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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

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I. Introduction

The European Council, in conclusions adopted in December 2006, stated that *"While respecting the competences of Member States in this area, consideration will be given to how legal migration opportunities can be incorporated into the Union's external policies in order to develop a balanced partnership with third countries adapted to specific EU Member States' labour market needs; ways and means to facilitate circular and temporary migration will be explored; the Commission is invited to present detailed proposals on how to better organize and inform about the various forms of legal movement between the EU and third countries by June 2007"*.

This Communication aims to respond to this request. Based on the existing policy and cooperation framework, it seeks to identify novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration. In addition, it looks at ways to facilitate circular migration, which will help EU Member States address their labour needs while exploiting potential positive impacts of migration on development and responding to the needs of countries of origin in terms of skill transfers and of mitigating the impact of brain drain.

It builds on earlier Commission initiatives, in particular the Communication on Migration and Development[1] and the Policy Plan on legal migration[2], in addition to the renewed efforts to fight illegal immigration[3], in particular by means of stronger action against illegal work and especially employers using illegal migrant workers. It also aims to expand and give operational substance to the EU's Global Approach to migration, as highlighted in the European Council's conclusions of December 2005 and December 2006 and the Commission Communication on 'the Global Approach to migration one year on'[4] and on "Applying the Global Approach to migration to the Eastern and South-Eastern regions neighbouring the European Union"[5].

II. Developing mobility partnerships

Proposals for improving the conditions for legal movement of people between the EU and third countries should obviously be based on the existing framework for the legal movement of persons to the EU, which is briefly described in Annex I.

The Communication on 'the Global Approach to migration one year on' stated in particular that *'once certain conditions have been met, such as cooperation on illegal migration and*

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1 Migration and Development: some concrete orientations - COM(2005) 390, 1.9.2005.
2 COM(2005) 669, 21.12.2005.
3 Communication on Policy priorities in the fight against illegal immigration of third-country nationals - COM(2006) 402, 19.7.2006.
4 "The Global Approach to Migration one year on: Towards a comprehensive European migration policy" - COM(2006) 73, 30.11.2006.
5 COM(2007) 247, 16.5.2007.

effective mechanisms for readmission, the objective could be to agree ***mobility packages*** *with a number of interested third countries which would enable their citizens to have better access to the EU. There is a clear need to better organise the various forms of legal movement between the EU and third countries. Mobility packages would provide the overall framework for managing such movements and would bring together the possibilities offered by the Member States and the European Community, while fully respecting the division of competences as provided by the Treaty'.*

The EU therefore needs to look at how such packages – which should in the Commission's view be called "mobility partnerships" – can be put together and, in association with interested Member States, negotiated by the EC with third countries that have committed themselves to cooperating actively with the EU on management of migration flows, including by fighting against illegal migration, and that are interested in securing better access to EU territory for their citizens.

This chapter looks at both the legal nature and form of mobility partnerships and their possible contents.

A. Legal nature and form of mobility partnerships

Mobility partnerships will necessarily have a complex legal nature, as they will involve a series of components, some of which will fall in the Community's remit and others in the Member States'. The EU needs to ensure that a coherent partnership can be put together in the most expeditious manner, while respecting the division of powers between the EC and Member States and ensuring consistency with the existing legal and political framework for relations between the third country in question, the Community and the relevant Member States.

Negotiation of any mobility partnership would need to be based on clear political guidelines from the Council, on the basis of a recommendation from the Commission. In addition, each mobility partnership should provide for a follow-up mechanism, making the greatest possible use of existing frameworks for dialogue between the authorities of the country in question, the Commission and interested Member States (e.g. the thematic subcommittees or working groups established under the relevant agreements). The implementation of mobility partnerships could also be supported where appropriate by Migration Support Teams (MISTs)[6].

B. Contents of mobility partnerships

Mobility partnerships will need to take into account the current state of the EU's relations with the third country concerned as well as the general approach towards it in EU external relations. They will be tailored to the specifics of each relevant third country, to the ambitions of the country concerned and of the EU, and to the level of commitments which the third country is ready to take on in terms of action against illegal migration and facilitating reintegration of returnees, including efforts to provide returnees with employment opportunities. The precise structure of the mobility partnership should be informed by migration profiles where available. It is impossible to list all the possible components of a mobility partnership here, as these will depend on the specific situation. In addition, the dimensions that interested Member States may want to bring into a mobility partnership would be influenced by their own legal frameworks (in particular on the admission of third country nationals) and by political constraints and priorities. Nevertheless, a typical mobility

[6] As proposed in the Communication on 'The Global Approach to migration one year on'.

partnership could include some or all the components mentioned in this section, which looks first at the commitments expected from the third countries concerned and then at the commitments to be given by the EC and Member States participating:

(1) Commitments expected from the third country concerned

The commitments expected from the third country concerned to fighting illegal migration would differ from case to case, depending, inter alia, on the legal framework in place, but could include, for example:

- A commitment effectively to readmit its own nationals and to cooperate fully in identifying them;
- An additional commitment to readmitting, under clearly defined circumstances, third country nationals and stateless persons who arrived in the EU through the territory of the country concerned, where appropriate in the framework of an EC readmission agreement;
- Initiatives to discourage illegal migration through targeted information campaigns;
- Efforts to improve border control and/or management, supported as appropriate by operational cooperation with Member States and/or FRONTEX;
- Efforts to improve the security of travel documents against fraud or forgery, where appropriate by using biometrics, and, where relevant, the security of the documents used as a basis for issuing them (e.g. national identification documents);
- A commitment to cooperating and exchanging information with relevant authorities in EU Member States with a view to improving cooperation on border management issues and thereby helping reduce the security risks linked to international movements of people;
- Specific measures and initiatives seriously to combat migrant smuggling and human trafficking, in line with the Council of Europe Convention against Trafficking in Human Beings, the relevant Protocols to the UN Convention on trans-national organised crime and/or relevant regional frameworks such as the Africa/EU Ouagadougou Action plan on the fight against human trafficking.
- Commitments to promote productive employment and decent work, and more generally to improve the economic and social framework conditions, should also be sought from the third country concerned as they may contribute to reducing the incentives for irregular migration.

This type of measures must be implemented in full compliance with the fundamental rights of the persons in question, including the specific rights of persons who might be in need of international protection. Third countries could possibly benefit from specific financial and/or technical assistance provided by the EC and/or participating Member States, for example to facilitate the economic and social reintegration of returning migrants.

(2) Commitments to be given by the EC and Member States participating

Here too the specific commitments would depend on the circumstances, but could include for example some or all of the following components:

(a) Improved opportunities for legal migration for nationals of the third country

Mobility partnerships will facilitate the migration of nationals of the third country to interested EU Member States. They could cover economic migration exclusively or extend to other forms of legal migration, such as migration for studies or other forms of training. Mechanisms to facilitate economic migration should be based on the labour needs of interested Member States, as assessed by them, while fully respecting the principle of Community preference for EU citizens. This includes in particular the provisions of the 2003 and 2005 Acts of Accession which place an obligation on Member States that apply transitional measures concerning the free movement of workers to give to the EU citizens concerned preference over third country nationals. Member States participating in mobility partnerships must therefore ensure effective implementation of this principle. In addition, existing and future international agreements between the EU and the third country in question which facilitate the temporary movement of natural persons when it is related to trade in services or investment should also be taken into account.

Subject to these constraints, the preferential aspects of a mobility partnership on legal migration could take two main forms:

- Mobility partnerships could include a consolidated offer by several Member States, on a voluntary basis, to facilitate access to their labour markets to the nationals of the third country in question. In political terms, these individual offers would be pooled in order to put together a consolidated EU offer to the third country in question. These national offers could for example take the form of labour quotas reserved for the nationals of the third country in question, or practical instruments to help match job offers in the Member State in question with job seekers in the third country concerned. The offers to be pooled should respect existing admission procedures.
- The mobility partnership could also include a more favourable treatment of the nationals of the country in question as far as the conditions for admission of certain categories of migrants are concerned[7], also taking into account the numerous optional clauses included in the relevant Directives as far as the areas covered by Community law are concerned. These arrangements should however be without prejudice to the non-discrimination principle in Article 12 of the Treaty as well as to uniform application of Community law.

[7] Subject to the 2003 and 2005 Acts of Accession, the EU-Turkey Association Agreement under which Member States shall endeavour to accord priority to Turkish workers, and the principle of Community preference.

(b) Assistance to help third countries develop their capacity to manage legal migration flows

Financial and/or technical assistance in areas related to the management of legal migration flows could usefully complement the other elements of a mobility partnership. Such assistance could be provided by the EC – in particular in the framework of the thematic programme on migration and asylum – and/or Member States participating in a given partnership and would not necessarily be limited to the management of migratory flows to the EU but could also be extended to intra-regional migration flows, which are very important in many parts of the developing world. Where appropriate, this could take the form of twinning arrangements with similar institutions in EU Member States (employment services, job placement agencies, etc.).

The provision of such forms of assistance will not be reserved exclusively for countries party to a mobility partnership. However, it could be made available as a matter of priority to these countries in the framework of the thematic programme on migration and asylum. It could in particular include:

- providing information on the labour market needs of EU Member States and on the conditions for emigrating there;
- additional efforts to support the mobility of students, researchers, young professionals, volunteers and those involved in youth organisations from the country in question;
- providing pre-departure linguistic or technical training for persons with a concrete employment perspective abroad; and
- job-matching services, to help match vacancies in the EU with job seekers in the countries in question, which could benefit from direct IT links with EU systems such as the EURES mobility portal. In countries where institutions to manage the domestic labour market are not well developed, this would probably need to be complemented by the development of effective cross-border labour intermediation services. Technical assistance to improve labour market efficiency could therefore also be made available;
- schemes to facilitate the economic and social reintegration of returning migrants;
- efforts, including co-operation mechanism, to facilitate the transfer of migrants' remittances.

The EC has already acquired certain experience of providing this sort of assistance to third countries (See Annex II for an overview of past, on-going or planned projects in these areas), and the Commission can envisage to extend it on a more systematic basis to other third countries. The MEDA project to support the Moroccan National Agency for Employment and Skills (ANAPEC) and the Migration Information and Management Centre which the EC is helping to set up in Mali to perform some of the above-mentioned tasks could serve as models for similar initiatives.

(c) Measures to address the risk of brain drain and to promote circular migration or return migration

Mobility partnerships could include, at the request of the third country in question, measures to help address the risk of brain drain. A first response is that mobility partnerships will be tailor-made. Hence, a mobility partnership could well, by common agreement, exclude from preferential treatment migrants from sectors under stress. They could also include mechanisms to facilitate circular migration, which by nature can help mitigate brain drain. In addition, as part of a mobility partnership, the third country in question, the EC and interested Member States could agree incentive measures to support the return of temporary or seasonal migrants and foster effective circularity of migration. Such incentives would help countries of origin harness the skills and other forms of social capital of returnees or circular migrants and mitigate the impact of brain drain. Examples of the measures that could be agreed to facilitate circular migration are given in Chapter III.

(d) Improvement and/or easing of the procedures for issuing short stay visas to nationals of the third country

In the process of negotiating a mobility partnership it might prove appropriate to include country-specific improvements in the area of short stay visa policy, in addition to across-the-board improvements already proposed by the Commission (cf. Annex I). Such improvements could be considered at two different levels:

(i) Better organisation of the consular services of EU Member States in the country in question

Applicants for short stay visas to the EU in third countries often encounter practical difficulties, ranging from the lack of local Member States' consulates to very long queues, or extremely long waits – up to several months – between requesting an appointment to lodge the visa application and the appointment itself. In extreme cases, applicants may need to travel to a neighbouring country to lodge an application and may need to obtain a short stay visa from the state in which the consulate is located before they can apply for a visa for their planned trip.

Several possible responses to this type of difficulties could be envisaged in the framework of a mobility partnership:

- Member States participating in the mobility partnership could give a commitment to the relevant third country to bring about practical improvements in the application procedures such as longer opening hours, a reinforcement of human resources, etc.;
- In parallel, they could also agree to improve consular cooperation locally. Commission Delegations in third countries party to a mobility partnership could play a useful role in fostering such cooperation;
- Member States could also make fuller use of the flexibility in the existing Community acquis (amended common consular instructions), which provides for instance that multiple entry visa valid for a long period (up to five years) can be issued to bona fide persons who need to travel frequently. Member States can also exempt visa applicants from the visa fee in individual cases; etc. Fuller use of this flexibility could be part of the offer of Member States interested in contributing to a given mobility partnership;
- Such enhanced cooperation could result in several Member States opening a common visa application centre in a given third country, as envisaged in the

Commission proposal to amend the common consular instructions (currently under examination by the European Parliament and the Council). Priority could even be given to setting up common application centres – eligible for financing under the External Border Fund –in third countries party to mobility partnerships.

(ii) Visa facilitation agreements for specific categories of people

More systematic improvements to the visa issuing procedures can also be offered in the form of **visa facilitation agreements** for specific categories of people to be negotiated between the EC and a third country willing to engage in a mobility partnership. The advantage of such agreements is that they establish clear rights and obligations for visa applicants. When defining a mobility partnership, the "Common approach on visa facilitation" agreed at Coreper level should be taken into account and might even need to be reviewed in the light of the potential offered by development of mobility partnerships.

III. Circular migration

A. Introduction

The invitation from the European Council to explore ways of facilitating circular migration comes against the backdrop of changing patterns of migration around the world and the need for the European Union to offer a credible alternative to illegal immigration. Circular migration is increasingly being recognised as a key form of migration that, if well managed, can help to match the international supply of and demand for labour, thereby contributing to a more efficient allocation of available resources and to economic growth.

However, circular migration also poses certain challenges: if not properly designed and managed, migration intended to be circular can easily become permanent and, thus, defeat its objective.

This chapter outlines a number of issues that need to be considered by the EU and its Member States in order to explore the most beneficial ways to facilitate circular migration. First, a **common definition** of the concept of circular migration is needed. The **different forms** of circular migration that could be most relevant to the European Union and its Member States also need to be identified. A distinction could be drawn between, on the one hand, putting in place the **legislative framework** that would facilitate circular migration and, on the other, the possibility of developing **circular migration schemes**. Such schemes would enable migrants to enter the EU to work, study or perform other activities for a set period of time. Finally, it is important to define the **conditions and safeguards** that must be put in place to ensure that migration really is circular.

B. Definition and forms of circular migration

The European Union must be clear about the type of circular migration that it wishes to facilitate. Circular migration can be defined as a form of migration that is managed in a way allowing some degree of legal mobility back and forth between two countries.

The two main forms of circular migration which could be most relevant in the EU context are:

(1) Circular migration of third-country nationals settled in the EU

This category of circular migration gives people the opportunity to engage in an activity (business, professional, voluntary or other) in their country of origin while retaining their main residence in one of the Member States. This covers various groups, for instance:

- Business persons working in the EU and wishing to start an activity in their country of origin (or in another third country); and

- Doctors, professors or other professionals willing to support their country of origin by conducting part of their professional activity there.

(2) Circular migration of persons residing in a third country

Circular migration could create an opportunity for persons residing in a third country to come to the EU temporarily for work, study, training or a combination of these, on the condition that, at the end of the period for which they were granted entry, they must re-establish their main residence and their main activity in their country of origin. Circularity can be enhanced by giving migrants the possibility, once they have returned, to retain some form of privileged mobility to and from the Member States where they were formerly residing, for example in the form of simplified admission/re-entry procedures.

This category covers a wide array of situations, spanning the whole spectrum of migrants, including:

- Third-country nationals wishing to work temporarily in the EU, for example in seasonal employment;
- Third-country nationals wishing to study or train in Europe before returning to their country;
- Third-country nationals who, after having completed their studies, wish to be employed in the EU (for example as trainees) to acquire professional experience which is difficult to obtain at home, before returning;
- Third-country researchers wishing to carry out a research project in the EU;
- Third-country nationals, who wish to take part in intercultural people-to-people exchanges and other activities in the field of culture, active citizenship, education and youth (such as, for example, training courses, seminars, events, study visits);
- Third-country nationals who wish to carry out an unremunerated voluntary service pursuing objectives of general interest in the EU.

C. Putting in place an EU legislative framework that promotes circular migration

The existing immigration laws of a number of Member States already contain rules that promote some circularity by allowing all or certain categories of lawfully residing third-country nationals to leave the country for set periods of time without losing their legal status, although the prerequisites and situations covered vary from one Member State to another. Circular migration of certain categories of people could however be further facilitated by appropriate legislative harmonisation.

Measures to foster circular migration could in particular be introduced into some of the future legislative instruments already announced in the Policy Plan on legal migration, in particular the:

- **Proposal for a Directive on the admission of highly skilled migrants:**

– subject to further examination, measures to foster circularity could centre on further facilitating admission procedures for persons having already resided legally in the EU for a certain length of time (for highly qualified work, studies or other forms of training);

- **Proposal for a Directive on the admission of seasonal migrants:**

– the main measure to foster circularity would be introduction of a multi-annual residence/work permit for seasonal migrants, allowing them to come back several years in a row to perform seasonal work.

- **Proposal for a Directive on the admission of remunerated trainees:**

– the possibility for third country nationals to come for a period of training in Europe should contribute to fostering brain circulation and to skills and knowledge transfer. In order to enhance circularity, the proposal could envisage a possibility for former trainees of coming back for limited periods for further additional training where appropriate to upgrade their skills.

The Commission will also reflect further on whether a proposal to introduce harmonised admission procedures for other categories of legal migrants could benefit circular migration.

In addition, the Commission may in due course consider proposing adjustments to a number of existing legislative instruments in order to promote circular migration, notably along the following lines:

- **Directive 2003/109/EC on the status of long term residents:**

– At present the Directive stipulates that, as a rule, long-term resident status will be withdrawn in the event of an absence of more than 12 consecutive months from the territory of the Community. This period could be extended to two or three years.

- **Directive 2004/114/EC on the admission of third country nationals for the purposes of studies, pupil exchanges, unremunerated training or voluntary services and Directive 2005/71/EC on the admission of researchers:**

– One possible amendment would be to introduce multiple-entry residence permits allowing the holder to be absent from EU territory for long periods without forfeiting his or her residence right[8].

– Another possibility would be to turn the optional clauses of these Directives, which allow Member States to provide simplified or fast-track admission procedures for persons who have formerly worked as researchers or studied in the EU, into a right for such persons to have access to quick procedures, provided they subsequently returned to their home country at the end of their permit.

– Finally, it might be possible to link the two Directives by allowing easier admission as a researcher (with fewer conditions attached) to non-EU nationals who have previously been admitted as students and who, after their studies, duly returned to their country of origin. This concept might be extended to allow students to apply for admission as researchers while still residing in the Member State where they are studying, provided the application is submitted before their study permit expires.

D. Ensuring effective circularity of migration

Practical conditions and safeguards will need to be included to ensure that circular migration meets its objectives and brings long-term benefits. The Commission intends to launch a debate on the basis of this Communication, notably with Member States on the measures required to ensure effective circularity of migration.

(1) Incentives to promote circularity

A number of incentives could be built into EU policy instruments to promote circularity, for example:

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[8] This would give the holder the right to reside and (where relevant) work in the EU for a set period that could be split into several sub-periods separated by periods of return to the country of origin.

- **The prospect of future opportunities for legal mobility towards the EU**: the promise of continued mobility in exchange for abiding by the rules and conditions will significantly reduce the temptation to overstay. The range of options to be offered must be explored and is likely to vary from one category of migrants to another, the general idea being to reward bona-fide migrants. Consideration could be given to the incentives mentioned above (multiple entry residence/work permits, allowing temporary returns to the home country; simplified, 'fast track' admission procedures for migrants who have already resided in the EU for a certain length of time and returned voluntarily to their home country at the end of their permit; etc.).
- **Making the reintegration of returning migrants in their home country as smooth as possible (in particular professionally)**: this could include support to the job search and/or setting up of businesses by returnees in their countries of origin; support to countries of origin in the recognition of the informal skills acquired by returnees throughout their stay abroad; a reintegration premium, tax-preferred savings accounts in migrants' home country, special housing programmes, support to enable returning researchers to continue a research project in their home country, or – in the case of students –continuation of scholarships for a couple of years following return. The Community and/or interested Member States could agree to support such measures, notably as part of the mobility partnerships outlined in Chapter II.

(2) Ensuring effective return

One of the key conditions is that migrants return to their home country after their residence permits expiree. An inventory will be compiled of all measures that would ensure or promote return. One measure that could be considered and that might also be integrated in the legislative framework is the requirement for a written commitment by migrants to return voluntarily to their countries of origin once their contract expires. In case migrants stay illegally on EU territory instead of returning voluntarily after the expiration of their permit, readmission by the country of origin should take place. This would be easier to achieve where there are readmission arrangements in force between the EC or the Member State in question and the country of origin.

(3) Monitoring circular migration

Circular migration schemes would need to be carefully monitored, with regard both to design and practical implementation in order to ensure both that they meet their twin objectives of responding to the needs of labour markets in the EU and contributing to the development of countries of origin and that circular migration does not become permanent. A set of criteria should be developed for monitoring operation of such schemes. In addition, the evaluation of the implementation of the relevant EC directives should include an assessment of their contribution to circular migration.

(4) Reducing the risk of brain drain

A number of developing countries are suffering from large outflows of specific categories of migrants, usually with medium to high skills. If these outflows are concentrated in areas crucial for development, such as education or healthcare, they can have detrimental effects on a country's ability to deliver essential services to its population. At the same time, the risk of brain drain is not universal and must be balanced against the possible positive impact of emigration on development in the countries of origin.

To a certain extent, circular migration may limit the long term risk of brain drain, however further measures are necessary to counter such risks[9].

Specific actions to address brain drain should be tailored to the situation in the country concerned. They could include: commitments by EU Member States not to recruit actively in sectors indicated as being under stress by that country; mechanisms to make it easier for returnees to the third country in question to divide their working life between two countries; or support from the Community and/or Member States to help the partner country create sufficiently attractive professional opportunities locally, especially for the highly skilled, as an alternative to emigration.

(5) Partnership with third countries

Dialogue and cooperation with third countries – both in the area of migration and in related areas such as employment, social policy and education/training – is essential to ensure that circular migration works properly and is mutually beneficial. Using wherever possible the existing institutional frameworks for dialogue and cooperation, consultations could be launched with a number of third countries which might be interested in promoting circular migration, possibly as part of mobility partnerships. In developing policies, the interests of third countries need to be taken into consideration, with a special focus on the risk of brain drain (even though circular migration, if well managed, should in principle limit that risk) and possible measures to counter such risks. Third countries could be encouraged to put in place legal and administrative arrangements to facilitate circular migration. Partner countries should in particular commit themselves to improving employment and labour matching services, as well as vocational and language training or the ability to foresee skill needs and supplies and provide information on labour needs abroad. Partner countries could also be supported in enabling returning migrants to contribute effectively to their home societies. Partner countries would also be requested to cooperate in tackling irregular migration, trafficking in human beings and to provide guarantees that any of their nationals participating in the circular migration schemes will be able to return, and be admitted, to their country of origin after their contract expires or is terminated. Partner countries should also seek to enhance incentives for return and reintegration, including through active measures to promote productive employment and decent work.

(6) Bilateral agreements to promote secure circular migration

In addition to EU framework and policies, bilateral agreements between sending countries and interested EU Member States – in full respect of Community competences – could be a useful means to foster and facilitate circular migration. They can help match labour demand and supply, especially in the case of partnerships between the relevant employment services and labour market agencies on both sides, thus permitting a quick response to the labour needs of the EU Member States concerned. Such agreements can make it much easier to operate some of the more flexible incentives for circular migration, for example scholarships for 'circular' students, trainees or people taking part in youth intercultural exchanges. Lastly, bilateral agreements can also help ensure that circular migration schemes give priority to those sectors of greatest relevance to the countries of origin and help mitigate any possible brain drain.

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[9] For a more detailed discussion of the debate on brain drain, see the Commission's Communication on Migration and Development. That Communication, as well as the Communication on an 'EU Strategy for Action on the Crisis in Human Resources for Health in Developing Countries' - COM(2005) 642 - also include some practical responses to the challenge of brain drain. One of the objectives of regularly updated migration profiles is to identify for each relevant developing countries the sectors and occupations that are subject to brain drain.

Connecting the EU framework with the bilateral agreements could generate synergies that would be to the benefit of all concerned and will need to be discussed in more detail.

IV. Conclusion: Next steps

The issue of facilitating legal movements of people between third countries and the EU, and in particular circular migration, is important and complex. If properly tackled, it could contribute to meeting the labour needs of the EU and help countries of origin optimise the benefits and limit the negative impacts of emigration, while removing or mitigating many of the incentives for illegal migration.

To develop the concept of **circular migration** and practical application thereof, the Commission intends, as a first step, to launch a consultation process on the basis of this Communication to collect views and experiences from other Community institutions, Member States and relevant stakeholders. This consultation process could last at least three months. Issues to be addressed could touch upon areas of EC competence and may call for adjustments to EC legislation on admission of certain categories of migrants. They are also likely to touch on areas of national competence, for example as far as actual decisions to admit individual migrants are concerned.

In addition, the Commission also intends to have exploratory contacts with a limited number of countries potentially interested in **mobility partnerships** and ready to commit themselves to cooperating actively with the EU on the management of migration flows, including by fighting illegal migration in partnership with the EU, notably in the area of readmission and return.

Against this background, efforts to design effective policies to foster circular migration and to develop mobility partnerships clearly call for increased coordination and cooperation between the Commission and Member States in order to ensure maximum synergy between activities at the two levels and to avoid them impinging on each other's competences. To gather more experience, financial support could be provided to pilot schemes specifically designed to foster circular migration in sectors or occupations of interest to countries of origin and Member States alike.

The Commission also intends to integrate these issues in the political dialogue and cooperation with third countries – notably those that are or will be covered by the Global Approach to migration – in the area of migration and in related areas. It also hopes that these orientations will contribute to the global debate on how to manage international migration better, and notably to discussions within the framework of the Global Forum on International Migration and Development.

ANNEX I

THE EXISTING COMMUNITY LEGAL FRAMEWORK for movements of persons to the EU

A. Framework for legal migration

Since 1999, the EU has been progressively developing a common policy on legal immigration. So far three Directives regulating admission of third country nationals have been adopted at Community level.

Third country nationals wishing to pursue their studies in one of the Member States are covered by Directive *2004/114/EC*. Following admission, they are given limited access to the labour market as a means of supporting their studies plus the possibility to continue their studies in another Member State. Member States may also apply this scheme to persons on voluntary service, unremunerated trainees and pupils.

Finally Directive *2005/71/EC on the procedures for admitting third country researchers* to the Member States provides a flexible scheme aiming at attracting this group of migrants to the Community. Third country researchers admitted to a Member State under the Directive have the possibility to teach and pursue their research project in another Member State without a working permit.

The conditions for admission set by these Directives normally include sufficient resources, health insurance as well as the absence of threat to public health, security, etc. All the Directives include clear rules on withdrawal of the right to stay.

Beyond the admission schemes, third country nationals staying for longer periods in a Member State benefit from *Directive 2003/109/EC*, which places an obligation on Member States to grant long-term resident status to third country nationals who meet the conditions of sufficient resources and health insurance and who legally reside on their territory for at least five years. Long-term resident confers a long list of important socio-economic rights including intra-community mobility under certain conditions. Furthermore, long-term residents qualify for greater protection against expulsion.

In addition, the EU-Turkey Association Agreement – although not granting any right to move to an EU Member State, or between EU Member States, to take up employment - gives Turkish nationals free access to the labour market in the host Member State after four years of legal employment. It also stipulates that Member States that decide to enlist workers other than Community nationals should endeavour to give priority to Turkish workers.

Finally, third country nationals who are members of the family of EU national migrant workers enjoy certain derived rights under Directive 2004/38/EC. These include the right to free access to employment and the right to reside with the migrant worker in the host Member State. Furthermore, after residing with the migrant worker for a continuous period of five years they can acquire permanent resident status.

The 2005 Policy Plan on legal migration sets out the broad lines for further development of a common European policy on legal and, in particular, **labour immigration**, which is an important component of EU policies to compensate the negative effects of demographic ageing and meet the changing needs of labour markets. In this context, with the aim of attracting the professionals needed to sustain the EU's competitiveness, in September 2007the Commission will present a proposal for a directive on the conditions of entry and residence for highly skilled workers from third-countries. Three other proposals aimed at facilitating circular and temporary migration will be put forward addressing seasonal workers and remunerated trainees (both in autumn 2008), and intra-corporate transferees (2009). At the

same time there is a need to provide a common secure legal status for all immigrant workers legally residing in the EU but not yet fulfilling the conditions for obtaining long-term resident status: a proposal to this end will also be presented in September 2007.

B. International trade agreements liberalising provision of services and establishment

In the context of its trade policy the European Community has entered into a number of international agreements which facilitate temporary movement of natural persons related to trade in services or investment. Commitments have been made both at multilateral level (WTO) and bilaterally (in the context of free trade agreements). One fundamental characteristic of these commitments is that the beneficiaries must not enter the EU labour market and must have obtained a services contract before they can apply to enter the territory of EU Member States. Such commitments relate only to the right to perform a given economic activity and do not cover visa and other conditions on entry, stay and work.

C. Framework for short term movements: the Schengen common visa policy

Within the framework of the Schengen cooperation, as one of the flanking measures necessary in order to establish an area without internal borders in which free movement of persons is ensured, a common visa policy has been developed for third country nationals -for stays of three months per six month period, providing in particular for mutual recognition of short stay visas issued on the basis of common procedures and conditions.

At the heart of this common policy lies Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders (the "negative list") and those whose nationals are exempt from that requirement (the " positive list"). The two lists are determined by a considered, case-by-case assessment of a variety of criteria relating, inter alia, to illegal immigration, public policy and security, and the EU's external relations, also taking into consideration the implications of regional coherence and reciprocity.

The Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders (Article 8 et sq.) lays down the basic principles of the common visa policy, including mutual recognition of short stay visas, and defines both the conditions for entry with a view to a short stay for third country nationals exempt from the visa obligation, and for movement within the Schengen area by third country nationals exempt from or subject to the visa obligation. The Common Consular Instructions (CCI) and a series of decisions of the Executive Committee of Schengen and of the Council contain detailed rules on the conditions and procedures for issuing short stay visas.

Council Regulation (EC) No 1683/95 of 29 May 1995 laid down a uniform format for short stay visas.

This common visa policy is fully implemented by the Member States and associated countries that are part of the Schengen area without internal frontiers. The Member States that joined the EU in 2004 and 2007 apply only Council Regulation (EC) No 539/2001 and the uniform format for visas.

Certain weakspots in the current Schengen acquis should also be recognised: ambiguous provisions, lack of harmonisation of several aspects, etc. Therefore, in accordance with the Hague Programme, the Commission has presented a proposal recasting the whole of the Schengen acquis on the conditions and procedures for issuing visas. Once adopted, this proposed Visa Code will bring significant improvements for all visa applicants, whatever their

nationality, such as an obligation to give reasons for any refusal of a visa and to offer the possibility of appeal, harmonisation of certain forms, a more precise definition of supporting documents, etc. The need to give visa applicants more information about their rights and obligations is addressed in the Visa Code, building on cooperation between local consulates.

ANNEX II

Examples of EC-funded projects to facilitate the management of legal migration flows in third countries and circular migration[10]

1. Projects to facilitate orderly management of legal migration flows, including the provision of information on the possibilities and avenues for legal migration

a. Main focus on migration to the EU

Project Name	**Promoting regular migration in the Western Balkans through establishment of regional migrant service centres providing information and migration related services" (2003/HLWG/051*)***
Location	Western Balkans
Implementation period	December 2004 – June 2006
Implementing Partner	Organisation for Migration (IOM)
Budget/EC contribution	€ 815.119,64,EU grant: € 652.095,71
Funding Programme	B7-667
Responsible DG	JLS
Objectives	This regional project aimed to promote orderly migration flows and related awareness-raising through the creation of the first regional networks of Migration Services Centres (MSCs) in the Western Balkans. The inspiration of the project was the MSC of Tirana, which has been functioning successfully since 2003. All MSCs are established and public awareness campaigns are underway and ongoing. The website www.migrantinfonet.com is operational. Several thousand people were provided counselling and advisory service in the 6 MSCs (Tirana, Skopje, Prishtina, Belgrade, Zagreb and Sarajevo). Profiling and data collection were launched in the beginning of 2006, as well as leaflets and brochures on return and reintegration.
Project Name	**Programme de gestion intégral de l'immigration saisonnière**

[10] Some of these projects also address other issues, such as the fight against illegal migration and human trafficking.

	(2005/103564)
Location	Morocco – Spain
Implementation period	January 2006 – June 2008
Implementing Partner	Municipality of Cartaya
Budget/EC contribution	€ 1.495.000 / €1.196.000
Funding Programme	AENEAS 2004
Responsible DG	EuropeAid
Description	The project will implement a system for the management of seasonal migration of Moroccan workers towards a group of agricultural municipalities in Spain which every year need a larger quantity of foreign labour force for the strawberry and citrus fruit cultivations. The objectives are to develop legal immigration for temporary jobs between the two regions concerned, including an overall management system for all stages of the employer-worker relation and various pioneer services for the attention of the workers and to prevent illegal practices which encourage clandestine flows and to guarantee the return after the season. Activities include the setting in operation of two "Seasonal workers Centres" in Benslimane and Cartaya, the setting in operation of an Internet server for communication between these two centres and the creation of a NGO for the sustainability of the programme.
Project Name	**An integrated approach to promoting legal migration through national capacity building (2005/103475)**
Location	South Caucasus
Implementation period	January 2006 – December 2007
Implementing Partner	IOM - International Organization for Migration
Budget/EC contribution	€ 971.747,- / € 777.397,-
Funding Programme	AENEAS 2004

Responsible DG	EuropeAid
Description	The project aims to prevent irregular migration, facilitate discussions on conclusion of bilateral readmission agreements based on the EU standard, enable improved reintegration, and promote legal migration within each South Caucasus country and bilaterally with targeted receiving EU member states through dialogue and capacity building.

Project Name	**MESURE - Migrations en Sécurité (2006/120-093)**
Location	Tunisia - Italia
Implementation period	December 2006 – May 2009
Implementing Partner	Associazione per la Cooperazione Transregionale Locale ed Europea
Budget/EC contribution	€ 1.718.465,95 / €1.374.772,76
Funding Programme	AENEAS 2005
Responsible DG	EuropeAid
Description	The overall objective of the project is to contribute to the promotion of legal migration, in line with the demographic, economic and social realities in the countries of origin and the host country and to provide better information to the population on the advantages of legal migration and the consequences of illegal migration. The specific objective is to develop and improve the capacities and the possibilities of the final beneficiaries to migrate to Italy legally and in safety. MESURE - Migrations en Securité aims at, in particular, to support the efforts made by the Tunisian authorities to improve the management of migration flows towards Italy through the identification and development of strategies in Tunisia which, on the one hand, discourage illegal migration and, on the other, encourage legal migration from the Maghreb region.

Project Name	**Sharing learning for a better migration life (2006/120-199)**
Location	Egypt - Morocco - Italy
Implementation period	December 2006 – May 2008

Implementing Partner	Direzione Generale dell'Immigrazione - Ministero del Lavoro e delle Politiche Sociali – Repubblica Italiana
Budget/EC contribution	€ 649.166,50 / € 519.333,20
Funding Programme	AENEAS 2005
Responsible DG	EuropeAid
Description	The overall objective of the project is to improve the system of legal migration for labour purposes between Northern African countries – Egypt and Morocco - and Italy. The project aims to reinforce existing labour migration management capacities, trough the creation of a stable multilateral framework, training activity addressing public officials as well as counselling activity on implementation structures. The project activities will develop in three phases: Analysis on the field and definition of a working plan: the Steering Committee; Training, ICT counselling and internships; and dissemination of the foreign workers lists in the Italian labour market.

Project Name	**Temporary and circular labour migration (TCLM) between Colombia and Spain: a model for consolidation and replication (2006/120-237)**
Location	Spain and Colombia
Implementation period	January 2007 – December 2008
Implementing Partner	IOM – International Organization for Migration
Budget/EC contribution	€ 625.046,85 / € 500.037,48
Funding Programme	AENEAS 2005
Responsible DG	EuropeAid
Description	The project aims to provide Spain and Colombia with a consolidated, improved and replicable model to effectively regulate temporary labour migration The project seeks to consolidate and replicate a temporary and circular labour migration (TCLM) model facilitating regular migration of Colombian workers to Catalonia and other parts of Spain. This model was originally initiated by the Pagesos Union

	and its foundation "Fundación Agricultores Solidaris (FAS), in 2001. This first program has been successful, involving 1,200 migrants from a small number of rural communities in Colombia and 600 Catalan farmers and cooperatives in Spain. The present action intends to increase the positive impact of the present model and improve sustainability and growth by: 1) generating improved knowledge of the migration situations in sending and recipient countries and thus an improved platform for actions to ensure dignified migration processes; 2) supporting the development of new policies and providing capacity building in Colombia in order to increase national capacity to regulate migration flows and prevent irregular migration towards Europe, and 3) introducing new elements such as support and capacity building to set up systems that will provide Colombian migrants with training before departure and allow them access to social and productive services upon return, and thus promoting sustainable development processes and increased generation of growth in both country of origin and host country. The action will include activities aimed at optimising the use of remittances as a driver for socio-economic development and improved living conditions.
Project Name	**Lutte contre l'immigration illégale et la traite des êtres humains à travers la participation des familles victimes de l'émigration clandestine, des association organisées de la société civile et des institutions locales (2006/120-280)**
Location	Morocco, Italy, Spain
Implementation period	March 2007 – February 2010
Implementing Partner	Movimento Laici America Latina Onlus
Budget/EC contribution	€ 1.081.779,95 / € 865.423,96
Funding Programme	AENEAS 2005
Responsible DG	EuropeAid
Description	The projecst links its intervention above all to the civil society and institutions of the regions of Chaouia Ouardigha and Tadla Azilal, the main regions of origin of irregular migration towards Italy and Spain, based on three main components: 1. the creation of a community vigilance programme by families and the victims of the tragedy of irregular migration and of a centre to listen to and provide emergency assistance to that target audience; 2. the reinforcement of youth associations in the two target regions through training and social

mobilisation activities; 3. the creation of a system for local cooperation between local administrations and employment promotion centres with a view to fostering economic cooperation between three Italian target regions (Veneto, Piedmont, Emilia Romagna), a Spanish region (Andalusia) et the regions of Chaouia Ouardigha and Tadla Azilal.

Project Name	**Support to the movement of people (MED/2003/5725)**
Location	Morocco
Implementation period	January 2005 – December 2008
Implementing Partner	Agence Nationale pour l'Emploi
Budget/EC contribution	€ 7.736.000 / € 5.000.000,-
Funding Programme	MEDA
Responsible DG	Del Morocco
Description	The specific objective of this project is the institutional strengthening of the relevant structures of the National Agency for the Promotion of Employment and Skills (ANAPEC). The first expected results are 1 The strengthening and specialisation of ANAPEC through: a. The creation of an international Division (DI) within ANAPEC and of an office in Brussels. b. The creation of 4 regional agencies specialised in international issues and the setting up of international 'spaces' in a further 10 agencies. c. The recognition of ANAPEC as the official Moroccan partner for dealing with job offers from Europe. d. An increased role of international intermediation for ANAPEC. e. The carrying out of a study on the conditions for viable, voluntary return of Moroccans residing abroad. f. The creation of a service to support returnees. 2. The training of potential migrants through: a. The execution of an awareness programme on legal migration for the population

b. The creation and setting up of a basic training programme for potential migrants adapted to the labour environment in the EU.
c. The creation and setting up of technical training modules adapted to the needs of European businesses.
d. Improvements in the process of recognition of applicants' qualifications in the EU.

3. Information/Documentation

a. The creation of a material and virtual documentation centre on the avenues for legal migration towards the EU.

Project Name	**Capacity building of Migration management: Ukraine (2004/096-462)**
Location	Ukraine
Implementation period	March 2005 – December 2007
Implementing Partner	IOM – International Organisation for Migration
Budget/EC contribution	€ 4.204.672,-/ €3.781.505,-
Funding Programme	TACIS
Responsible DG/Del	DEL Ukraine
Description	The project is aimed at enhancing the capacity of the Government of Ukraine (GoU) to manage the migration flows and control the illegal movement of migrants to and through the territory of Ukraine. The project will achieve this by addressing needs within the three major migration components. The project seeks to develop the migration management system in Ukraine by carrying out various capacity building actions, i.e. an assessment of migration situation, the development of best practices, based upon international standards and conventions, the refurbishment of accommodation centres for detained migrants and the piloting of a voluntary return programme as well as th establishment of four information points for potential migrants.

b. Main focus on South-South migration

Project Name	**Management of labour migration as an instrument for development (2002/HLWG/41)**
Location	Africa
Implementation period	March 2004 – February 2006
Implementing Partner	ILO - International Labour Organization
Budget/EC contribution	€ 1.957.011,16 / € 1.442.407,16
Funding Programme	HLWG – B7-667
Responsible DG	DG JLS
Description	In the context of strengthening relations between the EU and Africa, this project implemented by the International Labour Organization (ILO) promoted the adoption of new policy frameworks and mechanisms for managing labour migration as an instrument for development. It aimed to promote social dialogue and raise awareness among stakeholders regarding regional labour migration issues, facilitate engagement in policy debates with a view to developing regional policy frameworks and enhancing cooperation between Europe and the different African regions concerned. The project provided a forum for engaging regional partners in core activities concerning labour migrations, with the help of the ILO's experience. Seminars were organised in each region, for example on capacity building and social dialogue, and two sets of studies - on the situation of labour migration and on the relevant legislations - were conducted in 13 countries. Advocacy campaigns followed the publication of the studies in the different countries.

Project Name	**Asian Programme of the Governance of Labour Migration (2005/103503)**
Location	Countries of the Mekong region China Korea Japan and South Asia countries
Implementation period	January 2006 – December 2008
Implementing Partner	ILO

Partners	UNIFEM
Budget/EC contribution	€ 2.447.840 / € 1.955.335
Funding Programme	AENEAS 2004
Responsible DG	EuropeAid
Description	The project aims to promote active dialogue and cooperation for enhanced gender and rights-based management of labour migration among countries in the Asian region, and thereby minimize exploitative and abusive treatment of migrant workers. The establishment of such dialogue and cooperation shall concern Governments and their social partners, namely employers' and workers' organizations, as well as national and regional advocates/intermediaries and civil society organizations. The project shall contribute towards the adoption of appropriate policies and the enactment of enabling laws, the training of labour administrators, improving information systems for decision-making, and promoting bilateral agreements and regular consultations among the countries in the region. The project will be executed by the ILO in collaboration with the United Nations Development Fund for Women (UNIFEM).

Project Name	**Towards sustainable partnerships for the effective governance of labour migration in the Russian Federation, the Caucasus and Central Asia (2006/120-072)**
Location	Russian Federation, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan
Implementation period	December 2006 – December 2009
Implementing Partner	ILO - International Labour Organization
Budget/EC contribution	€ 2.433.508 / € 1.945.105
Funding Programme	AENEAS 2005
Responsible DG	EuropeAid
Description	The Project offers a sustainable, participative and equitable approach to the governance of labour migration in the study countries. It focuses on key labour migration issues that have received limited attention in these countries to date, but that are rising quickly on political agendas

there and are essential components for stability and sustainable and equitable economic growth. There are five specific objectives: (1) To develop practical methods for assessing and forecasting labour market requirements with a view to improving migration governance; (2) to promote decent work and enhance the protection of migrant workers' rights; (3) to develop a system of earned regularisation and introduce sound regularisation policies and procedures; (4) to contribute to the productive utilization of the region's human resources by developing systems for the portability of qualifications and reducing bureaucratic obstacles to recruitment; and (5) to develop policies that enhance the positive impact of migration on development in origin countries.

Project Name	**Migration information and management centre**
Location	Mali
Implementation period	To be determined
Implementing Partner	To be determined
Budget/EC contribution	To be determined
Funding Programme	EDF
Responsible DG	Del Mali
Description	The proposed project is directly aimed at implementing the joint Mali-ECOWAS- EC-France- Spain Declaration of February 2007, in the wake of the Tripoli EU-Africa Ministerial Conference on migration and development. During the high level meeting in Bamako, "the Parties agreed to support the creation by le Mali of the Migration Information and Management Centre". The general objective is the definition and implementation by Mali of a migratory policy adapted to the regional and European policies and dynamics. The specific objective is the setting up of the Migration Information and Management Centre which will implement and coordinate the various elements of Mali's migration policy. The expected results are (i) definition and implementation of an information and communication strategy on the legal conditions for migration and the prevention of irregular migration, (ii) putting in place a mechanism for welcoming, orientating and accompanying potential migrants (iii) putting in place a service for welcoming, orientating and accompanying returnees (iv) productively using the

human, financial and technical capital lof the diaspora (v) knowledge and analysis of the migratory flows of relevance to Mali (vi) coordination of the various hierarchical structures so that they can properly steer the above-mentioned components.

2. Projects to facilitate circular migration for migrants settled in the EU

Project Name	**Programme to support entrepreneurs of Moroccan origin in Europe in setting up sustainable economic activities in Morocco (2001/HLWG/119)**
Location	Morocco
Implementation period	December 2001- January 2004
Implementing Partner	Stichting Intent
Budget/EC contribution	€ 553.073,00 / € 448.291
Funding Programme	B7-667 - HLWG
Responsible DG	JLS
Description	This project promoted private initiatives leading to the establishment and development of small and medium enterprises by Moroccan entrepreneurs living in the EU. It aimed to help migrant entrepreneurs to set up companies in their country of origin by strengthening a foundation which provides a set of services to the new entrepreneurs. The project enabled the creation of a more permanent infrastructure to assist migrant entrepreneurs wishing to start SMEs. Training materials and information documents for the programme were developed in various languages. The programme has gained credibility within the Moroccan community through co-operation with Moroccan organisations in the Netherlands and Belgium.

Project Name	**Co-development Program in Morocco (2001/HLWG/117)**
Location	Morocco
Implementation period	May 2003 - May 2007
Implementing Partner	Agence Française de Développement (AFD)
Budget/EC contribution	€ 3.810.000 / € 1.500.000
Funding Programme	B7-667 - HLWG
Responsible DG	JLS
Description	This project aims at helping Moroccans resident in the EU to invest in their community of origin. It focuses more on the development of economic structures than on cooperation with administrative and migration authorities. The project helps small and medium sized enterprises to be set up in Morocco and the development of rural tourism.

Project Name	**The Moroccan migrant in Italy as development and innovation agent in his/her community of origin: a pilot project in the Northern Province of Morocco (2002/HLWG/023)**
Location	Morocco
Implementation period	May 2003 – April 2005
Implementing Partner	Cooperazione Internazionale (COOPI)
Budget/EC contribution	€ 1.084.906,17 / € 867.924,94
Funding Programme	B7-667
Responsible DG	JLS
Objectives	The aim of this COOPI project was the definition of a strategy of development of migrants' regions of origin. The focus was on the importance of the migrants as agents of development in their regions of origin. A migration pool was developed thanks to studies and research conducted as well as a database and relationships with

stakeholders in Italy and Morocco.

The project's primary outcome was a report on migratory movements from Morocco and their consequences on the development of the country, as well as on the best conditions for the migrant to be a development agent for Morocco. Guidelines for an action plan were drawn from this report.

International conferences on migration and development were organised with a view to broadening the audience in the Mediterranean area.

As for the realisation of the pilot project, training activities were set up in Italy and in the community of origin of the migrants, with their participation as mediators and trainers. The training focused on company creation and management.