immigrant or by a potential European employer. Once allowed in, permanent immigrants should have the same rights and duties as natives. They could bring their family members along (parents and kids only). But every family member would have to pay his own entrance fee to get the right of permanent residence and work. After having paid the entrance fee, the family members could stay and work within the EU and decide where and how long they would want to live.

Box 1: The Canadian immigration system

The Canadian government determines a flexible annual immigration planning range in which the planning volumes of each of the three immigration streams were added:

- family reunification
- refugees
- independent immigrants

- selected – worker (point) immigrants
- business immigrants
  *self- employed
  *entrepreneurs
  *investors

Especially the third group should foster development and prosperity of Canada. The independent immigration system (”selected workers”) is aimed to influence the demographic future and is explicitly economically motivated.
Persons who want to immigrate, have to apply from abroad. Applicants are awarded with ”points” for primarily human capital attributes (like age, education, vocational preparation, experience, knowledge of French/English etc.).

In order to insure economic efficiency within the EU, permanent residents should not be restricted to change jobs or move within the common European market from one location and one employer to another. The *annual quota* of new permanent residence permits for foreigners should be fixed by the *EU commission*. The EU commission should also fix the level of the entrance fee. The money from the entrance fee should go to the EU budget. It should be used to implement NEMP, to cover control and enforcement costs and to smooth allocation and distribution effects of immigration to the host society.

b) Permanent residence could also be assigned by a *random lottery* or by an *auction* where people have to bid and pay. The lottery procedure means that people willing to stay could win residence permits by just signaling their interest with no more than to pay the direct transaction costs for the running of the draw. The immigration authority would then pick as many winners as they would like to have new foreign residents (i.e. the annual quota). In the auction procedure the winners are not selected completely arbitrarily. They have to pay a fee for the ticket. This fee could either be fixed in advance by the immigration authority - what is more or less the same as with a private money lottery. Such a fee setting is relatively easily to handle from a technical point of view. However it has the problem that the fee could be relatively too high and not enough people are willing to pay the price or it is relatively too low and more people as wanted would get a residence permit. Thus, an economically more efficient way is to auction the limited permits. People interested to get residency could post a bid. This bid could be sent by

mail (together with a deposit to ensure the seriousness of the bid) to the embassy of the potential host country. After a deadline the people with the highest bids would get their permits. Again the payments would flow into the EU budget and could be used directly for NEMP. Of course there are many slightly different ways to organize the auction to exclude black markets, hoarding, slavery and other misuses of the residence permits.

People fulfilling the criteria of acceptance are treated the same as natives – first economically, after a while (3 to 5 years) politically. Consequently, they should have the right to get citizenship after a while and to become fully equivalent citizens. Of course permanent status would also include the right of immediate family reunification. The same would apply for recognized *asylum seekers*. If they fulfil the humanitarian criteria of international law they would be accepted and treated as permanent residents.

f) Illegal Activities

NEMP needs a strong political signal that *illegal stay or work* is not tolerated at all. If the entrance ticket has expired or someone is unable to show his or her residence status within due times he or she gets deported fast. In the case off illegal work the EU-employers have to be sanctioned. This should happen on a penalty scale that has a real discouraging effect. Illegal migrants break laws and rules and clearly provoke the credibility of judicial systems and the confidence in the power and authority of constitutional settings. They also challenge the public transfer system. Illegal foreign workers do not pay direct income taxes, but use on the other hand public goods or publicly subsidized services like schooling or medical treatments for their children. Illegals compete with legals for job opportunities but have the possibility to avoid certain obligation, costs, taxes and fees compulsory for the legal workers. These legal, economic and social provocations make it easy understandable that NEMP will be efficient only if politicians and their voters are not willing to accept the phenomenon of illegal migration.

However, there is also a need and demand for illegal immigrants. Some people (like house owners needing some help in cleaning and maintenance) and economic groups (like restaurant owners or farmers) benefit from illegal migrants. They try to avoid direct labor costs, indirect social payments and costly regulations. The supply of and demand for illegal foreign workers create an economic market for illegal migration and a

political market for the supply and demand of border controls and labor market regulations. Consequently, the phenomenon of illegal migration has to be analyzed within an economic framework but also with an understanding of the political economy behind the setting of laws and rules. In many cases illegal employment of natives and of foreigners is the consequence and not the cause of inefficiencies on the labor market. Finding and eliminating the cause and nature of those inefficiencies might present an efficient long-term strategy to lower the economic incentives for illegal immigration.

g) Final remarks

NEMP is a clear and transparent way to select people from abroad to enter, stay and work within the EU. It gives people from abroad the option to enter with either high pecuniary and low non-pecuniary transaction costs or with time-taking waiting costs and high control efforts. It abolishes internal border controls for everybody - that is for EU and for non-EU citizens. EU nation states keep the competence to regulate temporary work permits for a one year period. Longer stays and the issue of permanent residence and work are regulated on the EU level.

NEMPs different channels to enter and work in the EU have to follow the concept of *non-communicating tubes*. This means that an easy and direct shift from one category to the other is not permitted. Non-EU temporary workers (accepted by a national regulation) can get a permanent status only over the regular way of being qualified according to the EU point system or by being accepted as asylum seekers according to international law.

NEMP respects humanitarian criteria of international asylum law and family reunification and it is economically efficient because it selects immigrants according to the needs of the host society (reflected in the point system) and according to the individual cost-benefit analysis (reflected in the willingness to pay an entrance fee). Like every migration policy it needs controls (at outer borders) and sanctions (mainly for illegal employment). However, the entrance ticket would facilitate the procedure of controlling the legality of international movements of people. This would take into account that in the area of globalization with low transportation and mobility costs controls have become extremely costly and often hardly possible.

5. CONCLUSION: NEW MIGRATION NEEDS NEW RULES

Germany is still following its ”guest-worker” or ”Ausländer”- philosophy. This concept has been established in the 1960ties, when Germany was eager to attract additional labor forces for its fast developing industrial production sites. But times have dramatically changed. German society has become a mature service economy. Immigration policy and rules of entry, stay and work did not change with the same speed. And now it becomes obvious that the German ”guest-worker” program looks politically tempting but turned out to be completely ineffective in reality. The intention has failed to restrict the inflow of foreigners to workers, to keep their duration of stay temporary and to treat them as guests but not as equals. Migration flows to Germany have become a hardly manageable and sometimes self-dynamic dimension. Network and family migration are legitimized by humanitarian or moral reasons. If it is not permitted legally it happens illegally by over-stayers and undocumented residence. These people want to stay as long as they want but definitely longer than just for seasonal or temporary work. The demand-driven economic labor migration has been replaced by a supply-driven inflow of family members and people seeking for conditions to survive (politically and economically). But migration laws and regulation in Germany (and other Western European countries) do still provide the illusion of handling easily these new migration patterns.

The more temporary migration has been replaced by permanent settlement, the more obvious it has become that the concept of ”guests” or ”foreigners” is socially and economically misleading. Immigrants to Germany have stayed and have become long term residents without equal political and individual rights as the natives. They were not allowed to move freely and without restrictions from one employer to the others within the EU and consequently provoked an economically inefficient and inflexible allocation of labor. Guest workers were supposed to pay taxes but they were not allowed to vote on the use of their contributions. They were treated as production factors but not as equal people. According to the jus sanguinis principle aliens remain foreigners their whole life and they have to assimilate their habits to the rules of the host society. Very early already, the famous Swiss writer Max Frisch has said ”man hat Arbeitskräfte gerufen ... und es kamen Menschen!” (workers have been recruited, and people have come). The more different these people have become to their host society, the more obvious were the cultural, religious and personal discrepancies to the natives. Spontaneous and virulent conflicts were one consequence, the political success of radical and often racist

right-wing parties is another one. The EU needs a strategy to cope with these new forms of migration dynamics and permanent settlement of non-EU citizens.

Western European governments have to search for modern and time-adequate migration laws to cope with new forms of contemporary migration. The future will bring a dramatic increase in the mobility of high skilled specialists, managers and business people. Very often it will happen as inner-firm migration, i.e. it takes the form of a cross-border placement or transfer within the "internal labor market" of a multinational enterprise. In future it can be expected that the importance of this form of migration will continue to increase with the growing internationalization of large numbers of previously national enterprises. The resulting migration can take different forms, however. It need not necessarily have a permanent character, precisely because of the geographical proximity within Europe, but can instead take place in the form of relatively temporary, shorter-term (project-)oriented “functional mobility with non-migration of people”, such as weekly stays or business trips or as periodic commuter movements. So, with these structural change from mass employment in labor intensive standardized industrial production activities towards knowledge and service based economies, the Western European societies have to modernize their views about migration issues.

New migration patterns need new migration policies! In the last four decades the world has become more integrated in many respects. “Globalization” has opened up national economies and their labor markets. In Europe, the Single Market and the European Monetary Union have contributed to built up a Europe without nations. In such an economic space without borders national migration policies lose a lot of their effectiveness. NEMP is a first step from national ad hoc regulations towards a *more conceptual European migration strategy*. The basic idea of NEMP is to shift the policy focus from a control of moves to a *control of residence* and especially a control of *illegal activities* of illegal foreign workers. The following cornerstones are characteristic for NEMP (see box 2):

1. Outer border entries to the EU would be possible on two tracks:
    a) Either people from outside carry high but refundable pecuniary transaction costs by a deposit. In exchange they get an entrance ticket. The entrance tickets allows to enter easily and fast and it permits to move freely within the EU. People leaving the EU within the validity of the ticket get their de-

posit back. Over-stayers loose their deposit. The money goes to the EU level for the implementation and enforcement of NEMP.

b) Or people from outside have to carry non-pecuniary transaction costs by time-taking strong entrance checks, long waiting lines and severe investigations about the credibility of the intention to leave later.

2. The *national level* has the option to issue temporary work permits. These permits allow people from outside to work only with a specific (national) employer (contract workers) or within a specific period (seasonal workers). In this regard these permits come relatively close to the so called Green Cards issued by the German Bundesanstalt für Arbeit for information specialists. From an economic point of view, the temporary work permits should be sold for a fee that goes to the national budget. The fee should be higher if temporary workers from abroad wish to bring along their family members.

3. Permanent residence and work is harmonized on the *EU level*. Recognized asylum seekers are treated according to international law and get full rights to move and work freely within the EU. The same rights are given to economically motivated immigrants if they are accepted according to EU regulations. The most efficient way is to implement a point system that includes the payment of a fee. The fee should signalize the value people from outside attribute to the right to stay and work in the EU. The fee goes to the EU budget to cover for the costs of implementation and enforcement of NEMP and to smooth the allocation and distribution effects that are related to immigration issues.

4. The character of NEMP makes it clear that unlawful behavior has to be sanctioned harder than in the past. Illegal residents and illegal foreign workers have to be deported without long procedures. Their employers have to be punished strongly. However, for many politico-economic reasons there are strong pressures of vested interest groups for illegal activities of illegal foreign workers and against a severe enforcement of NEMP.

Of course, the acceptance of long-term foreign residents leads to the issue of national citizenship and EU or union citizenship (see the relevant section in the treaty of Amsterdam i.e. Articles 17 to 22). The questions of single, dual or multiple citizenship and of the procedure how to become a citizen (jus sanguinis versus jus solis) belong to the

heart of every society. But why should we not see “nations as clubs” and “citizenship as membership” in a world with vanishing national borders, increasing long distance activities, growing electronic transactions and the establishment of a cyberspace without territories? (for a discussion see Straubhaar 2000).

Box 2: Categories of Entries, Stay and Work in a New European Migration Policy

STATUS	**ENTRANCE**	**RESIDENCE**	**WORK**
Admission Criteria			
Temporary			
- *Visitors, Tourists Business Mobility* ***(EU level)***	Refundable deposit to get an Entrance Ticket or carrying of specific non-pecuniary transaction costs	No	No
- *Contract Workers* ***(National level)***	Non refundable entrance fee (goes to national budget)	Free choice only within nation state Return after contract	Yes, but no mobility at all (employer or place of work)
- *Seasonal Workers* ***(National level)***	Non refundable entrance fee (goes to national budget)	Free choice only within nation state Return after contract	Yes, but no mobility at all (employer or place of work)
- *Family Members of temporary workers* ***(National level)***	Non refundable entrance fee (goes to national budget)	Same place like temporary worker	No
Permanent			
- *Recognized Asylum Seeker* ***(EU level)***	Entrance / Accep-tance according to international law	Full rights including free mobility within the EU	Yes Free mobility within the EU
- *Admitted by the Point System* ***(EU level)***	Non refundable entrance fee (goes to EU)	Full rights including free mobility within the EU	Yes Free mobility within the EU
- *Family Members* ***(EU level)***	Non refundable entrance fee (goes to EU)	Full rights including free mobility within the EU	Yes Free mobility within the EU

References

Blanchard, O. J., Katz, L. F. (1992):
Regional Evolutions, Brooking Papers on Economic Activity 92/1.

Cornelius, W. A., Martin, Ph., Hollifield J.F. (eds.) (1994):
Controlling Immigration -A Global Perspective. Stanford University Press, Stanford.

Cornelius, W. A., Martin, Ph., Hollifield J.F., (1994a):
Introduction: The Ambivalent Quest for Immigration Control. In: Cornelius, W. A., Martin, Ph., Hollifield J.F. (eds.) (1994): Controlling Immigration -A Global Perspective. Stanford University Press, Stanford, 3-41.

Federal Statistical Office (1995):
Im Blickpunkt: Ausländische Bevölkerung in Deutschland. Wiesbaden.

Federal Statistical Office (1999):
Statistisches Jahrbuch für die Bundesrepublik Deutschland 1999. Wiesbaden.

Kindleberger, Ch. (1986):
International Public Goods without International Governements. American Economic Review 76, 1-13.

Kubat, D. (ed.) (1993):
The Politics of Migration Policies, 2nd edition, CMS New York.

Obstfeld, M., Peri, G. (1998):
Regional Non-Adjustment and Fiscal Policy. In: Begg, D. et al. (eds.): EMU: Prospects and Challenges for the Euro. Oxford, 205-247.

OECD (1997, 1998, 1999):
SOPEMI, Trends in International Migration (Annual Reports). Paris.

Straubhaar, Th. (2000):
Why Do We Need a General Agreement on Movements of People GAMP. HWWA Discussion Paper 94.