

# Temporary Labor Migration from Egypt to the EU – Economic Benefits, Legal Background and Possible Outlines

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## 1. Introduction

Even in the midst of the current economic crisis in the EU member countries which had significant negative labor market impacts, current demographic trends suggest that the EU will start to face labor shortages over the next several decades. On the other hand, the Southern and Eastern Mediterranean countries will continue to experience significant growth in their labor forces which had been one of the main impetus behind the public discontent and the resulting political events, dubbed “Arab Spring” in the popular media. The United Nations Population Division forecasts that population in Europe<sup>2</sup> will be declining by around 75 million by 2050. More importantly, though is the demographic imbalances between working age population and their elderly dependents. The size of the 15-59 age group will decline by 0.7 percent *annually* during this period while the 60+ age group will increase by 0.9 percent per year. The dependency ratio will increase from 46.5 to 74.2 and the elderly will form 65 percent of the dependents up from 50 percent today. The population dynamics of the current and potential EU members are not different from each other with many Eastern European countries sustaining more severe imbalances than those in Western Europe.

One of the key facts to keep in mind is that rules and legal restrictions in many countries lead to certain structural rigidities in the EU labor markets. For example, job creation rates tend to be lower in Europe than North America while welfare benefits and wages tend to be higher, especially at the low end of the human capital and income spectrum. As a result, there tend to be higher structural unemployment

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<sup>2</sup> Europe in the UN Population projections includes EU25 as well all Eastern European, Balkan and Nordic Countries that are not EU members.

levels. In addition, the current financial crisis led to higher unemployment levels, especially in the southern Mediterranean countries which are pressuring the governments to implement policies to boost employment levels. Yet, despite these factors, the demographic dynamics in the EU countries will create significant pressures on both the labor markets and social welfare programs in many countries in the medium to long run. These pressures will not be uniformly felt across countries, professions, sectors or skill levels of employees, but will have economically significant effects.

One potential way to alleviate the pressure, at least in the short and medium term while appropriate changes to social and fiscal policies are implemented, would be to admit foreign migrant workers. Abstracting for a moment from the negative public opinion on migration in Europe and the related political constraints, countries like Egypt are the natural sources due to geographic proximity, demographic patterns and labor market characteristics. In short, one of the key points of this paper is that the labor market shortages in EU countries are going to be in areas/sectors in which the southern and Eastern Mediterranean countries have relative surpluses.

Developing countries share in world population, on the other hand, is rapidly increasing. The highest population growth countries are concentrated in Africa and the Middle East. Among these, Egypt has an excess supply of both skilled and semi-skilled workers that would easily satisfy the demands of the EU labor market shortages in the medium term. Therefore, migration – particularly through temporary schemes that allow Egyptian workers to work on short-term projects in the EU - could potentially enable the EU to meet its prospective labor shortages in the medium term while at the same time relieving the excess labor supply that is leading to historically important economic and political pressures in Egypt.

The second key point of this paper is on how to design these programs that are economically efficient yet politically acceptable in the EU countries. Establishing the appropriate legal framework to implement such temporary migration schemes is a key challenge, especially in the current economic environment. The EU has concluded several agreements containing provisions on movement of people, including workers, with neighboring countries over the past decades. Of these, only accession treaties (mainly with Eastern European countries) include firm commitments by the EU to allow movement of workers to the EU, albeit with some safeguards. Even then, several member countries (such as Germany) put restrictions on the movement of workers from new members (such as Poland) in the accession treaties.

The EU's agreements with developing countries, mainly under the ENP, do not provide any mechanisms for any substantial movement of workers between these countries and the EU. The EU has concluded ENPs with seven countries in the Mediterranean region; Algeria, Egypt, Israel, Jordan, Lebanon, Morocco and Tunisia. All of these agreements, and the resulting action plans, cover movement of persons in general to the EU. But, as mentioned earlier, none of these offers prospects of economically significant temporary worker migration. These pacts have only three common themes related to migration: cooperation on fighting illegal migration, equal treatment to nationals of Mediterranean countries who are already residing in the EU and "dialogue" on immigration issues including asylum and transit migration.

However, population dynamics in the EU will eventually pressure the member states to introduce changes to its immigration policy. The ENP represents a unique opportunity for these countries, especially Egypt to negotiate provisions for temporary migration arrangements. Given the contentious nature of the subject, any agreement on temporary movement between the EU and Egypt should address the primary concern of EU policy makers: ensuring that temporary movement of workers is indeed temporary. It is important to note that ensuring migrant return, particularly skilled migrants, is also of concern to Egyptian policy makers. While there is no evidence that Egypt is facing important negative consequences due brain drain, Egypt's need for skilled workers is likely to grow along with the economy, and Egyptian policy makers should ensure that any agreement on migration of skilled workers doesn't lead to a permanent loss of qualified workers.

Ensuring temporariness of migration can be challenging since the incentives of the migrants can change drastically to return home once then enter the EU labor markets. Yet there is a range of measures that are available to policy makers in host and source countries that would significantly increase the likelihood of migrants return. Such measures could involve various stake holders including European regulatory agencies, employers, recruitment agencies and Egyptian regulators. The objectives of such measures are to facilitate the movement of people, through planned, safe and lawful channels that make temporariness feasible.

One final objective of this paper is to suggest certain a negotiation positions regarding temporary labor migration within the context of the ENP. To achieve this objective, this study will include the following:

- Present the current profile of Egyptian immigrants abroad in terms of occupations, skills and destination.

- Discuss labor market needs in the EU in the near and medium term and labor supply in Egypt in view of discussing opportunities for temporary labor migration. The discussion will also include a skills assessment of labor demand and supply and indicate skill-related barriers to labor migration.
- Discuss rights for temporary migrations granted by the EU to service providers of third countries.
- Compile a review of the different type of agreements and arrangements between the EU and third countries (especially accession countries) which facilitate temporary movement of labor.
- Compares provisions of bilateral agreements that are modeled after the WTO General Agreement on Trade in Services (GATS) to those of GATS and to EU GATS commitments.

## **2. Egyptian Labor Market and Potential Supply of Migrants to the EU**

This section examines the potential for temporary migration from Egypt to the EU. First, it provides an overview of the characteristics of the Egyptian labor market then it discusses the occupations and educational qualifications that can be supplied by potential Egyptian emigrant workers to meet the skills needs of the EU.

One of the major challenges facing the Egyptian economy has been the high growth of its population. Although this has been seen as a demographic gift by some economists, the resulting increase in the labor supply has put pressure on the Egyptian labor market. According to the last Census by the Central Agency for Public Mobilization and Statistics (CAPMAS), Egypt's population was estimated to have reached 76.5 million in 2006, 3.9 million of whom were Egyptians living abroad. Recent estimates suggest that Egypt's population was 78.7 million in 2008. The government's efforts to reduce the national birth rate have resulted in a decline in population growth rate from an annual average of 2.79% during 1976-1986, to 2.08% throughout the period 1986-1996 and then to 2.04% during 1996-2006. Despite this decline in population growth rate, it is not yet below the 2% benchmark. This rate will result in an estimated 89 million people within the next ten years, an increase of more than 16 million people.

Egypt's demographics have resulted in an expanding and increasingly young working-age population. Based on the 2006 Egypt Labor Market Panel Survey (ELMPS06), around 41% of the labor force in Egypt was under 30 years of age with one third between 20 and 29 years of age. In the meantime, the significant growth in educational attainment in Egypt has altered the composition of the labor force. In the

1980s, 40% of those entering the labor force had not achieved a primary level of education. By 2005, 70% had received a secondary education or better (Assaad 2007).

Egypt has undergone a number of economic reform measures since the early 1990s, with the aim of liberalizing the economy and moving towards a market economy. The public sector has been pivotal in the Egyptian labor market. It has played a major role in absorbing the increasing labor force during the past three decades. It has been the preferred sector of employment for many new entrants to the labor market, particularly women. The guaranteed civil-service employment for graduates of secondary and higher educational institutions has led to the concentration of educated workers in the public sector. The Egyptian government has turned to downsizing the public sector in an effort to reduce budget deficits and to address the inefficiencies in the civil service. According to Assaad (2007) employment in state-owned enterprises (SOEs) started to decline in the 1988-98 decade, but employment in government was still growing rapidly during that period at about twice the rate of the growth of overall employment. This has clearly changed in 1998-2006. Employment growth in the civil service has slowed dramatically and much of the burden of employment creation has shifted to the private sector

One of the main challenges facing the Egyptian labor market has been in the insertion of the growing numbers of the newly entrants to the labor market. The downsizing of the public sector and the limited demand for labor by the formal private sector have resulted in an increasing informal private sector and high unemployment rates among the young and educated workforce.

### **Overview of Egyptian Migration**

International migration has played an important role in the Egyptian economy over the last three decades. Egypt has been a major labor exporter since the early 1970s, exporting both educated and uneducated labor and becoming the largest labor exporter in the MENA region. Emigration was seen as a safety valve reducing the supply of domestic workers in the 1970s and 1980s.

There are two patterns of Egyptian emigration – the first pattern of emigration is to other MENA countries – to the Gulf States as well as replacement workers in Arab labor exporting countries such as Jordan and Lebanon. The majority of Egyptian migrants have been destined to neighboring Arab countries. The second pattern of emigration has been to Western Countries: the US, Canada and Australia, but more recently to Western Europe. Temporary migration has been used to refer to migration to MENA countries and permanent migration to Western countries. However, with the new temporary migration to Europe, this distinction based on destination is not very useful. In 2005 according to CAPMAS there

were around 2.8 million emigrants, 71% of whom were temporary and 29% permanent (Table 1). In fact, 95% of temporary migration was to Arab countries, and almost 4% to Europe - Table 2.

**Table 1: International Migration in Egypt, 2005**

	<b>Number</b>	<b>Percent</b>
Permanent Migration	824,000	28.96
Temporary Migration	2,020,958	71.04
Workers with permit	784,912	27.59
Accompanying persons	1,236,046	43.45
<b>Total</b>	<b>2,844,958</b>	<b>100</b>

Source: CAPMAS.

**Table 2: Temporary Migration in Egypt, 2005**

<b>Country</b>	<b>Workers</b>	<b>Accompanying</b>	<b>Total</b>	<b>Percent</b>
<b>Arab Countries</b>	748,849	1,179,311	1,928,160	95.41
<b>European Countries</b>	29,675	46,723	76,398	3.78
<b>Australia</b>	4660	7,293	11,953	0.59
<b>African Countries</b>	912	1,483	2,395	0.12
<b>Asian Countries</b>	480	742	1,222	0.06
<b>The Americas</b>	336	494	830	0.04
<b>Total</b>	<b>784,912</b>	<b>1,236,046</b>	<b>2,020,958</b>	<b>100</b>

Source: CAPMAS.

According to CAPMAS in 2007 the number of overseas temporary Egyptian workers granted work permits was 1,008,771 up from 876,423 in 2006. 44 percent were granted work permits for the first time in 2007. Almost 95.8 percent of Egyptian workers abroad were in Arab countries: in Saudi Arabia, Kuwait, Jordan and UAE. Also, 97 percent of Egyptian workers abroad were males. Italy was the main destination of Egyptians granted work permits in Western Europe (24,252) followed by Greece (5,924). In the period 2000-2007, the total number of temporary migrants granted work permits was 5,794,631, see Table 3.

**Table 3: Egyptian Workers Abroad by Work Permit Type and Country of Destination: 2000-2007**

Country	New Permits		Permits' Renewal		Total	
	Number	Percent	Number	Percent	Number	Percent
<b>Arab Countries</b>	2,412,047	96.32	3,133,882	95.24	5,545,929	95.71
<b>European Countries</b>	71,504	2.86	129,733	3.94	201,237	3.47
<b>Australia</b>	2,719	0.11	4,005	0.12	6,724	0.12
<b>African Countries</b>	1,442	0.06	1,705	0.05	3,147	0.05
<b>Asian Countries</b>	1,292	0.05	1,611	0.05	2,903	0.05
<b>The Americas</b>	31	0	35	0	66	0
<b>Others</b>	15,147	0.6	19,478	0.59	34,625	0.6
<b>Total</b>						
<b>Number</b>	2,504,182	100	3,290,449	100	5,794,631	100
<b>Percent</b>	43.22	–	56.78	–	100	–

Source: CAPMAS.

Around thirty percent of all Egyptian migrants are residing in OECD countries. According to CAPMAS, in 2000, 0.8 million Egyptians were in OECD countries. The main destinations of Egyptian migrants to the West were: the US (39 percent), Canada (13 percent), Italy (10 percent), and Greece (7 percent)- Table 4. During the last few years, the US is no longer the main destination of permanent Egyptian migrants but Western Europe, in particular Italy and Greece, has become more popular among recent Egyptian migrants.

**Table 4: The Highly Skilled Egyptian Migrants to OECD Countries According to Country of Residence, 2000**

Country of Residence	Number	(in
	Thousands)	Percent
Australia	70	8.5
Austria	14	1.8
Canada	110	13.3
France	36	4.3
Germany	25	3

Greece	60	7.4
Italy	90	10.9
Netherlands	40	4.8
Spain	12	1.4
Switzerland	14	1.8
United Kingdom	35	4.2
United States	318	38.6
<b>Total</b>	<b>824</b>	<b>100</b>

Source: CAPMAS, 2003, CARIM Database.

Examining the educational level of emigrants to OECD shows a very interesting pattern of emigration by education. Based on Docquier and Marfouk (2004) compiled international data set of estimates of emigration stocks and rates to OECD countries by educational attainment in 2000 and 1990. Egypt has a high selection rate i.e. high proportion of skilled workers in total emigration. Among the 195 countries studied by Docquier and Marfouk (2004) Egypt is among the top 30 countries with the highest selection ranking 19 with 59 percent selection rate. Table 5 shows the emigration rates by three educational levels in 1990 and 2000 from Egypt to OECD; i.e. the emigration stocks to the total number of people born in the source country and belonging to the same educational category. The emigration rate among the highly educated is quite low at only 4.6 percent. This suggests that high skilled emigration is not harming the economy since less than 5 percent emigrate to OECD.<sup>3</sup>

**Table 5: Emigration and Selection Rates from Egypt to OECD by educational level**

	Educational level (%)			
	Low	Medium	High	Total
<b>Emigration Rates</b>				
<b>1990</b>	0.3	1	5.9	0.8
<b>2000</b>	0.2	0.8	4.6	0.9
<b>Selection Rates</b>				
<b>1990</b>	26.6	20.3	53	100
<b>2000</b>	18.3	22.9	58.9	100

Source: Docquier and Marfouk (2004).

<sup>3</sup> This figure is an under-estimate since the majority of Egyptian emigrants in other Arab countries are not included. However, the majority of emigration to other Arab countries tends to be temporary.



Notes: Emigration rate is the emigration stock as a share of the total number of people born in the source country and belonging to the same educational category. Selection Rate is the distribution of migrants by educational level. Low education: primary education (0-8 years of schooling); medium education: secondary education (9-12 years of schooling); high education: tertiary education (13 years and above).

Data on the educational level of workers abroad in 2006 according to CAPMAS provides a very interesting picture. First, 96% of all highly-skilled Egyptian migrant workers reside in Arab countries and only 2% reside in European Countries. At the same time, the majority of Egyptian workers in Arab Countries, 71% of all Egyptian workers, have intermediate education or below. In addition, European Countries tend to attract mostly emigrants with intermediate education unlike to North America.

**Table 6: Egyptian Emigrants Working Abroad by Educational Level in 2006**

<b>Educational Level</b>										
<b>Destination</b>	<b>Below Intermediate</b>		<b>Intermediate</b>		<b>Above Intermediate</b>		<b>High</b>		<b>Total</b>	
	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>
<b>Arab</b>										
Countries	325475	97.25	266737	93.47	29006	92.79	216352	96.21	837570	95.59
%	38.86		31.85		3.46		25.83		100	
<b>European</b>										
Countries	8225	2.46	15672	5.49	1887	6.04	5248	2.33	31032	3.54
%	26.5		50.5		6.08		16.91		100	
<b>Australia</b>										
Countries	...	..	3	0	..	..	7	0	10	0
%	..		30		..		70		100	
<b>African</b>										
Countries	34	0.01	83	0.03	15	0.05	877	0.39	1009	0.12
%	3.37		8.23		1.49		86.92		100	
<b>Asian</b>										
Countries	26	0.01	75	0.03	10	0.03	355	0.16	466	0.05
%	5.58		16.09		2.15		76.18		100	
<b>The Americas</b>										
Countries	81	0.02	107	0.04	21	0.07	282	0.13	491	0.06
%	16.5		21.79		4.28		57.43		100	
<b>Others</b>										
Countries	843	0.25	2710	0.95	322	1.03	1760	0.78	5635	0.64

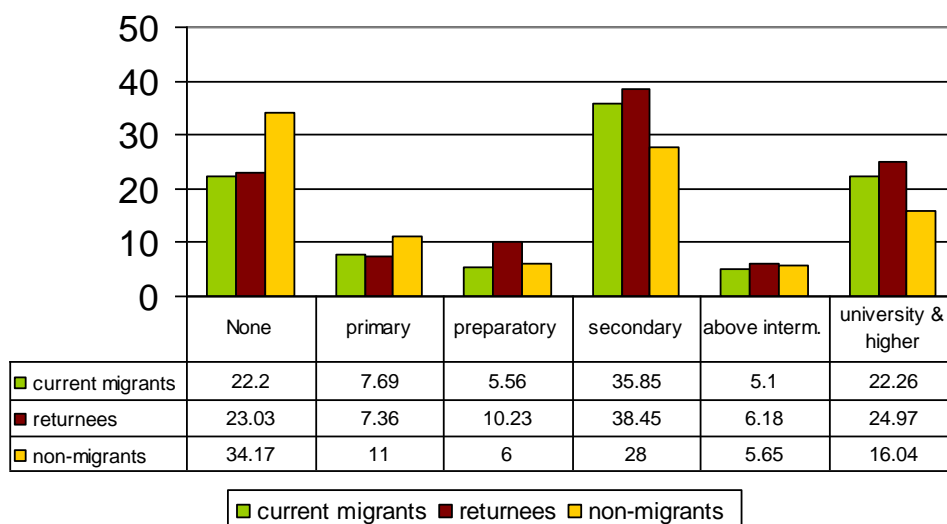
%	14.96		48.09		5.71		31.23		100	
Total	334684	100	285387	100	31261	100	224881	100	876213	100

Source: CAPMAS.

Examining the educational levels of current, return and non-migrants in 2006 based on the 2006 ELMPS (Fig 1), suggests that return migrants are more educated than non-migrants supporting the selectivity of migration. However, return migrants are on average not less educated than current migrants. Almost 25% of returnees hold a university degree compared to 23% among current migrants. This is an important issue since in many countries returnees are believed to be negatively selected: i.e. although emigrants are usually among the high end of the skill distribution in the home country, returnees are the ones who have not performed as well whilst overseas and, therefore, have returned home. There is no evidence that this is the case in Egypt which is not surprising given the temporary nature of migration in Egypt. However, it is important to remember that this figure is an underestimate since it does not include migrant *households* who are currently overseas; i.e. does not include migrants with their families currently overseas. Overall, migrants, both returnees and current, tend to be more educated than non-migrants, Wahba (2007).

## Figure 1

### Education of Non-Migrants, Current and Return Migrants in 2006 (%)



Source: Wahba (2007).

As for the occupation of Egyptian emigrants, Tables 7 and 8 show the occupation of those Egyptian workers abroad who were granted work permits and their destinations.<sup>4</sup> Around 41% of Egyptians who were granted work permits in 2002 were scientists and technicians and a third were production workers. Over time (between 1985-2002) there is evidence of emigration becoming more selective of high skills among Egyptian workers granted work permits in Arab countries. Examining the occupation of Egyptian emigrants by destination highlight that emigrants to the Gulf tend to be more skilled relative to those who go to Lebanon, Jordan and Iraq.

**Table 7: Work Permits Granted to Egyptians Abroad, by Country of Residence and Occupation in 2002**

Arab	Occupation (%)
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<sup>4</sup> Data on the occupations of Egyptian emigrant workers in Europe is not available.

Countries	Scientists and technicians		Managers	Clerical Workers	Sales and Services	Agriculture, animal husbandry and fishing	Production workers
Bahrain	27.2	5.5	24.3	24.3	0	33.7	
Iraq	2.6	0	1.5	1.5	33	62.9	
Jordan	1.4	0	1.7	1.7	31.9	62.9	
Kuwait	53.5	1.1	21.5	21.5	0.2	14.1	
Lebanon	0	0	2.3	2.3	21.1	76.6	
Libya	57	9	0	0	0	34	
Oman	52.9	8.1	4.1	4.1	1.4	31.5	
Qatar	51.5	1.9	6.1	6.1	1	37.4	
Saudi Arabia	40.5	0.4	0.3	20.6	7.1	31.1	
UAE	41.1	4	2.9	2.9	0.9	50.1	
Yemen	69.1	18.1	1.1	1.1	0	7.7	
Total	39	2.4	12.7	12.7	8.6	35.8	

Note: Rows add to 100 percent

Source: Ministry of Manpower and Emigration, CARIM Database.

**Table 8: Work Permits Granted to Egyptians in Arab Countries, by Occupation and Year (%)**

Occupation	1985	1990	2002
Scientists and technicians	20.4	40.2	41
Managers	0.3	0.3	2.4
Clerical Workers	8.8	8	1.5
Sales and Services	18.5	17.3	12.7
Agriculture, animal husbandry and fishing	8.9	5.3	8.6
Production workers	43	28.9	33.8

<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>
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Source: Ministry of Manpower and Emigration, CARIM Database.

### 3. The European Labor Market Needs

In this first sub-section, the paper examines the skills needed by the EU, before assessing whether Egypt can provide those skills. Current demographic trends in the EU point to a changing structure of the European population, over the next two decades. Three trends in particular are transforming Europe’s demographic profile. First there is a steady decline in the segment of the population below 40 years. Second, the level of population aged 40-60 years is stagnant. Third, there is a rapid growth in the segment aged 60 and over. Table below, shows projected changes in the number of different segment of population in Europe by 2025 if current demographic trends continue and no immigration were to occur.

**Table 9: Change in Different EU Population Segments by 2025**

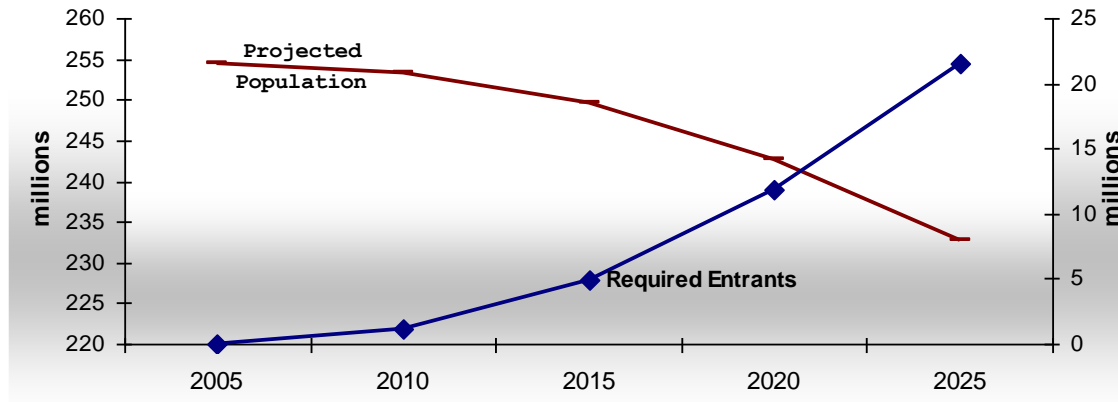
Segment	Projected Change
Young Active 20-40	- 17%
Old Active (40-60)	0%
Retired	+34%

*Adapted from Fargues: “Temporary Migration: Matching Demand in the EU with Supply from the MENA”.*

The projected changes in the structure of the EU population, suggests that the Union will be facing a labor shortage by 2025. Even if one accounts for immigration and changes in labor participation rates, the labor force is expected to decline in most European countries and current labor shortage are likely to persist and become more serious. The figure below shows the total number of entrants required until 2025 to maintain the EU labour force (i.e. population segment 20-60) at its current level.

**Figure 2:**

### Projected EU Population and Required Entrants (age 20-60)



*Source:* Adapted from Fargues 2005: “Temporary Migration: Matching Demand in the EU with Supply from the MENA

While indicative of the magnitude of EU’s labor shortages and need for migrant workers, these figures don’t offer any insights into how different industries, occupations and countries will be impacted by these shortages. Analyzing future labor market needs in the EU requires a close examination of trends in broad sectors, occupations and in the types of skills required. Moreover, because economic conditions vary widely among EU member States, it is important to take a closer look at how these needs by country.

#### **i. Skill Needs in Broad Sectors**

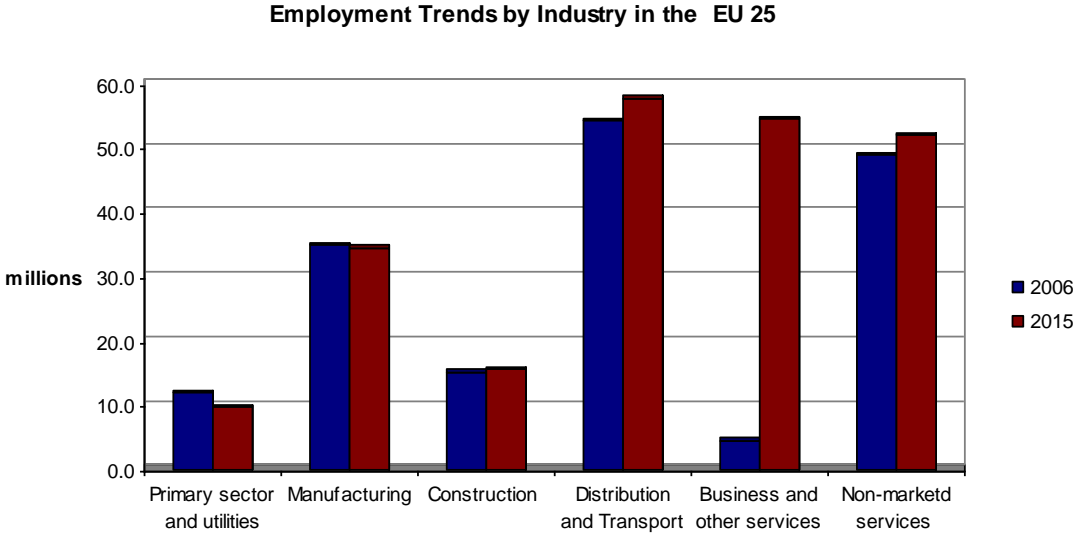
Available data suggests that some sectors in the EU could face oversupply of labor while others will suffer from significant shortages over the next two decade. The manufacturing sector will experience a net loss while the primary, the utility and the non-marketed services sectors (e.g. public administration and defense, education) will see small net gains in employment. The business and other services sectors, however, will see a dramatic increase in employment over the next decade. The number of employees in that sector will grow dramatically from a little under five million in 2006 to over 54 million in 2015 (see Figure 3).

By 2020, the services sector is expected to account for almost three quarters of total jobs in the EU-25. One reason for the expansion in the services sector is the outsourcing phenomenon

which is allowing many companies to tap into foreign labour stocks. Other reasons include technological changes especially in the field of information and communications technologies. Yet despite the rapid growth in the EU services sector and the increasing importance of external providers for the sector, service providers in the EU face numerous barriers to using external providers.

A survey of European firms found that location was the main barrier to companies seeking services from outside their home countries. Location was a particularly important barrier with relation to transport logistics, IT services, industrial cleaning and security services among others. For activities like legal services or accounting, firms were more inclined to search for regional or national providers who have in depth knowledge of relevant rules and regulations.

**Figure 3:**

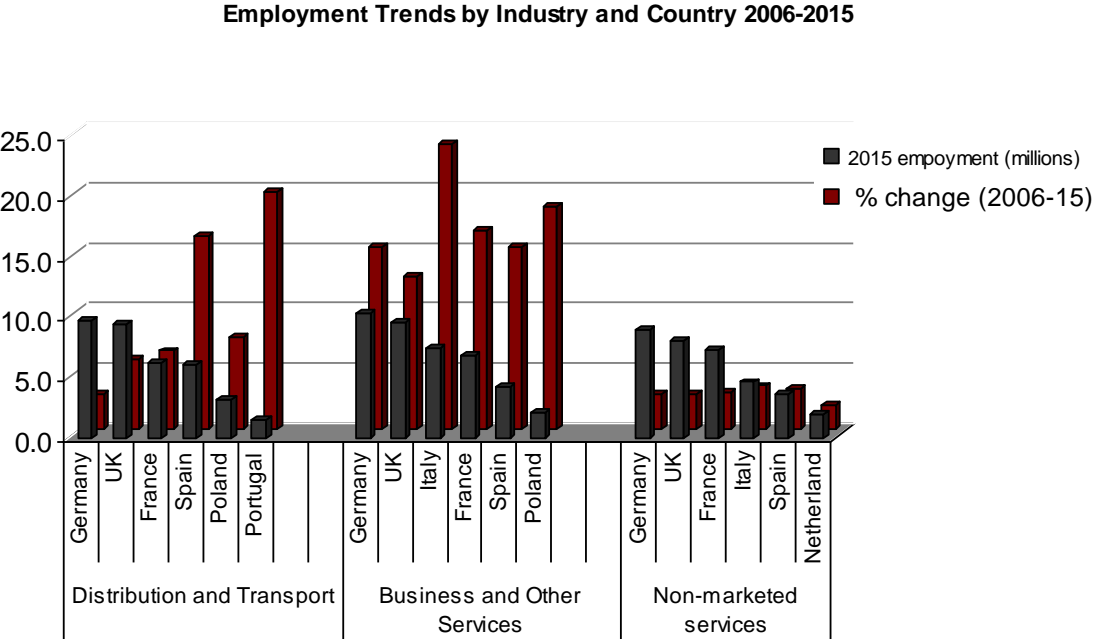


Among the three industries that that are expected to experience employment growth by 2015, projections vary widely by country. Few countries would see a decline in employment in these sectors while others will experience growth rates as high a 12 percent.

Figure 4 shows employment in the five EU countries that are expected to experience the largest employment growth, in absolute terms, in the three growth industries; distribution and transport, business and other services and non-market services.

Germany and the UK will have the largest employment expansion in absolute terms in the three sectors. In relative terms, Portugal and Spain will have the largest growth in the distribution and transport sector, while Italy and Poland will experience the largest percentage growth in the service sector. In the non-marketed services sector, which will see the least expansion in both absolute and relative terms, Italy and Spain are expected to see the largest relative employment growth by 2015.

**Figure 4:**



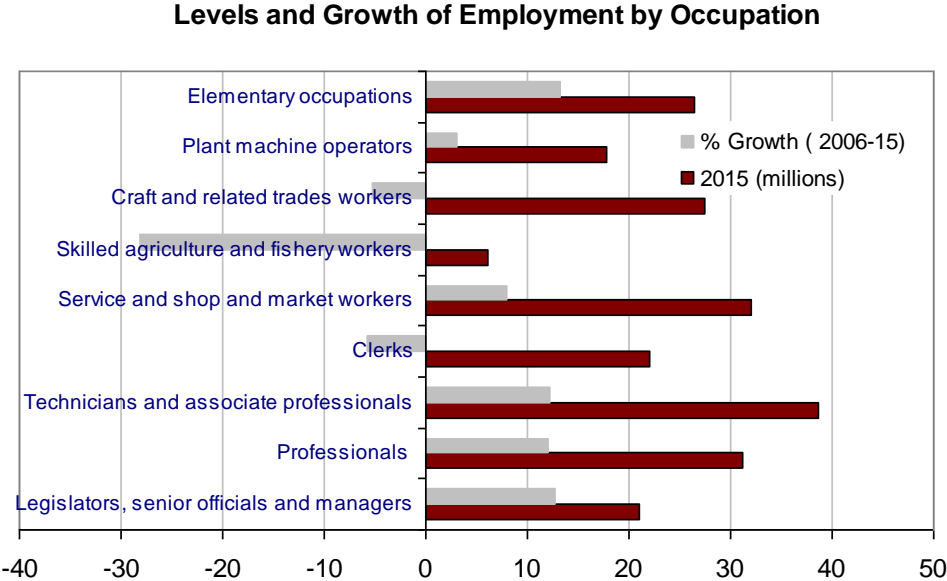
**ii. Occupational Needs**

Industry structural changes together with technological developments will naturally impact the type of occupations needed in the EU. So trends in broad sectors will be reflected in changes in occupational needs. For example, demand for occupations in agriculture or manufacturing is expected to fall, while that for occupations linked to services is projected to increase significantly. Figure 5 summarizes changes in occupational structure in the EU between 2006 and 2015. It provides employment levels in 2015 and employment growth rates between 2006 and 2015 for nine types of occupations. The most drastic fall is in agriculture-related occupations which are projected to decline by 28 percent. This is followed by employment of clerks and craft



and related workers which are expected to fall by 5.2 percent and 5.8 percent respectively. By contrast, all professions in the services sector are projected to grow by at least 10 percent by 2015. The increase in employment in these occupations is in line with projections for expansion in the services sector discussed earlier.

**Figure 5**

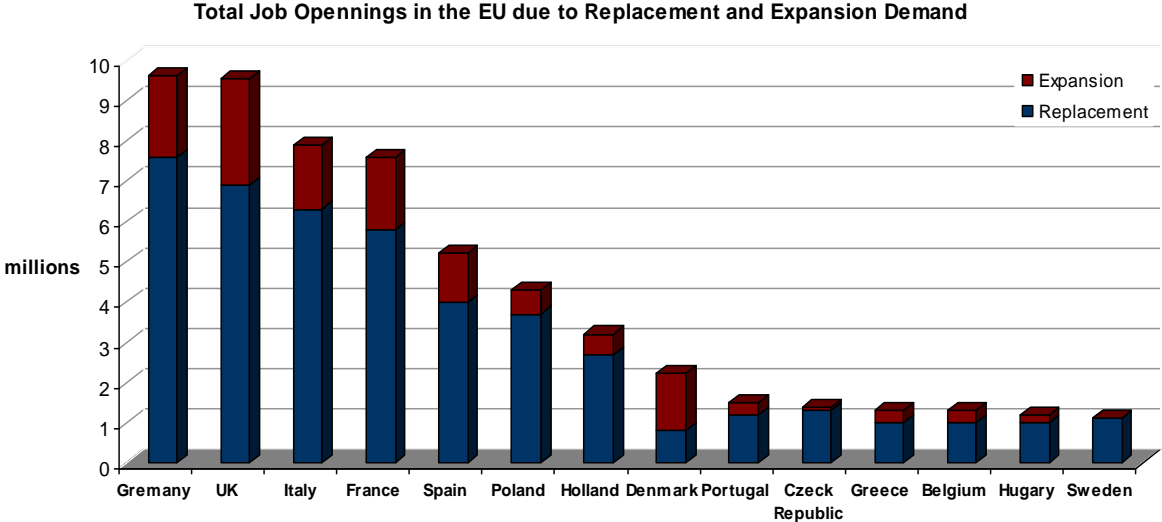


In addition to employment levels and growth, a key figure in labor market projections is the number and type of job openings expected in the EU market. Such figures have important implications for negotiations covering labor mobility between the EU and other countries. They provide policy makers in the EU with critical information about labor market demand, which could be possibly met through temporary work programs or other arrangements involving labor migration.

At the same time, countries interested in enhancing labor mobility with the EU can focus their negotiations efforts on occupations facing the greatest demand in the EU. Figure 6 shows the number of job openings in the EU due to replacement demand, arising from exit of workers because of retirement and other reasons and expansion demand. Between 2005 and 2016, a total of 61,239 million jobs are expected to become available in the EU 25 members. Of these openings, over 51 million jobs will come from replacement demand and 13 million will arise from expansion demand.

The largest number of job openings will take place in the EU’s major economies; UK, Germany, Italy and France. Yet smaller European economies, including from Eastern Europe, account for a surprisingly high number of job openings between 2006 and 2015. Poland, alone will account for four millions job openings and Denmark will have two million jobs become available during that period.

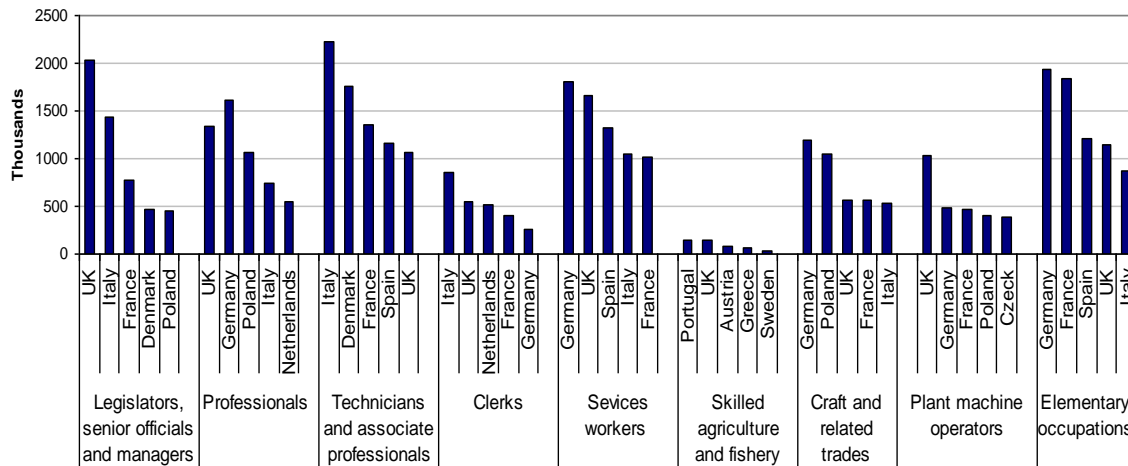
**Figure 6:**



Among countries with the largest number of job openings, demand for different occupations varies by country. Figure 7 shows job openings by occupation for the five EU countries with the highest number of openings for each occupation. Interestingly, demand for skilled agriculture workers is expected to grow, although very modestly, in few EU countries including the UK and Portugal among others. Smaller economies will see large number of job openings in specific occupations. Denmark, for example, is expected to have over 1.7 million job openings for technicians, second only to Italy. Similarly, Poland will have over one million job openings for professionals and one million openings in craft related trades by 2015.

**Figure 7**

**Total Job Openings by Country 2006-15**



Countries seeking agreements covering worker mobility with the EU, should take notice of expanding opportunities in “non-traditional” destinations. Lower income EU members like Greece and Portugal, and Eastern European countries will generate an increasing number of jobs over the next few years. Among Eastern European economies, Hungary, Poland and the Czech Republic will together have more than seven million job openings between 2006 and 2015.

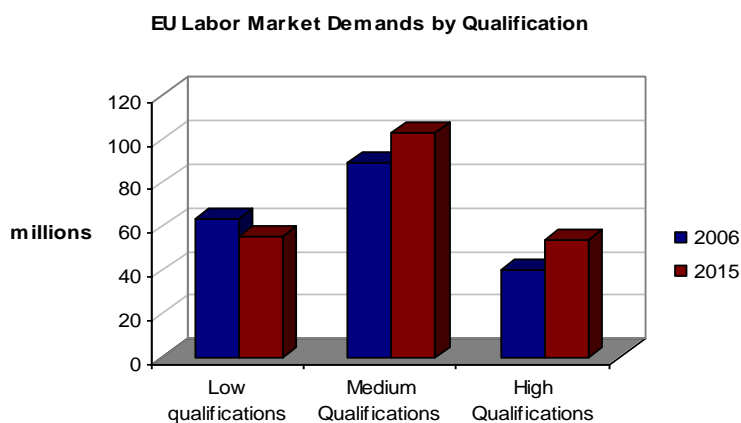
### iii. Labor Needs by Skill Level

The sectoral changes and shifts in occupational needs discussed above have a direct impact on the level of skills demanded in the EU labor market over the next decade. Available data, suggests that there will be a general increase in demand for workers with higher qualifications (i.e. those with tertiary education or higher). Of the 20 million jobs that will be created in the EU, 19.6 million will be for workers with the highest educational level (graduate and post-graduate qualifications or vocational equivalent). Another 13.1 million jobs will be available for people with medium level education (i.e. upper-and post secondary level). In contrast, 12.5 million jobs for people with low or no educational attainment will be lost. Still, the total number of jobs requiring medium qualifications will continue to be higher than those requiring high or low qualifications (See figure 8)

Part of the reason for the surge in the number of jobs for highly qualified workers is the steady increase in the number of people with higher qualifications. Job market requirements

adjust to reflect supply trends. There is growing evidence of increasing qualification requirements even for both higher and lower level jobs.<sup>5</sup>

**Figure 8:**



CEDEFOP forecasts significant growth in the high and medium-skilled occupations over the next decade. It estimates demand resulting from both economic expansion and exit of workers due to retirement and other reasons to increase by more than 40 percent by 2020. And if current trends continue, the study says, lower-skilled jobs will also grow by over 15 percent. Overall, it is estimated that by 2020, almost one third of all jobs will require high educational/vocational attainment. Meanwhile demand for low qualifications will fall from

It is important to note that even though, labor shortages are evident across the EU and there are many similarities across countries, the EU labor market is segmented. Economic, social, and institutional differences divided the EU into two “migration regimes” in northern and southern Europe. These two regimes are further differentiated according to national policy content and effectiveness and other relevant characteristics. In traditional immigrant destinations, Austria, Germany, the Netherlands, Belgium, France, Sweden and UK- skilled immigrants, fill job openings in the manufacturing and mining sectors or in sectors undergoing rapid technological change mostly using temporary visas. In comparison, in southern Europe agriculture still accounts for a large share of total employment, including large informal and seasonal sectors. Immigrants tend to be employed primarily in the agricultural sectors, the construction industry, the wholesale and retail trade.<sup>6</sup>

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<sup>6</sup> Louka T. Katseli. *Immigration and EU Labour Market.2004. www.migrationinformation.org*

## b. The Potential for Temporary Migration from Egypt to the EU

Turning now to Egypt's potential supply of emigrants, first we examine the educational level of the labor force, which has been classified in Table 11 using CEDEFOP's classification above. Around 33 percent of the labor force have medium qualifications and 27 percent have high qualifications; i.e. 60 per cent of the labor force would meet the educational qualifications required by the EU. Table 12 highlights in red the occupations which are needed in the EU. Table 13 combines the occupation and educational levels needed and highlight in red those workers that could be supplied by Egypt.

**Table 11: The Labor Force by Educational Level and Gender, 2006 (%)**

	Male	Female	Total
<i>Low Qualifications</i>			
Illiterate	19.99	28.91	22.39
Literate without any diploma	7.38	2.07	5.95
Elementary school	11.4	4.17	9.45
Middle school	5.81	2.25	4.85
<i>Medium Qualifications</i>			
General high school	0.98	0.42	0.83
Vocational high school	32.45	32.69	32.51
<i>High Qualifications</i>			
Post-secondary institute	4.78	6.25	5.18
University & above	17.21	23.24	18.83
Total, %	100	100	100

Source: The Author's calculation based on ELMPS06.

**Table 12: The Labor Force by Occupation and Gender, 2006 (%)**

	Male	Female	Total
Legislators, senior officials & managers	8.23	6.84	7.9
Professionals	11.78	18.66	13.45

Technicians & associate professionals	7.71	13.22	9.04
Clerks	3.21	6.29	3.95
Service & shop/market sales workers	15.34	10.36	14.13
Skilled agricultural & fishery workers	20.9	37.11	24.82
Craft & related trades workers	20.55	4.19	16.59
Plant & machine operators and assemblers	8.61	2.83	7.21
Elementary occupations	3.66	0.52	2.9

Source: The Author's calculation based on ELMPS06.

**Table 13: Labor Force by Occupation, Qualification Level and Gender, 2006 (%)**

	Male			Female			Total		
	Low	Medium	High	Low	Medium	High	Low	Medium	High
Legislators, senior officials & managers	31.31	32	36.69	37.61	21.9	40.49	32.63	29.88	37.49
Professionals	0.56	10.96	88.48	0.54	9.99	89.47	0.55	10.64	88.81
Technicians & associate professionals	10.38	60.24	29.38	3.97	70.11	25.91	8.11	63.74	28.15
Clerks	12.72	64.47	22.81	4.13	69.05	26.82	9.4	66.24	24.36
Service & shop/market sales workers	49.61	36.23	14.16	65.07	27.48	7.44	52.36	34.67	12.97
Skilled agricultural & fishery workers	68.72	27.04	4.23	79.39	16.77	3.84	72.61	23.3	4.09
Craft & related trades workers	61.74	33.34	4.92	64.3	32.56	3.14	61.9	33.29	4.81
Plant & machine operators and assemblers	58.61	37.21	4.18	51.39	45.28	3.33	57.93	37.97	4.1
Elementary occupations	72.32	25.41	2.27	86.13	13.87	0	72.92	24.91	2.17

Source: The Author's calculation based on ELMPS06.

An important factor that may also be taken into account is the impact of exporting those occupations on the Egyptian labor market. Examining unemployment is important in shedding

light on the potential impact of, as well as benefit from, temporary labor emigration. The unemployment rate was around 8.3 percent in 2006 (Assaad (2007)). In 2006, unemployment rates were very low for people with lower levels of education, increase for technical secondary graduates but increase even more for post-secondary and university graduates- Table 14. Thus, unemployment in Egypt is highly represented among more educated workers, with those without education having very low unemployment rate – Table 15.

An important characteristic of unemployment in Egypt is its young face. The youth comprises around three quarters of total unemployment. Youth unemployment is also mostly concentrated among the educated as a result of the incapability of the economy to create sufficient new job opportunities to accommodate the annual increase in the labor force which is mostly composed of youth entering the labor market for the first time at the time when the public sector has been downsizing. Unemployment is especially high for new entrants to the labor force with intermediate and higher education. As is also clear from Tables 14 &15, unemployment tends to be higher among women.

**Table 14: The Distribution of the Unemployed by Educational Level and Gender (%), 2006**

	Male	Female	Total
<i>Low Qualifications</i>			
Illiterate	1.17	0.38	0.9
Literate without any diploma	1.41	0	1.28
Elementary school	1.7	4.29	2
Middle school	2.47	5.55	2.84
<i>Medium Qualifications</i>			
General high school	5.11	3.62	4.92
Vocational high school	6.55	34.21	13.77
<i>High Qualifications</i>			
Post-secondary institute	5.59	23.58	11.12
University & above	9.33	24.93	14.37
Total	4.68	18.57	8.3

Source: The Author's calculation based on ELMPS06.

**Table 15: The Distribution of the Unemployed by Educational Level (%) and Gender, 2006**

	Male		Female		Total	
	Number	%	Number	%	Number	%
<i>Low Qualifications</i>						
Illiterate	41,203	5.1	6,877	0.61	48,080	2.48
Literate without any diploma	18,571		0		18,571	
		2.3		0		0.96
Elementary school	33,412	4.14	10,961	0.97	44,373	2.29
Middle school	24,488	3.03	7,381	0.65	31,869	1.65
<i>Medium Qualifications</i>						
General high school	8,584	1.06	891	0.08	9,475	0.49
	360,705	44.6	665,776		1,026,48	
Vocational high school		8		59	2	53.03
<i>High Qualifications</i>						
Post-secondary institute	45,979	5.7	85,876	7.61	131,854	6.81
	274,383	33.9	350,629		625,012	
University & above		9		31.07		32.29
	807,325.6		1,128,39		1,935,71	
Total	2	100	2	100	8	100

Source: The Author's calculation based on ELMPS06.

Around 86 percent of those unemployed in 2006 were new entrants to the labor market. Yet, examining the previous occupations of the unemployed who worked before is also useful- Table 16. In particular, two occupations which are needed in the EU seem to comprise almost one third of the unemployed who worked previously, namely professionals and those in service and sales jobs. Thus, overall, there is excess capacity/supply of workers with medium and high qualification in the Egyptian labor market, as seen from their high unemployment rates. Furthermore Table 17 shows that the following professions are in excess supply: Engineering, life science, and health professions; Engineering, life science, and health technicians and associated professions; service and sales personnel and machine operators. Focusing on those



professions with high unemployment rates, Table 18 provides the number of the labor force in those professions.

**Table 16: Previous Occupation of the Unemployed by Gender, 2006**

	Male	Female	Total
Legislators, senior officials & managers	10,973	0	10,973
%	4.94	0	3.52
Professionals	21,331	32,621	53,953
%	9.61	36.42	17.31
Technicians & associate professionals	15,280	9,445	24,725
%	6.88	10.55	7.93
Clerks	1,624	5,019	6,643
%	0.73	5.6	2.13
Service & shop/market sales workers	55,631	26,552	82,184
%	25.05	29.64	26.37
Skilled agricultural & fishery workers	12,739	3,206	15,945
%	5.74	3.58	5.12
Craft & related trades workers	71,461	7,530	78,991
%	32.18	8.41	25.35
Plant & machine operators and assemblers	12,983	5,194	18,177
%	5.85	5.8	5.83
Elementary occupations	20,042	0	20,043
%	9.03	0	6.43

Source: The Author's calculation based on ELMPS06.

**Table 17: Number of Current Unemployed by Previous Professions & Qualifications, 2006**

	Medium Qualification	High Qualification
<i>Legislators, senior officials &amp; managers</i>		
Corporate managers	1765	3007
<i>Professionals</i>		
Engineering Science Professionals		6342
Life Science Professionals		2074

Health Professionals (excl. nursing)	2672	
Teaching Professionals	10244	17391
Other Professionals	1409	16700
<i>Technicians &amp; associate professionals</i>		
Physical and Engineering Science Associate professions	1113	
Engineering Science Technicians & Associate professions	2403	5718
Health Technicians and Associated Professionals (excl. nursing)	1153	
Teaching Associate Professions		1553
Other Associate professions	9186	
<i>Service &amp; shop/market sales workers</i>		
Service workers	10334	2132
Sales persons	34800	13823
<i>Plant &amp; machine operators and assemblers</i>		
Machine operators and assemblers	6147	1295
Drivers and mobile plant operators	6109	
<i>Elementary occupations</i>		
Sales and services elementary occupations	11120	

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Source: The Author's calculation based on ELMPS06.

**Table 18: Labor Force: Selected Professions & Qualifications, 2006**

	Medium Qualification	High Qualification
<i>Legislators, senior officials &amp; managers</i>		
Corporate managers	334974	239004
<i>Professionals</i>		
Engineering Science Professionals	5010	203460
Life Science Professionals	3028	64363
Health Professionals (excl. nursing)	1009	198989
Teaching Professionals	232026	1210190
Other Professionals	63005	840849

<i>Technicians &amp; associate professionals</i>		
Physical and Engineering Science Associate professions	21941	37583
Engineering Science Technicians & Associate professions	347222	136422
Health Technicians and Associated Professionals (excl. nursing)	65336	77067
Teaching Associate Professions	176725	2527
Other Associate professions	613847	293639
<i>Service &amp; shop/market sales workers</i>		
Service workers	366536	100181
Sales persons	574242	226543
<i>Plant &amp; machine operators and assemblers</i>		
Machine operators and assemblers	220981	23183
Drivers and mobile plant operators	347567	38876
<i>Elementary occupations</i>		
Sales and services elementary occupations	153146	13377

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Source: The Author's calculation based on ELMPS06.

There is no doubt that the wage differential between Egypt and the EU makes it attractive for workers to work overseas temporarily. According to CAPMAS, the average monthly wage in the public sector was LE 1232 (equivalent to Euros 153) and in the private sector LE 856 (equivalent to 106 Euros). This suggests a huge gap in the average wage rate between Egypt and the EU.<sup>7</sup> The average annual net earnings in EU15 were Euros 22944.<sup>8</sup> For example, in Spain the monthly average earnings for non-manual jobs were Euros 1761 and for manual jobs: Euros 1349. Table 19 provides estimates of monthly average wages by occupation in Egypt in 2006 based on the ELMPS06 for all workers.<sup>9</sup>

**Table 19: Mean of Monthly Wages in LE by Occupation and Gender, 2006 (%)**

<sup>7</sup> The exchange rate in 2007 was 1 Euro=8.05 Egyptian Pounds.

<sup>8</sup> The net annual earnings in 2006 for: France: Euros 22296; Italy: Euros 16877; Spain Euros 16779 and Greece: Euros: 16404.

<sup>9</sup> For all workers: public/private and formal/informal sectors.

	Male	Female	Total
Legislators, senior officials & managers	1329.7	1013.5	1235.1
Professionals	1092.6	640.6	927.5
Technicians & associate professionals	734.9	562.3	669.0
Clerks	738.7	510.1	649.0
Service & shop/market sales workers	549.4	299.4	518.6
Skilled agricultural & fishery workers	333.8	203.0	325.5
Craft & related trades workers	545.5	373.9	539.8
Plant & machine operators and assemblers	696.4	278.5	657.0
Elementary occupations	453.7	161.0	446.9

Source: The Author's calculation based on ELMPS06.

It is clear from the above analysis that Egypt has the potential to supply workers to meet the skill needs of the EU. Egypt has medium and high qualification workers in the following occupations: Legislators, senior officials & managers; Professionals; Technicians & associate professionals; Service & shop/market sales workers; Plant & machine operators and assemblers; and Elementary occupations. As highlighted by the latest World Bank report (2009) enhancing the quality of education and language proficiency should be a priority for Egypt to be able to utilize its human resources efficiently.

#### **4. Labor Mobility in EU's Bilateral, Regional and Multilateral Trade Agreements**

Since its establishment, the European Union has concluded several bilateral and multilateral trade agreements that are aimed at liberalizing trade in goods and services both within the Union and between the Union and other countries. Even though the initial agreements were primarily aimed at liberalizing merchandise trade, the focus moved to services trade over time. This shift was due to removal of majority of restrictions imposed on merchandise trade as well the increasing importance of services in global trade flows. Services trade may involve (i) the service being provided over the border as in call centers, (i) the consumer crossing an international border

for consumption as in tourism or (iii) the service provider crossing the border as in various consultancy services. Among these “modes” of service delivery, the most controversial is the last one as it involves a temporary immigration of the citizen of an exporting country to the importing country.

Despite obvious economic gains, political and social concerns over migration severely limit the scope of labor mobility in most trade agreements. This is especially true for the agreements signed by the European Union which is already one of the primary destinations for global immigration flows especially from neighboring regions - such as North Africa and the Middle East. The agreements between EU and its various partners offer varying degrees of labor mobility. Some provide for full or, prospects of full labor mobility, while others offer very limited mobility and only in connection with the provision of specific services. After years of multilateral negotiations under the WTO and several bilateral agreements between the EU and developing countries, there is not much to show for in terms of removing restrictions on temporary labor mobility. In short, temporary migration agreements remain highly restricted by a plethora of administrative and legal barriers.

This section examines the coverage and treatment of labor mobility in various agreements among the EU members as well as between the EU and other countries. It also compares provisions of bilateral agreements that are modeled after the WTO General Agreement on Trade in Services (GATS) to EU’s GATS commitments. The section also examines in detail the recent EU-CARIFORUM Economic Partnership Agreement and assesses the degree of labor mobility offered by the Agreement. There are several sub-sections. The first sub-section provides an overview of the key findings that emerged from the review of EU agreements. The following sub-sections summarize key provisions relating to labor mobility in these agreements. The final sub-section assesses the degree of liberalization of labor movement provided by the EU-CARIFORUM EPA and how its provisions compare to GATS provisions and EU GATS commitments.

### **Key Points on Labor Mobility in EU Agreements**

A review of the various EU agreements that cover labor mobility shows the following;

- The terms of various agreements mainly reflect geographical proximity and similarities in levels of development between the EU and other countries that signed the agreements. For example, EU agreements with countries of the European Economic Area have a rather liberal approach to labor mobility when compared to agreements with newly acceded countries to the

EU. This is consistent with findings on factors impacting liberalization of labor mobility in regional trade agreements worldwide. (Nielson 2002) And the agreements with new members are much more liberal than the ones with non-members.

- EU agreements that contain provisions on labor movement can be grouped into two broad categories: Agreements that offer full, or prospects of full, mobility of labor (e.g. the European Community Treaty and the EU agreements with EFTA); and agreements that use the GATS model.
- Of the Agreements that use the GATS-model, some simply reaffirm GATS commitments without any additional commitments while others include additional elements to GATS (known as GATS-plus) and cover more sectors than what the EU has committed to under GATS.
- Currently the EU has three GATS-plus free trade agreements; the EU-Mexico Free Trade Agreement, the EU-Chile Free Trade Agreement and the EU-CARIFORUM Economic Partnership Agreement. The EU also concluded several GATS-like pacts under the Euro-Med Associate Agreements in the late 1990s and early 2000s. It is also currently negotiating broad free trade agreements that cover services with Egypt, Israel, Morocco and Tunisia.
- EU agreements that use the GATS model cover temporary labor movement and only with relation to services. These pacts do not impinge on the rights of individual EU members to regulate entry and temporary stay of workers provided that their measures don't nullify or impair specific commitments undertaken by the EU in bilateral or multilateral agreements. Although the latter condition provides some assurance that national regulations wouldn't be used to undermine agreements on labor mobility, in practice EU member states maintain full discretion to administer grant and refuse visas for workers.
- Among the EU GATS-like Agreements, the Euro-Med Association Agreements reaffirm existing GATS commitments and provide for future dialogue on services liberalization including on Mode 4 and on labor movement in general (not just in connection with services). But the EU–Mexico, EU–Chile and the most recent EU agreement with the CARIFORUM go beyond GATS have more substantive and detailed provisions on labor mobility.
- In assessing the degree of liberalization offered by GATS-Plus agreements, it is important to consider three measures; 1) the agreement's coverage and provisions compared to GATS and to current EU commitments under GATS, 2) the specific conditions and restrictions applied by the agreement to labor movement and how such conditions and restrictions impact labor

movement; and 3) whether the agreement is supported by key measures that facilitate labor movement such as mutual recognition of academic and professional credentials.

- The EU-CARIFORUM EPA agreement illustrates a new approach by the EU to labor mobility and services liberalization in general, in its bilateral trade agreements. It is very likely that the Agreement will guide future EU negotiations on labor mobility with other developing countries and define the negotiating space for developing countries seeking arrangements on labor movement to the Union.
- In general, the EU-CARIFORUM EPA provides for the broadest coverage yet of movement of natural person as compared to any other agreement between the EU and developing countries. It opens a larger number of services sub-sectors to contractual service suppliers and specifies treatment of independent professionals. It also goes beyond the GATS in facilitating movement of intra-corporate transferees and graduate trainees in non-service sectors.
- Yet, the overall degree of liberalization of labor movement offered by the agreement appears limited once one considers the various conditions applied and the reservations inscribed by EU Members in the Agreement. Moreover, lack of measures that support labor mobility such as mutual recognition of academic and professional qualifications undermines the overall labor mobility offered by the agreement.

#### **a. Agreements Providing for Free Labor Mobility**

##### **i. The European Union**

The EU treaty provides for the broad right to labor mobility as one of the fundamental freedoms of the single market. The rights of movement and free access to labor markets for all citizens of Member States are guaranteed under three Articles; Article 39 on Freedom of Movement, Article 43 on the Right of Establishment, and Article 49 on the Freedom to Provide Services. Below is a brief description of each article.

##### *Freedom of Movement Article 39*

Guarantees citizens of EU Members States the following rights

- (a) To accept offers of employment actually made;
- (b) To move freely within the territory of Member States for this purpose;

(c) To stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) To remain in the territory of a Member State after having been employed in that State

#### *The Right of Establishment Article 43*

The article prohibits any restrictions on the freedom of establishment including the setting-up of agencies, branches or subsidiaries by nationals of a Member State in the territory of another. The Article also guarantees the right to take up and pursue activities as self-employed.

#### *Freedom to Provide Services Article 49*

The Article guarantees any individual that provides a service the right to temporarily pursue this activity in the State where the service is provided, under the same conditions applied by that State to its own nationals. Where a service has not been liberalized, restrictions must apply equally to nationals and other EU citizens. The article covers provision of services with relation to commercial and industrial activities, craftsmen and the professions. But the EU treaty allows Member States to make exceptions with relation to public policy, public security and public health. Special conditions also apply for transport, banking and insurance services. Additionally, some public service posts may be reserved for nationals. No visas or work permits are required, although residence permits may be required in some member states.

### **ii. EU Agreement with the European Free Trade Association (EFTA)**

In close connection with the EU treaty is the European Economic Free Trade Association (EFTA) agreement. The EFTA expands the EU Treaty on free movement of persons to include EFTA states – Iceland, Liechtenstein, Norway and Switzerland. The EU concluded a separate agreement with Switzerland that covers labor movement (see the next section). Signed in 1992, the Agreement provides for the free movement of goods, persons, services and capital among its Members. It specifically provides citizens the right of access to work, entry/exit and establishment (residence) and the right to provide services for a period of up to 90 days per year and the right of equal treatment.



The rights of free movement and rights to employment and establishment cover all citizens of the EFTA states and apply to all services sectors, although special conditions apply to certain services in the transport, financial, audio-visual and telecommunications sectors. Also, on the rights of establishment, there are exceptions with relation to public policy, public security or public health and public service. Discrimination based on nationality with relation to employment, remuneration and other conditions of work and employment is forbidden under the agreement. But employment in the public service (referred to in the agreement as the exercise of official governmental authority) is excluded from this ban.

### **iii. The EU-Switzerland Agreement on Movement of Natural Persons**

Switzerland participated in the negotiations of, and ultimately, the Agreement on the European Economic Area. And in May 1992, the Swiss Government applied for accession to the EC. But in a referendum held at the end of 1992, the Swiss people rejected the ratification of the EEA agreement, prompting the Swiss Government to suspend negotiations for EU accession. Yet, bilateral negotiations between the EU and Switzerland continued under the EFTA on seven sectors, including on movement of natural persons, framework

Negotiations on movement of natural persons between the EU and Switzerland were concluded in 1999 and entered into force in 2002. The agreement laid down the basic rules for the free movement of persons between Switzerland and the EU and the progressive implementation of these rules by both parties. Switzerland agreed to extend the rules to the ten states that joined the EU in 2004 in 2005 and to Bulgaria and Romania in 2009.

The agreement gives citizens of Switzerland the right to work and live in any EU member countries and EU citizens the right to reside and work in Switzerland. These rights are conditional however on the possession of a valid employment contract, being self-employed, or in the case of a person not in gainful employment, being financially independent and covered by health insurance. The Agreement also allows for transitional periods during which restrictions on immigrant workers, such as priority for the country's own citizens, prior control of wage and employment conditions. Quotas may be maintained in relation to both employees and self-employed individuals. To facilitate free movement of persons, the two parties also agreed to the mutual recognition of professional diplomas and to coordinate national social security schemes.

### **b. Agreements Providing for Restricted Labor Mobility with Prospect of Free Mobility**

### **i. Newly Acceded countries**

On May 1<sup>st</sup> 2004, ten countries: Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia, joined the EU. The Accession Treaty provided for a transitional period of seven years before community law on the free movement of workers takes effect across the entire EU25. This transitional period has three phases. In the first phase, from May 1, 2004 to April 30, 2006, the EU 15 states could adopt national measures or bilateral agreements to restrict the free movement of workers from the accession countries, except from Cyprus and Malta. At the end of the first phase the EU Commission had to report to the EU Council on the functioning of the transitional arrangement. The EU15 member states also had to notify the EU Commission at the end of the period on how they will deal with workers from acceding countries in the second phase ending on 30 April 2009. In the final period, which lasts until April 30, 2011, the EU15 member states can still apply restrictions to free movement of workers but only in the case of “serious disturbance to their labour markets, or a threat of serious disturbance”.

Among the EU 15, Sweden and Ireland didn't impose restrictions on access to their labour markets for workers from the newly acceded countries. The UK also did not apply any restrictions in advance but adopted a worker registration scheme for nationals of these countries. Under the UK scheme, nationals of newly acceded countries have to register to work or be self-employed and must have sufficient funds not to seek state benefits. Following a 12-month of uninterrupted period of employment they qualify for full free movement rights and can apply for a residence permit and income benefits from the state.

### **ii. The 2005 Accession Treaty for Bulgaria and Romania**

The Accession Treaty of 2005 granted Bulgaria and Romania membership of the European Union and became known as the “fifth enlargement” of the European Union. The accession of these two countries was negotiated with a particular focus on labour regulation and involvement of the labour movements from.

Both countries joined the EU on January 1, 2007 but, as with the 2004 accession, phased transitional arrangements cover movement of nationals from these countries. In the initial phase, which ended on December 31, 2008, EU Member States could restrict access to their labour markets. During the second phase which will last until December 30 2011, members can still apply restrictions on labour movement, though they have to notify the Commission. After 2011

free movement of persons should apply to the nationals of both countries. But, EU Member States has the option to extend the restrictions on their labour markets for a further period of up to two years , until December 31, 2013. But this is only permissible if an “objectively verifiable serious disturbance” is caused or threatened to member state’s labour markets by free movement. The restrictions apply only to Bulgarian and Romanian citizens seeking employment in other member states and do not apply to those wishing to study or who are self-employed (with exceptions made for certain economic sectors in some member states).

In the UK Bulgarian and Romanian nationals can freely travel to and study in the UK or become self-employed. However, access to the labour market is restricted. Skilled and highly skilled migrant workers can get access to the UK labor market through work permits or the highly skilled migrants program. Lower skilled workers are subjected to quota schemes to fill vacancies in selected sectors such as agriculture and food processing. The quota is for a maximum of 20,000 per year and workers under these quotas are limited to a six-month stay in the UK. Bulgarian and Romanian nationals already in legal employment in the UK will have the right to work in the UK once they have completed 12 months of continuous employment in the UK starting December 31, 2006.

### **iii. Countries Applying for Accession**

At present, there are three EU candidate countries, Croatia, Turkey and the Former Yugoslav Republic of Macedonia. Accession negotiations with Turkey and Croatia began in October 2005. The Former Yugoslav Republic of Macedonia became a candidate country in December 2005 but accession negotiations have not started yet.

Freedom of movement of workers is one of eighteen subject-related chapters covered by the accession negotiations (also known as "acquis", French for "that which has been agreed") and are not negotiable<sup>10</sup>. Accession negotiations focus on the conditions and timing of the candidate's adoption, implementation and enforcement of EU rules with relation to these subjects.

At present there aren't any arrangements between the EU and countries applying for accession that involve liberalization of labor movement. Especially, in the case of Turkey, the

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<sup>10</sup> The other subject-related chapters covered by the negotiations are free movement of goods , right of establishment and freedom to provide services , free movement of capital , public procurement company law , intellectual property law , competition policy , financial services, information society and media ,agriculture , food safety, veterinary and phytosanitary policy , fisheries , transport policy , energy , taxation economic and monetary policy and statistics

EU Commission and various member countries have expressed concern about potential mass migration of Turkish workers to the EU once she joins the Union. The Commission recommended considering the implementation of “permanent safeguards” against mass movement of Turkish workers to the EU. In a 2004 Communication to the Council and the European Parliament on accession negotiations with Turkey, the European Commission stated that:

The negotiations will be complex. For each chapter of the negotiations, the Council should lay down benchmarks for the provisional closure and, where appropriate, for the opening of negotiations, including legislative alignment and a satisfactory track record of implementation of the *acquis*. Existing legal obligations in line with the *acquis* must be fulfilled before the opening of negotiations on related chapters. Long transition periods may be required. In addition, in some areas, such as structural policies and agriculture specific arrangements may be needed and, for the free movement of workers, permanent safeguards can be considered.

Concerns about Turkish migration stem in part from the fact that Turkey’s level of development is much lower than that of other EU members, it is rather large country and there is already a significant Turkish diaspora in the EU member countries. They are also rooted in wide spread cultural fears within the EU about the impact of incorporating a majority-Muslim country in the EU on the character and composition of the Union. Therefore the EU is likely to seek a special arrangement with Turkey if and when the membership negotiations are completed. This will potentially involve a transition period to restrict labor movement.

#### **iv. Potential Candidate Countries**

Albania, Bosnia and Herzegovina, Montenegro and Serbia have all been promised the prospect of EU membership when they are ready. None of these countries have agreements with the EU that cover labor mobility. Therefore GATS and other related provisions under WTO agreements apply to labor mobility between these countries and the EU.

#### **WTO General Agreement on Trade in Services**

As a signatory to the GATS, the EU agreed to progressively liberalize trade in services through successive rounds of negotiations. The GATS addresses four modes of cross-border supply of services: Mode 1: cross border supply (e.g. international telephone calls); Mode 2: consumption abroad (e.g. tourism); Mode 3: commercial presence (e.g. company from one country setting up subsidiaries or branches in another country); and Mode 4: temporary movement of persons between countries to supply services.

The GATS' Annex on Movement of Natural Persons Supplying Services identifies two types of measures to be covered by negotiations on services liberalization; measures affecting natural persons who are service suppliers of a Member (i.e. self-employed suppliers who obtain their remuneration directly from customers); and measures relating to natural persons of a Member States who are employed by a service supplier of another Member to supply a service through employment in their home country or in the host market.

Table 1 provides a summary of GATS Mode 4 provisions. The Agreement's coverage is limited to temporary movements of natural persons and only in connection with supply of services. Mode 4 doesn't include coverage of migration or the movement of persons from one state to another to seek permanent residence in the host country. Yet the GATS doesn't establish a timeframe with relation to the temporariness of movement of service suppliers, nor does it differentiate between the skill level or skill type of service suppliers.

It is important to note that GATS in and of itself doesn't guarantee access for service suppliers to Member countries. Access to each member is ultimately determined by that member's commitments under the Agreement. In general, Member commitments tend to be more restrictive than GATS provisions, especially with relation to skill level. The vast majority of Member commitments concern higher skilled categories such as managers, specialists and professional. Access under Mode 4 can also be restricted by licensing and other national requirements such as recognition of qualifications. (Nielson 2002).

<b>Table 1: GATS Provisions on Labor Mobility Under Mode 4</b>			
<b>Covers</b>			<b>Doesn't Cover</b>
Temporary Movement			Permanent movement
All skill levels			
<b>Who is Covered</b>			
Persons connected to supply of services including contractual service suppliers			Persons working in non-service sectors (e.g. agriculture and manufacturing)
<b>Forms of Services suppliers</b>			Nationals of host countries employed by foreign firms established in host countries
<b>Natural Person</b>	<b>Judicial Person</b>		
Provides services directly to consumers	Through an employee of a foreign company with commercial presence in host country	Through an employee of a foreign company <i>without</i> commercial presence in host country	
Independent professionals	Intra-corporate transfers	Contractual service suppliers	
	Contractual service suppliers		
Business visitors	Foreign employees of foreign firms established in host countries		
Contractual service suppliers			

## **a. EU Commitments under GATS**

Initial commitments undertaken by the EU under GATS on Mode 4 covers the entry and temporary stay of individuals employed by a home company with no commercial presence in the EU. The commitments apply to 17 services sub –sectors and are confined to movement of highly qualified natural persons and key personnel.

In 2005, the EU tabled a “conditional” offer on services liberalization under the Doha negotiations. The offer expands on the Union’s commitment under GATS with relation to movement of service suppliers. It covers the movement of four categories of personnel: 1) intra-corporate transfers (including managers and specialists); 2) business visitors (including service sellers and individuals in charge of establishing commercial presence); 3) contractual service suppliers; and 4) independent professionals. The offer also expands coverage of EU commitments to 21 sub-sectors for contractual service suppliers and four sub-sectors for independent professionals.

Under the offer, the maximum entry time for corporate managers and specialists would be extended to three years. Foreign companies having a contract to provide services to a client in the EU would be allowed to send highly skilled corporate employees to the EU for a maximum period of six months (within a period of 12 months). This period is three months under current commitments.

Individual service suppliers would be also allowed into the EU to provide services for a maximum of six months within one year, though this only applies to highly skilled professionals (the person must possess a university degree or a qualification of equivalent level).

## **b. EU Agreements that Use the GATS Framework**

### **i. Euro-Med Association Agreements**

As part of the Euro-Med partnership, the EU has concluded seven Association Agreements between 1998 and 2005 with Algeria, Egypt Israel, Jordan, Lebanon, Morocco, and Tunisia. The agreements provide a framework for commitments on trade in goods and services between the EU and these countries. They also aim to provide a basis for gradual liberalisation of trade in the Mediterranean area and set out general conditions for economic, social and cultural cooperation between the EU and those countries.

With relation to labour mobility, most of these agreements only reaffirm each Party's obligations under the GATS. Some of the agreements provide for commitment on conducting dialogue between parties to the agreement to “achieve progress” with relation to movement of workers.

The EU Agreements with Morocco and Tunisia also include commitments on non-discrimination with relation to working conditions, remuneration dismissal and social security for nationals of these countries that are legally working in the EU. Both agreements also call for “regular dialogue” with relation to the living and working conditions of the migrant communities; migration in general (not only with connection to services) and illegal immigration.

The EU Agreements with Algeria and Jordan provide for limited movement of key personnel. In the EU Agreement with Jordan under Title III the Rights of Establishment and Services, Jordanian companies established in the EU can employ Jordanian nationals that are “key personnel”, defined as “persons working in a senior position with an organizations” or “persons working within an organization who possess uncommon knowledge essential to the establishment’s service.”

The EU agreement with Israel doesn’t include specific commitments on labor movement. The Parties only agree to cooperate on preventing and increasing the effectiveness of measures aimed at curbing illegal migration.

The EU is currently negotiating broad free trade agreements on goods and services with Morocco, Tunisia, Egypt and Israel.

## **ii. EU-Mexico Free Trade Agreement**

The EU-Mexico Free Trade Agreement entered into force in 2000 and in February 2001 a joint council set out the arrangements for the liberalisation of trade in services.

Like the GATS, the EU-Mexico FTA is intended to cover only temporary labor movement and for services suppliers. The Agreement contains provisions on movement of natural persons in connection with supply of financial services only. Unlike the GATS however, the EU- Mexico Free Trade Agreement specifies regulations with regard to "work, labor conditions and establishment of natural persons".



Some services sectors are excluded from the Agreement including audio-visual, maritime cabotage, air services, including domestic and international air transportation services and other air transport services not covered under GATS.

Further negotiations on services were to take place within three years of the date of entry into force of the Agreement and the negotiated commitments and to be implemented over a transition period of a maximum of 10 years from that date. But no further agreements have been reached between the two parties.

A noteworthy element of the EU-Mexico Agreements is the linkage between Mode 3 (commercial presence) and Mode 4. The Agreement stipulates that Parties may not require that managerial or other key personnel be of a particular nationality, or that more than simple majorities of boards of directors of financial service suppliers of other Party be composed of nationals and/or residents of a Party. Neilson 2002 points out that while such requirements relate to Mode 3, they underscore the possible linkages between Mode 3 and Mode 4 in such agreements and the fact that Mode 3-related conditions and restrictions can have a direct impact on movement of natural persons.

### **iii. EU-Chile Free Trade Agreement**

The EU and Chile concluded negotiations on the EU-Chile Association Agreement in April 2002. The Agreement covers all aspects of the EU trade relations with Chile including services and contains provisions on movement of natural persons. It covers only temporary movement of service suppliers and doesn't provide access to labor markets in either party.

But, unlike the EU-Mexico FTA, the agreement provides for movement of three categories of service suppliers in a large number of services sub-sectors. Article 99 of the Agreement provides for movement of intra-corporate transferees which include managers and specialists, business service sellers and, for the first time in a bilateral agreement, contractual service suppliers. For the latter group, the agreement grants access to 30 service sectors.

The entry and stay of contractual service suppliers however is subject to restrictions on the length of their stay in the EU and duration of the service contracts and how the contracts are obtained. Although the EU-Chile FTA expands on EU commitments to include more sectors the conditions and restrictions applied to movement of natural persons under the agreement are generally in line with those laid out in the EU GATS commitments.

#### **iv. The EU-CARIFORUM Agreement**

At the end of 2007, and following three years of negotiations, the EU initialed an Economic Partnership Agreement (EPA) with the CARIFORUM countries (Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, and Trinidad and Tobago). The Agreement, which uses the GATS framework, has the broadest coverage of labor mobility of any GATS-plus agreement between the EU and developing countries.

Chapter 4 of the Agreement, *Movement of Natural Persons for Business Purposes*, covers movement of five categories of service suppliers. These are (i) Key personnel (including business visitors and intra-corporate transferees; (ii) graduate trainees; (iii) business service sellers; (iv) contractual service suppliers and; (v) independent professionals.

Movement of natural persons from the first three groups is not linked to the supply of services. But movement of contractual service suppliers and independent professionals is allowed only in connection to supply of services in certain sectors identified in the Agreement (see table 3 for full list of sectors).

Under the Agreement, CARIFORUM companies with contracts to provide services in any of the 29 sectors covered by the agreement such as nursing services and computer services (see table 3 for the full list) will be able to send their employees to the EU to provide these services for up to six months at a time. Similar provisions apply to skilled self-employed service suppliers in 11 sectors (e.g. legal advisory services, computer services, management consulting). Independent professionals will also be able to enter the EU for up to six months at a time. In both of these cases, EU and national working conditions including minimum wage requirements, collective wage agreements and licensing requirements apply.

The Agreement also includes several criteria that the contractual services suppliers –the contracting firm- or independent professionals must meet before applying for entry to, and during their stay in, the EU.

Some of the conditions/criteria that contract service suppliers/independent professionals must meet include:<sup>11</sup>

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<sup>11</sup> These conditions apply to service suppliers from both parties

- 1) The contractual service suppliers must be offering such services as an employee of the juridical person supplying the services for at least one year immediately preceding the date of submission of an application for entry. The service suppliers must possess, when applying for entry at least three years professional experience in the sector of activity which is the subject of the contract;
- 2) Both contractual service supplier and independent professionals must possess (i) a university degree or a qualification demonstrating knowledge of an equivalent level and (ii) professional qualifications where this is required to exercise an activity pursuant to the laws, regulations or requirements of the EU Members State
- 3) The temporary entry and stay of natural persons within the Party concerned is limited to a cumulative period of not more than six months in any 12-month period or for the duration of the contract, *whichever is less*

In addition to these conditions, several EU Member States have scheduled restrictions with relation to the maintenance economic needs test and the scope of intra-corporate transferees and managing directors and auditors. For example, at least ten EU countries reserved their rights to conduct economic needs test with relation to providers of medical and dental services, veterinary services and midwives services.

**Table 3: Services Sectors Opened to Contractual Service Suppliers under the EU -CARIFORUM EPA**

Contractual services suppliers	Independent professionals
<p>Subject to conditions specified in the Agreement, the EC agreed to allow the supply of services into the territory of its Member States by contractual services suppliers of the CARIFORUM States through presence of natural persons in the following sub-sectors:</p> <p><b>1.</b> Legal advisory services in respect of international public law and foreign law (i.e. non-EU law) <b>2.</b> Accounting and bookkeeping services <b>3.</b> Taxation advisory services <b>4.</b></p>	<p>Subject to some conditions specified in the Agreement, the EC agreed to allow the supply of services into the territory of its Member States by independent professionals of the Signatory CARIFORUM States, in the following sub-sectors:</p> <p><b>1.</b> Legal advisory services in respect of</p>

Architectural services **5.** Urban planning and landscape architecture services **6.** Engineering services **7.** Integrated engineering services **8.** Medical and dental services **9.** Veterinary services **10.** Midwives services **11.** Services provided by nurses, physiotherapists and paramedical personnel **12.** Computer and related services **13.** Research and development services **14.** Advertising services **15.** Market research and opinion polling; **16.** Management consulting services **17.** Services related to management consulting **18.** Technical testing and analysis services **19.** Related scientific and technical consulting services **20.** Maintenance and repair of equipment, including transportation equipment, notably in the context of an after-sales or after-lease services contract **21.** Chef de cuisine services **22.** Fashion model services **23.** Translation and interpretation services; **24.** Site investigation work **25.** Higher education services (only privately-funded services) **26.** Environmental services **27.** Travel agencies and tour operators' services **28.** Tourist guides services **29.** Entertainment services other than audiovisual services.

international public law and foreign law (i.e. non-EU law) **2.** Architectural Services **3.** Urban planning and landscape architecture services **4.** Engineering services **5.** Integrated engineering services **6.** Computer and related services **7.** Research and development services; **8.** Market research and opinion polling **9.** Management consulting services **10.** Services related to management consulting **11.** Translation and interpretation services.

#### **v. How Liberal is Labor Mobility under the EU-CARIFORUM Agreement?**

The EU maintains that it has made “substantial concessions” in the service sector by opening its market to service suppliers and investors to supply cross-border services in a large number of sectors. So the Agreement may set a threshold, at least from the point of view of the EU, for services’ liberalization in future agreements between the EU and other countries (Sauve and Ward 2008). It is important therefore to assess the effective degree of liberalization of labor mobility offered by the pact compared to the GATS and EU current commitments under GATS.

The degree of liberalization of labor mobility offered by the EU to countries of the CARIFORUM under the EPA is assessed using three measures: 1) the groups covered by the agreement, especially in comparison to EU commitments under GATS, 2) the conditions applied to

movement of service suppliers and 3) the various restrictions inscribed by different EU members and how such restrictions compare to GATS provisions.

As mentioned earlier, the EU-CARIFORUM Agreement covers movement of four categories of natural persons including contractual service suppliers in 29 services sub-sectors and independent professionals in 11 sub-sectors. The Agreement also allows the temporary entry and stay of graduate trainees, business service sellers and key personnel (defined to include business visitors and intra-corporate transfers) for all services-sub sectors covered by the agreement..

The EU-CARIFORUM expands coverage of movement of service suppliers beyond EU commitments under GATS. It covers more categories of service suppliers and in a larger number of service-sub sectors than what have been covered by GATS commitments. The agreement also expands coverage of intra-corporate transferees to include those working in the manufacturing sector.

Overall, the Agreement has the most liberal provisions on labor movement offered by the EU to any individual developing country or grouping under bilateral trade agreements. It is the only such agreement to include firm commitments on movement of contractual service suppliers and independent professionals. Despite its broad coverage, the EU-CARIFORUM EPA doesn't include commitments on non-discriminatory conditions for workers other than service suppliers or on facilitated access of service suppliers. The Agreement also lacks any measures that would facilitate labor mobility in the liberalized sectors. The absence of measures such as mutual recognition of academic and professional qualifications will considerably limit the overall labor mobility under the agreement.

Moreover, the various restrictions and conditions (see the next section for detailed discussion of these conditions) applied to movement of service suppliers, such as those relating to educational attainment and economic needs tests are more restrictive than GATS.

Another important, and arguably restrictive, aspect of the agreement's coverage relates to the selection of sectors that will be opened to contractual suppliers or to independent professionals. Given the differing conditions applied to each group with relation to how the services contracts are obtained, the selection of the sub-sector liberalized for contractual service suppliers or independent professionals has important implications on the overall degree of labor mobility under the agreement. For example, opening midwives services or services provided by nurses to contractual service suppliers may not result in the same level of mobility that these suppliers would enjoy if their sectors were liberalized to independent professionals. The reason

is that the agreement restricts the definition of a contractual service supplier to “ a natural person *employed* by “a juridical person” of one party who has no commercial presence of the other party and which has concluded a contract to supply services with a “final consumer”. This definition wouldn’t allow a nurse or a midwife, for example, from the Caribbean to conclude contracts directly with a European hospital or health provider. Allowing such direct contracts between service suppliers and European firms is the type of mobility that developing countries usually seek under trade agreements with developed countries.

Indeed, from the point of view of EU regulators, requiring that service contracts are obtained by service companies in CARIFORUM countries helps ensure the temporariness of movement of service suppliers to the EU. The reason is that concluding contracts through firms means that the contracted firms will be held liable and, as a result, will be directly involved in screening and regulating the movement of service suppliers.

#### **vi. Restrictions on Labor Movement - Too Many Strings Attached**

The number and type of conditions restrictions applied to service suppliers under the EU-CARIFORUM EPA have important implications on, and hence are important measures of, the degree of liberalization offered by the agreement. In the EU-CARIFORUM EPA, the EU has inscribed two horizontal restrictions with relation to contractual service suppliers and independent professionals; transitional periods and recognition requirements. On transitional period, commitments for the “newer” EU members - Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – will enter into force on January 1st, 2011 and on January 1, 2014 for Bulgaria and Romania. The EU also entered a limitation on recognition of diplomas stating that mutual recognition of diplomas only apply to nationals of EU Members States and that the right to practice a regulated professional service in one EU member doesn’t grant the right to practice it in another member.

In addition, the agreement contains several explicit restrictions applied to various groups of service suppliers and sector-specific restrictions inscribed by individual EU members. The restrictions are generally designed to limit the movement of service suppliers to the highly skilled and to ensure the “temporariness” of their movement to the EU. Some of the conditions are also intended to leave sufficient space for national authorities to regulate entry and stay of service suppliers .

Below is a summary of the most important restrictions included in the Agreement

*1- Restrictions on length of stay:* The Agreement restricts the length of stay of contractual services suppliers and independent professionals in the EU to a cumulative period of no more than six months in any 12-month period. Similarly, the stay of business visitors and graduate trainees is limited to 90 days and one year consecutively. Intra-corporate transferees are allowed to stay for up to three years.

Although these periods are longer than those included in the EU GATS commitments, the cumulative stay allowed for contractual service suppliers and independent professionals in particular are rather short. And the Agreement doesn't include any provisions on possibility of extending or renewing contracts for either category. Such restrictions, not only limit the economic benefits that accrue to service suppliers and host countries from these contracts, but also restrict the total value of services trade between the EU and CARIFORUM countries.

*2- Limited flexibility:* The agreement prevents contractual services suppliers from receiving payments for services other than those paid by his/her original employer (i.e. the home company). This provision effectively prevents contractual services suppliers from switching employers during their stay in the EU.

*3- Conditions with relation to Level of educational attainment and professional experience:*

With the exception of business visitors, all categories of service suppliers covered by the Agreement are subject to conditions either on professional experience, educational attainment or both. For contractual service suppliers and independent professionals, applicants for entry under both categories must possess at least three years of professional experience, a university degree or equivalent and professional qualifications where this is required. As mentioned earlier, these conditions are intended to limit mobility to high-skilled labor.

The bias towards highly-skilled workers is more stringent than GATS which doesn't differentiate between skill level of service suppliers, but is consistent with the EU GATS commitment and its revised offer on services. They are also in line with the overwhelming majority of scheduled commitments for Mode 4 under GATS.

Restrictions on skill level limit benefits from liberalizing movement of service suppliers by excluding important groups of suppliers whose work doesn't necessarily require high level of educational attainment or professional experience and whose services are highly demanded in the EU.

*4- Economic Needs Test (ENT):* GATS Article XVI identifies ENT as a barrier to market access on services and states that members may not implement limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test.

EU members use ENT requirements frequently with relation to liberalization commitments in the EU-CARIFORUM Agreement. For example, 16 of the 25 EU members require ENT for medical and dental services, 21 member states require the test for veterinary services and 22 require it for services supplied by nurses.

Since neither the GATS nor the Agreement defines ENTs or elaborate on the rules and procedures for their application, these tests could be easily used to set quantitative limitations on movement of service suppliers.<sup>12</sup> Moreover, the existence of such discretionary and non-transparent conditions undermines the reliability of the commitments made under the agreement.

*5- Requirements regarding establishing equivalence:* As mentioned earlier, the Agreement requires that contractual service suppliers and independent professionals possess a university degree or qualifications demonstrating knowledge of “an equivalent level”. If the degree or the qualifications is not obtained in the country where the service is supplied, that country can evaluate whether the qualifications are indeed equivalent to a university degree in its territory. In the absence of elaborate rules and procedures on establishing equivalence, these requirements are likely to vary widely between countries and can potentially be used to limit movement of service suppliers.

*6- Visa requirements:* under the EU Treaty, laws and rules on immigration including those related to the issuance of visas and work permits remain the responsibility of national states. And under GATS, countries are free to regulate entry and stay, including by applying differential visa requirements, provided that their measures don’t nullify or impair trade commitments.

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<sup>12</sup> ANNEX IV D of the EU-CARIFORUM Agreement states “in those sectors where economic needs tests are applied, their main criteria will be the assessment of the relevant market situation in the Member State of the European Union or the region where the service is to be provided, including with respect to the number of, and the impact on. Existing services suppliers.



But without harmonized, or at least transparent, rules on visa issuance process within the EU and without any binding obligations under GATS, visa regimes could constitute a barrier to movement of service suppliers from the CARIFORUM to the Union.

In addition to the explicit restrictions and conditions outlined in the EU-CARIFORUM agreement, some terms that are not clearly defined in the agreement could be interpreted to restrict labor movement.

More specifically, two terms that are used in the agreement are open to interpretation these are; final consumer and self-employed person.

1- **Final consumer:** In defining contractual service suppliers and independent professionals, the Agreement states that the service contract should be concluded with a “final consumer” in both cases. A problem of interpretation relates to who can be considered a final consumer. Again, consider a hospital in the EU interested in contracting a health company from the CARIFORUM to send nurses to work at the hospital for a temporary period. Under this scenario would the hospital be considered a final consumer of the service?

A strict interpretation would limit the term “final consumer” to patients for example.

2- **Self-employed person:** The Agreement defines independent professionals as natural persons established as self-employed persons in one party to the agreement who concluded agreements to supply. There needs to be an elaboration on the criteria used to determine who is self-employed to avoid restrictive interpretation of the term.

#### **b. What do all these Agreements Mean?**

This paper examined various EU agreements containing provisions on movement of natural persons and the extent of liberalization of labor mobility offered under each of these agreements. EU agreements that cover labor mobility can be grouped into two broad categories; agreements that offer full, or prospects of full, labor mobility; and agreements that use the GATS model.

Of the Agreements that use the GATS framework, the EU-CARIFORUM EPA underlines the Union’s new approach to labor mobility in its trade agreements with developing countries. Therefore its terms and provisions could very much define the negotiating space for other developing countries that will negotiate, or are already negotiating, with the EU trade pacts that cover labor movement.

In general, the Agreement provides for the most open and flexible movement of business persons and professionals as compared to other GATS-like agreements between the EU and developing countries. It contains many provisions that go beyond the GATS and the EU current commitments under GATS. Yet, the agreement contains several conditions and restrictions that considerably limit prospects of movement of service suppliers from CARIFORUM to the EU.

But the limited *effective* degree of liberalization offered by EU-CARIFORUM Agreement stems in part from GATS provisions, after which the agreement is modeled. For example, the agreement's coverage which is limited to temporary movement and for service suppliers only –with the exception of intra-corporate transferees, is similar to that of the GATS.

The limited liberalization of labor movement under the Agreement is also a result of the disparate economic and social needs and concerns of the EU 25 members. While in theory negotiating one agreement with all members of the EU is the preferred approach for most developing countries, in practice, reaching an agreement that provides for very open and flexible movement of workers with economically disparate Europe is very difficult. For all its faults, The EU-CARIFORUM EPA may indeed offer the highest denominator possible between the EU 25 members.

For a developing countries interested in negotiating agreements with the EU on labor mobility, a more pragmatic, though less optimal, approach would entail undertaking bilateral negotiations with individual EU Members. Such negotiations could achieve much higher degree of liberalization if they focus for example on few sectors or professional groups that are of particular interest to the developing country and for which there is demand in the EU Member.

## **5. Alternative options for Egypt: Bilateral Agreements**

An interesting tool to facilitate labor migration is inter-state cooperation through the adoption of bilateral agreements. After World War II, immigration within Europe was characterized by bilateral labor agreements on the recruitment of workers, often between Northern and Southern European countries. The enlargement of the EU and the free movement of workers in the EU rendered many of these agreements obsolete. However, there are still active bilateral labor agreements in force between EU countries. For example, in 2003, approximately 44 000 persons were working in Germany under temporary contracts in accordance with bilateral government

agreements with Central and Eastern European countries. Effectively, one can say that possibly less migrant workers are moving under GATS mode 4 than under bilateral agreements because, inherently, the categories of workers covered under GATS mode 4 is de jure lower than the broader categories of workers covered in many bilateral agreements. GATS mode 4 covers only a small fraction of migrant work, namely the natural person moving abroad to deliver services. This section deals with the question if bilateral labor agreements could be good alternative for Egypt to mode 4 agreements in GATS or at EU level.

Bilateral agreements might be attractive for Egypt for at least four reasons: (i) Negotiations on Mode 4 are slow-moving because of the need for EU member to manage closely immigration to protect the national employment markets and workers. In bilateral labor agreements, migration control is exercised by commitments of the labor sending country to cooperate in identifying unauthorized overstaying migrant workers, to take back irregular and clandestinely entered migrants, and commitments for reintegrating forcefully or voluntarily returned migrants<sup>13</sup>. These commitments on cooperation are conditioned on facilitated labor market admission procedures for migrant workers from a specific country. (ii) Because bilateral agreements offer the possibility for trade-offs beyond the cross-modal and cross-sectoral ones of GATS, the potential that these agreements be also used more frequently and contain more labor market openings, even if only incidental to their seeking cooperation in combating irregular migration, is also greater than the one of GATS. (iii) Bilaterally organized labor recruitment can reduce the cost to destination countries of managing foreign workers programs. The cooperation between labor sending and receiving country ensures safe and orderly recruitment by preventing the payment of high recruitment fees and reduces market failures (such as mismatched labor market supply and demand, underemployment of the migrant worker abroad) resulting from lack of information. (iv) The expectation to achieve concessions on mode 4 in the upcoming service trade negotiations are low because the EU has historically reluctant in formalizing access conditions to European labor markets. In light of the increasing unemployment rates in some European countries in the wake of the global recession, these expectation have further dwindled.

#### i. What are the Differences Between Mode 4 provisions and Bilateral agreements?

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<sup>13</sup> Bilateral labor agreements such as France or Spain's with West African countries, allow distributing the responsibility for migration's risk among multiple stakeholders, mainly in two ways: (i) they enlist the labor sending country's responsibility for taking back and reintegrating unauthorized migrants and (ii) these agreements seek the cooperation of non state entities to mitigate the risks linked to labor migrants' personal ties.

Mode 4 is defined as the supply of a service by a supplier of one WTO member, through the presence of natural persons in the territory of another member on a temporary basis. While there is some debate about what exactly this means, Mode 4 service suppliers generally gain entry for a specific purpose (e.g., to fulfill a service contract, either as self-employed or as an employee of a foreign service supplier) and they are confined to one sector (as opposed to workers who enter a country under general migration or asylum programs, who can move between sectors). They are also temporary – they are not migrating on a permanent basis nor seeking entry to the labor market in the host country. The GATS does not define “temporary” but it does specifically exclude permanent migration<sup>14</sup>. While in theory Mode 4 covers service suppliers at all skill levels, in practice WTO members’ commitments are limited to the higher skilled, usually managers, executives and specialists.

Mode 4 is a trade concept which aims at supporting the cross-border provision of services while BLAs usually refer to migration. The type of labor movement and the applicable visa categories for entry into labor markets therefore differ. This leads to several limitations of labor movements under BLAs if compared to mode 4. Migration categories generally do not distinguish between service and non-service activities. Although some visa categories are targeted toward certain sectors (e.g., medical practitioner), others refer to more general skills or positions, such as finance manager, company secretary, or human resources manager, without specifying the sector. It is not always possible to judge whether the activities covered by some visa categories are truly commercial and thus qualify as trade for GATS purposes. In some cases, the extent to which the activity is commercial is unclear<sup>15</sup>. In others, such as occupational trainees or professional exchange programs, it is hard to judge whether the work would qualify as the supply of a service under the GATS. Finally some visa categories include persons both consuming and supplying services. For example, trainees may engage in some on-the-job activities, but also may fall under Mode 2 (consumption abroad of training services). Exchange visitors could encompass both those consuming services (e.g., students participating in a given program) and providing services (e.g., visiting lecturers). Such “mixed mode” categories can also occur when those entering to consume a service are granted limited working rights (e.g., students or certain types of tourist). In order to approach the question whether BLA’s could be a good alternative for Egypt’s to mode 4, it would be useful to assess which conditions and

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<sup>14</sup> In practice, the time frames set out in WTO member countries’ commitments on Mode 4 range from several weeks up to 3-5 years, depending on the countries, sectors and professions involved.

<sup>15</sup> For example sports visas can include both amateurs and professionals

procedures immigrants from a third country face if they decide to work in an EU member state. What matters in this context are the conditions for temporary and not on permanent employment. The following sections will describe the different barriers to entry into labor markets as well as the different measures undertaken to facilitate labor migration.

## II. Legal Requirements

Generally there are three main categories of work arrangements covered by BLA's: employment, self-employment and seasonal work which are all equally relevant for mode 4. The treatment of these categories differs in procedures and conditional requirements which effectively constitute barriers to labor migration. With regard to procedures concerning labor migration differences consist of the number of permits required for residency and work. In some EU member countries residency includes a working permit but in most separate applications are necessary. Some countries also require an employer authorization i.e. a proof that it was not possible for the employer to find a worker in the local labor market to fill the vacant position. Applications for self-employment often require specific authorizations in lieu of work permits such as a Professional Card (Belgium), Business Permission (Ireland), and Foreign Tradesman Identity Card (France). The necessary permits are issued on basis of fulfillment of requirements that aim at regulating access to the national employment market. There are two options commonly applied by the EU member states: a labor market test or a quota system<sup>16</sup>. In the case of the labor market test it is required that authorities make an assessment of the domestic labor market situation prior to granting a work permit. Quotas regulate the number of entrants from a particular country or into a labor market segment. In Italy, for instance, the annual admission quota is based on a needs assessment at the regional level. Preferences are accorded to workers with Italian origin and quotas are reserved for third countries with which Italy has signed readmission agreements and subsequent agreements designed to regulate entry flows and procedures for re-entry. The quotas established for 2007 confirm the importance of these agreements; nationals of countries such as Moldova, Egypt and Morocco (with which Italy has signed agreements in 2003 and 2005 respectively) are accorded a significant share of the general quota of 47 100 admissions assigned for non-seasonal employees: 8000 Egyptians, 6500 Moldovan and 4300 Moroccans workers (Decreto, Flusso, 2007).

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<sup>16</sup> The majority of EU Member States apply a labor market test, with Austria, Estonia, Greece, Italy, Portugal, Romania, Slovenia and Spain adopting a quota system.

EU member states also apply measures that facilitate labor migrations. Examples for these are the following. (i) *Job seeking permit*: These permits offer the possibility to enter into a EU member state legally and search for a job within a certain period of time. This has been implemented in Spain, Italy and Sweden. Third country national graduates from universities in France, Germany, the Netherlands and UK can, after finishing their studies, stay on for a period of three months (Netherlands), six months (France) or twelve months (Germany, UK) in order to look for a job. (ii) *Sector based program*: Sector based scheme have been created to fill shortage within particular sectors, depending on local labor market conditions. Schemes were recently created for temporary employment by Germany for ICT, by Italy for health, medical care and hospitality, United Kingdom (for hospitality) and Norway (health and medical care). (iii) *Skilled labor migration facilitation*: Six EU Member States have specific programs or schemes for highly skilled workers: Czech Republic (“Pilot Project: Selection of Qualified Foreign Workers”); Denmark (“Job Card Scheme”); France (“Competence and Talent Card”); Ireland (“Green Cards Scheme”); the Netherlands (“Knowledge Migrant Workers Scheme”); and the UK (“Highly Skilled Migrants Program”). For another five countries<sup>17</sup> facilitations for highly skilled workers are accorded through support within the ordinary immigration scheme.

In short, bilateral labor migration agreements (BLAs) are an alternative measure to facilitate labor migration. They formalize each side’s commitment to ensure that migration takes place in accordance with agreed principles and procedures. OECD countries alone have negotiated more than 170 wide-ranging BLAs currently in force (OECD, 2004). While BLA’s are sometimes used to intensify political relations, they also offer an effective method for regulating the recruitment and employment of foreign short- and long-term workers between countries. They can take the form of formal treaties or less formal memoranda of understanding (MoUs), or even very informal practical arrangements, e.g. between national employment agencies. An important difference between BLAs as formal treaties and MoUs is that the latter are not legally binding. However the effectiveness of a bilateral agreement or a MoU is determined less by its legally binding nature, than by how it is implemented and enforced in practice.

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<sup>17</sup> Austria, Belgium, Germany, Italy and Portugal. The special situation of Austria should be noted: immigration for the purpose of employment is only possible for “key employees”.

In recent years there has been a renewed interest in BLAs. Among OECD countries, their numbers quintupled in the 1990s, and today stand at 176 (Bobeva and Garson, 2004). In Latin America, half of the 168 agreements signed during the last 50 years were concluded after 1991. After the collapse of the Soviet Union, Central European, East European and Central Asian countries developed a wide range of agreements, some within the region or with neighboring EU Member States, others with EU countries that had evolved from emigration countries to immigration countries, such as Portugal or Spain.

In addition to inter-state agreements, “bilateral arrangements”, usually in the form of MoUs, have been adopted between governments at national and regional level from the country of origin and representatives of the specific employment sector in the destination country for the recruitment of foreign workers for that sector. This type of MoU has been adopted between the Philippines Government and the UK Department of Health (see Box 3.1).

#### ii. Potential Partners for Egypt

The implementation of BLA involves an increasing range of operation. Since the demand for labor is the key driving force behind BLA the main challenges for government administration of EU countries are to assess labor market needs, to complete intergovernmental negotiations, to design appropriate policies and to manage the recruitment of permit approval process. If Egypt seeks to further labor migration through BLA, it would be easier to start with countries that already have gone through this process. However, it should be stated once again that bilateral labor agreements concern labor migration and not primarily the cross-border provision of services facilitated by mode 4.

BLA's can cover activities related to the provision of services. For example, BLA's might concern seasonal workers and characterize stays ranging from three months to a year and are usually limited to sectors with a high variation of employment over the year, such as hospitality, catering, agriculture or construction. This covers a large part of activities under Mode 4. Most seasonal worker agreements use quotas to limit the number of entries, while attempting to meet employer demand. Employment services or other intermediaries in the sending or receiving country facilitate recruitment. The largest supplier of seasonal labor through bilateral agreements is Poland, with nearly 300 000 workers in other OECD member countries in 2002.

Contract worker or project linked worker agreements covers foreign workers who are directly employed, either by a foreign based company or by a domestic firm carrying out work abroad. Such agreements facilitate access to work permit. Quotas under these provisions usually limit the number of contact workers, while the sending country distributes the quotas among firms.

Guest worker agreement are now often limited to one year, with possible extension for another year. Guest worker programs aim to add workers temporarily to the labor force, not settlers to the population. Whether guest workers fill year-round or seasonal jobs, they are expected to rotate in and out of the country, departing after a year or two to be replaced by a new migrant if there is still a demand for them. These schemes are currently smaller and have shifted from general recruitment mechanisms to skilled professional training schemes.

Trainee agreements and other short term training programs aim to enhance the professional training of young workers and they are also part of the Mode 4 definition of trade in services. Those agreements allow the visit, from 12 to 18 months and require that applicants secure their own training. Cooperation and development play an important role in such agreement.

The other types of labor migration in BLA's do not concern Mode 4 on supply of services through natural person. Table 15 provides an overview of BLA's that include arrangements which are interesting from a mode 4 perspective. Annex 1 includes complete list of BLA between EU members and developing countries.



**Table 15: Bilateral Labor Agreements between EU and Developing countries for temporary employment**

	Austria	Belgium	France	Germany	Greece	Italy	Nederland	Spain	United Kingdom	Switzerland	Other EU
Albania	--	--	--	TW	SE	SE	--	--	--	--	--
Bosnia	--	--	--	PB	--	--	--	--	--	--	--
Bulgaria	--	--	--	SE,TW,PB	--	--	--	UC	--	TR	Czech - Portugal
Croatia	--	--	--	SE,TW,PB	--	--	--	--	--	--	--
Moldova	--	--	--	--	--	--	--	--	--	--	--
Poland	--	TR	SE, TR	SE,TW,PB	--	UC	--	SE,TW,TR	TW	TR	--
Romania	--	--	--	SE,TW,PB	--	Other	--	SE,TW,TR	--	TR	Hungary
Russia	--	--	--	TW	--	--	--	--	--	--	Portugal- Finland
Ukraine	--	--	--	--	--	--	--	--	--	--	Czech- Portugal
Algeria	--	--	Other	--	--	--	--	--	--	--	--
<b>Egypt</b>					<b>SE</b>	<b>Other</b>					
Libya	--	--	--	--	--	--	--	--	--	--	Poland
Morocco	--	--	SE, TR,TW	--	--	--	TW	SE,TW	--	TR	--
Tunisia	--	--	SE,TW	--	--	SE	--	--	--	--	--
Turkey	TW	TW	SE,TW	TW, PB	--	--	TW	--	--	--	Sweden
Argentina	--	--	--	--	--	--	--	--	--	TR	--
Colombia	--	--	--	--	--	--	--	SE,TW	--	--	--
Dominican	--	--	--	--	--	--	--	SE,TR	--	--	--
Ecuador	--	--	--	--	--	--	--	TW	--	--	--
Mexico	--	--	--	--	--	--	--	SE	--	--	--
Cape Verde	--	--	--	--	--	--	--	--	--	--	Portugal
Senegal	--	--	TR	--	--	--	--	--	--	--	--
South Africa	--	--	--	--	--	--	--	--	--	TR	--

India	--	--	--	--	--	--	--	--	Nurses	--	--
Mongolia	--	--	--	--	--	--	--	--	--	--	Czech
Philippines	--	--	--	--	--	--	--	--	Nurses	TR	Sweden, Norway
Vietnam	--	--	--	--	--	--	--	--	--	--	Czech

SE : seasonal Employment/ TW : Temporary (Guest) Worker/ PB : project based workers/ TR : trainee/ UC: Under Consideration

France, Germany and Spain are the EU countries the most advanced in setting BLAs with developing countries. BLAs for France and Spain protect special post colonial relationships; BLAs of Germany with central and eastern European countries was more motivated by easing labor mobility and integration into regional economies in preparation of the accession to the EU. Spain has concluded general labor migration agreements with third countries such as Colombia, Ecuador, Morocco, the Dominican Republic and Peru. Spain's agreements also aim at furthering a comprehensive national policy on immigration. However Egypt might still benefit from the fact that those EU countries have already been through the process of needs assessment and could be more willing to cooperate on bilateral labor migration.

Switzerland appears to be more open with respect to trainee arrangement that allow migrants to increase their skill level as young professionals or to complete their education with temporary access to the labor market. Finally, Egypt could also approach countries that have shown their interest for labor agreement with MENA countries such as the Netherlands or the UK who entry of professionals into specific sectors.

Egypt could also expand on the existing arrangements it has with Italy and Greece which are currently limited in scope. Both countries have farther reaching agreements on seasonal employment with central and eastern European countries as well as with Tunisia (with Italy). As current main destinations for Egyptian migrants, these two countries would also be a natural choice for deeper cooperation on labor migration (Table 3.3).

### **Box 3. 1: Egypt's Labor Migration Cooperation with Italy and Greece**

Egypt cooperates with Italy on "The Integrated Migration Information System (IMIS)" which was created within the framework of the larger EU-Egypt Association Agreement. It has an online database at the Ministry of Manpower and Migration for Egyptians wishing to migrate to Italy. A job-matching system for Egyptian applicants and Italian employers provides Egyptians with access to the Italian labor market information system and enables them to apply for jobs in Italy online. The target groups include potential migrants and qualified Egyptians abroad. This project helps expanding avenues for regular labor migration and sharing information in order to better match labor supply and demand. The project ended in 2005. The second phase of this program, IMIS Plus, focuses on building the capacity of human resources to implement the job-matching process and help the Egyptian authorities to guarantee proper validation procedures and matching.

The Bilateral Agreement between Greece and Egypt, signed in 1984, mainly covers the fisheries sector. Temporary labor migrants are subject to specific regulations regarding the possibility to change employer, the extension of their stay in the country for an additional three-month period after their labor contract has come to an end, and are eligible for the transfer of social security rights and pensions on a mutual basis. This enhances and enables specific types of temporary labor migration, including circular and sector-specific migration. Then under reciprocal regulations, temporary migrant workers from both countries are entitled to rights equal to those of national workers, including the same working conditions, wages and leave.

**Table 3. 1: The Highly Skilled Egyptian Migrants to EU Countries According to Country of Residence, 2000**

Country of Residence	Number (Thousands)	Percent
Austria	14	4.3
France	36	11.0
Germany	25	7.7
Greece	60	18.4
Italy	90	27.6
Netherlands	40	12.3
Spain	12	3.7
Switzerland	14	4.3
United Kingdom	35	10.7
<b>Total</b>	<b>326</b>	

*Source:* CAPMAS, 2003, CARIM Database

One important issue to keep in mind when concluding BLA's is that they might come with requests to step up effort for controlling irregular migration. When designing the quota for labor immigration for Southern European countries, Italy, for instance, reserves quotas for nationals of third countries with which it has signed readmission agreements and subsequent agreements on regulating entry flows and procedures for re-entry. On the other hand, Italy applies restrictions to the quotas with respect to states who do not participate in the prevention of irregular migration. Within the context of these agreements, special provisions can govern, for example, migrant flows for the purpose of seasonal labor.

### iii. Limitations

Most international movement of workers takes place under unilateral immigration laws, and is facilitated by multinational companies. Bilateral labor agreements do not always open labor markets to foreign workers. If they do, they often only translate into mutually binding framework openings that already exist in a unilateral scheme and are not offering additional labor market access commitments although they often ease labor entry and return procedures. Hence, despite the proliferation of BLAs, global labor flows take place outside the scope of

BLAs, either through immigration or emigration programs set up unilaterally by destination countries or through regional arrangements.

Since bilateral migration agreements are often motivated by political considerations, they are accordingly only measured by their success in alleviating the root causes of migration, combating illegal migration and enforcing temporariness of stay. Labor market liberalization remains a secondary objective in most of these agreements. It is unclear to what extent BLA's contribute to labor market liberalization.

Another important aspect is that about 25 per cent of bilateral agreements in OECD countries are not implemented. The most operational seem to be those that follow the demand-supply imperative, as opposed to pursuing political objectives. These include the Canadian seasonal agriculture program and the UK agreements on recruitment of foreign nurses with Spain, India and the Philippines.

Negotiating a BLA is often a lengthy, time-consuming and costly process. Some countries are therefore already trying to find alternative arrangements. The Philippines, for example, has steered away from the formulation of general agreements and is working towards the adoption of more focused agreements which are easier to negotiate and make operational in host countries. Learning from such experiences could help Egypt to find the most effective approach to stimulate labor movements.

## **AUTHOR**

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