Andrew Geddes

Migration as Foreign Policy?
The External Dimension of EU Action on Migration and Asylum

Sieps ●●●

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PREFACE

The external dimension of the European Union's policy on migration and asylum has become an increasingly important feature of the Union's relations with third countries. It is shaped not only by the foreign policy interests of the member states but also by changes in internal politics of the member states. The EU plays a central role in regulating the evolving migration and asylum framework working through a three-stage structure that includes the member states, the Union and third countries.

The author of the present report argues compellingly that the Union needs to develop a balanced approach to migration from third countries linking it to other policy areas such as trade, development policy as well as the traditional foreign policy. The recent 'migration dialogue' with third country partners offers a promising approach that should be pursued. The author notes, however, that the deep economic downturn might radically change the way EU member states consider the consequences of immigration stemming from outside the EU in that rising domestic unemployment may discourage 'managed immigration' of skilled workers. The intensified intra-EU migration obviously also plays a part in this context. These issues pose numerous challenges for policy-makers to consider and merit vigorous public debate.

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Andrew Geddes is Professor and Head of the Department of Politics at the University of Sheffield. He specialises in comparative analysis of politics and policy-making in Europe, with a particular interest in the politics of international migration. Current research projects include: multi-level governance in south-east Europe (with Andrew Taylor, Ian Bache and Charles Lees); EU policies on migration, asylum and immigrant integration; the regional and global governance of international migration; temporary labour/agency work in the UK; the European Union and British politics.

Recent publications include among others *Migration and Population Mobility in the European Union* (with Christina Boswell), London, Palgrave, 2009; *Immigration and European Integration: Beyond Fortress Europe?* 2nd edition, Manchester, Manchester University Press, 2008; *The European Union and British Politics,* London: Palgrave Macmillan, 2004; *The Politics of Migration and Immigration in Europe,* London: Sage, 2003.

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LIST OF ABBREVIATIONS

AU	African Union
CARDS	Community Assistance for Reconstruction, Development and Stabilization
CEC	Commission of the European Communities
DG	Directorate General
ECOWAS	Economic Community of West African States
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
HLWG	High Level Working Group
ICMPD	International Centre for Migration Policy Development
IOM	International Organization for Migration
JHA	Justice and Home Affairs
MEDA	Mediterranean Economic Development Area
SAP	The Stabilization and Association Process
TACIS	Technical Aid to the Commonwealth of Independent States
TCNs	Third country nationals
UNHCR	UN High Commissioner for Refugees

EXECUTIVE SUMMARY

This report analyses the external dimension of European Union (EU) action on migration and asylum, or, put another way, migration as foreign policy.

In recent times, the EU and its member states have taken increasingly conscious steps towards developing an external dimension of migration policy. The policy has been linked to developments in other areas such as external trade, development policy and traditional foreign policy. Migration has also been linked to internal EU developments which have caused a reorientation of policy from 'immigration control' to 'managed migration' for reasons of economic competitiveness. Today, however, this reorientation may be challenged by the current economic recession and rising un-employment. It seems likely that it will become increasingly difficult to make costs-benefit arguments about new migration addressing skills and labour market shortages if these shortages have ceased to exist. Moreover, a widening pool of intra-EU mobile workers will render the case for non-EU migration more difficult.

This report distinguishes between types of borders – territorial, organisa-tional and conceptual – and explores how connections between the domestic, European and international levels underpin the development of EU migra-tion and asylum policy. Deepening integration within the EU has the following consequences: (1) border relationships in Europe have changed; (2) the EU is both a cause and an effect of these changes; (3) there are strong domestic roots for external EU action on migration and asylum; and (4) these domestic roots are linked to the debate about the trade-off between work, welfare and the perceived need for new immigration. How-ever, the 'internal' debates about work, welfare and the costs and benefits of migration cannot be distinguished from the external dimension of policy. Moreover, European integration has given rise to a new kind of distinction between mobility within the EU linked to an EU rights frame-work and migration from outside the EU. The distinction between mobility and migration is becoming an important aspect of EU migration policy linked both to enlargement and external relations.

In order to assess the more specific content of EU external dimension of migration, the report analyses the form and content of the 'migration dialogue' which the EU seeks to establish with third country partners. It identifies the need for dialogue to reflect the interests of all participants and looks at how, through the development of common policies, the EU is at risk of developing a one-sided approach with emphasis on EU priorities,

particularly return and readmission of illegal immigrants. The report argues for a richer and fuller understanding of dialogue by drawing from proposals and agreements between the EU and non-member states that offer the prospect of more effective linkage across issues, i.e. linking migration with trade, aid, development, peace and security. To illustrate the kind of relationships that the EU is building with countries in its neighbourhood, the report analyses two specific dialogues, one with the countries in South East Europe and the other with the countries in the Middle East and North Africa. The main conclusion to be drawn is that the EU's leverage on these countries differs depending on whether or not the countries in questions harbour membership aspirations.

Finally, the report analyses a key aspect of recent EU development: the European Pact on Immigration proposed by the French government during its EU presidency in the second half of 2008. The Pact furthers the ways in which the external dimension of migration and asylum contributes to the development of European 'international migration relations'. It also seeks to establish closer links with non-member states in order to facilitate EU objectives regarding: admissions policy, border controls, illegal immigration, a common European asylum system, and closer relations with sending and transit states. These are all key policy priorities where the EU needs to strike the right balance between security, human rights, trade, aid and development.

1 INTRODUCTION: BORDERS IN A CONTEMPORARY CONTEXT: EUROPE AND BEYOND

> In recent decades the capitalist democracies have reaffirmed their long-established immigration policies which, collectively, constitute a protective wall against self-propelled migration, but with small doors that allow for specific flows. One of the doors was provided to allow for the procurement of certain types of labor; and the other to let in a small number of asylum-seekers. The future shape of international migration depends in large part on how these doors are manipulated (Zolberg 1989).

This expression made nearly 20 years ago of the core migration policy dilemma is still apposite, but provides no easy answers to the problems that it identifies. Responses by European states to migration pressures induced by global capitalism and its discontents have been to develop selective migration policies with a particular focus on higher skilled migration. What is new and distinct about contemporary European migration politics is the European Union's (EU) role. There is now a common EU migration and asylum policy. It does not cover all aspects of policy and is focused in particular on asylum and illegal immigration, but EU competencies mean that it is simply not possible to understand European immigration policy and politics without understanding the EU's role. Similarly, it is not possible to understand EU migration and asylum policy without understanding the ways in which an 'external' dimension of EU action on migration and asylum has developed. By this is meant the formulation and impact of EU migration and asylum policy on non-member states and the attempt to build partnership and dialogue around migration issues. These non-EU states may be countries in the queue for membership, such as those in South East Europe, or it may be those that will not be members, but that are closely associated with EU migration and asylum policy, such as the Maghreb countries. The result is that the 'external' dimension of EU action on migration and asylum leads to a blurring of the distinction between domestic and foreign policy. This report explores the reasons for the development of EU action, the scope and content of this external dimension as well as the prospects for future development and its implications.

This report is written at a critical juncture in contemporary European history. At a time of Europe-wide economic recession, it is likely that any attempt to create new common EU migration policies with implications for admissions will be controversial and must be set against the backdrop of rising unemployment. Indeed, the attempt by the French government during its EU Presidency to stake out the key immigration issues in its 'European Pact on Immigration' seems likely to intensify debate about the form and

content of EU action on migration and asylum, particularly if the EU is to encroach on admissions policies as it proposes to do.

A dilemma for EU states is that migration is a highly controversial issue. There could be a tendency to pull up the drawbridge during the recession. This could mark an 'end to immigration' similar to that widened after the oil price shocks in the 1970s. The salutary lesson to be learned from that experience was that the economic crisis in the 70s and 80s did not actually spell an 'end to immigration' because, while primary labour flows diminished, family migration and asylum continued in the 1990s. Analysis of the external dimension of immigration demonstrates that there are migration pressures outside the EU that are not likely to dissipate. Europe cannot and should not 'end immigration'. It cannot become a 'fortress' and needs to focus on how mobility and openness to the world can facilitate economic recovery and a positive projection of European values and ideals.

Debate about the scope and direction of EU policy will have implications for member states, prospective member states and non-member states. There will need to be agreement amongst member states during the Swedish Presidency in the second half of 2009 on the plan for the next five years of policy development. This agreement will occur in a way that is largely irrespective of the fate of the Lisbon Treaty because competencies in the field of migration and asylum were institutionalised at Amsterdam and Nice and provide the basis for the on-going and future action. A key issue will be how to strike the right balance between security, development, trade and aid. Can new routes for higher skilled migrants be opened? Can new forms of mobility partnership lead to more productive migration relations between EU states and non-member states?

The focus of this report is on migration as foreign policy in the EU. This is not a new claim. States have long sought to influence migration flows. What is new is that the EU as a regional organisation now seeks to influence these flows. This means that we encounter a debate about EU external relations which also impinges upon the understanding of the EU as an international actor: what kind of power is it and should it be?

This report demonstrates that there are close connections between 'internal' EU action and its 'external' resonance, i.e. common EU policies on migration and asylum necessarily impact on prospective member states and non-member states. Indeed, a key element of the Immigration Pact is the development of better forms of migration co-operation with non-EU member states. The 'internal' and the 'external' are thus clearly connected with the result that it is necessary to consider the foreign policy implications of migration policy.

As well as surveying EU action, the report provides illustrations of international migration relations between the EU and countries in the Middle East, North Africa and South East Europe. The contrast here is between states that have no prospect of membership and those such as Croatia and Macedonia/FYROM that are candidate countries. The EU has far more leverage over countries that seek membership. This does not mean that it has no leverage over non-member states but rather that a broader range of issues need to be brought into any negotiating framework. Put another way: the EU is a direct driver of institutional change in candidate countries with borders, migration and asylum as key concerns. The EU can also be a driver of change in non-member states because of the power and influence that it wields, but does not have the 'carrot' of membership to induce domestic transformation.

1.1 Towards common policies

Although there were patterns of formal and informal co-operation on immigration and asylum in the 1980s, the EU has been committed to build a common migration and asylum policy since 1999 (Geddes 2008b). The Commission commented in its communication of 2008 'A Common Immigration Policy for Europe, Principles, Actions and Tools' on the realities and implications of supranational competence:

> Immigration is a reality which needs to be managed effectively. In an open Europe without internal borders, no Member State can manage immigration on its own. We have to deal with an area without internal borders that, since 20 December 2007, includes 24 countries and almost 405 million persons, as well as with a common visa policy. The EU economies are profoundly integrated, although many differences in the economic performance and in the labour markets still subsist. Moreover, the EU has become an increasingly important player on the global scene, and its common external action is constantly enlarging to new domains; immigration is one of this. All of this means that policies and measures taken by Member States in this domain do no longer affect only their national situation, but can have repercussions on other Member States and on the EU as a whole (CEC 2008).

In terms of the context for the analysis that follows, it is also useful to note that European and EU migration politics are multi-level and multi-dimensional and we need to account for this complexity.

- *Multi-level* because sites of decision-making authority are distributed across sub-national, national and international levels and also include a role for private actors
- *Multi-dimensional* because there are many different forms of migration that have different relationships to the sites of political authority just described. People move to seek employment, join with family

members, seek refuge or study. Each of these broad categories can be further broken down into sub-categories. If we take the case of labour migration it may be higher or lower skilled, shorter or longer term or regular or irregular.

The starting point for this analysis is the observation that the external dimension of immigration policy has become much more important in recent years (European Council, 2006). In its 2008 communication, the Commission re-emphasised the importance of dialogue with third countries**:**

> Effective management of migration flows requires genuine partnership and co-operation with third countries. Migration issues should be fully integrated into the Union's development cooperation and other external policies. The EU should work in close tandem with partner countries on opportunities for legal mobility, capacities for migration management, identification of migratory push factors, protecting fundamental rights, fighting illegal flows and enhancing possibilities to let migration work in service of development (CEC 2008).

This statement demonstrates the international dimension to EU migration policy and the ways in which it connects with the broader factors – the root causes as it is sometimes put – that stimulate international migration. The key reference in the Commission communication is to 'genuine partnership and co-operation'. If this were to reflect EU interests alone and to be focused on security, there is little chance for it to be genuine. A genuine partnership requires that it reflects the interests of all parties. It also requires thinking about new and creative ways to manage migration, such as the development of circular migration or mobility partnerships, as the Commission has mooted.

The concept of 'genuine partnership and cooperation' demonstrates that the debate cannot just be about 'immigration control' because if it were then it would amount to a wilful neglect of the dynamics that underpin international migration. This is not to say that EU member states have somehow 'lost control'. Indeed, the present analysis shows how, why and when member states seek new ways to reassert control and creating new venues at EU and international level that can facilitate efforts to regulate international migration. This may be a vain hope, perhaps controls are largely symbolic and irrelevant in the face of global flows as has been argued by Sassen (2007) in her sociology of globalisation; but the point is that elected governments in European states still adhere to regulatory control policies and, it must be added, fear the electoral consequence of being seen to lose control.

1.2 The fear of losing control?

International migration lies along what James Rosenau (1997) called the domestic-foreign frontier, by which he means that place where 'the international system is less commanding, but still powerful. States are changing, but they are not disappearing. State sovereignty has been eroded, but it is still vigorously asserted. Governments are weaker, but they can still throw their weight around. At certain times publics are more demanding, but at other times they are more pliable. Borders still keep out intruders, but at other times they are more porous'. The dilemmas of migration policy thus cut across the societal and the international (Heisler, 1992) and are made evident at the borders of states. Borders give meaning to international migration as a distinct social process. Borders then become the 'dangerous edges – the awful discriminations between us and them – that constitute our spheres of domestic comfort and external distress' (Walker, 2004b).

These borders can be seen as lines of territory, as points of demarcation, but also possess symbolic resonance in the sense that they go very much to the heart of debates about the meaning of Europe, both as an economic bloc but also as some kind of community. The result is that the debate about the borders of Europe is far more than a discussion of border security. It is also a debate about how European countries organise and understand themselves, how European integration has changed these understandings and how migration relates to this organisational and conceptual setting. This is not to say that this organisational and conceptual base is clearly defined. There is, of course, tremendous diversity within the EU. The point is that migration goes straight to the very core of a set of questions that concern the identity of the EU and its member states. European integration changes the location of borders, their meaning and associated notions of territoriality, territorial management and population control (Gottmann, 1971; Anderson et al., 1995; Badie, 1995; Bommes and Geddes, 2000b; Guild, 2001; Johnston, 2001; Zielonka, 2001; DeBardeleben, 2005; Pellerin, 2005; Geddes, 2006). Rosenau (1997) characterises the domestic-foreign as an arena where domestic and foreign issues 'converge, inter-mesh or otherwise become indistinguishable within a seamless web.'

International migration has, of course, always resided on the boundary between the societal and the international, i.e. it is part of this 'seamless web'. The role that the EU is now playing as a distinct regional organisation in re-defining borders and boundaries in contemporary Europe has changed the way we think about international migration in Europe. There are those who argue that the end or disappearance of state borders and the introduction of global free movement would be desirable (Harris, 1995;

Moses, 2007). The onset of global free movement seems, however, an entirely unrealistic option. What seems more likely are attempts to develop and engineer regional and/or international solutions to migration that do not replace states, but that seek to ameliorate some of the more harmful effects of state policies on various types of international migration flows (Ghosh, 2000; Straubhaar, 2000; Veenkamp et al., 2003; Martin, 2005).

1.3 What kinds of borders?

The physical location of borders is superficially the easiest issue to deal with. We can look at a map and see where they are. That said, Europe's borders have changed location quite dramatically in recent years, not least in South East Europe as a consequence of the civil war in ex-Yugoslavia and a 30-year old map of Europe would loo very different from a recent one. If we move on from the location of borders to think about their meaning it is important to note that such a discussion is not some irrelevant abstraction from the 'real' concerns of policy. The meanings of borders that citizens carry around in their heads are vital to the understanding of migration as a policy problem. These borders may be those of territory. Indeed, these are the most obvious and visible sites at which immigration dilemmas become visible. However, this is not the end of the issue. Of equal importance are organisational borders of work and welfare and conceptual borders of belonging and identity.

- **Territorial borders** – air, land and sea ports of entry
- **Organisational borders** – points of demarcation and classification, typically within states, such as labour market access and welfare state entitlement and thus generate relationships between migrant newcomers and the host society
- **Conceptual borders** – hazy, but no less important, notions of belonging, entitlement and identity, or put another way, the 'who are we' questions that animate so much of contemporary debate about immigration.

It is important to look beyond the importance of territorial borders if we are to understand core policy drivers that impel the development of extra-territorial controls. The reasons for this become obvious if we consider organisational borders of work and welfare (Bommes and Geddes, 2000a). Migrants encounter territorial borders, but also organisational borders that govern access to the labour market and welfare state entitlements. There are, of course, different types of welfare state in the EU, but, whether in southern Europe or Scandinavia, the filtering effects that organisational borders of work and welfare play in determining which forms of migration

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are 'wanted' and which forms are 'unwanted' do need to be recognised as a key policy driver.

This distinction between wanted and unwanted often rests on the perceived economic contribution of migrants and drives much of the cost-benefit calculations that characterise contemporary debates about immigration in EU states. The perception that immigration is somehow a 'threat' or a 'potential' is strongly related to the perceived contributions or costs of immigration and immigrants. Different types of migration do produce different distributions of costs and benefits and are thus articulated in very different ways as political concerns (Freeman, 2006). Higher skilled migration generates a different distribution of costs and benefits than non-economic migration and thus generates different forms of politics. The calculations of costs and benefits of particular types of migration tend to play themselves out at organisational borders that are often 'internal', but can also play a key role in driving the external dimension of EU action.

Immigrants also encounter conceptual borders of belonging, entitlement and identity. We tend to see these as national borders and, indeed, in many EU states there has been a re-valorisation of national identity with emphasis on socio-economic integration and the 'education' of new migrants into the requirements of national citizenship (Brubaker, 2001; Groenendijk, 2004). That said, we should remember that immigration tends to be specific and that this specificity is made manifest in both spatial terms (migrants tend to be residentially concentrated) and sectoral terms (migrants tend to occupy certain types of employment at both the lower and higher end of the skills spectrum). While the national may be the rather abstract point of reference, it is the specific – the neighbourhood and the workplace where 'integration' unfolds.

This can be translated into some very real policy dilemmas that are a more concrete representation of the dilemmas identified by the quote about 'walls' and 'doors' at the beginning of this report.

- How to strike a balance between openness and closure in admissions policies?
- How to identify and then fill labour migration needs?
- How to strike a balance between the openness necessary to new migration in key economic sectors and the perceived need to maintain conceptual borders and boundaries?
- How to secure the co-operation of non-EU member states to participate in EU action on migration and asylum?

1.4 Mobility and migration

A striking aspect of contemporary EU migration is the emerging distinction between mobility by EU citizens and immigration by third country nationals (TCNs). The focus of this report is on immigration by TCNs; but the two are inter-related. For example, the UK has experienced a level of in-migration from other EU member states that is unprecedented in history; but EU mobility is realized by people who have a right to enter the UK (and, it seems, to get a cheap flight home when economic conditions change and the British Pound collapses in value against the Euro).

If we think about TCN movement then we see that there are many and diverse motives for movement – to work, to join with family members, to study, to seek refuge. Each of these can then be broken down into various sub-categories. If we look more closely at European states, then we also see the importance of stepping back a little to consider underlying processes of classification and categorisation. Migrants do not necessarily possess some identifier or marker that denotes them as a higher or lower skilled worker, a family member, a refugee or a student. Each of these categories is developed in the states that receive migrants and have important social effects: for example, if you are entitled to work which welfare benefits can you access? If you are an asylum-seeker will you be entitled to work? If you are a student can you change status and seek employment?

We can extend this to state level. Countries may be labelled as 'sending', 'receiving' and/or 'transit' countries; but here too, there are underlying political processes that play a key part in these classifications and represent an attempt to impose some meaning on what can be highly complex migration flows. All European countries are, in fact, sending, receiving and transit countries, but, if a state is primarily understood as a transit country, this has important consequences for its relationship to the EU migration policy framework. South East European countries and Maghreb states are often characterised as transit countries, but they are in fact also sending and receiving states.

The practical implication of this is the need to pay close attention to the terms of debate about immigration, mobilisations and debate about immigration and, finally, policy implementation. Also, we should not assume that debates, decision-making and implementation are connected one to the other in a simple, linear fashion whereby the debate shapes policy which leads to decisions and then to implementation. As the sociologist, Nils Brunsson (2002) has noted, it can be helpful (i) to distinguish between 'talk', 'decision' and 'action' in any policy process and (ii) to note that these may not connect in a linear manner. An example from Italy can help illustrate this point.

Talk, decision and action in Italian immigration policy

Silvio Berlusconi's *Forza Italia* party governed Italy between 2001 and 2006. He led a centre-right alliance that also included the regional populists *Lega Nord* led by Umberto Bossi, the 'post-fascist' *Alleanza Nazionale* led by Gianfranco Fini and the inheritors of Italian christian democracy the *Unione dei Democratici Cristiani e di Centro* led by Marco Follini.

Bossi and Fini were particularly active prior to and during the 2001 election campaign in calling for repressive and restrictive immigration laws. They continued this in office in the form of the Bossi-Fini law. The rhetorical construction of immigration policy – the talk – was dominated by harsh rhetoric about the threat posed by immigration and was led by Bossi and Fini.

In government pressure was brought to bear by church and business interests for a regularisation for irregular workers in important sectors such as domestic work and care (known as *colf* and *badanti*). Although not the largest party, the UDC was the key bargaining element within the coalition and brought these powerful interests to bear. Consequently, at the same time as the harsh Bossi-Fini law was introduced, provision was also made for a regularisation. Not only did this regularisation extend to *colf* and *badanti,* but also to other sectors of the economy because the employers led by their confederation *Confindustria* argued that it was unfair that a regularisation be limited onto to some sectors when migrant were important in other sectors too.

The result was that the Bossi-Fini law included restrictive measures such as the linking of residence and work permits, but was accompanied by the largest ever increase in Italian history of the legally resident foreign population (1.3 million to 2.67 million) but this included a generous regularisation (646,000 people).

Talk, decision and action were disconnected because of the different dynamics of election campaigning and public positioning compared to intra-coalition decision-making. This could be seen as policy failure, but if a political party secures more support at an election because of the stance it takes on immigration then is this a failure for them? Bossi was also able to be an oppositional force within the government. When the Bossi-Fini law and the regularisation were agreed he stated that he wanted to hear the sound of gun fire *(il rombo dei cannoni)* against the boats bringing migrants across the Mediterranean towards Italy.

2. ASYLUM AND MIGRATION IN A EUROPEAN PERSPECTIVE

The EU is a political system in its own right and cannot be reduced to a discussion of its member states (Hix, 2005). The EU has its own separate and independent institutions operating at supranational level, such as the Commission, European Parliament and European Court of Justice. These institutions operate within what can be called a unique system of supranational governance (Sandholtz and Stone Sweet, 1997). *Unique* in the sense that there is no other international organisation that possesses law-making powers. *Supranational* in the sense that it exists 'above' the member states and is separate from them. *Governance* in the sense that the EU is a complex, multi-level system and cannot be analysed by relying entirely upon the familiar reference points of comparative political analysis or international relations. This is not to say that the member states have disappeared or become redundant. It is to say that the context within which they operate has changed.

When we apply this more specifically to EU's international migration relations with South Eastern Europe and countries in the Middle East and North Africa what we find is that there are significant processes of what Joseph Nevins (2002) has called 'boundary build-up' at the EU's territorial, organisational and conceptual borders. Nevins analysed the US-Mexico border, but his findings have resonance for Europe and the EU too. He showed that 'boundary build-up' gives a *spatial dimension* to debates about borders and to the relationship between various types of flow across those borders because concerns about the 'thinning out' of place as a result of global flows have led to 'complex interchanges between state actors and groups of citizens [and] produced a set of deep concerns about the ethno-cultural, socioeconomic, and bio-physical security of the nation, all of which are inherently geographical given their inextricable relationship to a particular territory. Boundary build-up is thus a territorial strategy to achieve that security and assuage those concerns' (Purcell and Nevins 2005).

A rationale for European boundary build-up can be found in a body of work on the 'securitisation' of migration within which security is understood as 'a practice, a specific way of framing an issue. Security discourse is characterised by dramatizing an issue as having absolute priority. "Security" is thus a self-referential practice, not a question of measuring the seriousness of various threats and deciding when they "really" are dangerous to some object…. It is self-referential because it is *in* this practice that the issue becomes a security issue. What we can study is the prac-

tice that makes this issue into a security issue'. (Wæver 1996). The strong security rationale that underpins EU immigration and asylum policy arose in part from established patterns of internal security co-operation, such as the Trevi Group of EC interior ministers and officials set up in 1975. This dimension was further underscored in post-Cold War Europe when the distinction between external and internal security became blurred (Huysmans, 2006).

2.1 The Making of EU asylum and migration policy

The emphasis on migration and people's movement acquired an EU dimension through the development of the Justice and Home Affairs (JHA) pillar in the Maastricht Treaty (1992) and the designation of the EU as an 'Area of Freedom, Security and Justice' in the Amsterdam Treaty (1997). These treaties contributed to an intensification of co-operation between security specialists and other officials and a European-level representation of threats.

In 2005, EU member states issued a strategy for the external dimension of JHA in the context of terrorist attacks, organised crime and global migration flows. Such attacks and threats create institutional opportunities, but it is important to recall that 'security policy is never *compelled* by external events' (Walker 2004). This explains why EU member states chose to build upon existing agreements and commitments to joint management of migration issues and subsequently used enlargement to new member states and external relations policy to align its migration policy objectives.

> **Key developments in EU migration and asylum policy**
>
> **1985** Schengen Agreement was initially an agreement between five states (Benelux countries, France and Germany) to move towards full application of the free movement provisions of the Treaty of Rome (1957). It became a key 'laboratory' for development of measures to underpin free movement with internal security controls (Monar, 2001).
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> **1986** Single European Act was aimed to create a frontier-free Europe within which people, services, goods and capital could move freely. Compensating immigration and asylum measures were dealt with outside of the formal Treaty framework in informal patterns of intergovernmental co-operation.
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> **1992** Maastricht Treaty created an intergovernmental pillar of the EU dealing with JHA.
>
> **1997** Amsterdam Treaty created a new chapter (Title IV) of the main EU Treaty dealing with free movement, migration and asylum.

1999 The Tampere Agreement outlined the framework for common migration and asylum policies with four main elements:
- Partnership with countries of origin
- A common European asylum system
- Fair treatment of third country nationals
- Management of migration flows

2001 The Nice Treaty developed decision-making rules to give the European Parliament co-decision-making power in key migration policy areas, such as asylum and the return of illegal immigrants and thus sought further development of the framework agreed at Amsterdam.

2004 The Hague Programme mapped a five-year plan for the development of EU migration and asylum policy to cover the period 2005–10.

2008 The Immigration Pact staked out an agenda for EU migration and asylum policy in the areas of legal and illegal immigration, border controls, asylum and relations with third countries.

There has thus been a rapid acceleration of EU activity on migration and asylum. In the late 1990s, the eager analyst would need to search for competencies and would find that the EU could do very little because it did not have a legal base for action. The 'third pillar' created by the Maastricht Treaty within which decisions could be made, but these had dubious legal effect.

By 2008 all this had changed. The eager analyst now needs to sift through a growing mountain of documents and outputs and to analyse the specific features of EU law and proposals for future action. There were important developments during the French presidency of the EU in the second half of 2008 as President Sarkozy sought the EU-wide realisation of the Immigration Pact.

The key point here is that the Immigration Pact is intended to have a EU-wide application and serve as a basis for a common EU migration and asylum policy that attempts to take co-operation and policy integration to a different level that has developed since the creation of the Schengen area in the 1980s and 1990s and the single market since the mid-1980s. It also seeks to further develop co-operation with non-EU states that is seen as an integral element of the EU approach to immigration policy.

The Immigration Pact

Immigration was a key issue for the French Presidency in the second half of 2008. During the Presidency, the French government called for a 'European Pact on Immigration and Asylum'. The text of the pact was presented by French immigration minister Brice Hortefeux at JHA Council Meeting in Cannes on 7 and 8 July 2008 and was adopted by EU heads of government in October.

The Immigration Pact seeks
- better management of immigration
- enhanced coordination at EU level

This will involve: a comprehensive approach to legal migration that builds on the Commission's plan for a blue card scheme for higher skilled workers; a common approach to the 'selective repatriation of illegal immigrants', including operating joint flights for repatriation; strengthened border controls with an increased role for FRONTEX; a common asylum procedure by 2010; and partnership with third countries including routes for legal migrants to dampen demand for irregular admission.

Asylum and illegal immigration have already been fairly comprehensively staked out as issues to be dealt with on the EU level since 1999. On 18 June 2008, for example, a compromise was reached between European Parliament negotiators and the Council on a directive dealing with the return of illegal immigrants – the returns directive. The directive allows EU member states to detain illegal immigrants for up to 12 months prior to their expulsion and bans re-entry for five years. It does, however, remain for each member state to decide whether to regularise or return an illegal immigrant. A Community return fund has been set up for the period 2008-13 with funding of 676 million.

What is new and potentially more controversial is a common policy on legal migration. In 2007 the Commission proposed a 'Blue Card' scheme to facilitate movement entry to the EU by highly skilled workers. This would create common European rules in the area of legal migration with criteria and conditions governing the entry and residence of third-country nationals for the purposes of highly qualified employment. Under a fast-track admission procedure by which non-EU nationals would be issued with a residence permit (the 'Blue Card') which would grant them a range of socio-economic rights, mobility within the EU after a set waiting period and more favorable conditions governing family reunification (CEC, 2007).

This is closely linked to the labour market situation in member states and to their capacity to integrate new migrants. In the past member states have been reluctant to agree to common EU admissions policy. In the teeth of a Europe-wide economic recession, there seem likely to be fewer labour markets and skills gaps. Internal labour market constraints may inhibit the attempt to build migration partnerships with third countries.

2.2 The complexities of international migration relations

Europe and its 'neighbourhood' are complex arenas of international migration. There are, in fact, intense and highly diverse patterns of movement for different purposes and for different periods of time. If we look at international migration relations between the EU and its neighbours in South East Europe, and countries in the Middle East and North Africa we see that these states could be classified as sending, transit and receiving states. We also see that the EU has more direct leverage over South East European states for which membership is a realistic prospect. This means that there are different forms of leverage for candidate countries in South East Europe and countries without membership perspectives in the Middle East and North Africa.

There are, however, some common points of reference in their migration status as all are:

Sending countries: Migrants move from Middle East and North Africa and South East Europe to EU Member States (and vice versa, albeit to a lesser extent) in search of economic opportunities, study, join family members or seek refuge.

Transit countries: Migrants move across Middle East and North Africa and South East Europe states en route to EU Member States. Morocco and Tunisia, for example, are stop-off points for migrants from West Africa while Turkey is a transit country for people from Iraq and Afghanistan.

Receiving countries: Migrants move to South East Europe and Middle East and North Africa in search of new opportunities or because onward travel possibilities may be frustrated by controls in EU Member States. This diversion effect of EU action is important because, if the EU is to seek to co-opt South East Europe and Middle East and North African countries as part of its migration control framework then this can lead to travel options being limited for people who may find that their final country of destination is not an EU state, as they intended, but a country bordering the EU, such as Morocco. This places strain on the capacity and resources of countries such as Morocco to deal with this new migration.

If we were to analyse the EU approach to migration and asylum it would be fair to say that it has developed around two main elements.

An internal element that is less relevant to non-member states focusing on conditions for the entry, residence and status of TCNs, measures to tackle irregular migration (including return), and conditions for the reception and processing of asylum claims. These are the classic domains of migration policy.

An external element – the main focus for this analysis – emphasizing relations with third countries and measures to tackle the root causes of migration. Here we see clear evidence of the external dimension of EU action on migration and the blurring of the distinction between internal and external security. The implication of this blurring is that the location of responsibility for migration within national and EU political systems also becomes more complex. For example, the Commission's Directorate General (DG) for Freedom, Security and Justice has lead responsibility, but must also deal with the external relations DG RELEX and with other interested DGs such as those dealing with social policy, employment and development.

As far back as 1994, a Commission communication on immigration registered the need for co-operation with non-EU states and hence recognised the growing 'foreign policy' dimension (CEC, 1994). This external dimension raised what are known in EU jargon as cross-pillar issues as they bridge 'external' and 'internal' security and render visible both the domestic and international politics of migration as well as links between them (Geddes 2006).

The shift to EU responsibilities could also be seen to have induced a depoliticisation of migration in the sense that issues are now often dealt with in secretive European-level forums, often comprising officials with specialist expertise and within agency-like structures such as the Warsaw-based European border control agency, FRONTEX, that are strongly focused on border security. While this form of EU politics – the creation of agencies to pursue tasks delegated by member states and EU institutions – does not correspond with an understandings of politics as open contests over policy alternatives, these EU-level developments do constitute a very particular form of social and political action centred on the mobilisation of specialist knowledge and expertise. This could be seen to accord with what Schmidt (2006) calls 'policy without politics', i.e. that the EU now holds policy responsibilities without much if any political debate. The national-level counterpoint to this is 'politics without policy' as debate may occur but policy responsibilities have re-located to EU level.

2.3 Migration as danger or as potential

The 2008 Immigration Pact builds on earlier developments at state and supranational level. It centres on a distinction between those forms of migration that are seen as a 'danger' and need to be guarded against and those that are seen as a 'potential' and are to be managed and, in certain circumstances, encouraged. A key issue is the extent to which the economic recession allows for the development of 'creative' solutions to 'managed migration' that open doors to some migration flows. Indeed, the rhetorical shift to 'managed migration' from 'immigration control' that occurred in the late 1990s was a feature of economic good times. In the 1970s, economic slump led to an end of labour recruitment. Maybe in the final years of this decade we will see closure to primary labour migration from outside the EU? If the rationale for managed migration is cost-benefit calculations about skills and labour market shortages then what is the argument for migration in economic recession?

In Europe, it is clear that on-going debates have a significant EU dimension. This is an important development with implications for state power, authority and capacity, or, put another way, the sovereign authority of EU states. The ability to regulate access to the state's territory has been seen as a key 'use' of sovereignty (Krasner, 1999). It could be imagined that ceding powers in these areas to common institutions at EU level would amount to a loss of sovereignty. However, there are those who argue that the EU has developed as an alternative venue at which national governments – or to be more precise the executive branches of member state governments – seek European level co-operation as a way to strengthen the capacity to attain domestic immigration policy objectives (Guiraudon and Lahav, 2000; Guiraudon, 2001). If we follow this logic, then the externalisation of immigration policy could be seen as a control strategy operated at EU level that may strengthen rather than weaken the member states. This intergovernmental perspective may under-estimate the capacity of European integration over time to change the strategic context within which decisions about immigration are made and also neglects the scope for unintended consequences to arise as a result of decisions to integrate (Pierson, 1996; Pierson, 2004). This external dimension has contributed to the emergence and developments of new forms of international migration relations that centre on the EU as a regional organisation with (currently) 27 member states which has migration relations with a large number of non-EU states (CEC, 2003b; CEC, 2003c; CEC, 2003d; CEC, 2003e; CEC, 2004; Council of the European Union, 2004; CEC, 2005).

3. THE EXTERNAL DIMENSION OF MIGRATION POLICY

The foreign policy aspects of international migration became clearer in the aftermath of the Tampere agreement in 1999. This was followed up in the Seville European Council conclusions of 2002 that called for a targeted approach using all EU foreign policy instruments stating that 'an integrated, comprehensive and balanced approach to tackle the root causes of irregular immigration must remain the EU's constant long-term objective' … 'closer economic co-operation, trade expansion, development assistance and conflict prevention are all means of promoting prosperity in the countries concerned and thereby reducing the underlying causes of migration flows'. Seville concluded that 'any future co-operation, association or equivalent agreement which the EU or the EC concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of irregular immigration' (European Council 2002).

3.1 The search for migration dialogue

In order to build an external dimension of migration policy it was felt that some underlying principles must be worked out. The EU has sought to elaborate these through forms of migration dialogue with non-EU member states. Here, again, there is a difference between candidate countries in South East Europe such as Croatia and Macedonia and Middle East and North African states. Candidate countries must adapt to the EU *acquis* on migration and asylum as a condition of membership. International migration relations with Middle East and North African states are different as they are embedded within migration dialogue, which we now look at more closely.

Migration dialogue seeks to create a political element to international migration relations by promoting channels of communication and discussion on migration between EU and non-EU states. It can also nest migration within broader debates about trade, aid, development and security, which in turn are nested within broader relations. For example, the Barcelona process brings the EU together with Middle East and North African states. Migration in its many and various forms (labour, family, displacement, asylum, refugees etc) forms part of that dialogue (Bicchi, 2007). In a sense, this can be seen as an example of the EU trying to create certain types of political engagement, but, as will also be seen, one of the main criticisms of EU action is that it is very much focused on migration as a threat and, consequently on border controls and border security.

The policy dilemma facing EU leaders derives from the manner in which they 'frame' the migration issue. Put another way, what are the core concerns of EU member states and how do these translate into definition of immigration issues and a migration dialogue? Is this a real dialogue or a dialogue of the deaf? Is the main concern to resolve their domestic immigration problems in EU states by using the EU as a new and convenient venue for collective action and decision-making? If this were the case, the emphasis would tend to be on the translation of domestic approaches that emphasize restrictions. It is difficult to see how this could translate into an effective external dimension because it would tend to involve EU member states seeking to impose their policy preferences on non-member states. Why would non-member states comply? This approach could work for countries such as Croatia and Macedonia/FYROM that seek to join the EU at some point in the future and over which the EU has leverage. Why would it work for countries that are never likely to join, such as Morocco?

3.2 The content of migration dialogue

The devil is, of course, in the detail. What do 'partnership' and 'dialogue' mean? Is this a partnership of equals? Is it a dialogue of the deaf? The European Council's summit in Tampere in October 1999 (European Council, 1999) identified four key elements of a common EU approach to migration and asylum:

- Partnership with countries of origin
- A common asylum system
- Fair treatment for TCNs
- Management of migration flows.

These objectives were renewed and updated by The Hague Programme to carry through EU action until 2010 (Council of the European Union, 2004). The Hague programme included partnership with third countries to improve their asylum systems, to tackle illegal immigration and to implement resettlement programmes, as well as a policy to expel and return illegal immigrants to their countries of origin and the creation of a fund for the management of external borders operated by FRONTEX. In addition to this, new integration 'laboratories', Monar (2001), such as the Prüm convention have also developed to pursue the security implications of a deeper and wider EU in smaller, more select groupings.

The most developed statement of the principles underlying migration partnership can be found in the Cotonou Agreement between 77 African,

Caribbean and Pacific states and the EU in June 2000. Article 13 specifies that migration partnership involves in-depth dialogue consonant with commitments in international law to respect human rights and eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.

The EU approach to building migration dialogue has three main elements:

- Residence and employment including fair treatment of TCNs, integration policy that grants rights and obligations comparable to those of citizens, enhancement of non-discrimination in economic, social and cultural life and the development of measures against racism and xenophobia. Concerning employment, treatment by each member state of legally employed workers shall be free from discrimination based on nationality as regards working conditions, remuneration and dismissal, relative to its own nationals. The EU directives of June and November 2000 on anti-discrimination and the directive of November 2003 on the rights of long-term residents covered most of these areas, but labour migration rules remain a national competence and EU action to shape migration opportunities for nationals of non-member states remains very limited. There are, however, proposals from the European Commission to create a 'blue card' system for higher skilled migrants (CEC, 2007).

- Addressing 'root causes', which includes efforts to 'normalise' migration flows through strategies aiming at poverty reduction, improving living and working conditions, creating employment and developing training. Partnership should also include provision for training and education, such as schemes to facilitate access to higher education.

- The 'fight against illegal immigration' through return and readmission policies with bilateral agreements governing specific obligations for readmission and return (CEC, 2006b). At time of writing, the EU has readmission agreements with Hong Kong, Sri Lanka, Macao and Albania and is negotiating with Morocco, Russia, Pakistan, Ukraine and Algeria (Chopin, 1999; Schieffer, 2003).

Table 1 shows the key EU measures on asylum, external borders, visas and immigration that have developed since 1999.

Table 1: Key EU measures on external borders, visas and immigration

EXTERNAL BORDERS

Council Decision 2002/463/EC of 13 June 2002 adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme) (OJ L 161 of 19 June 2002, p. 11)

Council Decision 2004/867/EC of 13 December 2004 amending the Decision 2002/463/EC adopting an action programme for administrative cooperation in the field of external borders, visas, asylum and immigration (ARGO programme) (OJ L 371 of 18 December 2004, p. 48);

Decision No 895/2006/EC of the European Parliament and of the Council of 14 June 2006 introducing a simplified regime for the control of persons at the external borders based on unilateral recognition by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia of certain documents as equivalent to their national visas for the purposes of transit through their territories (OJ L 167 of 20 June 2006, p.1)

Council Directive 2004/82/EC of 29 April on the obligation of carriers to communicate passenger data (OJ L 261 of 6 August 2004, p. 24);

Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349 of 25 November 2004, p. 1);

Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385 of 29 December 2004, p. 1)

Regulation (EC) N° 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across the borders (Schengen Borders Code) (OJ L 105 of 13 April 2006, p. 1)

VISAS

Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, of 14 July 1995, p. 1);

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 and those whose nationals are exempt from that requirement (OJ L 81 of 21 March 2001, p. 1);

Council Regulation (EC) No 2414/2001 of 7 December 2001 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement (OJ L 327 of 12 December 2001, p.1)

Council Regulation (EC) No 334/2002 of 18 February 2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas (OJ L 53 of 23 February 2002, p. 7);

Council Regulation (EC) No 453/2003 of 6 March 2003 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 69 of 6 March 2003, p. 10)

Council Regulation (EC) No 851/2005 of 2 June 2005 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement as regards the reciprocity mechanism (OJ L 141 of 4 June 2005, p.3)

IMMIGRATION

Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149 of 02 of June 2001, p. 34)

Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328 of 5 December 2002, p. 4)

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251 of 03of October 2003, p. 12)

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long term residents (OJ L 16 of 23 of January 2004, p. 44);

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance) (OJ L 158 of 30 April 2004 p. 77);

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261 of 6 August 2004, p.19)

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375 of 23 December 2004 p. 12)

Council Directive 2008/115/EC on common standards for returning illegally staying third country nationals (OJ L 348 of 24 December 2008, p. 98)

Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157 of 15 June 2002, p. 1)

Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64 of 2 of March 2004, p. 1)

Regulation (EC) N° 491/2004 of the European Parliament and of the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS), (OJ L 80 of 18 of March 2004, p. 1)

3.3 Concrete steps towards an external migration dimension

In order to implement an external asylum and migration dimension the EU has taken a series of significant steps. The Commission's communication on relations with third countries was a first response to the Seville conclusions of 2002 and sought to specify an international dimension to EU action on migration and discussed the relationship between migration and development (CEC, 2003c). The Communication outlined four key principles:

(i)   maintaining the coherence of external policies and actions through a comprehensive approach, of which a part is migration differentiated by country;

(ii) addressing root causes;

(iii) including migration within regional and country strategy papers;

(iv) extending additional funding, initially through budget line B7-667 'Co-operation with 3rd countries in the field of migration' since replaced for 2004-8 by budget line 'Financial and Technical Assistance to Third Countries in the Areas of Migration and Asylum' (AENEAS).

Another development came in the Council Conclusions on Integrating Migration Issues in the EU's relations with 3rd Countries: Migration and Development of May 2003 which set the EU agenda in this area. It identified migration as a major strategic priority for the EU, highlighted the importance of addressing root causes, established the strategic framework as the Regional and Country Strategy Papers and stressed the importance of including dialogue on migration within current and future co-operation and association agreements. Priorities were identified:

• Managing migration and combating trafficking;
• Improving national legislation;
• Offering migration related assistance;
• Facilitating 'sustainable return'.

These conclusions were followed up in subsequent Council conclusions focused on action in five areas:

• Facilitating what is known as 'brain circulation' and encouraging efforts by migrants who want to contribute to their countries of origin;
• Encouraging voluntary return;
• More efficient use of remittances;
• Better integration of legally resident TCNs living in EU member states with rights and obligations comparable to those of other EU citizens;

- Dealing with tensions between high skilled recruitment and development; the conclusion of readmission agreements.

It is worthwhile to look more closely into each of these five areas as they have become central to EU's approach to TCNs.

1. Facilitating brain circulation and encouraging return – a basic problem is that migrants are concerned that if they leave the EU they will not be able to re-enter. In its 2007 Communication on 'circular migration and mobility partnerships' the Commission raised the possibility of creating routes for migrants to enter, leave and re-enter and linking it to tougher border control enforcement in sending states (CEC 2007). This is an example of creative thinking linked to the admissions of higher skilled migrants.

2. The Council conclusions called on the Commission to step up negotiation of readmission agreements and to consider ways in which financial and technical assistance could be used to develop reception capacity and 'durable solutions' to asylum in developing countries. The issue of readmission is right at the top of the EU agenda. The Council has called on the Commission to step up negotiation of readmission agreements and to consider ways in which financial and technical assistance could be used to develop reception capacity and 'durable solutions' to asylum in developing countries (CEC, 2003e; CEC, 2006a; CEC, 2006b).

3. More efficient use of remittances with cheaper and more reliable transmission and efforts to channel their use towards productive investment. The World Bank estimated remittances to amount to $167 billion in 2005. Remittances from migrants that often flow to kith and kin in countries of origin far exceed development aid as a source of funding for developing countries (World Bank, 2005). Although these are private flows and their uses cannot easily be controlled or necessarily channelled towards productive investment, remittances have tended to have a positive impact on development. Governments, international organisations and NGOs can encourage remitting behaviour through incentive schemes and improved financial infrastructures. Governments, international organisations and NGOs can also seek to channel remittances towards productive investment.

4. Better integration of legally resident TCNs living in EU member states with rights and obligations comparable to those of EU migrants and opportunities to participate in education and vocational training.[1]

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[1] For a comparative analysis of integration policies in EU member states plus Canada, Norway and Switzerland see www.integrationindex.eu.

5. Possible tensions between high skilled recruitment and development. If EU member states cherry-pick skilled migrants an EU approach to labour migration may not be in the interests of developing countries as they may lose their brightest and best. On the other side, but it has been argued that wider channels for migrants who work in lower skilled occupations could choke off some of the demand for irregular migration

3.4 Funding of the external dimension

There is also the question of money. If the EU is to attain its objectives it has to back up its commitments with some financial resources. These resources have expanded considerably since 2000 with a considerable concentration on border management in third countries. The EU has worked through various regional programmes such as MEDA for Mediterranean states, CARDS and SAP for the Western Balkans and TACIS for Eastern Europe and Central Asia. Within the budget, 'Title B5-8 appropriations' were devoted to the creation of the EU as an area of freedom, security and justice rose from €29.5 million in 1998 to €56 million in 2003, with the European Refugee Fund scooping up half, mainly to facilitate the return of failed asylum-seekers (CEC, 2003d). In 2003, spending on asylum, immigration and the management of external frontiers amounted to just less than one per cent of Community internal policies. Between 2001 and 2004 a specific €42.5 million budget line (called B7-667) funded projects relating to co-operation with non-EU states. Between 2002 and 2004, Morocco received around 50 million to assist with border control development.

In March 2004 the AENEAS programme was established to provide financial and technical assistance to non-EU states in the areas of migration and asylum. Between 1 January 2004 and 31 December 2008, €250 million was allocated to promote more efficient management of migration flows in co-operation with third countries engaged in preparing or implementing a readmission agreement. This linkage is central to the external dimension of EU migration and asylum policy. In all its agreements with non-member states the EU seeks a standard readmission clause. To support these objectives a variety of programmes could be supported by EU cash, including: information campaigns and advice; maintaining links between emigrants and their countries of origin, information from non-EU states about migration potential, support for institutional and legislative capacity, support for the development of border controls, development of regional and sub-regional dialogue and support for the building of reception centres for asylum-seekers. The 2007-13 budget settlement allocated a grand total of €4020 million to 'Solidarity and Management of Migration Flows'.

This includes €1820 million to external borders, €676 to a return fund, €699 to the European Refugee Fund and €825 to an Integration Fund. As already seen, the returns directive agreed in 2008 has a €676m budget line attached to it.

3.5 Issue linkages

The discussion so far has demonstrated both the complex multi-level governance of migration in Europe, but also pointed towards the growing importance of the external dimension of EU action on migration. This necessarily raises what are known as 'issue linkages', i.e. where action in one policy area has important implications for action in other areas. A key issue in the discussion of migration either as a 'danger' or as a 'potential' is the links between migration, aid, trade, development and security. There is, for example, a growing body of evidence pointing to the importance of migration as a development tool (World Bank, 2005).

Research suggests that, if international migration relations between the EU, South East Europe and the Middle East and North African states are to contribute to successful poverty reduction strategies it may result in a short- to medium-term increase in migration because of a strengthening of the motives and resources necessary for movement thereby creating a 'migration hump' (Martin and Papademetriou, 1991). Put another way, 'poverty reduction is not in itself a migration-reducing strategy' (Nyberg Sorensen et al., 2002). For sending states, emigration can relieve labour market and political pressures, provide education and training, generate remittances, and lead to eventual return by successful migrants. The downside can include so-called 'brain drain' and 'brain waste' effects, the difficulty of establishing voluntary return programmes, and the relatively unproductive channelling of remittances towards inflation and inequalities-generating consumption. Current demand for migrant workers in EU member states has been fuelled by labour market and skills shortages and by the effects of population change, low fertility rates and ageing populations. There are, however, major differences in the policies of European states towards labour migration (particularly by the high skilled), which is largely welcomed and asylum seeking and irregular migration flows, which are not.

Migration and mobility were central components of the debates about the 2004 and 2007 enlargements. Indeed, there have been major migration effects of the EU enlargements in May 2004 and January 2007 which brought eight countries from Central and Eastern Europe, plus Cyprus and Malta into the EU. In the aftermath of enlargement the UK experienced the

largest net migration in its history with particularly large influx of Poles. Although precise numbers are difficult to gauge, more than 600,000 workers from the new member states have registered their presence in the UK.

Whether this recent EU migration constitutes a new form of permanent settlement or is an example of EU mobility remains to be seen. Poles have been seen returning home after the economic has started biting in the UK. What is clear is that the UK has recast its immigration policy to rely on EU migrants to fill labour market gaps at the lower skilled end of the labour market and thus closed the door to non-EU lower skilled migration. Is this an example of the 'end of immigration' i.e. if primary labour migration by TCNs referred to earlier?

3.6 Case-study 1: South East Europe

This section analyses recent development in Croatia and Macedonia/ FYROM as the two designated candidate countries in South East Europe. In both countries there has been a strong incentive for adaptation to EU requirements provided by the 'carrot' of membership. Adaptation between 2002 and 2005 occurred in the content of the CARDS Regional Action Programme to support the development of regional and national strategies in view of the establishment of EU compatible legal, regulatory and institutional frameworks in the field of asylum, (legal) migration and visas. The Swedish Migration Board is Project Contractor, the IOM implements the Migration Module, ICMPD implements the visa module and UNHCR implements the Asylum Module.

South East Europe is particularly targeted by the EU as a hub for human trafficking. Limited capacity has been identified as a core concern (CEC, 2003d). Another key issue was the estimated 1.6 million refugees and displaced persons generated by the conflicts in the 1990s with around 900 000 people waiting a lasting solution. The EU works with UNHCR to create conditions for sustainable return. Reception centres for migrants and asylum seekers were built in Croatia using CARDS money. CARDS also financed border controls, the reform of migration and asylum procedures and legislation, and staff training in these areas.

EU funding was also made available through the AENEAS budget line (€14 million of the €120m total (2004-6) were allocated to South East Europe. AENEAS money was used to support the development of national policies based on a uniform approach to migration, national and regional strategies to combat trafficking preventive measures, protecting victims and reintegrating them in society, building cooperation and exchange of

information and best practices at regional level, informing potential emigrants about legal migration and the risks of illegal immigration and people trafficking. Efforts were also made to consolidate legislative frameworks for asylum and functional asylum systems, in line with international standards and to improve access to protection in the region, the possibilities of resettlement, registration and documentation of asylum seekers and their integration into society.

Croatia's 3,332 km of 'green' and 'blue ' borders highlight the broder and secuirty issues that have been central to its relations with the EU. There has, however, been substnatial alignment of doemstic policy and institutions with EU requirements. The 2006 Accession Partnership decision specified:

- Strengthened border management via reinforced surveillance of the sea borders;
- Implementation of the integrated border management strategy (including readmission);
- Increased investment in technical equipment and infrastructure;
- Recruitment of additional staff and provision of adequate training infrastructure.
- Enhanced equipment to detect forged and falsified documents and provide training for staff in diplomatic missions and consular offices.
- Further alignment of legislation on asylum to the *acquis*.

CARDS assistance to Macedonia has focused on democratic stabilisation and implementation of the Ohrid Framework Agreement to improve inter-ethnic relations and support civil society. Integrated border management is being supported and a specialised border police force established to challenge smuggling and other crime. The Commission's 2005 report on Macedonian membership specified border and immigration as key issues, but again, with very direct leverage to secure legislative and institutional change. Macedonia did agree in the National Strategy on Integrated Border Management of 2003 to a border police force being set up with responsibility to gradually transfer responsibility for state border security to the Ministry of Interior and approximate EU legal standards and alignment with Schengen databases. Visa policy was also aligned with EU policy.

In Croatia and Macedonia the EU shapes the domestic migration policy context with a strong emphasis on adaptation to the EU *acquis*. This is a particular type of 'external' action because it occurs in the highly structured context of accession. This provides a stark contrast with Middle

East and North African states that do not have the prospect of membership, but are still actively engaged with EU migration and asylum policy.

3.7 Case-study 2: Middle East and North Africa

The strategic context at regional; level for EU-Middle East and North Africa migration relations is provided by the Barcelona Process (Bicchi, 2007). The instigation of the Barcelona process in 1995 placed relations with Middle East and North African countries on a sounder footing with political and financial structures in place that could sustain a broad dialogue about migration. The relationship has matured but has thus far reflected EU concerns about migration and asylum flows from and across Middle East and North African countries with an emphasis on return and readmission. This could be seen as positive for EU states, at least in the short-term. The benefits for Middle East and North African countries are more questionable.

There are three main aspects to relations process: Euro-Med framework for discussion; Association Agreements; aid provided by the EU to Mediterranean partners through the MEDA programme. The MEDA programme, for example, will fund a €2 million migration observatory co-ordinated from the European University Institute in Florence, Italy, that will bring together information, develop migration scenarios, offer training, and analyse policy implications.

The launching of the Barcelona process was driven by concerns about migration, but migration only began to climb the agenda as EU competencies was consolidated after the Tampere European Council meeting of October 1999. A key manifestation of this was the establishment of the High Level Working Group on Migration and Asylum. The HLWG shows how migration management became a 'cross pillar' issue within the EU with implications for foreign and security policy, JHA, trade and development, as well as the units/departments that must seek to manage these policies (Council of the European Union, 2000; Council of the European Union, 2004). The HLWG arose from a Dutch government initiative. Within the Dutch government the responsibility for international migration and refugee strategies rests with the foreign affairs ministry rather than the justice ministry. The EU approach thus reflected this Dutch attempt to 'integrate' the internal and external dimensions of migration policy.

The HLWG produced Action Plans in 1999 for Afghanistan, Albania, Iraq, Morocco, Somalia and Sri Lanka. These sought to co-ordinate the EU response and bring the interests of security, foreign policy and development to bear on protection of human rights; democratization and

constitutional governance; social and development; combating poverty, conflict prevention and resolution; asylum; and irregular migration. The HLWG was composed of mainly JHA officials with relatively little experience of dealing with third countries or with development aid. The reports were criticised for reflecting EU priorities about migration control, readmission and return rather than the pursuit of partnerships based on real dialogue.

The Morocco plan attracted some specific criticisms. The proposal for the use of MEDA funds to analyse migration patterns and instruments led to tension between the HLWG and Commission officials working in the areas of development and external relations. The Moroccan government was not consulted about the Action Plan and initially refused to discuss the plan with the EU. There was a lack of co-ordination between JHA, external relations and development within the EU, although an effect of the HLWG has been to stimulate agenda-setting activity by Commission officials working on development and external relations. The HLWG also lacked a financial basis, although this has changed with €15 million allocated for 2003. The HLWG, for example, funded a programme encouraging Moroccan migrants to set up businesses in Morocco and another project to establish a savings back for the remittances of Moroccan migrants.

The criticisms of the Morocco report by the HLWG, as well as the more general context within which the EU's international migration relations are being developed can also prompt some more general reflections on the effects of EU action on non-member states as it seeks to exercise forms of external control.

For sending and transit countries in the Middle East and North African region, a key issue is the relationship between regular and irregular flows. Is it possible to develop recruitment policies in EU states that can help reduce irregular flows? There appear to be some interesting new dynamics at work. The Italian regularisation of 2002-3 indicated that flows (to Italy at least) from Middle East and North African countries may be levelling off or declining (Einaudi, 2007; Geddes, 2008). Of the 704,000 applications made during the Italian regularisation, the highest applications rates were from Romanians, Ukrainians and Albanians. Moroccans ranked relatively low with 54,221 applications (Einaudi, 2007). Signs of declining flows from Middle East and North African countries are less evident in Spain, but here too bilateral labour migration agreements were signed in 2002 with Poland and Romania and in October 2003 with Bulgaria. This could indicate a preference by governments and employers in EU states for European migrants. Enlargement could unlock a pool of migrant labour

from Central and Eastern Europe that could supplant demand for migrants from Middle East and North African states.

For transit countries it could be argued that migration dialogue and co-operation need also to be extended southwards. There is already provision for such dialogue in Article 13 of the Cotonou Agreement. The EU has contributed around € 50 million to the development of border controls in Morocco and is developing other schemes for training and capacity-building in the Middle East and North African region. These are directed at the people-movement routes that operate across MENA countries and move people from sub-Saharan Africa, the Middle East and Indian sub-continent. The imposition of strict controls is at least as likely, if not more likely, to produce the kinds of sub-optimal outcomes that have characterised EU-Middle East and North Africa migration relations in the past (in particular, people smuggling and human trafficking).

The attempt to build partnerships is evident in various other forums, including political dialogue with African, Caribbean and Pacific states, political dialogue with Mediterranean partners, dialogue with and between regional and sub-regional organisations, including the Economic Community of West African states (ECOWAS) and the African Union (AU) and specific regional initiatives such as the EU-Africa Ministerial Conference meeting of 58 European and African states at Rabat in July 2006.

At the core of debate is the tension between the EU's 'fight against illegal immigration' compared with attempts to integrate migration issues within a development agenda. A Commission communication on policy priorities in the fight against illegal immigration specified partnership with third countries as an essential element in the EU's southern and eastern neighbourhoods with intensified engagement in the Balkans (CEC, 2006b). The Commission has also produced annual reports on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external border controls and the return of illegal residents. The 2006 report analysed relations with third countries and identified European Neighbourhood Policy action plans with ten countries with a commitment on both sides to co-operate on migration, as well as a technical dialogue with Libya on illegal immigration. Monitoring mechanisms have been established to evaluate levels of co-operation from Albania, China, Libya, Morocco, Russia, Serbia and Montenegro, Tunisia and Ukraine. The EU's 'leverage' clearly differs quite markedly amongst this array of states.

The ambitions of EU member states in these areas remain bold. The Brussels European Council in December 2006 called for a strengthening

and deepening of co-operation and dialogue with third countries of origin and transit through specific EU delegations to African countries in 2007, closer integration of migration and development policies, coherent EU follow-up to the UN High Level Dialogue on Migration and Development, measures on return and readmission, measures against smuggling and trafficking and new thinking on legal migration, while emphasising that this remains a member state competence.

4. REFLECTIONS ON EUROPE'S INTERNATIONAL MIGRATION RELATIONS

Does the external dimension amount to the development of new forms of international migration relations? If they do, what do they tell us about the EU as an actor in international politics?

4.1 Distinct trends of a new migration situation in Europe

There can be a temptation when analysing international migration to search for the 'new' and to imagine that current waves of migration and current migrant communities are somehow more challenging - in the sense of the former being more difficult to control and the latter more difficult to integrate - than previous waves. It does not take too long for the serious student of international migration to see that it is risky to be swept along by the shock of the 'new'. International migration is closely linked to the development, consolidation and transformation of the European state system dating back to the origins of that system (Bade, 2003). There are long-established patterns of migration to, from and within Europe and that these provide part of the sub-text against which current flows should be assessed.

That said, this report does contend that there is something new and distinct about the current migration situation in the EU and that this distinctness can be identified around four key trends in migration to Europe.

The first of these is *the geo-political widening of migration to Europe*. By this is meant that all 27 of the EU's member states are sending, receiving and/or transit countries of migration (usually all three). It simply cannot be the case that we can confine a discussion of migration to Europe to the 'older' immigration countries of north-west Europe such as France, Germany, the Netherlands and the UK, that saw large-scale movement either as a result of active recruitment through guestworker policies or as the largely unintended consequences of colonialism and decolonisation. There are now new countries of immigration in southern, central and eastern Europe. Indeed, it is a key strategic dilemma for the EU that border security and control reflect this geo-political widening of migration.

The second is *the conceptual widening of migration to Europe*. By this is meant that ostensibly new and troubling types of migration are right at the of policy-making agendas. Most notable, the EU now identifies 'the fight against illegal immigration' as a core concern. This was made manifest when illegal immigration was identified as a core priority for the French presidency in the second half of 2008. The point is not that the categories

of legal migrants, illegal migrants, asylum seekers, smuggled migrants or trafficked migrant reveal some essential essence of the individuals to which these categories are ascribed, but that they demonstrate how, why and with what effects states have sought to classify and categorise the complex human material that comprises international population flows. These new understandings of migration are, 'essentially contested' concepts in the sense that the politics of migration is intensely focused on types of migration and the perceived effects of these different types as costs/benefits, assets/threats etc. The American political scientist Gary Freeman (2006) makes the point that different migration types lead to different types of migration policy and politics. In public policy terms, we cannot talk about 'immigration' generally, we need to talk about *types* of migration. It is, for example, fairly clear that high skilled migration tends not to be too contested in the public domain while lower skilled migration or asylum-seeking migration are often sources of intense political contestation that spill over into wider public debate.

The third is *the spatial reconstruction of the policy response to migration*, by which is meant the relocation of responsibility to decision-makers primarily at EU level. This is not to say that this EU level is distinct from the national level because the member states are intensely involved in EU decision-making. It is, however, to say that the EU as a unique system of supranational governance now has direct legal powers to enact migration and asylum laws that have direct effect in the 27 member states (Sandholtz and Stone Sweet, 1997). No other international organisation possesses similar powers in the area of international migration (Martin, 2005). The EU is thus unique because of its supranationalism, but also must be seen as a system of governance composed of a range of public and private actors operation within this system. The EU must also be seen as a regionalised form of governance as distinct from global governance. It has developed in a region within some sense of shared political identity and shared fate that has generated community-building for more than fifty years. No other world region has experienced similar circumstances, which may mean that the EU experience is *sui generis*. That said, the EU does search for regional interlocutors and sees itself as a model of regional governance that could be followed in other parts of the world.

The fourth is *the temporal reconstruction of migration*, by which is meant an openness to labour migration in the early years of the 21st century, but that may now be challenged. The point here is that at a temporal distance from the guestworker and post-colonial migration of the 1950s and 1960s there is a renewed concern in EU member states with labour migration to

offset perceived effects of demographic change and labour market shortages (Ruhs, 2005). There seems also to be interest in the extent to which new systems of temporary migration can be created, perhaps to re-create guestworker systems or initiate new forms of circular migration that bring benefits to sending and receiving states. This new migration may be high skilled, but can also be lower skilled as has been seen in Italy where there has been debate about the way in which migration by domestic workers has become a vital support element for many Italian families (Einaudi, 2007; Geddes, 2008). Labour migration is not some magic bullet that can resolve issues of population, labour market and welfare state change, but the point is that labour migration is quite widely seen as part of the solution and there has been a new openness to labour migration not seen in Europe's older immigration countries since the 1950s and 1960s.

4.2 Translation into EU action

The Immigration Pact put forward by the French government in 2008 is based on the view that immigration is a Europe-wide dilemma that requires a Europe-wide response. As Nicholas Sarkozy put it in an interview with the BBC Radio 4 Today programme on 26 March 2008 'Do you think we can contain the migratory waves from Central Europe and Africa working against one another or working together?'. The external dimension of EU action on migration and asylum is designed to develop controls and build capacity in EU member states in central, eastern and southern Europe that are immigration countries and to build capacity in non-EU member states that may be sending or transit countries. The Warsaw-based EU border agency, FRONTEX, has a key role to play in capacity-building. EU action occurs both within and beyond its 'neighbourhood'. The neighbourhood comprises 16 states from Belarus in the north east to Morocco in the south west (CEC, 2003a). The 'neighbourhood' represents is an attempt to put in place migration 'partnerships' that create bilateral and multilateral forums in an attempt to influence migration flows via various forms of dialogue and co-operation.

The attempt to build partnerships and create dialogue is evident in various forums, including political dialogue with African, Caribbean and Pacific states, political dialogue with Mediterranean partners (Bicchi, 2007), dialogue with and between regional and sub-regional organisations, including the ECOWAS and the AU. As noted earlier, the EU is keen to seek regional interlocutors.

Meyers (2002) has argued that international agreements on labour migration are more likely to be successful if nested within broader sets of

arrangements that offer scope for issue linkages and when there is some degree of similarity in terms of levels of economic development between participating states. The Commission has been eager to explore links between migration and development and, in a sense, seek a different 'frame' for migration other than the security framing. Links between migration and development are 'unsettled' (Martin and Papademetriou, 1991), but there is evidence to suggest that successful poverty reduction strategies can lead to increased migration by boosting both the motives and resources necessary for movement. This means that 'poverty reduction is not in itself a migration-reducing strategy' (Nyberg Sorensen et al. 2002).

The EU has also displayed interest in creating opportunities for 'circular migration', i.e. giving people from non-EU states the opportunity to leave and re-enter EU states. The reason for this is that, while it is clear that emigration from developing states can relieve labour market and political pressures, provide education and training, generate remittances, and lead to eventual return by successful migrants, there can also be more negative effects including loss of skills ('brain drain') and under-deployment of skills ('brain waste'). If principles for circulation can be established then certain types of migrants such as those with business skills may be able to benefit from such provisions. The Council of Ministers in its response to the Commission's Communication on Migration and Development called for action to facilitate circulation and to encourage return. In its 2007 Communication on circular migration and mobility partnerships the Commission raised the possibility of creating routes for migrants to enter, leave and re-enter and linking this to tougher border control enforcement in sending states (CEC 2007).

Underlying the discussion of partnership is the core, underlying concern that EU states have about territorial control and the view that the external dimension of EU action can serve as a route to reinforce such control. This has led to a strong focus on the 'fight against illegal immigration' and measures to reduce asylum-seeking flows. It has been argued that this has generated an elision between asylum and illegal immigration that creates a category previously unknown in international law of the 'illegal asylum seeker' as a result of tighter border controls reducing the points of access for asylum seekers and driving them into the hands of traffickers and smugglers and thus rendering the asylum applicant 'illegal' (Morrison, 2002). A Commission communication of 2006 on policy priorities in the fight against illegal immigration specified partnership with third countries as an essential element in the EU's southern and eastern neighbourhoods with intensified engagement in the Balkans (CEC, 2006c). The Commis-

sion also produced annual reports on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external border controls and the return of illegal residents.

5. CONCLUSIONS

This report has analysed the development of the external dimension of EU migration and asylum policy. It has the broader dynamics of EU action, the issues that it raises, the motives underpinning action and the implications of this action. It has also used examples from South East Europe and Middle East and North African states to illustrate some of the points that have been made.

The report has shown how and why EU migration and asylum policy has effects on non-member states, but that these effects can differ depending on whether or not there is a membership perspective, the kinds of leverage that the EU can wield and the capacity to integrate migration issues into broader forms of dialogue and interaction that can spill over into linked issues of trade, aid, development, security and human rights.

The argument has been developed that connections must be made between the societal and international dimensions of international migration. Migration is simultaneously domestic and international. The motive for external action cannot be understood without some understanding of domestic policy factors. The point was also made that these may well change as Europe lurches into economic recession. This is because 'internal' borders of work and welfare play a key role in driving the 'external' dimension of EU action on migration and asylum. Organisational borders of work and welfare are integral to the contemporary politics of immigration and to the shape of admissions policies. The perceived impact of immigration on these organisational boundaries plays an important role in shaping selective policies that distinguish between those migrants whose labour market and welfare state contribution is deemed positive and those whose contribution is viewed less positively. To reiterate, this is not a consequence of the personal qualities or characteristics of migrants themselves, but of the underlying social and political processes employed by states at their borders of territory, work and welfare that serve as the basis for classification and categorisation of migrants.

The external dimension of migration policy is not in itself a new development because states have long sought to influence the composition of migrant flows. What is new is the EU role in shaping the external dimension of migration policy. Indeed, this EU dimension provides us with fascinating insight into the nature of the EU as an international organisation and the kinds of power that it can or should project. The most recent manifestations of the prominence of the external dimension are the Immigration Pact and the returns directive. Both contain a strong external dimension

and both rely on co-operation with non-EU states. It is also inescapably the case that both also have strong 'domestic' roots in that they represent the attempt to articulate and act at EU level with regards to salient domestic political concerns about immigration. The result is that this is not a debate about so-called 'fortress Europe', but actually about how the EU seeks to move beyond fortress Europe through the development of highly selective migration policies that spill out from the EU to co-opt non-member states into European and EU migration and asylum policies.

Openness and closure in migration policies now have an EU level resonance, while proposals also lie on the table for EU involvement in admissions policies for the highly skilled. If the EU is to move beyond fortress Europe it needs also to think creatively about how its broader international commitments translate into effective action on international migration that does not just address the migration needs of member states, but also the broader consequences for trade, aid to development in less economically developed non-member states so that 'partnership' and 'dialogue' become constitutive elements of the international migration relations that connect the EU with its neighbours.

6. RECOMMENDATIONS

- **Striking the right balance in internal policy – admissions**: Policy tends to focus on the ways in which migrants enter particular countries. In fact, migrants move into particular places (often towns and cities) and particular economic sectors (such as construction, agriculture, domestic care etc.). This means that there is a strong sectoral and spatial dimension to European migration policy. There is a need for clearer information about the migration profiles of member states and the sectorally specific need for migrants and attendant spatial consequences.

- **Striking the right balance in internal policy - regulation:** Ever tighter immigration controls may induce greater pressure for illegal/irregular entry and the social and political problems associated with it. There is strong demand for entry into EU states that is not likely to dissipate. Restrictive policies may serve only to increase the sum of human misery by making it more and more difficult to find legal routes into the EU and driving people into the hands of smugglers and traffickers. Restriction alone has not worked in the past, does not work now and will not work in the future.

- **Striking the right balance in external policy**. Immigration is often represented as a security concern in the domestic debate in EU states as well as in many EU measures. If the EU policy debate centres on narrow security-related conceptualisation of the migration issue it risks neglecting other important dimensions. This is very relevant when the external dimension of migration is analysed and it becomes clear that trade, aid, development <u>and</u> security are all salient and relevant concerns. The tone and content of debate is important, but so too is the need to convey the multi-faceted nature of immigration.

- **Making issue linkages – enlargement:** The EU has been very successful in promoting domestic change and adaptation in accession states. The issue is the extent to which this marks a profound adaptation resulting in effective policy implementation or a tick the boxes approach which is compliant formally with EU requirements, but does not necessarily lead to implementation.

- **Making issue linkages - third countries:** It is highly unlike that effective agreements can be established with third countries without attention also being paid to a broader range of migration-related issues such as trade, aid and development. A narrow security focus would not be a sound base for the development of stronger relation with third countries.

- **Creating new migration possibilities:** One of the most challenging issues for EU member states is to think creatively about migration routes at a time of economic recession. One of the lessons of earlier guestworker migration is that from the point of view of receiving states it 'failed' (in the sense that the guests stayed) because migrants did not have the possibility to leave and re-enter. It may be possible to develop forms of mobility partnership that allow interchange between the EU and developing countries through particular types of migration (e.g. business, high skilled). This may also help address issues of brain drain.

- **Working with regional analogues:** The EU is a unique international organisation as no other organisation possesses its law-making powers. This does not mean that there are not other regional organisations with which the EU can work. It is important for the EU to develop strong ties within which migration dialogue and partnership can be developed with other regional organisations, particularly those in Africa, such as the AU.

- **Maintaining the link between migration and integration:** There is a need to maintain strong links between migration and immigrant integration. These are two sides of the same coin: an effective migration policy cannot work without close attention to the domestic structures that deliver integration.

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SAMMANFATTNING PÅ SVENSKA

Den externa dimensionen av EU:s migrations- och asylpolitik är ett område som i ökande utsträckning anses utgöra en del av EU:s utrikespolitik.

EU och dess medlemsländer har under senare tid, på ett alltmer genomtänkt sätt, utvecklat den externa dimensionen av den gemensamma migrations- och asylpolitiken. Detta politikområde är numera knutet till utvecklingen på andra områden såsom utrikeshandel, biståndspolitik och traditionell utrikespolitik. Migration kan även kopplas till utvecklingen inom EU-länderna och det har lett till att politiken – i syfte att åstadkomma förbättrad ekonomisk konkurrenskraft – har ändrat fokus från kontroll av migrationsströmmar till reglerad arbetskraftinvandring. Det befaras dock att den djupa ekonomiska krisen och ökande arbetslöshet kan komma att hota denna omorientering av politiken. Det kommer därmed att bli svårare att med nyttokostnadsargument hävda att arbetskraftsinvandring är nödvändig för att möta efterfrågan på arbetsmarknaden. Om samtidigt den befintliga arbetskraften inom EU blir mer rörlig så kommer efterfrågan på arbetskraft från länder utanför EU att minska.

Denna rapport skiljer mellan olika typer av gränser – territoriella, organisatoriska och konceptuella – och undersöker hur kopplingen mellan den inhemska, europeiska och internationella nivån utvecklar EU:s migrations- och asylpolitik. Den fördjupade integrationen i EU har resulterat i följande: (1) gränsförhållanden inom Europa har förändrats; (2) EU är både orsak till och effekt av dessa förändringar; (3) EU:s externa handlande inom migration och asyl kan hänföras till nationella överväganden; och (4) dessa överväganden är kopplade till debatten kring avvägningen mellan arbete, välfärd och det upplevda behovet av ny invandring. Vidare uppmärksammas att skillnaden mellan rörlighet inom EU kopplat till rättighetsgarantier å ena sidan och migration från länder utanför EU å andra sidan har blivit än tydligare allteftersom den europeiska integrationen har fördjupats. Denna distinktion mellan rörlighet och migration är numera en viktig aspekt av EU:s migrationspolitik och kan kopplas såväl till EU:s utvidgning som till utrikesrelationer.

För att bedöma innehållet i den externa dimensionen av EU:s migrationspolitik analyserar rapportförfattaren utformningen och innehållet i EU:s "migrationsdialog" med tredje land. Författaren anser att denna dialog bör reflektera alla parters intressen och framhåller att EU:s prioriteringar vad gäller återvändande och återsändande av så kallade irreguljära invandrare inte bör överbetonas i arbetet med att utforma den gemensamma politiken. Författaren förordar istället fördjupad dialog där migra-

tion och åtgärder inom handels-, bistånds- och utvecklingspolitik kopplas samman på ett effektivt sätt. Som exempel på en sådan konstruktiv dialog framhåller författaren de förbindelser som EU har upprättat med sina grannländer i sydöstra Europa och med länderna i Mellanöstern och Nordafrika. En slutsats är att EU:s möjlighet att påverka dessa länder beror på deras ambition att bli medlemmar i EU.

Slutligen analyserar författaren den europeiska pakten för migration och asyl som lades fram av den franska regeringen under hösten 2008. Pakten är ett led i utvecklingen av den externa dimensionen av EU:s migrations- och asylpolitik. Den syftar till att etablera ett stärkt samarbete mellan EU och ursprungs- och transitländer inom områden som mottagning, gräns-kontroll, illegal invandring samt utarbetandet av ett gemensamt asylsystem. Inom dessa prioriterade områden inom migrationsområdet bör EU enligt rapportförfattaren sträva efter balans mellan säkerhet, mänskliga rättig-heter, handel och utvecklingspolitik.

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