



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.11.2000
COM(2000) 757 final

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND
THE EUROPEAN PARLIAMENT

ON A COMMUNITY IMMIGRATION POLICY

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EXECUTIVE SUMMARY

The Treaty of Amsterdam establishes for the first time Community competence for immigration and asylum. The European Council, at its meeting in Tampere in October 1999, agreed that *«The separate but closely related issues of asylum and migration call for the development of a common EU policy»* and set out the elements which it should include namely partnership with countries of origin, a common European asylum system, fair treatment of third country nationals and management of migration flows. In this framework, the European Council also stressed the need for rapid decisions on *«the approximation of national legislations on the conditions for admission and residence of third country nationals based on a shared assessment of the economic and demographic developments within the Union as well as the situation in the countries of origin»* (paragraph 20 of the Presidency conclusions). It did not, however, give any detailed indications as to how this policy should be developed and implemented.

The Commission has already made proposals on the rights and status of third country nationals and to combat racism and xenophobia, and other legislative measures are being prepared according to the programme agreed in Tampere (see overview in Annex 2). However, in view of the complex nature of immigration policy and its impact over a wide range of areas, social, economic, legal and cultural, the Commission believes that we cannot rely simply on a piecemeal approach to the legislative programme foreseen in Article 63 of the EC Treaty. This view has been supported by the European Parliament which has called on the Commission to set these measures into an overall framework.

In addition it is clear from an analysis of the economic and demographic context of the Union and of the countries of origin, that there is a growing recognition that the «zero» immigration policies of the past 30 years are no longer appropriate. On the one hand large numbers of third country nationals have entered the Union in recent years and these migratory pressures are continuing with an accompanying increase in illegal immigration, smuggling and trafficking. On the other hand, as a result of growing shortages of labour at both skilled and unskilled levels, a number of Member States have already begun to actively recruit third country nationals from outside the Union. In this situation a choice must be made between maintaining the view that the Union can continue to resist migratory pressures and accepting that immigration will continue and should be properly regulated, and working together to try to maximise its positive effects on the Union, for the migrants themselves and for the countries of origin.

In this new situation, the Commission believes that channels for legal immigration to the Union should now be made available for labour migrants. However, in view of the strongly divergent views in the Member States on the admission and integration of third country nationals, the Commission feels that it is essential to discuss these issues openly and to try to reach a consensus on the objectives of the policy to be followed. The purpose of this Communication is to stimulate this debate, taking into account the essential structural reforms the EU economy is undergoing in the framework of the European Employment Strategy and which are now showing the expected benefits. The admission of labour migrants can make a contribution to this strategy, but,

because of the very important human issues involved, one on which there should be a clear understanding between the Member States on its role and contribution.

Both Article 63 of the EC Treaty and the Tampere conclusions call for a common EU immigration policy. To reach this goal it is essential to co-ordinate and to ensure the transparency, within a Community framework, of actions which at the moment are carried out at Member State level since they have an effect on other areas of EU policy, e.g. abolition of controls at internal borders, Community commitments at international level under the GATS agreement and the European Employment strategy.

This will provide a background for the formulation of commonly agreed objectives for channels of legal immigration which could underpin the detailed legislative proposals concerning migrants which the Council called for in Tampere. These concern not only the conditions for the admission and residence of third country nationals for employment and other reasons, but also standards and procedures for the issue of long-term visas and residence permits, the definition of a set of uniform rights for third country nationals and the criteria and conditions under which third country nationals might be allowed to settle and work in any Member State (see Annex 2) together with the Charter of Fundamental Rights. At the same time, the procedure put in place for the monitoring of migration flows will provide a framework for consultation between the Member States on migration issues, for the co-ordination of policy, for setting common objectives and for developing accompanying measures with respect to the integration of migrants. This mechanism is designed to enable the Community to provide a co-ordinated reaction both to fluctuations in migratory pressures and to changes in the economic and demographic situation in the Union.

1. WHY A NEW APPROACH TO IMMIGRATION?

With the coming into force of the Treaty of Amsterdam, Community competence was firmly established in the areas of immigration and asylum. From being a matter for inter-governmental co-ordination under the "third pillar" arrangements, responsibility for developing policy was moved to the "1" pillar with a programme of action to be adopted by the Council in order to establish progressively an area of freedom, security and justice (Articles 61-63). Accordingly, in October 1999, the elements of a common EU asylum and immigration policy were agreed by the European Council in the Tampere Conclusions¹ which, together with the Action Plan which had been approved by the Council in Vienna in 1998², now form the basis of a work programme for the Commission and the Member States that is being made operational in a «scoreboard»³. The present Communication is being issued as part of this programme but in a context which, in a number of respects, is very different from the situation of the Union in 1993-94. On the one hand there is now a more acute recognition than a few years ago of the importance of immigration and asylum matters at the EU level as well as of the necessity for a common approach to them. This is emphasised by the fact that these areas are now the subjects of specific Community policies and no longer simply complementary to those related to the free movement of persons within the Union. On the other hand – and this is a direct consequence – by adopting the conclusions of Tampere, the Heads of State and Government, have defined clearly the political framework in which they wish to see a common EU asylum and immigration policy developed.

This new Commission Communication fits firmly within this framework. It constitutes above all a first response to the specific request of the European Council for a clear definition of the conditions of admission and of residence of third country nationals. This, it was agreed, should be based on a common assessment of the economic and demographic development of the Union and of the situation in the countries of origin, and take account of the capacity of reception of each Member State as well as of their historical and cultural links with the countries of origin⁴. In addition, it is not possible to develop an integrated approach to immigration without considering the impact of migration policies on the host society and on migrants themselves. The social conditions which migrants face, the attitudes of the host population and the presentation by political leaders of the benefits of diversity and of pluralistic societies are all vital to the success of immigration policies. Therefore, and the two aspects are intrinsically linked, this Communication will also touch on integration policy in

¹ SN 200/99 (Presidency Conclusions of the Tampere European Council 15 & 16 October 1999)

² JO N°C 19 of 23.1.1999

³ COM (2000) 167 (Scoreboard to review progress on the creation of an area of "Freedom, Security and Justice" in the European Union)

⁴ The Tampere conclusions acknowledge "the need for approximation of national legislations on the conditions for admission and residence of third country nationals, based on a shared assessment of the economic and demographic developments within the Union, as well as the situation in the countries of origin" (paragraph 20).

the context set out in Tampere, namely fair treatment of third country nationals residing legally in the Union and the promotion of diversity. In this context the impact of the Charter of Fundamental Rights will also be reviewed.

However, with a view to maintaining the coherent approach agreed in Tampere, the Commission also intends to clarify the way in which the other components of an overall immigration policy must be taken into consideration. These include the fight against illegal immigration, relations with countries of origin and of transit and, especially, the humanitarian dimension – asylum policy – the importance of which has been repeatedly emphasised in recent years and which will be the subject of a separate Communication, which is being presented jointly with this one.¹ It also includes the reinforcement of integration policies so as to provide the necessary means for a rapid integration of the migrant population into European society and aiming at combating racism and xenophobia.

Finally, this Communication comes at a time when the question of the role of the EU with respect to immigration is of particular pertinence for a number of reasons. The projected decline in population in the EU over the next few decades has caught the attention of public opinion. At the same time labour shortages in some sectors are creating difficulties in a number of countries. There is a growing recognition that, in this new economic and demographic context, the existing "zero" immigration policies which have dominated thinking over the past 30 years are no longer appropriate.

Measures to regularise the position of illegal migrants, which often give rise to difficult internal political debates, are developing in a number of Member States. Tragic incidents, such as the one in Dover in July 2000 in which 58 Chinese nationals trying to enter illegally into the United Kingdom lost their lives, which are taking place in almost all Member States, point not only to the importance of the fight against the trafficking of human beings, but also to the existence of a demand for clandestine manpower and of the exploitation of such undocumented migrants. The Commission has also taken account of the debates initiated under the French Presidency, notably the discussions at the informal ministerial meeting in Marseilles in July 2000 and at three conferences – on Co-development and Migrants (6-7 July), on Illegal Migration Networks (20-21 July), and on the Integration of Immigrants (5-6 October 2000).

In the light of these changing circumstances and bearing in mind the emergence of different political points of view and of the divergent reactions and growing concerns of the public which have been expressed in all Member States in recent months, the Commission believes that it is timely to contribute to this debate and to take a fresh look at how immigration policy should be developed within the Tampere mandate. In particular the Commission proposes to examine how the complex issues related to the admission of economic migrants, which were only touched on briefly in the Tampere Council, should be developed within a Community immigration policy. This will provide a

¹ COM (2000) "Towards a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union".

background for the formulation of commonly agreed objectives for channels of legal immigration which would underpin the detailed proposals for the admission and residence of third country nationals which the Council called for in Tampere. Furthermore, it will be of equal importance to develop adequate policies aiming at promoting the integration of migrants, including those already living in the EU, and supporting the fight against the phenomena of racism and xenophobia.

2. THE TAMPERE FRAMEWORK FOR A COMMON EU ASYLUM AND IMMIGRATION POLICY

The European Council in Tampere agreed on a number of milestones to realise an area of freedom, security and justice. One of these was the development of a common EU asylum and immigration policy and progress with its implementation is set out below.

2.1. Partnership with countries of origin

The Member States at the Tampere Council acknowledged the principle that an EU asylum and immigration policy must necessarily involve co-operation with the countries of origin and transit of migrants. The Council recognised that developing a comprehensive approach to immigration also involves addressing political, and human rights issues in partnership with these countries. With such programmes as TACIS and PHARE, the Commission has developed strategies which address not only the need to reduce push factors, primarily through economic development in countries of origin and transit, but also support such activities as legislative reform, law enforcement capabilities and modern border management systems. A new integrated approach has also begun through the work of the High Level Group on Asylum and Migration. Six action plans, each based on a coherent programme of co-operation and development involving dialogue with the countries concerned, have been drawn up for specific countries or regions and it is expected that financial resources will be made available in the near future for community action to contribute to the implementation of the plans.

In future, while developing measures to understand and try to influence the reasons which cause migration, the EU must, therefore, also examine and take a responsible attitude towards the effects of emigration on the countries of origin taking into account the very different economic, demographic, social, political and human rights situations in each one which cause the migratory flows. Not only does this reflect European values but is also in the interests both of the EU and of the countries themselves.

In most cases the situation is complex and there are both positive and negative impacts of migration. During the initial period of settlement in the host country remittances sent home by migrants can become an important part of the national budget. Transfers on a large scale can be a disincentive for the sending country to cooperate in controlling emigration. For the receiving families remittances can bring significant improvements in standards of living and contribute to the development of the local economy although there is some evidence to suggest that it is the larger towns which benefit most perhaps to the detriment of other

areas. On the negative side there can be less favourable impacts on the local economy when it is the most highly skilled and the most entrepreneurial sections of the population who emigrate. The brain drain is of particular concern for developing countries who can least afford to lose the investments which they have made in education and training particularly of those who benefited from tertiary education. The scale of this problem is increasing for a number of countries, notably in Africa and in India, and is likely to grow as shortages in Europe and other parts of the developed world in certain highly skilled sectors, together with important wage differentials, continue to attract qualified people from the developing world to emigrate.

With today's increasingly mixed flows of migrants caused by economic and other reasons and with populations straddling two cultures as part of survival strategies it is possible to develop policies which use migration to the mutual benefit of the country of origin and the receiving country. In this way the effects of the brain drain can be mitigated and the benefits of remittances can be maximised. Since the issues of immigration and asylum have become matters of Community competence they will, where possible, be incorporated more specifically into Community programmes with third-countries, both in the area of trade and of development. This is particularly true for the TACIS, PHARE and MEDA programmes and migration issues must increasingly form part of the dialogue which takes place within the framework of the Partnership and Co-operation Agreements, the Common Strategies of the EU on Russia, the Ukraine and the Mediterranean region and the discussions with the African, Caribbean and Pacific (ACP) countries.

The partnership approach should provide a framework for dealing flexibly with new trends in migration which are now developing in the world, with the concept of migration as a *pattern of mobility* which encourages migrants to maintain and develop their links with their countries of origin. This includes ensuring that the legal framework does not cut migrants off from their country of origin e.g. that they have possibilities to visit without losing their status in their host country, and of moving on or going back as the situation develops in the country of origin and elsewhere in the world.

Such a concept would encourage migrants to participate in the economic development of their country of origin not only through remittances to family members, but also through supporting development projects, business ventures etc. Such action can lead in some cases to their voluntary return within a supported reintegration framework. The fact that at present in many Member States, visa policies and other legislation, restrict the possibility for migrants to move freely between their country of residence and their country of origin even when retired, creates a barrier to such developments. Co-operation between countries of origin and residence of migrants must be based on dialogue with governments and with the migrants themselves and their associations to ensure that migratory movements are taken into account in developmental, economic and social strategies of the countries concerned (e.g. by promoting more efficient public and financial institutions, training and manpower skilling programmes as well as the inflow of foreign capital to projects (including those carried out by emigrants in their countries of origin)). In this way it can help to

mitigate the effects of the brain drain and the loss of the most entrepreneurial members of society and contribute to the sustainable development of the country of origin which in the long term could reduce the incentive to emigrate.

It should be recognised, however, that the partnership approach to managing migrant flows should be seen as part of a medium to long-term strategy and that the impact will vary depending on the situation in the countries of origin.

2.2. A common European asylum system

The Tampere Council reiterated that the right to seek asylum must continue to be guaranteed as the cornerstone of EU policy. The objective of a common European asylum system must be to ensure the full application of the Geneva Convention on refugees and that nobody is sent back to persecution. The Treaty of Amsterdam requires the enactment of common measures.

The Commission tabled in May 2000 a proposal on temporary protection in case of mass influx of displaced persons and in September 2000 put forward a proposal on procedures in Member States for granting and withdrawing refugee status. Early in 2001, proposals will be made on reception conditions for asylum seekers and on a system for the clear and workable determination of the State responsible for the examination of an asylum application. The preparation for the setting up of the EURODAC system is on going. Further proposals will be made on the approximation of rules on the recognition and content of refugee status and also on subsidiary forms of protection offering an appropriate status to any person in need of such protection.⁶ In addition, the Council adopted in September 2000 the Commission's proposal for the establishment of a European Refugee Fund to promote a balance of effort between Member States in receiving refugees and displaced persons.

At the request of the Tampere Council, further proposals for the development of Community rules leading to a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union are being made in a separate Communication which is being presented jointly with this one and which aims at providing a clear picture of the method and content of the measures to be taken from 2004 under the humanitarian heading⁶.

2.3. Fair treatment of third country nationals

A key element of the development of the European Union as an area of freedom, security and justice agreed in Tampere is ensuring fair treatment of third country nationals residing legally on the territories of the Member States through an integration policy aimed at granting them rights and obligations comparable to those of EU citizens.

With respect to the setting up a legislative framework for the integration of those already resident on the territory of the Member States, the Commission has already proposed the extension of Community co-ordination of social

⁶ COM(2000)... "Towards a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union"

security schemes, as laid down in Regulation (EEC) No. 1408/71 to employed persons and self-employed persons who are insured in a Member State and who are third country nationals⁷. The Commission has also put forward a proposal to modify regulation 1612/68 aimed at enhancing the legal status of third country national family members of EU workers.⁸ These proposals are still, however, under consideration in the Council.

In line with the Tampere mandate, further proposals concerning the status of third country nationals who are long-term residents will be made. These will include the rights to be granted, the conditions under which the status may be lost, protection against expulsion and the right to reside in another Member State. The right of abode in another Member State for long-term residents could be an important factor of mobility within the labour market of the Union. In this connection the Commission has already presented two proposals concerning the rights of third country workers and independent operators already legally established in a Member State to provide services in other Member States.

The Commission submitted in November 1999 a package of proposals to combat discrimination. On 29 June 2000 the Council adopted the first of the package's three elements, the proposal for a Directive combating discrimination on grounds of racial or ethnic origin, which will apply in the fields of employment, training, social protection (including health and social security), education and the supply of goods and services, including housing.⁹

Political agreement on the second element, the Commission's proposal for an anti-discrimination action programme, was reached in the Council on 17 October 2000. The programme is to run for six years from 1 January 2001, and will have a budget of almost M€ 100 for activities combating discrimination on the grounds of race or ethnic origin, religion or belief, disability, age or sexual orientation. The activities are to be focused on (i) analysing discrimination in the Member States and evaluating methods of combating it, (ii) strengthening the capacity of organisations combating discrimination via transnational exchanges and the core-funding of NGOs, and (iii) promoting awareness of discrimination and the measures to combat it in the EU. The Council also reached agreement on the third part of the anti-discrimination package, the Commission's proposal for a framework directive on discrimination in employment on the grounds of religion or belief, disability, age or sexual orientation.¹⁰

The Amsterdam Treaty, in its provisions on police and judicial co-operation in criminal matters, expressly states that the Union will take steps to prevent and combat racism and xenophobia as one of the prime objectives of its efforts to create an area of freedom, security and justice. In 1996 the Council adopted a Joint Action to facilitate effective judicial co-operation between the Member States to prevent perpetrators of racism and xenophobia from taking advantage

⁷ COM(97)361 final, 12.11.1997

⁸ COM(98)394 of 22.7.1998

⁹ Directive 2000/43, OJ 19/7/2000 L180

¹⁰ COM(1999)365 final

of differences in legislation within the Union in order to escape justice. In the light of an evaluation of the Joint Action to be submitted at the end of 2000, the Commission will present a framework decision under Article 29 of the Treaty to enhance judicial co-operation in the fight against racism. This initiative will cover, among other things, the spread of this type of crime on the Internet.

In the area of conditions of admission and residence, the first initiative of the Commission since the entry into force of the Treaty of Amsterdam has been a draft Directive on the right to family reunification.¹¹ This is justified for several reasons: firstly, family reunification is not simply regulated by national laws since many international and regional instruments lay down rules or principles on this issue; secondly, family reunification has been one of the main vectors of immigration over the last twenty years; thirdly, it is an essential element in the integration of persons already admitted and finally, this subject has been a priority for the Council since 1991. This reflects the Commission's view that successful integration of third country nationals to maintain economic and social cohesion is one of the major challenges which the EU faces with respect to immigration policy. The establishment of stable family communities ensures that migrants are able to contribute fully to their new societies.

The proposal establishes a conditional right to family reunification on the part of third country nationals. It would allow third country nationals meeting certain criteria to be reunited with the members of their nuclear family, or even, in strictly defined cases, with other members of their wider family. The proposal also defines a number of rights which should be granted to family members. After receiving the opinion of the European Parliament, the Commission has adopted an amended proposal which is currently under consideration in the Council.

Finally, the proposed Charter of Fundamental Rights which should be adopted in December 2000, sets out a number of principles which, because of the universality of certain rights, will apply to third country nationals. This will be particularly important with respect to a number of social rights such as protection against unjustified dismissal and the application of national and Community laws concerning working conditions. The Charter also includes the possibility, on the conditions set out in the Amsterdam Treaty, of free movement and stay for third country nationals legally resident in a Member State.

2.4. Management of migration flows

The European Council at Tampere stressed the need to take a comprehensive approach to the management or regulation of migrant flows including political, human rights and development issues and to involve the countries of origin and of transit.

The Council stressed that regulating migration flows includes intensive dialogue between reception countries, transit countries, countries of origin and migrants

¹¹ JOCE C 116 E of 24/4/2000 and amended version COM(2000)624

themselves. A key element should be information campaigns by which potential migrants can be informed about legal possibilities for migration and what they may expect in the destination country and of the dangers of illegal migration and trafficking. The Council requested that steps to develop a common visa policy for the EU be intensified, combined with measures against forgery and the fraudulent use of travel documents.

Efficient management of migration flows requires monitoring and must be accompanied by measures to regulate movements. This requires action at all phases of movement of persons, in order both to safeguard legal channels for admission of migrants and for those who seek protection on humanitarian grounds while at the same time combating illegal immigration. A coherent and co-ordinated approach to illegal immigration will be an essential part of a more open immigration policy at the European level. The phenomenon of illegal immigration consists of a number of interlinked phases and each has to be tackled systematically with specific measures. These include action in source and transit countries, police co-operation to pool knowledge of trafficking operations which by their nature are international, action at the point of entry including border controls and visa policies, legislation against traffickers, help for victims and their humane repatriation.

One element in the regulatory process to which greater priority must be given is the voluntary return of persons who are refused admission to a Member State or who have no longer the right to remain in the EU. In cases when calls for voluntary return have no effect, the integrity of the European immigration policy has to be guaranteed in the end by forced return. The most valuable instrument to facilitate returns is by means of readmission agreements. In addition the Commission will be bringing forward proposals for the development of common standards for expulsion decisions, detention and deportation, which should be both efficient and humane.

3. TOWARDS A COMMUNITY IMMIGRATION POLICY

3.1. Impact of existing immigration policies

Immigration to the EU falls into three broad categories, namely that based on humanitarian considerations, family reunion and then immigration which can be generally described as driven by economic and market forces.

Under the humanitarian heading, all Member States are signatories to the 1951 Geneva Convention relating to the status of refugees and adhere to its principles. The Convention provides for access to work as a direct individual right stemming from the status of refugee and cannot be made dependent on an economic needs test. A programme for the co-ordination of the EU approach to humanitarian immigration was agreed at the Tampere Council and this will be pursued as outlined in the Scoreboard (see section 2.2.2 above).

With respect to family reunion, all Member States allow, though using a variety of different criteria, family members to join migrants already legally resident on their territory. A Directive to co-ordinate national legislation in this area is now under discussion in the Council (see section 2.2.3 above).

This Communication concerns primarily the third category, economic migration which has been said to be close to zero since the 1970's and which, given the economic opportunities now available in the EU, no longer seems appropriate. Many economic migrants have been driven either to seek entry through asylum procedures or to enter illegally. This allows for no adequate response to labour market needs and plays into the hands of well organised traffickers and unscrupulous employers. In addition, there is substantial illegal immigration into the EU which Europol estimates at 500 000 people per annum, many of these being employed as undeclared workers. Given such numbers and the practical difficulties of returning people to the countries from which they came, several Member States have resorted to regularisation or amnesty measures and the total number of those permitted to stay legally as a result is estimated at approximately 1,8 million since the 1970's¹².

While procedures are already in place at EU level to co-ordinate policies in a number of areas to facilitate the operation of the Single Market, notably the free movement of goods, capital, services and EU workers and other citizens, sufficient attention has not yet been given to the role of third country nationals in the EU labour market nor to the need for accompanying measures in support of the integration of existing and prospective migrants.

3.2 Developing a new approach to immigration

The analysis of the current situation – in respect to migratory flows in the EU – suggests that a different, more flexible approach common to all Member States on the issue of legal immigration now needs to be taken. Such a proactive immigration policy should be based on the recognition that migratory pressures will continue and that there are benefits that orderly immigration can bring to the EU, to the migrants themselves and to their countries of origin. The opening up of channels for immigration for economic purposes to meet urgent needs for both skilled and unskilled workers has already begun in a number of Member States. Given the present economic and labour market situation the Commission believes that it is now time to review longer term needs for the EU as a whole, to estimate how far these can be met from existing resources and to define a medium-term policy for the admission of third country nationals to fill those gaps which are identified in a gradual and controlled way.

Many of the elements of such a policy were already put forward in the 1994 Communication on Immigration and Asylum Policies but the approach now should also take into account the changing nature of migration itself which has become a much more flexible process of movement between countries rather than simply a one-way flow. Globally migratory movements change direction, rise and fall depending on the evolution of the economic and demographic situations both in receiving and sending countries. In order to regulate migrant flows successfully, therefore, and to reduce illegal immigration, the EU needs to adopt a co-ordinated approach which takes into account all the various

¹² 'Regularisation of illegal immigrants in the European Union', Academic network for legal studies on immigration and asylum law in Europe, under the supervision of Philippe de Bruycker, Collection of the Law Faculty, Free University of Brussels, 2000.

interlinked aspects of the migratory system and to work in close partnership with the countries of origin and transit.

The benefits of a more open and transparent policy on migration movements, together with the co-ordination of policies designed to reduce push factors in countries of origin and greater efforts to enforce labour legislation in the Member States, could also help to reduce illegal immigration, in particular the worst forms of smuggling and trafficking. Member States will be in a better position to address the problem of irregular migration if they are equipped with a broad range of migration management policies going beyond measures to curb the perceived or real misuse of their asylum systems. Opening up legal admission policies for labour migration will not completely prevent this, however, and they should be accompanied by both appropriate anti-smuggling measures and effective asylum adjudication systems which are capable of identifying refugees expeditiously and accurately thereby balancing refugee protection with immigration control.

It should be stressed that such strategies do not constitute the adoption of a policy of replacement migration as proposed in the UN report on Replacement Migration as a possible scenario to counteract demographic decline.¹³ Rather they make up a controlled approach which is based on a common assessment of the economic and demographic development of the Union, and of the situation in the countries of origin, and takes account of its capacity of reception.

Bringing the issue of labour migration into the discussion on the development of economic and social policy for the EU, would also provide an opportunity to reinforce policies to combat irregular work and the economic exploitation of migrants which are at present fuelling unfair competition in the Union. A corollary of an economic immigration policy must be a greater effort in ensuring compliance with existing labour legislation by employers for third country nationals. Equality with respect to wages and working conditions is not only in the interests of the migrants, but of society itself which then both benefits fully from the contribution migrants make to economic and social life.

Given the differences between Member States with respect to links to countries of origin, the capacity of reception, the development of integration policies and labour market needs the Commission proposes that the best way to achieve a regulated immigration policy is to establish an overall framework at EU level, with common standards and procedures and a mechanism for setting objectives and indicative targets, within which Member States would develop and implement national policies.

3.3. Framework for an EU immigration policy

Any EU immigration policy needs to take into account migration of all types – humanitarian, family reunion and economic – and to deal with the impact on the

¹³ "Replacement Migration: is it a solution to declining and ageing populations?" Population Division, Department of Economic and Social Affairs, United Nations Secretariat, 21 March 2000 (ESA/P/WP.160)

sending and receiving countries as a whole. It will need to respond to the difficult political debates taking place in some countries and will require strong political leadership to help shape public opinion. In dealing with all types of migration, it should present an integrated approach, taking account of the benefits of diversity in society, the need for a balanced framework of rights and obligations for third country nationals resident in the Union, the importance of developing support for integration and the effects on the labour market. The policy should be developed under a new framework for co-operation at Community level, which would be based on co-operation, exchange of information, and reporting and would be co-ordinated by the Commission.

Admission to the EU for humanitarian reasons would continue in full recognition of Member States' international obligations to provide protection for refugees, asylum seekers and those in need of temporary protection. The programme to develop a common European asylum system as set out in Section 2.2. above will be pursued. While many people admitted to the EU for humanitarian reasons do return to their countries of origin when the situation there changes, the discussion on the number of economic migrants needed in different sectors should take into account the numbers of persons under international protection, since better use of their skills could also be made, and of family members admitted to the EU who will also be entering the labour market.

Admission for economic migrants should clearly address the needs of the market place particularly for the very highly skilled, or for lesser or unskilled workers or for seasonal labour. Admission policies for economic migrants must enable the EU to respond quickly and efficiently to labour market requirements at national, regional and local level, recognising the complex and rapidly changing nature of these requirements and consequently of the need for greater mobility between Member States for incoming migrants. Such policies must also respect relevant provisions of existing Community law and bilateral and multilateral agreements already in force between the Community, or the Community and its Member States, on the one hand, and third countries on the other hand.¹⁴

The underlying principle of an EU immigration policy must be for different purposes, that persons admitted should enjoy broadly the same rights and responsibilities as EU nationals but that these may be incremental and related to the length of stay provided for in their entry conditions.¹⁵ The Commission has already tabled proposals on rights to service provision within the EU for

¹⁴ In particular, under the General Agreement on Trade in Services (GATS), the EC and its Member States have committed themselves to allow third country nationals to pursue economic activities in the EU according to schedules allowing the presence of natural persons without requiring an "economic needs test" for the provision of services under specific cases. Future commitments will be agreed under the GATS 2000 negotiations.

¹⁵ This is already the case with respect to labour legislation for the nationals of certain third countries e.g. Turkey, Morocco, and the Countries of Eastern and Central Europe (CEEC) within the framework of specific EU Association or Co-operation Agreements with the countries concerned.

third country nationals legally established in a Member State.¹⁴ The measures under article 13 of the Treaty of Amsterdam to counteract racism and xenophobia must be vigorously pursued and action to integrate migrants into our societies must therefore be seen as the essential corollary of the admission policy. At the same time the fight against illegal immigration should be intensified with priority to combating trafficking and smuggling.

Finally the policy must be developed and implemented in partnership with countries of origin and transit.

3.4 Admission of migrants

3.4.1. *Assessing appropriate immigration levels*

Given the difficulties of assessing economic needs it would not be the intention to set detailed European targets. The responsibility for deciding on the needs for different categories of migrant labour must remain with the Member States. However, a new process would be established based on co-operation, exchange of information, and reporting.

Under such a scenario, Member States could be asked to prepare periodic reports in two parts. The first would review the development and overall impact of their immigration policy over the previous period, including the numbers of third country nationals admitted under the various categories and their situation in the labour market. The second would set out the Member States' future intentions on immigration, including a projection of labour migrants they would wish to admit with an indication of skills levels. The need for a flexible approach to changing economic needs would suggest that quotas are impracticable and that an appropriate system of indicative targets would be preferable. This would be closely related to labour market needs but would also take into consideration agreements in place with countries of origin and a range of other factors (e.g. public acceptance of additional migrant workers in the country concerned, resources available for reception and integration, the possibilities for social and cultural adaptation etc).

In compiling these reports Member States would need to consult widely and to work closely with the social partners and also with regional and local authorities and all the other actors concerned with the integration of migrants. The reports would follow a commonly agreed structure so as to enable the Commission to prepare a synthesis which would be presented to the Council. Following discussion, the Council would then lay down the principles of the common approach to be implemented in the next period. In this process, the Commission and the Council should take account of the progress made in the implementation of the European Employment Strategy and its impact on labour-market conditions in the Union. The Commission would ensure the monitoring and

¹⁴ COM(1999) 3 final of 27.01.99

evaluation of the policy, including its impact on countries of origin, on a regular basis.

3.4.2. *Defining a common legal framework for admission*

As already announced in the Scoreboard, the Commission will be adopting early next year proposals for Directives dealing with the conditions of entry and residence to the EU of third country nationals for the exercise of employment, self-employment or unpaid activities and for study or vocational training. The Commission has already funded comparative studies on the conditions of admission and residence of third country nationals which provide an overall view of the legislation and practice of the Member States.

In presenting its proposals, the Commission intends to establish a coherent legal framework which will take into account concepts which have already been successfully applied in the Member States. The framework would determine the basic conditions and procedures to be applied whilst leaving it up to each Member State to adopt *national measures* on the admission of third country nationals based on the criteria set out in the Directives. Preliminary consultation with the Member States, the social partners, and non-governmental organisations will precede the adoption of the proposals by the Commission. This framework approach would be based on the following principles:

Transparency and rationality: laying down clearly the conditions under which third country nationals may enter and stay in the EU as employed or self-employed workers, setting out their rights and obligations and ensuring that they have access to this information and that there are mechanisms in place to see that it is applied fairly. This could imply, amongst others, provisions to facilitate the swift adoption of decisions on individual applications for admission both in the interest of the applicant and of the enterprise seeking to recruit, on the basis of objective and verifiable criteria. A general provision on *access to information* would greatly enhance transparency.

Differentiating rights according to length of stay - The principle that the length of residence has an influence on the rights of the person concerned has a long tradition in the Member States and this is referred to in the Tampere conclusions. In addition, responding to labour market needs means that admission must be facilitated for a wide range of workers, both skilled and unskilled, and ensure a rapid and flexible response. The case of students could be considered separately with special arrangements for third country nationals who have studied for several years in the EU, to provide for easier access to the EU labour market. However, it is clear that a hard-core of rights should be available to migrants on their arrival, in order to promote their successful integration into society. The Community should explore how this core of rights might be extended with the length of stay with a view to coming to broadly comparable arrangements across the Union.

EU legislation should therefore provide for a flexible overall scheme based on a limited number of statuses designed so as to facilitate rather than create barriers to the admission of economic migrants. The aim should be to give a secure

legal status for temporary workers who intend to return to their countries of origin, while at the same time providing a pathway leading eventually to a permanent status for those who wish to stay and who meet certain criteria. One option would be to start with a temporary work permit— with special arrangements for certain types of workers e.g. seasonal workers, transfrontier workers, intra-corporate transferees. This permit could be renewable and would then be followed by a permanent work permit, after a number of years to be determined, with the possibility of long-term residence status after a certain period. Agreement would be needed on the rights and obligations to be provided for at each stage, based on the principle of equal treatment with nationals, and these should be cumulative leading to those of long term residents. Based on a "best practice" approach the details of the scheme would be worked out in close consultation with Member States who would be responsible for implementing national admissions policies within the general framework.

Application and assessment procedures - Application procedures should be clear and simple. Initiating them in the country of origin in co-operation with governments, international bodies, NGOs, regional and local authorities could improve the effectiveness of monitoring procedures, the transparency of the procedures and the information available for potential migrants while at the same time respecting the employer's right to choose. However it is recognised that many potential labour migrants will present themselves for employment having already been admitted to a Member State for another reason and the provision of a job-seeker visa could help to regulate and monitor this practice.

To facilitate the availability of information more extensive use of new communications technology could be used to provide information on job opportunities, conditions of work etc. A European information point (e.g. a website) could be created and maintained which contains a complete set of information relating to the admission of third country nationals to each Member State and giving contact details of national authorities competent to receive applications for permits in accordance with the Directives. The establishment of a special visa for job seekers from third countries could also be considered.

In order to allow European industry, particularly small and medium sized industries, to recruit – in cases of real need - successfully and quickly from third countries, employers need a practical tool for demonstrating that there is a concrete shortage on the EU labour market. One way of tackling this problem would be to foresee that the "economic needs test" is deemed to be fulfilled if a specific job vacancy has been made public via the employment services of several Member States for a certain period (e.g. by means of the European Employment Services (EURES) network) and no suitable candidate from EU applicants (or certain persons privileged under international agreements¹⁾) has been received.

¹⁾ Specific cases as defined by the GATS agreement: intra-corporate transferees, business visitors and the supply of services from outside the EU.

3.5. Integration of third country nationals

The importance of the fair treatment of third country nationals was underlined by the European Council in Tampere and an EU immigration policy must, therefore, incorporate steps to ensure that migrants benefit from comparable living and working conditions to those of nationals. Failure to provide the resources necessary to ensure the successful integration of such migrants and their families will in the longer term exacerbate social problems which may lead to exclusion and related problems such as delinquency and criminality. While many legally resident migrants have integrated successfully and make an important contribution to the economic and social development of their host countries, social exclusion affects migrants disproportionately and they are often the victims of racism and xenophobia. The legal framework and other actions being proposed by the Commission to fight discrimination and xenophobia will need to be complemented by specific integration programmes at national, regional and local level. In its proposals for 2001, the Commission in its new employment guideline 7 already invites Member States to meet the needs of disadvantaged groups, including migrant workers already resident in the Union, as regards their integration into the labour market and to set national targets for this purpose in accordance with the national situation¹⁶.

However, it is also essential to create a welcoming society and to recognise that integration is a two-way process involving adaptation on the part of both the immigrant and of the host society. The European Union is by its very nature a pluralistic society enriched by a variety of cultural and social traditions, which will in the future become even more diverse. There must, therefore be respect for cultural and social differences but also of our fundamental shared principles and values: respect for human rights and human dignity; appreciation of the value of pluralism and the recognition that membership of society is based on a series of rights but brings with it a number of responsibilities for all of its members be they nationals or migrants. The provision of equality with respect to conditions of work and access to services, together with the granting of civic and political rights to longer-term migrant residents brings with it such responsibilities and promotes integration. By co-ordinating their efforts to ensure that employers respect the provisions of labour law in the case of third country nationals, Member States would greatly contribute to the integration process, which will be particularly important in attracting migrants to highly skilled jobs for which there is world-wide competition. In this connection the Commission has already tabled proposals concerning the rights of third country national workers and independent operators legally established in one Member State to the free provision of services within the EU.

The Charter of Fundamental Rights could provide a reference for the development of the concept of civic citizenship in a particular Member State (comprising a common set of core rights and obligations) for third country nationals. Enabling migrants to acquire such a citizenship after a minimum period of years might be a sufficient guarantee for many migrants to settle

¹⁶ Amended proposal for a Council Decision on Guidelines for Member States' employment policies for the year 2001.

successfully into society or be a first step in the process of acquiring the nationality of the Member State concerned.

Successful integration policies need to start as soon as possible after admission and rely heavily on partnership between the migrants and the host society. Political leaders need to create the environment necessary for the acceptance of diversity within which integration policies must be anchored. In order to promote integration, settlement packages could be developed for all new migrants tailored to their individual needs (these could include language training, information on political and social structures, accessing services etc with special attention to the needs of migrant women and children). It must be recognised, however, that integration is a long-term process and special attention needs to be paid to second generation migrants, including those born in the EU, to ensure that problems do not lead to social exclusion and criminality. In this context, women and the family should be an important focus of integration policies.

While integration is primarily the role of Member States, governments should share this responsibility with civil society notably at the local level where integration measures must be implemented. The key to success is the establishment of micro-level actions based on partnerships between all the many actors who need to be involved: regional and local authorities and their political leaders, especially those of the larger towns where many migrants settle, providers of education, healthcare, social welfare, the police, the media, the social partners, non-governmental organisations and migrants themselves and their associations. Each has a part to play in the design and implementation of integration programmes, which will need to be properly resourced.

Such a horizontal approach requires co-ordination at national and local level and the EU could contribute by developing a pedagogical strategy, promoting the exchange of information and good practice, especially at local level and the development of guidelines or common standards for integration measures. A Community Action Programme to promote the integration of third country nationals could be developed aimed at improving the understanding of the issues concerned through evaluation of practices, developing benchmarks and other indicators, promoting dialogue between the actors concerned and supporting European networks and the promotion of awareness raising activities.

3.6. Information, research and monitoring

More information is needed about migration flows and patterns of migration into and out of the EU, including illegal immigration, the role of migrants in the labour market and the overall impact of migration (including its social, cultural and political aspects) on the EU and on the countries of origin and transit. The EU immigration policy itself must be closely monitored and evaluated. Efforts to improve the comparability of migration statistics and to support comparative research on migration should be continued. As suggested already by the European Parliament consideration should be given to reinforcing the work of existing research and data networks and by providing a European focus. Such a

European network could co-ordinate current activities in different Member States and promote new research both in the EU and in the countries of origin.

The Commission is aware of the need to improve the collection and analysis of statistics on migration and asylum and will participate actively in the on-going debate as to how this can best be done. In this context consideration will be given to the establishment of a legal basis for the collection and analysis of statistical data in these fields.

4. CONCLUSIONS AND FOLLOW UP

Implementing the Tampere mandate implies making an assessment of present and future migration flows to the EU within the context of developing a common policy on asylum and immigration taking into account demographic changes, the situation of the labour market and migration pressures from countries and regions of origin of migrants.

In the light of demographic decline which will become increasingly important in the EU over the next 25 years and of the current strong economic prospects and growing skills shortages in the labour market, it advocates the development of a common policy for the controlled admission of economic migrants to the EU as part of an overall immigration and asylum policy for the Union. Without prejudice to the pursuit of structural reforms through the European Employment Strategy, and within the context of a policy strategy aiming at higher growth, higher employment and a more cohesive society, the Commission believes that, while immigration will never be a solution in itself to the problems of the labour market, migrants can make a positive contribution to make to the labour market, to economic growth and to the sustainability of social protection systems. It must be borne in mind, however, that immigration is a multi-dimensional phenomena which has legal, social and cultural as well as economic impacts. Developing a common policy therefore implies defining an appropriate policy mix. The Communication sets out a framework within which such a common policy might be regulated and managed.

Within this framework the Commission proposes a procedure for co-ordination at Community level, based on an assessment by the Member States, in consultation with the social partners and those involved in the integration of migrants, with the provision of periodic reports from which an overall policy for the EU for the admission of new migrants would be agreed by the Council. This open approach is justified by the fact that effective migration management must be based on partnership since a horizontal approach to the various elements is essential.

Such a policy must be accompanied by long-term, comprehensive integration programmes developed through partnerships involving national, regional and local authorities and civil society in order to maximise the positive effects in terms of employment, economic performance and social cohesion within a clear framework of rights and obligations. In this context concerted use of available Community policy instruments should be made (e.g. the anti-discrimination and social inclusion measures introduced under Articles 13 and 137 of the

Amsterdam Treaty, the employment strategy, the European Social Fund and other Community initiatives such as EQUAL and URBAN). In order to support this policy, the Commission should play a role in encouraging action at local and national level and the exchange of good practice.

A shift to a proactive immigration policy will require strong political leadership and a clear commitment to the promotion of pluralistic societies and a condemnation of racism and xenophobia. It will be necessary to emphasise the benefits of immigration and of cultural diversity and, in commenting on issues related to immigration and asylum, avoid language which could incite racism or aggravate tensions between communities. They will need to demonstrate support for measures to promote the integration of newly arrived migrants and their families, and promote the recognition and acceptance of cultural differences within a clear framework of rights and obligations. The media also has considerable responsibility in this respect in its role as an educator of public opinion.

The Commission proposes that a common legal framework for admission of third country nationals should be developed, in consultation with the Member States, which would be based on the principles of transparency, rationality and flexibility. The legal status granted to third country nationals would be based on the principle of providing sets of rights and responsibilities on a basis of equality with those of nationals but differentiated according to the length of stay while providing for progression to permanent status. In the longer term this could extend to offering a form of civic citizenship, based on the EC Treaty and inspired by the Charter of Fundamental Rights, consisting of a set of rights and duties offered to third country nationals.

Partnership with countries of origin and transit is considered crucial to ensure the regulation of migration flows. The development of differentiated co-operation policies with the various types of countries of origin (e.g. applicant countries, countries parties to regional programmes funded by the Community, other countries) will be necessary. In the longer term, such partnerships should also help to mitigate the effects of emigration by co-ordinated efforts to promote development in the countries concerned, particularly by mobilising migrants themselves in this process. They would provide support for the new patterns of mobility which are developing and facilitate migrants' contacts with their countries of origin as well as their participation in the development of these countries.

This more open and transparent immigration policy would be accompanied by a strengthening of efforts to combat illegal immigration and especially smuggling and trafficking, not only through increased co-operation and strengthening of border controls but also by ensuring the application of labour legislation with respect to third country nationals.

Given the complex nature of the issues involved and the need to ensure the participation of a wide range of actors in the implementation of such a policy, the Commission proposes to forward this Communication to the European Parliament, the Committee of the Regions and the Economic and Social Committee for their opinion and to distribute it widely for debate to national and

regional authorities, the social partners, the economic and industrial world, and international and non-governmental organisations concerned with migration and migrant associations.

It is proposed that the results of this debate be discussed at a conference to be held under the Belgian Presidency in the second half of 2001 and that the conclusions of this conference be presented for discussion to the Council at its meeting in Brussels at the end of 2001 which will also be considering a mid-term review of the implementation of the Tampere programme.

ANNEX 1

The Demographic and Economic Context

The demographic context

During the 1990's the world's population increased more rapidly than ever before to reach 6 billion in 1999 and the UN estimates that about 150 million people (or some 2.5% of the total world population) now live outside of their country of origin. The world population increase is expected to continue at least in the short term and it is also estimated that improvements in communication, combined with the persistence of economic disparities, conflict and ecological factors, will ensure that migratory movements continue to ebb and flow during the 21st century.

The demographic situation in the EU has also been changing significantly, but in contrast to the overall world situation, two trends are particularly striking: a slowdown in population growth and a marked rise in the average age of the population. Figures prepared by Eurostat show that between 1975 and 1995, the population of the EU grew from 349 to 372 million people, and the proportion of the elderly (aged 65 and over) rose from 13% to 15.4%. Between 1995 and 2025 Eurostat estimates that the population of EU15 will grow more slowly (from 372 to 386 million) and will then begin to decline. However, the working age population (those aged 20-64) will begin to decline within the next 10 years (from 225m in 1995 to an estimated 223m in 2025), while the over-65 age group will continue to rise and is expected to reach 22.4% of the population in 2025.

The general trend among all the Central and Eastern European countries is one of even slower population growth than that of the EU15 for the first quarter of this century¹⁹. Overall, the accession states will experience a similar ageing of the population to that of EU15. The expected fall in their working-age population will raise, in most of these States, similar challenges to those faced by EU15. However, the implications of the demographic trends will also depend upon the speed of the economic recovery and the labour market conditions in these countries. Regional disparities between urban and rural areas will be particularly pronounced in certain of them. Such disparities are also a feature of EU15 where some (D, I, S) have already entered negative natural growth (births minus deaths), while others (FIN, F, IRL, NL) will continue to experience relatively high natural growth for some years²⁰. However across the EU as a whole, it is net migration that has become the principal component of population growth²¹.

Eurostat figures show that net migration to the EU declined rapidly over the last decade after peaking in the early 1990s at over 1 million per year before starting to climb again and reaching just over 700 000 in 1999.²² On average for the years 1990-

¹⁹ Demographic Report 1997, DG Employment and Social Affairs, p. 29

²⁰ Eurostat Working Paper on National and Regional Population Trends in the European Union, 3/1999/E/n°8, p. 39

²¹ Ibid, page 16

²² Figures from Eurostat. In these figures on net migration (the difference between immigration and emigration in a particular year) the effect of births and deaths in the year concerned is also taken into account

98 the net migration rate for the EU was 2.2 per 1 000 population against 3 for the USA, 6 for Canada and close to 0 for Japan. The flows are now composed of a mix of people: asylum seekers, displaced persons and those seeking temporary protection, family members coming to join migrants already settled in the EU, labour migrants and growing numbers of business migrants. Family reunion and the existence of ethnic communities from the countries of origin in a particular host country have become important factors in their size and direction. The flows have become more flexible – in particular there has been an increase in short-term and cross-border movements – with a complex pattern of people entering but also leaving the Union.

A recent report by the UN, based purely on demographic considerations,²³ suggested that replacement migration could be an important factor in solving the problems caused by the declining and ageing populations in Europe. The Commission believes that, while increased legal immigration in itself cannot be considered in the long term as an effective way to offset demographic changes, since migrants once settled tend to adopt the fertility patterns of the host country, it could, in the short term, be an important element in population growth which could accompany other responses to demographic change, such as more friendly family policies. Equally, increased immigration will not, of itself, be an effective long-term way to deal with labour market imbalances, including skill shortages, which should be addressed by an overall strategy of structural policies in the field of employment and human resources development. However, controlled immigration may help to alleviate shortages provided it takes place within the context of an overall structural strategy.

The economic context and the situation of the EU labour market

The macro-economic prospects for the EU are currently the best for some years with low inflation and interest rates, reduced public sector deficits and a healthy balance of payments. The benefits to the economy of the introduction of the Euro and the completion of the internal market are leading to improved growth and job creation with a consequent drop in unemployment.

The process initiated by the European Council in Luxembourg in 1997 has established an ambitious framework for policy co-ordination in the EU in the area of employment. According to Article 126 of the Amsterdam Treaty, Member States implement their employment policies in a way which is consistent with the employment guidelines and the broad economic policy guidelines drawn up each year by the Council. In the light of these guidelines, Member States prepare National Action Plans whose implementation is monitored on a regular basis by the Commission and the Council.

A number of weaknesses in the EU economy were highlighted at the Lisbon European Council in March 2000, notably the high number of people still unemployed, which although the unemployment rate has fallen to an average of 9.2% in 1999, remains at over 15 million.²⁴ The labour market is characterised by the insufficient participation of women and older people in the work force and by long-

²³ "Replacement migration: is it a solution to declining and ageing populations", UN Secretariat (ESA/P/WP.160), 21 March 2000.

²⁴ The rate has continued to fall during 2000 and is currently at 8.4% or just over 14 million unemployed.

semi structural unemployment, with marked regional differences. The European Council emphasised the problems caused by the under-development of the services sector, especially in the areas of telecommunications and the Internet and the widening skills gap, especially in information technology where increasing numbers of jobs remain unfilled. It also drew attention to the need to modernise social protection systems and in particular to secure their sustainability in the face of an ageing population.²⁵ Adaptation of pension schemes both to encourage more gradual forms of retirement with flexible forms of work and leisure for older age groups would also encourage people, who today are generally in better health and have easier working conditions than their grandparents, to work longer. Making pension schemes less sensitive to demographic changes through sharing responsibility more broadly between government, the social partners and the individual would also reduce the dependency on the working age population. The European Employment Strategy is beginning to tackle these problems.

In Lisbon the Council set a new strategic goal for the EU for the next decade namely that it should become the most competitive and dynamic knowledge-based economy able to sustain economic growth and create more and better jobs with greater social cohesion. An overall strategy was adopted in order to achieve this with the objective of raising the employment rate overall from an average of 61% in 2000 to near 70% in 2010 and for women from 51% to over 60% in this period. This would also reinforce the sustainability of existing social protection systems. The Commission believes that the strategies now in place will reduce the effects of the ageing population in the EU and the level of dependency between those in work and those who have retired.

The Joint Employment Report 2000²⁶ charts the progress which has been made in raising the employment rate which reached 62.2% in 1999. It also highlights the areas where further efforts are needed and reports on a worrying growth in skills shortages and miss-matches in supply and demand for labour. While this is becoming acute in relation to some sectors employing the highly skilled who are essential to the development of a knowledge-based economy, shortages in the traditional low-skilled areas, such as agriculture and tourism, are continuing even where there are high levels of unemployment in spite of the efforts being made to combat this phenomena. These shortages could threaten the EU's competitiveness in the global economy.

In fact, the ability of different countries and regions in the EU to compensate for demographic effects and to mobilise unused labour resources varies considerably and immigration, therefore, will have a contribution to make in offsetting these problems in some countries as an element in the overall strategy to promote growth and reduce unemployment. While procedures are already in place at EU level to co-ordinate policies in a number of areas to facilitate the operation of the Single Market, notably the free movement of goods, capital, services and EU workers and other citizens, sufficient attention has not yet been given to the role of third country nationals in the EU labour market which, given its increasing importance, is an issue which now needs to be addressed.

²⁵ "The future evolution of social protection from a long-term point of view: safe and sustainable pensions" (COM(2000)622)

²⁶ COM(2000)551 (final)

The situation of migrants in the EU labour market

Reviewing the situation of migrants in the EU labour market there has been, since the mid 1980's, an increasing polarisation between the situations of skilled and unskilled migrants. The number of migrants in the labour force with low or no qualifications has been increasing since 1992 where they are meeting a demand e.g. in agriculture, construction, domestic and personal services and seasonal work in tourism (hotel and catering industry) as well as in some manufacturing sectors. With respect to skilled workers, there is now a new willingness to recruit migrants with special skills into the labour market to meet demands which cannot be met by the existing work force, even in areas of high unemployment. At the same time global competition for such skilled personnel is becoming fiercer (e.g. in the IT sector).

Although data on newly arrived migrants is not comprehensive, partly due to the large numbers of irregular and clandestine workers thought to be working in a number of Member States, official data (European labour force survey) suggests that employment rate patterns are generally worse for first generation migrants – especially for women – than for the population as a whole. Recent studies by the ILO on ethnic discrimination in the labour market have revealed statistically significant levels of discrimination in a number of Member States. Moreover, migrant populations often show a higher rate of school drop-out than indigenous populations. This may often reflect language difficulties, especially among newcomers, but also problems associated with assimilation into the school system.

Over the past few years a number of studies have tried to assess the economic impact of legal immigration in different Member States notably Germany, Denmark and Austria. These indicate that, while there are both positive and negative effects, especially at local level, these tend to balance out and that overall, migrants generally have a positive effect on economic growth, and do not place a burden on the welfare state. The perception that immigration contributes to unemployment is not borne out in these studies which show, on the contrary, that migrants generally take jobs which have remained unfilled even where there is high unemployment in the local population. This reflects earlier work in the USA, Canada and Australia where it has provided a justification for continuing immigration policies, which seek to attract annual quotas of migrants to specific sectors. It is, of course difficult to evaluate the impact of irregular migrants working in the EU since their number and whereabouts cannot be estimated with any precision. Although they, and in many areas also low-skilled legal migrants, undoubtedly make a contribution to the economy in the short-term, their presence may also hinder the implementation of structural changes which are necessary for long-term growth.

Economic benefits may be more positive with respect to highly qualified migrants who are meeting skills needs, than for the low qualified who may, in some cases, be competing with national workers for jobs. It is in the lower skilled sectors (e.g. agriculture and related industries, catering, cleaning) where the largest numbers of undocumented migrants tend to find employment, often receiving wages which undercut the local workforce and sometimes in conditions which may lead to exploitation and to social unrest. On the other hand, the regional and sectoral concentration of migrants can mean that they represent an important force in the local economy.

While difficulties in some of the sectors which have traditionally attracted migrants (notably construction, mining and manufacturing) have contributed to higher levels of unemployment among migrants than nationals in some countries, there is also evidence that migrants have proved more flexible in dealing with such problems in recent years, in particular by moving into the service sector and by setting up their own small businesses. It is also the case that there are often overall productivity gains in sectors employing migrants and in related industries. In agriculture, some manufacturing industries and some business services it is estimated that a shortage of migrants would have negative consequences on the sector concerned²².

With respect to social security systems the presence of legal labour migrants and their families may, in the short term at least, be a positive factor in face of an ageing and declining population although there may be initial settlement costs. The availability of effective integration measures for third country nationals ensuring them decent living and working conditions reinforces their socio-economic contribution to their host society. The absence of such policies, leading to discrimination and social exclusion, may result in the end in greater long-term costs to society.

²² "Assessment of possible migration pressure and its labour market impact following EU enlargement to Central and Eastern Europe, Part II, John Salt et al, Research Report ICR138, Department of Education and Employment (UK), December 1999

ANNEX 2

Overview of recent or planned Commission proposals relating to immigration policy

Proposal for a Council Regulation amending Regulation (EEC) No 1408/71 as regards its extension to nationals of third countries (COM (97) 561 final (presented 1997))

Proposal for a European Parliament and Council Regulation amending Council Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community (COM (98) 394 final (presented 1998))

Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Directive 2000/43, OJ 19/7/2000 L 180, adopted June 2000)

Directive on discrimination in employment on the grounds of religion or belief, disability, age or sexual orientation (COM (99) 565 final) (presented October 1999)

Council Decision establishing a Community Action Programme to combat discrimination 2001-2006 (COM (2000) 649) (adopted October 2000)

Directive on the right to family reunification (presented December 1999) amended version October 2000

Directive concerning the status of third country nationals who are long term residents in a Member State (February 2001)

Directive on the conditions of entry and residence for the purpose of study or vocational training (first half of 2001)

Directive on the conditions of entry and residence for the purpose of unpaid activities (first half of 2001)

Directive on the conditions of entry and residence for paid employment and self-employed economic activity (first half of 2001)

Mobilisation on collection of statistics relating to migration on the basis of the collection which started in 1998 (first half 2001)

Communication on return policy (first half of 2001)

Proposals for a co-ordination and monitoring procedure for the implementation of the Community immigration policy

Proposals for a Community Action Programme to promote the integration of third country nationals concerning horizontal measures to support the exchange of experience and the development of good practice