

The Deeper Impact of the Economic Crisis: Changes in High-Skilled Immigration Policies

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Abstract

The economic crisis that advanced industrial countries face might be seen largely as a product of myopic decision making in finance and regulation, to the behaviour of borrowers and consumers. The failure to address global imbalances, regulate finance and the broader societal failure of over borrowing and excessive consumption are at the heart of the crisis. There is a political imperative to act swiftly to deal with the consequences of the global economic downturn. In the scramble for quick answers to difficult questions, there is a risk of further myopic choices, which will diminish the competitiveness of countries in the long run. Anti-globalisation policies are politically appealing but there has not been a universal backlash. Trade policy has remained largely unaffected but immigration policies and high-skilled immigration (HSI) policies in particular have already been affected. HSI policy changes are the result of shifting coalitions between actors (high-skilled labour, low-skilled labour and capital). This paper analyses the changing representation of societal actors. Due to globalisation and technological innovation, employers' representatives had gained considerable influence in lobbying for their desired policies, such as more open HSI to fill labour shortages. High-skilled immigrants are recruited to contribute to countries' innovation, competitiveness and ultimately economic growth. While domestic high-skilled workers had a small degree of institutional representation, except through some political parties, electoral districts or union-party links, the economic crisis and adopted policies might provide high-skilled labour with more power. As governments struggle to regain the confidence and vote of their populations, they increasingly revert back to protectionist HSI policies. This paper investigates the recent policy proposals in Ireland, the United Kingdom and the United States. It concludes by examining changing conditions and implications for institutional representation. It also highlights that global governance arrangements are key to the differential response in trade and immigration policy responses. While trade has a strong global governance architecture through the multilateral trading system, making protectionism more unlikely, immigration remains in the purview of national policy-making and has been an outlet for protectionist sentiments. In particular the increase in barriers to HSI will harm the competitiveness of economies long after the crisis has past. This coupled with a failure to improve regulation and a resumption of business as usual in the sphere of finance are all myopic responses to a crisis rooted in myopia.

Keywords: Economic crisis, globalisation, high-skilled immigration, policy change, trade policy

1. Introduction

During 2008-2009, the context and assumptions around immigration, high-skilled or not, have changed. It is a time when most countries face an economic shock – a global economic crisis – potentially the most serious one that the world economy has ever faced. Despite the emergence of green shoots around the global economy, and a return to growth in some economies, problems remain; unemployment is still increasing, growth remains anaemic and deficits continue to deepen.²

This has put pressure on governments to act. From emergency provisions, such as bailouts and stimulus packages, governments have scrambled to find solutions. One political response has been a backlash against globalisation in general, and trade and immigration in particular. Voices calling for more restrictive policies have risen as the crisis deepens. The impact of the crisis and its policy responses vary from country to country, and from region to region. We argue that, on the whole, there has been a backlash against globalisation, very different to that in the 1930s. The world is more integrated and the nature of trade and commerce is complicated; with global supply chains, fragmentation of production processes, unilateral protectionism makes little sense. Immigration matters even more in this setting, yet there are differences in policy across countries. Immigration policy and to a lesser extent trade have become highly politicised in recent years. The crisis further exacerbates this trend. Global governance arrangements mediate the response from policymakers. The WTO mechanism commits members to legal obligations and the recourse of dispute settlement, helping to lock-in trade openness. In addition, there has been a high level political commitment at the G20 and in international agencies to keep trade open, despite significant declines in trade volumes and rising unemployment. International coordination has mostly averted protectionism. However, this has not been the case in immigration, which has been the main focus of a protectionist backlash.

A number of countries have proposed or implemented more restrictive high-skilled immigration (thereafter HSI) policies. Policy changes across countries have

² According to the ILO's 2009 Global Employment Trends report (GET), there could be a dramatic increase in the number of people joining the ranks of the unemployed, working poor and those in vulnerable employment, in particular migrant workers. Depending on the timeliness and effectiveness of recovery efforts, the GET envisages an increase in global unemployment in 2009 compared to 2007 by a range of 18 million to 30 million workers, and more than 50 million if the situation continues to deteriorate.

included reducing numerical limits/ quotas, as well as shortage lists, reinforcing labour market tests, making it difficult to renew work permits, limiting non-discretionary flows (e.g. family reunification, work permits for spouses) and encouraging return-migration (OECD 2009). However, labour shortages in certain high-skilled sectors (e.g. engineering, health care) persist despite the economic downturn. Governments have implemented short-term policies to deal with the economic crisis and to appeal to their voters. The paper seeks to analyse how the crisis has impacted HSI policies. More specifically, the question remains whether it is part of a long-run competitiveness agenda, the battle for ‘the best and the brightest’, or whether there is a short-run backlash against globalisation and openness in the HSI policy field. Part 2 discusses previous crises and their impact on labour immigration, while Part 3 turns to trade policies. Migration and anti-globalisation sentiment is examined in Part 4. Case studies of Ireland, the United Kingdom and the United States are presented in Part 5 that analyse the impact of the economic crisis on their high-skilled immigration policies. Part 6 examines the extent to which countries have attempted to use high-skilled immigration as a stimulus to counteract the crisis. Some conclusions on the topic are offered in Part 7. The findings are based on reports from international organisations, such as the International Labour Office (ILO), the Organisation for Economic Cooperation and Development (OECD) and World Trade Organisation (WTO), the analysis of media coverage and academic literature on immigration and trade reviews.

2. Previous Crises in Labour Immigration Policy

This is the first synchronised economic crisis, which impacts all countries around the world. This crisis also has important effects on HSI. This section begins with an overview of previous crises and responses to labour immigration. While Part 3 discusses the implications of the 1930s crisis, this section concentrates on the 1970s crisis.³ Labour immigration was affected the most in Western Europe and the Middle East.

³ Since the Asian crisis in 1997/98 did not have such major effects on global labour migration and thus is left out of this analysis.

Countries in Western Europe, such as Germany and Sweden, experienced labour immigration in 1950s and 1960s through guest-worker programmes⁴ in order to spur their industries after the war. The particular governments negotiated bilateral agreements with several countries, such as Italy, Turkey, Greece or Portugal. They had quite liberal labour immigration policies until the early 1970s when the worldwide economic downturn increased the number of unemployed native workers and led to loud outcries for more restrictive policy (mainly by unions and Social Democrats). These changes took place amid a more general shift from social democracy to market liberalism.

The guest-worker programme promised to bring temporary workers instead of permanent citizens, as well as economic benefits instead of social costs (Martin & Miller 1989: 19 in Plewa 2007).⁵ Employers “were reluctant to lose their valuable human investment in a nearly full-employment economy” and often permitted guest workers to stay after the expiry of their work permit, as well as to bring their family to Germany (Messina 2007: 125). Unions’ support was won with securing the “primacy of domestic workers in filling of job openings and by guaranteeing equal wages and social benefits to the recruited foreign workers” (Joppke 1999: 65). Misled by a number of surveys with migrants, the government lived under the ‘illusion of return’ that guest workers would return home after some years, so it did not “exercise the administrative prerogative of non-renewal of permits in any systematic way” (Miller & Martin 1982: 86).

In the early 1970s, Germany entered a period of economic recession, encouraged in part by the oil shock. The government declared a ban on the recruitment of immigrant workers and began to deal with the increasing number of immigrants in the country. The main union confederation, DGB, was very supportive of the ban due to the developments on the labour market. Despite immense lobbying by the employers’ association, BDA, for lifting the recruitment ban as labour shortages, mainly in low-

⁴ According to Andrew Geddes, “Sweden explicitly pursued an immigration policy rather than a guest-worker paradigm predicated on the flawed assumption of temporariness. After one or two years in Sweden, migrants could establish permanent resident status with the rights of denizenship and after five could become Swedish citizens” (2003: 108). According to Hammar 1985, Messina 2007 and Paul 1997, only Austria, Switzerland and West Germany can be considered as countries with guest-worker programmes.

⁵ “As foreign-worker policies were progressively improved over the years, facilitating family entry and other measures to improve the lot of foreign workers, European governments undercut their own policy goal of short-term foreign-worker employment. This was goal was further undermined by post-war Europe’s sustained economic growth” (Miller & Martin 1982: 85).

skilled sectors, were increasing, the recruitment ban remained in place (Joppke 1999). Even though many guest workers were leaving Germany, the immigration level remained more or less constant in the 1980s (between 4 and 4.5 million) due to family reunification of the remaining workers. However, their labour force participation decreased (Oezcan 2004). The period between 1975 and 1985 is often considered “the decade in which many European countries became reluctant countries of immigration” (Martin 2009). The European economy eventually recovered in the late 1980s (Martin 2009).

In recent decades, labour market shortages have emerged in OECD countries in both the high and low-skill sectors. Skill-biased technological change has increased the productivity of high-skilled relative to unskilled labour. To fill labour shortages, high-skilled immigrants have been increasingly recruited. We can describe country actions using two models: 1) the human capital model and 2) the labour shortages model. Under the human capital model, endogenous growth theory suggests that increasing human capital stock leads to dynamic growth and spill-over effects (see Romer 1994). ‘Settlement countries’ have used immigration for increasing their human capital stock and thus considered this type of immigration as permanent. In more recent years, they have implemented some temporary labour immigration policies to fill labour market shortages on a temporary basis. This second model of HSI has been predominantly implemented in the United States, Japan and European countries. The focus on HSI grew at times when labour shortages intensified because of changes in the global demand for labour in high-skilled industries. Most European countries have been latecomers to compete for ‘the best and the brightest’. It was not until the late 1990s that they changed their legislation to facilitate the recruitment of high-skilled immigrants. These countries have been paying attention to HSI due to perceived labour market shortages in sectors, which require certain skills. They have been interested in recruiting high-skilled immigrants on a temporary basis to give them some time to train/ educate their own workers.

In general, when a country experiences a recession, it usually tightens its labour immigration policies. The emigration rate also increases and immigration shifts to family reunification and refugees. For example, Sweden experienced more emigration during that 1990s due to high unemployment rates, but also greater possibilities to study and work abroad (Ministry of Justice 2001: 22). Therefore, there was no increased demand for immigrant workers. Immigration during the 1990s and 2000s

mainly involved political refugees and family reunification (Allwood, Edebaeck & Myhre 2006: 7).

The International Monetary Fund (IMF) predicts that world output will decline by 0.6 percent this year – the lowest rate since the World War II. In 2007 and 2008, world output grew by over 5 percent and 3.4 percent, respectively. The European Union (EU), Japan, the United States (US) and other large developed economies have already entered into recession as early as the fourth quarter of 2007 (ILO 2009: 3). These developments do not only have impacts on labour immigration policies, but also on trade policies, which the next section discusses.

3. Impact on Trade Policies

The last equivalent economic shock of this magnitude took place during the 1930s. It precipitated a backlash against globalisation forces which were being renewed after the shock of World War One. (Hynes et al. 2009) Markets were reintegrating, trade had recovered and international financial flows were growing once more. However immigration was never the same again. The era of mass migration was over. The Great Depression saw a sharp rise in anti-globalisation sentiment. Protectionism emerged and acted to prolong the recession and delayed the recovery. This was heralded by the Smoot-Hawley Act in 1931 and the abandonment of Free Trade by the British in 1932. In both the 1920s and the 1930s the US tightened its immigration policies. The Depression exacerbated this trend and far from immigration increasing, many foreign workers actually re-emigrated – “some 500,000 left in the 1930s, with many southern Europeans moving back permanently to the old continent. In the same decade the stock of Mexicans in America fell by a dramatic 40 percent, as they lost jobs and many were deported.” (The Economist 2009a)

Eichengreen and O’Rourke (2009) have compared the 1930s depression with that of today and find many similarities in the scale and scope of the decline in output and trade. The one major difference between the two cases has been the policy response. International coordination, absent in the 1930s has proved resilient in the face of the deepening crisis. Despite many concerns about increasing trade barriers, the World Trade Organisation (WTO) is in fact optimistic that the crisis may stimulate the long

delayed Doha Round negotiations, further lifting trade restrictions.⁶ As Director-General Lamy has said, “we are witnessing the renewal of high-level engagement in the DDA negotiations.”⁷ WTO disciplines have played a positive role in constraining protectionism (Evenett & Hoekman 2009). The G20 agreed to keep markets open referencing the 1930s and the need to prevent history repeating itself. However there was some misunderstanding among G20 members about what the commitment meant – just honouring WTO obligations being one interpretation. There is considerable flexibility though WTO agreements and other international obligations, which some members took advantage. Under WTO rules, “countries can ‘legally’ impose a wide range of protectionist measures via antidumping and safeguard provisions; moreover, in areas where WTO disciplines are incomplete or absent (e.g. government procurement), countries can discriminate against foreign suppliers without worry about WTO censure. In fact, many of the standstill violations fall into this latter category” (Schott, 2009). While these steps were legal, they defied the spirit of the G-20 proclamation.

International aid flows have the potential to act as a counter-cyclical flow for developing countries. But they would seem to be particularly vulnerable to decline. However, they have remained resilient, again because of high-level political commitment and international coordination. In the case of the United States, pledges have been made to increase, perhaps even doubling, foreign aid in the years ahead. A survey of indicative forward planning from the OECD indicates that other major donors plan to sustain aid flows at current level. Some countries with severe fiscal crisis like Italy and Ireland have been forced to cut their aid budgets. But overall globalisation in the trade and aid spheres has held up quite well. Where multilateral disciplines exist, recourse to protectionism has been limited (Evenett & Hoekman 2009). The architecture of modern trade agreements and the interconnected nature of the global economy⁸ means that this was never really in doubt. That is not to say that the crisis has not provoked a backlash, but the political response has been focused at

⁶ The WTO though has consistently tried to promote a successful conclusion of the Doha Round as a solution to everything from the food crisis (more consistent trade rules in agriculture) and climate change (trade rules on environmental technology transfer), to public health (Lamy urges multilateral cooperation to advance public health “in the real world” 14 July 2009) and sustainable fishing (08 June 2009 Lamy urges Doha deal for sustainable fishing).

⁷ Lamy, P “Global crisis requires global solutions — Lamy”, WTO Press release 13 July 2009.

⁸ Two-way trade in manufactured products now characterizes not just trade within the North, but also between the North and the South (O’Rourke, 2009).

the national level - in particular on immigration policy – where the primacy of national policy-making remains and international coordination is absent.

4. Migration and Anti-Globalisation Sentiment?

This section examines how immigration bears the brunt of anti-globalisation sentiment. In recent years, the international competition for the ‘best and brightest’ intensified (Mahroum 2001). Since labour market shortages threatened economic growth and progress, governments needed to respond to the demands for more open HSI. They also had to react to the preferences of high-skilled workers for more restrictive policies. The number of high-skilled immigrants has increased. This may heighten tensions within countries between labour and capital. It will be up to the political parties in government to reconcile these. Labour market institutions can also play a larger role in the representation of affected groups. If an increasing number of high-skilled workers organise in professional unions/ associations, they may become more powerful actors in lobbying the government. This can happen when labour market competition between native and migrant workers intensifies.

In times of economic crisis and increasing unemployment rates, the restrictiveness of HSI policies has appeared on governments’ agenda. In cyclical immigration policies, governments should admit more immigrants when labour demand is strong and fewer when it is weak. In reality, however, this simple recommendation is more complex (Papademetriou, Sumption & Somerville 2009). The relationship between net migration and the business cycle is not a straightforward one.⁹ It depends on the nature and the scope of the crisis, the actions taken by different stakeholders, including the migrants (OECD 2009).

As some authors (e.g. Money 1997, Shughart et al. 1986) have claimed, labour market competition intensifies when unemployment rates increase and economic growth decreases because native and immigration labour forces are placed “in more direct competition than in periods of economic prosperity” (Money 1997: 693).

⁹ For example, in the US, Canada and Sweden, net migration rates appear much less connected to the economic cycle than in countries such as Australia, Germany and Switzerland. From the early 1980s, or the early 1990s in some countries, the correlation between the two series weakens. For some countries, a lag appears between the business cycle and the change in migration flows (Australia, Canada and Switzerland after 1990), while for others, the correlation disappears almost entirely (France after 1980 or Germany after 1993) (OECD 2009: 17).

Worsened economic conditions can lead to more negative attitudes of survey respondents towards immigration (Espenshade & Hampstead 1996). Esses, Dovidio and Hodson suggest that even “immigration policies designed to ensure the economic prosperity of immigrants, such as employment-based policies favouring highly skilled occupations may also increase the likelihood that immigrants will be seen as competing with non-immigrants for resources and thereby increase resource stress and bias” (2002: 395). This finding is rather surprising since previous research has shown that immigrants, especially those requiring social services, were perceived negatively by the native population, although few immigrants had entitlements to these provisions. It seems that the negative perception can also occur in the case of (successful) high-skilled immigrants (Esses, Dovidio & Hodson 2002).

In Germany, some politicians justified more restrictive HSI policies by pointing to the high unemployment rate. Based on interviews, a number of political parties (FDP, Union) always had some unemployed voters in the audience when giving a speech on migration. Voters and politicians do not always understand the mismatch of labour demand and supply and think that (high-skilled) immigrants can be blamed for taking their jobs away. For instance, most labour market shortages in Germany in engineering were entry-level, relatively low-pay jobs, whereas the unemployed German engineers were mostly in managerial, well-paid positions.

Research shows that voters’ perceptions of labour migrants can be negative, even if native workers are employed. According to Gallya Lahav, “the fear of losing one’s job in a declining national labour market (societal conditions) appears to be a much more important factor than personal unemployment itself” (2004: 1169). These findings follow US trends that personal economic circumstances play a smaller part for public opposition to immigrants than beliefs about the national economy (Citrin, Green & Muste 1997 in Lahav 2004: 1170).

Milner and Keohane (1996) analyse the effects of internationalisation (i.e. processes generated by underlying shifts in transaction costs that produce observable flows of goods, services and capital) and argue that “governments will have to be concerned about threats of exit and hence non-investment by mobile capital” since they benefit electorally from prosperity (1996: 250). Owners of mobile factors of production (i.e. financial capital) and firms who are able to shift their production abroad, gain bargaining power over immobile factors of production (e.g. most low-skilled labour) and firms relying on locally specific assets. These actors may then be

able to threaten an ‘exit’ in order to increase their influence (voice) in national politics (Hirschman 1970) (Milner & Keohane 1996: 250). In times of economic prosperity, multinational companies such as Microsoft have repeatedly threatened to relocate their operations and services outside of the US. Microsoft demonstrated credibility when it opened a subsidiary in Canada, a country with a more liberal HSI policy (Author’s interview with Microsoft). According to Shughart et al. (1986), as a country’s economy goes through the business cycle, its policy mix shifts – workers receive greater leverage in economic downturns, whereas capitalists/ owners are more influential during economic growth (in Massey 1999: 307).

The question remains how governments deal with these economic challenges. Globalisation can have both constraining and enabling mechanisms (Weiss 2003). They are constraining due to economic openness which limits what governments can do across a range of policy areas (Weiss 2003). The enabling dimension “reveals a political logic of competition and insecurity, which generates incentives for governments to take initiatives that will strengthen national system of innovation and social protection” (Weiss 2003: 15). This mechanism can lead to greater compensation of the losers of globalisation. Governments will deal with redistributive aspects of HSI as they try to minimise the number of losers and maximise the number of winners.

5. Methodology

This section provides a qualitative look at recent developments in the HSI policy area. For example, some countries (e.g. the UK and the US) have made it harder for employers to hire migrant workers by imposing stricter conditions on job advertisements and work permit renewals. These steps should encourage employers to hire native workers. However, they can risk pushing migrant workers into irregular situations (The Economist 2009b). Other countries have decreased the number of migrants allowed to enter – these concern especially low-skilled workers, although the high-skilled have also been affected. Spain let in 15,731 migrant recruits under its “contingente” scheme in 2008, but decreased the quota to only 901 this year. In the same country, the shortages occupations list from October 2008 had nearly a third less professions listed than the previous version (The Economist 2009b). The Italian government announced that no non-seasonal workers would be admitted in 2009, in

contrast to the 70,000 in 2008. South Korea set this year's limit of the Employment Permit Scheme to 17,000, down from 72,000 last year. Australia has lowered the limit to 108,100 from 133,500 skilled migrants (The Economist 2009b). A number of countries have implemented 'return incentives', which apply in particular to low-skilled migrants. From November 2008, Spain has offered eligible migrants a portion of their Spanish benefits if they returned home and promised not to come back for three years. Similarly in the Czech Republic, laid-off migrants were offered air-fare and €500 (\$704) to workers. By the end of March 2009, about 1,100 workers (mainly contract labourers from Mongolia) had accepted (The Economist 2009b). If the economy rebounded in the next years, returned workers could be in demand again.

In general, given the politics, it is much easier to tighten controls, as countries are doing now, than to loosen them when the economy starts growing again. There are also genuine shortages of workers in some professions, such as medicine and certain technical jobs such as engineering, which locals cannot easily and quickly retrain for. Clamping down on the total flow of migrants, therefore, risks making such shortages worse. (The Economist 2009b)

Once countries have passed more restrictive legislation, they might lack the flexibility to hire migrant workers once they exit the recession (The Economist 2009b). Immigration policy restrictions have taken place in a number of regions (Asia, Australasia, Europe, Middle East and North America), but the following analysis concentrates on Ireland, the UK and the US. It puts in context developments of the last years in order to isolate the direct impact of the crisis.

Ireland

Ireland has two ways of attracting high-skilled immigrants: 1) work permit system and 2) Green Card programme (since 2007). The work permit system was liberalised in 2001 and allowed a significant number of migrants to obtain a work permit. Under the Green Card programme, an employee can apply (if migrant worker earns more than €60,000/year, there are no restrictions, if yearly salary is between €30,000 and 60,000, the migrant worker can only apply for occupations in sectors with labour market shortages). Ireland had a booming economy and the government

was favourable of an open labour immigration policy, which employers demanded (OECD 2007).

Ireland had a decline in growth from 6.0 percent in 2007 to minus 3.0 percent in 2008, which is expected to decline in 2009 to minus 8.5 percent (Trading Economics 2009). Its unemployment rate increased to 11 percent in March 2009, the highest level for nearly 13 years (AFP 2009). Ireland tightened up its immigrant work permit system in response to growing unemployment. The stricter rules, involving a revision of the qualifying conditions for new permits, came into effect from 1 June 2009. Mary Coughlan, the Minister for Enterprise, Trade and Employment, said a “labour-market needs test for all future applications and renewals would allow ‘maximum opportunity’ for any available job vacancies to be filled by Irish people and those from the European Economic Area” (AFP 2009).

From 1 June 2009, employers who wanted to hire non-EU foreigners had to pay them at least EUR 30,000 a year. Occupations such as truck drivers were closed to them, and the spouses of non-EU migrant workers had to qualify separately for work permits. Employers only made 625 requests to hire non-EU foreigners in March 2009, down from a peak 3,700 in July 2007. Instead of seeking local workers for four weeks, Irish employers had to recruit locally for eight weeks before host permission to hire non-EU foreigners (Migration News July 2009).

”A June 2009 poll found that two-thirds of Irish respondents wanted the migration of labour from Eastern Europe restricted. Poles and other nationals from the accession countries (i.e. A8) are EU citizens and cannot be expelled. However, the 30,000 non-EU foreigners among Ireland’s two million workers have no such protections” (Migration News July 2009). Irish workers have called for more immigration restrictions. As Ireland is part of the EU and adheres to free movement of migrant workers, it cannot easily restrict immigration policies. However, Ireland can restrict policies toward third-country nationals, which are not treated under EU directives.

United Kingdom

From 2008, the government gradually introduced a new points-based system. It included five ‘tiers’, related to a grading system of skills (Home Office 2006). Each tier required the immigrant to score a certain number of points to gain entry clearance

or leave to remain (permanent residence) in the UK. In all tiers, points were awarded for criteria which indicated that the individual was likely to comply with immigration requirements. In Tiers 1 and 2, applicants received points for criteria such as age, previous salary or prospective salary, and qualifications (a system similar to the existing HSMP). Tier 2 incorporated the main body of the work permit system, with advice on shortage occupations given by a new body - Migration Advisory Committee (MAC). This body was meant to provide labour market advice to the Home Office and would bring together existing labour market intelligence (from the Skills for Business Network) (Home Office 2006).

All immigrants applying under Tiers 2-5 were required to have sponsorship from a licensed sponsor (e.g. an employer). The certificate of sponsorship assured that the immigrant was able to perform the particular job. High-skilled Tier 1 immigrants did not need a job offer and thus no sponsorship. Dependants would be allowed to come to the UK with the main applicant and were allowed to work (Home Office 2006). Tiers 1 and 2 thus replaced the existing Highly Skilled Migration Programme and Work Permit System.

In times of economic prosperity, immigration to the UK has reached high levels. As the crisis has deepened, Prime Minister Gordon Brown in autumn 2008 promised “British workers for British jobs”, and Borders and Immigration minister Phil Woolas commented: “Migration only works if it benefits the British people, and we are determined to make sure that is what happens.” (Migration News April 2009).

The UK had a decline in growth from 2.9 percent in 2006 to 0.8 percent in 2008, which is expected to decline in 2009 to minus 5.3 percent (Trading Economics 2009). British unemployment reached two million in 2009, which led the government to tighten regulations on employers wanting to hire non-EU migrant workers. Unions complained that many employers did not check properly for local workers before hiring non-EU foreigners. Beginning in January 2009, employers had to post job openings in the government’s Jobcenter Plus (Labour Employment Agency) before advertising vacancies in non-EU countries. In 2008, an estimated 80,000 British jobs were advertised abroad but not effectively in the UK. Some 140,000 work permits were issued to non-EU foreigners in 2007, and 151,000 in the first 11 months of 2008. The government introduced a £50 fee in March 2009 on non-EU migrant workers and students to raise £15 million a year to help local communities cover costs associated with migrants (Migration News April 2009).

The government considered a proposal that would significantly decrease the number of high-skilled immigrants. “During these economic times when people are losing jobs it is crucial that British workers and people already here have the first crack of the whip at getting back in to work” (Contractor 2009). Former Home Secretary, Jacqui Smith, announced plans that non-EU migrants could not “take a skilled job in the UK unless it has been advertised to British workers first” (BBC 2009). This was the government’s response to current economic circumstances. Migrants needed to have at least a master’s degree and a previous salary equivalent to at least £20,000 (BBC 2009).

In the end, the government passed a new act that included the following measures (Home Office 2009):

- 1) Migrants who were not citizens or permanent residents of the UK would not have access to full services benefits and social housing.
- 2) Migrants would have to pay a levy towards schools, hospitals, and other local services so that that the new flows of UK immigrants did not put pressure on the community (Plaza 2009).

United States

Most high-skilled migrants have come under the H-1B programme, which allows US employers to hire foreigners via an easy attestation process. The jobs H-1B workers fill must “require theoretical and practical application of highly specialised knowledge to perform fully”. When the H-1B programme was being developed for inclusion in the Immigration Act of 1990, the consensus was that the US had enough workers, but not enough to fill jobs in fast-growing occupations that required several years of training, such as those in science and engineering. For this reason, employers were allowed to simply assert or attest that they wanted to hire foreign “specialty workers” and were paying at least the prevailing wage to the foreigner. The US Department of Labour was obliged to approve the employer’s application, and was not allowed to investigate whether employers were abiding by their promises unless complaints were received. To protect US workers, the cap on the number of H-1B visas was set at 65,000/ year in 1990 (Migration News April 2009).

The cap of H-1B visas was increased subsequently in 1998 and 2000. The 1998 Act placed new restrictions on H-1B-dependent employers, generally those with at least 15 percent H-1B visa holders among their US employees. Such employers were required to attest that they had not laid off a similar US worker 90 days before the request for an H-1B foreigner, and would not lay off a similar US worker 90 days after the H-1B worker was employed. H-1B-dependent employers were also required to make “good faith” efforts to recruit US workers before applying for H-1B workers (Migration News April 2009).

The 2000 Act exempted universities and non-profit research institutions from the cap. The cap reverted back to 65,000 in 2003, but another 20,000 visas per year were added for migrant workers with US master’s or PhD degrees in 2004. However, employers were requesting more than twice the 85,000 H-1B visas available under the ceiling each year; there were 163,000 requests for the 85,000 visas available for FY09 (Migration News April 2009). Nevertheless, demand for high-skilled migrants was decreasing due to the economic crisis: US Citizenship and Immigration Services (USCIS) reported 32,500 requests for the 65,000 general H-1B visas in the first five days of April 2009, and almost 20,000 requests for the 20,000 for advanced degrees. (Migration News April 2009). The economy has been badly affected by decline in economic growth, increasing unemployment and unrest in the housing and financial markets.

The US had a decline in economic growth from 3.5 percent in 2004 to 0.4 percent in 2008, which is expected to decline in 2009 to minus 3.6 percent (Trading Economics 2009). On 6 February 2009, the US Senate passed an act which would make it more difficult for companies to hire H-1B workers. When Congress was debating the exact terms and conditions of the Troubled Assets Relief Programme (TARP), the so-called economic stimulus package, a number of politicians was calling for a halt to the H-1B programme in the financial sector. The final outcome ‘solely’ applied the same requirements for H-1B dependent companies to all banks and other recipients of TARP, specifically: 1) the employer cannot displace any similarly employed US worker with a H-1B hire within 90 days before or after applying for H-1B status or an extension of status; 2) the employer cannot place any H-1B worker at the worksite of another employer – meaning it cannot outsource a worker for a client – unless that employer first makes a “bona fide” inquiry as to whether the other employer has displaced or will displace a US worker within 90 days

before or after the placement of the H-1B worker; and 3) the employer has to take good-faith steps to recruit US workers for the job opening, at wages at least equal to those offered to the H-1B worker. The employer must offer the job to any US worker who applies and is equally or better qualified than the H-1B worker (Herbst 2009). The act, supported by Senators Grassley (R-Iowa) and Sanders (Independent-Vermont) and passed by voice vote as an amendment to the economic stimulus package President Barack Obama presented, meant more protection of US workers (Herbst 2009).

Employment in financial services also decreased in the US. Outplacement firm Challenger, Gray & Christmas, which reports job cuts announced by financial firms, stated 153,000 in 2007, up from 50,000 each in 2005 and 2006; the number of financial firm job cuts for 2008 was expected to be up from earlier levels. There was little data on the highly educated workers employed in financial services. Some were foreigners in the US with immigrant or temporary worker visas, and it was not clear whether they would take lower-paying jobs and wait for a rebound or leave (Martin 2009: 11).

However, Papademetriou and Terrazas (2009) have argued that immigration was less likely to be affected significantly in the US than in other traditional immigration countries because a higher share of US immigrants entered under family unification preferences (Papademetriou & Terrazas 2009). Immigration to Australia, Canada and New Zealand could be more affected by the economic crisis since at least fifty percent of the immigrants were admitted under economic criteria (Martin 2009).

Overall, many countries in Europe and North America have restricted immigration policy towards the highly skilled. These adjustments included giving preferential treatment to native workers, omitting sectors from shortage occupation lists, decreasing numbers of quotas and halting certain immigration programmes. Similar changes have taken place in Asia, Australasia and the Middle East. Nevertheless, some countries have not implemented new restrictions to HSI, at least so far.

6. HSI as Stimulus during Crisis?

This section examines whether any countries or regions have used HSI policy as stimulus to the economic crisis. In contrast to low-skilled workers, high-skilled workers in certain sectors will continue to be in short supply, despite the economic

crisis. Labour shortages will remain due to geographic mismatches and occupations with specialised knowledge, such as health care and certain technical jobs, such as engineering, IT and advanced sciences. For these jobs, native workers cannot easily and quickly retrain for (The Economist 2009b). (Unemployed) native or migrant workers might also be unwilling to move to regions with jobs because they have family ties or might not want to take unattractive jobs (Papademetriou & Terrazas 2009).

For instance, even though the US unemployment rate has increased to 9.4 percent, the highest level in almost 30 years, “employers are begging for qualified applicants for certain occupations, even in hard times. Most of the jobs involve skills that take years to attain” (Uchitelle 2009). High-skilled jobs in demand include health care workers, geotechnical and civil engineers (Uchitelle 2009).¹⁰ In four categories - architecture and engineering, the physical sciences, computer and mathematical science and health care - the number of unemployed equalled to or were fewer than the listed job openings. There were, in sum, 1.09 million listed openings and only 582,700 unemployed people available to fill them¹¹ (Uchitelle 2009).

Home and host countries benefit from liberalising the movements of workers. Home countries can gain by placing excess supply of workers abroad, receiving remittances or investments from their emigrant workers and benefiting from increased training and experience from returned migrant workers. Host countries can benefit through highly skilled migrant workers that fill labour shortages and help to alleviate burdens from population ageing. There is also a benefit from increased economic growth, competitiveness and technology transfer.

Governments should find “effective safety nets for migrant workers and resist the inclination to establish adjustment measures that could have lasting impact on restricting future movements” (Abella & Ducanes 2009: 11). In similar terms, the ILO states that “the global crisis will not be solved by protectionist solutions. Rather, such

¹⁰ For example, “Not newly graduated civil engineers,” said Larry Jacobson, executive director of the National Society of Professional Engineers. “What’s missing are enough licensed professionals who have worked at least five years under experienced engineers before taking the licensing exam” (Uchitelle 2009).

¹¹ “In a monthly count of online job openings, listed on Monster.com and more than 1,200 similar Web sites, the Conference Board, a business organisation in New York, breaks the advertised openings into 22 broad occupational categories and compares those with the number of unemployed whose last job, according to the bureau, was in each category” (Uchitelle 2009).

solutions would depress world trade and investment, further aggravating the recession” (ILO 2009: 59).

Thomas Friedman, a New York Times op-ed columnist, criticised US restrictions on HSI and called instead for more HSI because “in an age when attracting the first-round intellectual draft choices from around the world is the most important competitive advantage a knowledge economy can have, why would we add barriers against such brainpower - anywhere? That’s called ‘Old Europe.’ That’s spelled: S-T-U-P-I-D” (Friedman 2009). Instead, he argued that the main principle “should be to stimulate everything that makes us smarter and attracts more smart people to our shores. That is the best way to create good jobs” (Friedman 2009).

Adopted restrictive labour migration policies during the crisis are likely to be “sticky and stay even when recovery is achieved for a variety of reasons” (Abella & Ducanes 2009: 10). As mentioned before, countries will continue facing structural changes, such as ageing of the population, rapid technological change and decline in manufacturing industry, leading to shortages in some sectors of the labour market (OECD 2009). In high-skilled occupations, such as health care and engineering, labour shortages will remain strong, despite economic crisis and policy changes in a number of countries (Abella & Ducanes 2009). Education and experience remain important and high-skilled migrants are seen as stimulus for ailing economies.

The impact of the crisis and its policy responses vary from country to country, and from region to region. In 2008, the Migration Policy Institute (MPI) argued that “highly skilled immigrants present the best near-term solution to fill shortages and enhance competitiveness. That’s why gloomy economic forecasts do not seem to have slowed the hunt for highly skilled migrants” (MPI 2008). Is this really so?

On the first sight, some countries have passed more liberal immigration policies. For example, facing labour shortages in certain sectors, Sweden liberalised its labour migration policy in December 2008 in order to attract especially the high-skilled from non-EU countries. Government agencies would no longer decide if certain skills already existed in Sweden (MPI 2008). Nevertheless, the author/s of the MPI report do not take into consideration that Sweden’s new labour immigration policy came into force two years after it was first proposed. In times of the policy proposal, Sweden’s economic situation was very good and the country experienced various labour shortages. Due to the complications in the political system and blockages by certain actors, the new law came into force amidst an economic crisis. There are time lags

between policy proposal and policy implementation. Canada and New Zealand are among the few countries that have not announced more restrictive HSI policies. For instance, Canada continues its HSI recruitment policy. Jason Kenney, the Minister for Immigration stated that the country “would maintain its current policy of encouraging immigration in order to meet identified labour shortages in key areas despite the financial crisis”. He further claimed that “attracting different types of skills and talent are necessary for developed countries to compete in the global economy. Canada’s strategy of encouraging people to move there is the best way to prepare to exit the crisis. Prime Minister Stephen Harper said that the country needed workers suited to its economic requirements. Due to the expected demographic changes over the next twenty years, “developed countries need to attract talent, reduce skills gaps and project the skills shortage for the next few years. This is the time to attract the best skills instead of reducing the intake of immigrants” (Mittal 2008). In May 2009, the EU approved a Blue Card for high-skilled immigrants.

Blue Card Scheme

Several regional agreements on labour migration have been implemented, such as the EU, NAFTA, MERCOSUR and APEC.¹² The EU has the most developed regional scheme. The Council of the EU adopted the Directive on the Blue Card on 25 May 2009 (Council of European Union 2009). The Blue Card would allow high-skilled third-country nationals to work in an EU country for a maximum of four years. After 18 months, the migrant could move to another EU country. High-skilled migrants could bring their families, and a work permit was offered to the spouse.

The Blue Card was proposed in 2007 (based on a 2005 European Commission Policy Plan), and it took many years of negotiation among the member states to reach a compromise. The goal of the Blue Card was that delegation to the EU level could provide a coherent and centralised framework for managing legal migration, as well as could lead to more competitiveness by encouraging efficient recruitment and offering attractive conditions to high-skilled immigrants. Some member states were worried about training opportunities for their own citizens, while others feared losing sovereignty in migration matters (i.e. the power to determine who and who not to

¹² They are discussed in detail by Lavenex (2006).

admit). Several politicians in the Netherlands and Germany were hostile and the Austrian government condemned the plan as “a centralisation too far” (BBC, 23 October 2007). Countries, such as the UK, Ireland and Denmark, wanted their immigration policies left to their own jurisdiction - not the EU’s (Cerna 2008). Most EU member states were reluctant to cede their responsibility to regulate labour market access and to grant rights to immigrants based on EU-figures and expectations. Based on the EU principle of subsidiary, or delegating policy-level to the most appropriate level, means that same policy can have different outcomes. The EU policy, as finally agreed by member states, represented only a compromise based on a lowest-common-denominator (Cerna 2008).

The Blue Card was adopted in 2009, and the regulation of numbers and conditions for high-skilled migrants remained at the national level. Some countries (e.g. Denmark, Ireland and the UK) decided to opt out of the Blue Card since they wanted to retain immigration policy in their own jurisdiction. A compromise was reached to use salary level as the sole criterion (EurActiv 2008). After proposals of ratios of 1.2 or twice the salary, a figure of 1.5 of the average salary was agreed, lowered to 1.2 for sectors with severe labour shortages (EurActiv 2008). Countries where legislation did not offer fixed minimum salaries (e.g. Finland, Germany and the UK) were hesitant to agree to the proposal. They were assured that the average salary was statistical and the Blue Card would not require changes to labour legislation (EurActiv 2008).

Another compromise was reached on the duration of the Blue Card. The original 2007 proposal envisioned the possibility for the migrant moving to another EU state after two years and working in the EU for a total of five years. Some countries were determined to maintain national sovereignty over the labour market (e.g. Germany). Therefore, the final agreement included provisions that allowed high-skilled migrants to move with their families to another EU state after 18 months, but then they would need to apply for a new Blue Card. The total duration of the visa would not exceed four years (Melander 2008). Governments could refuse to issue Blue Cards citing labour market problems or if national quotas were exceeded. The new scheme would enter into force in mid-2010 (Melander 2008). Labour shortages intensified during these years across the EU, but when member states finally agreed on the directive, most EU countries were hit severely by the economic crisis.

Free movement inside the EU cannot be stopped (or not easily), so member states are changing their national immigration policies towards third-country nationals. As mentioned above, native workers in Ireland have called for more immigration restrictions. As Ireland is part of the EU and adheres to free movement of migrant workers, it cannot easily restrict immigration policies. However, Ireland can restrict policies toward third-country nationals, which are not treated under EU directives.

7. Conclusions

This paper has highlighted the importance of global governance arrangements during crises. Where it has been strong nation states have been restrained in (over) reacting to political pressures exacerbated by the crisis. Beggar thy neighbour policies have not emerged and international coordination has been maintained. In trade there has been some moves to protectionism but the integrity of WTO mechanisms has remained intact. In immigration, where global governance is weak, there have been swift increases in restrictions. Governments, who have made commitments in bilateral or regional agreements to accept immigrants in certain categories or from certain countries, are under an additional constraint on changing policies (OECD 2009). This has been the case in some countries (e.g. Ireland and the UK), where both governments wishing to restrict labour migration policies could not do so for migrant workers from EU member states because of free movement agreements inside the EU.

The current crisis offers an opportunity to analyse how shocks influence coalition formations. Based on a coalition argument (see Cerna 2009a), changes in coalitions can be expected when exogenous factors shift. Briefly, HSI policies across countries vary because of different coalitions between actors (native high-skilled workers, native low-skilled workers and capital). These coalitions can take place in the labour market organisation or political representation areas.

When exogenous factors affect the preferences of the actors, policy changes can happen. For example, exogenous factors can intensify the preferences of high-skilled labour for more restrictive policies. As a result, high-skilled labour has a greater political incentive to lobby for its desired output. Exogenous factors relevant for this analysis are the economic/ demographic/ industrial developments in countries/ electoral districts/states (e.g. labour shortages, ageing population, higher educational level of population, unemployment rates) and change in government (political

parties). If demand for high-skilled labour changes in a country (or district/ state), then this can affect preferences of particular actors. Labour shortages intensify preferences of capital for more open HSI. If the unemployment rate increases, then this can intensify the restrictive preferences of high-skilled labour, who in turn will try harder to build coalitions and achieve their desired policy output (Cerna 2009b).

The protection of native high-skilled workers might be even more important as political parties seek to gain electoral votes and offer representation for more restrictive HSI preferences. Capital loses power, while (high-skilled) labour gains influence in order to push for its restrictive preferences. The crisis can lead to a shift of power and influence from capital to high-skilled labour. National institutions can give advantages to organised groups (in this case high-skilled unions/ professional associations), affording them access and voice and thus preventing capital from taking full advantage of its mobility (Milner & Keohane 1996). Coalitions between high-skilled labour and low-skilled labour are more likely to emerge as labour in general builds support for the protection of all workers (Cerna 2009b).

When labour market needs change during recovery phase, host countries might be unable to respond accordingly due to previous policy changes (Awad 2009). The short-term response to the economic crisis might hamper medium and long-term policy needs. Such needs could include smaller and more targeted inflows for certain high-skilled sectors (OECD 2009). Therefore, host governments should consider: 1) maintaining, if not strengthening, their integration programmes; 2) reinforcing their effort to fight discrimination in hiring and layoffs; and 3) ensuring that active labour market policies reach new entrants into the labour market, including recent immigrants, and workers displaced from declining industries (OECD 2009: 4).

The crisis, which started on Wall Street almost a year ago, is still evolving. Cautious optimism is emerging but threats remain and as this paper demonstrates, some countries have undermined their future competitiveness after they emerge from the crisis by imposing unnecessary knee-jerk responses to the crisis most notably in HSI policy. Further work will continue to examine why immigration is different and why coalitions have been more effective in this field than in trade. Is it just global governance or a reflection that trade has become too deeply entrenched to effectively lobby against. Protectionism would be self-defeating as it would meet with retaliation. Threats of retaliation have a high cost in trade but there is no such possibility of retaliation in immigration, so unilateral restrictive measures are possible to institute,

and may be politically irresistible. A 'Buy America' clause makes little sense when products are produced in multiple countries. An iPod is produced in 22 different countries; US steel is partly produced elsewhere. Trade is a pretty crude way of protecting workers, but preventing immigrants from gaining access to the labour market is an efficacious and direct way of doing so.

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