

## CALL FOR PAPERS

An interdisciplinary workshop

### **SWISS MIGRATION- AND EU MOBILITY PARTNERSHIPS: UNVEILING THE PROMISE**

The World Trade Institute, University of Bern  
Switzerland  
12-13 December 2008

Switzerland's migration partnerships and the EU mobility partnerships mark a clear paradigm shift in both Swiss and EU migration policy. The Berne Initiative and the Global Commission on International Migration but also the ongoing international dialogue on migration have paved the way for this development highlighting the necessity to address this global and multifaceted phenomenon in a spirit of coordination and cooperation between all relevant actors. For the first time in recent history, Switzerland and the EU each dispose of a framework for concluding multipurpose international migration agreements with source and transit countries of migrants. The template for the Swiss migration partnerships in Article 100 of the new Swiss law on foreigners of 2008 provides that such bilateral agreements can regulate within a single agreement migratory policies as diverse as professional traineeships and continued education, labour market recruitment, including cross-border movement of service suppliers, assisted and voluntary return, readmissions and reintegration into a binding framework. Similarly, the emerging EU mobility partnerships as proposed by the Directorate General of Justice and Home Affairs give suit to the Global Commission on Migration's policy recommendations and combine multiple functions, such as mainstreaming the diverse foreign labour market admission channels of EU Member States into an EU-wide policy, to establish a parallel entry channel for the lower skills as an alternative to the announced EU blue card for the high-skilled migrant workers and to promote a single EU readmission policy.

Given this multifunctional approach towards comprehensive migration management, neither Switzerland's migration partnerships nor the EU's counterpart are stand-alone agreements in today's international migration landscape. Switzerland's template compares to similar such new generation migration agreements of France, Spain, Italy with North and West African countries. Such agreements mark a shift away from older single purpose migration agreements by packaging into a single agreement not only the increasingly diversified risk mitigation strategies, but also mechanisms to make all partners benefit from the inherent potential of migration.

On 12-13 December 2008 a two-day interdisciplinary workshop will bring together younger scholars, working in the field of law, political science, sociology, anthropology and economics for an international "migration dialogue" with senior scholars, junior and mid-level government experts and

officers of international organizations working on international migration law and policy. As mandated by the funding obtained from the Mittelbauvereinigung of the University of Bern (MVUB) will sponsor the travel and accommodation costs of those younger scholars, whose papers have been selected by the workshop committee based upon this call for papers, to present their findings on Swiss and EU migration partnerships and similar new generation migration agreements.

The motivation for the workshop is the entry into force on 1 January 2008 of the new Swiss law on foreigners which includes a legal foundation for migration partnerships. Another reason for the timeliness of such a workshop is that a first version of Switzerland's migration partnerships will be implemented soon in the Western Balkans. At the EU level, similarly, the concept has just started taking off in practice and is reportedly being tested for managing Cap Verdian migratory movements. Both the Swiss and EU instruments could become valuable tools for managing Eurafrican and other movements originating or transiting from third countries outside the European Neighbourhood Policy. Researchers together with practitioners may be interested in analysing first experiences from a comparative point of view, to issue policy recommendations or to raise questions for additional research.

The context for the workshop is the global paradigm shift away from unilateral immigration policy towards intensified international cooperation in the broad field of migration. The investigation is set against the background of an emerging collective action between source, transit and host countries of migrants and will discuss the underlying reasons, the content of such multipurpose packaging solutions and the heightened regulatory intensity characterizing such new generation migration agreements. Guiding the discussions will be whether migration partnerships are designed to enable EU and Swiss industry to recruit migrant labour from non-EU countries or are rather aiming to prevent irregular out migration and enhance cooperation in repatriating workers who overstay. A focal point will be the role and scope of shared responsibility, a principle combining the supply and demand for migrant labour with the fight against irregular migration.

Questions the workshop will ask is what promise this new Swiss external policy instrument holds for source countries and how it compares to the proposed EU concept of mobility partnerships; what its added value is with respect to unilateral Swiss immigration laws and why it may conflict with other international norms. The workshop is open to discussing within a comparative perspective, other new generation management agreements, such as the ones of France, Italy, Spain and Germany with the source country of migrants. Public international law scholars in particular, could be asked to outline why migration partnership agreements may conflict with other international norms. Migration and trade specialists from international organizations (WTO, IOM and ILO) in turn will sketch out how their respective organization may facilitate labour recruitment and voluntary returns, given that Article 100 of the Swiss federal law on foreigners contains an express mandate for an active role of international organizations in Switzerland's migration partnerships.

Throughout the workshop, participants will be encouraged to anticipate how to implement migration partnerships in practice. They will be asked to assess the concept's utility, practicability and added-value in the light of similar concepts worldwide and to discuss the limits international human rights

protection, EU law and the multilateral trade rules of the WTO may pose to such agreements. The workshop will contribute to the ongoing conceptualization of the content, objective and scope of Swiss migration partnerships. As a forum for academic discussion, it aims at fostering informed exchange on diverging interests and perspectives, relating to the access of migrant workers from non-EU countries to the Swiss labour market.

**Background:** If the Swiss dialogue on migration with other states was until recently focused on return of irregular migrants, Switzerland's migration partnerships will try on the contrary to handle migration as a holistic phenomenon taking into account the interests of all partners.

Swiss migration partnerships mark a clear paradigm shift in Swiss migration policy., The Swiss response to bring about such international cooperation favours a "partnership approach", whereby joining forces with an international organization and sharing responsibility with the source country for migratory root causes are envisaged.

Article 100 of the new Swiss Federal Law on Foreigners, provides for a template for prospective migration partnerships and proposes up to eight different variations on the content of such a partnership. These range from visa relaxations over facilitated labour market admission to voluntary return incentives and repatriation mechanisms. Beyond their security aspect, migration partnerships are also considered a tool of development cooperation.

Similarly, the mirror image to the Swiss migration partnerships, the emerging EU mobility partnerships proposed by the Directorate General of Justice and Home Affairs give suit to the Global Commission on Migration's policy recommendations and combine multiple functions: to mainstream the diverging EU Member States policy towards low-skilled foreign labour recruitment, to establish a counterweight to the announced EU blue card for the high-skilled migrant workers, and to promote a single EU-wide readmission policy.

Given this multifunctional approach towards comprehensive migration management, labour market admission is only one of many components in bilateral migration agreements and often functions as a tit-for-tat to reward the source country for cooperating in combating unauthorized migration or repatriating temporary migrants at the end of their legal stay.

The proposed EU response to bringing about such international cooperation for migration favours a "partnership approach", whereby governments join forces with international organizations and non-state actors active in the field of migration. Enlisting the responsibility of non-state actors occurs in view to diversify the risk of migration (clandestine entry, overstays, migrant worker exploitation) to host country sovereignty, source country human capital endowment and migrant (worker) life and well-being. The principle of sharing responsibility plays a key role in the new generation bilateral or multilateral migration agreements of which the Swiss migration and EU mobility partnerships lay a first foundation. Enlisting the responsibility of the source country to guarantee return and enforce temporariness of stay epitomizes this paradigm shift, which new generation migration management agreements embody.

As seen in France, Italy, Spain and now Switzerland, a partnership approach alleviates migration pressure in the source country and fills in for cost-effective foreign labour in demand throughout over-aging societies in Europe. In theory, partnerships thus embody a win-win-win situation for source and destination countries and include the migrant worker. Yet, certain host countries, pressured by domestic worker coalitions, may instead take advantage of such agreements to respond to security concerns associated with irregular migration and to so re-assert sovereignty over borders. Principles of co-development and shared responsibility between host and destination countries embody this asymmetrical linkage of issues. The workshop will address these trade-offs within the new partnership approach to migration.

The labour market recruitment component has politically been the most debated element as it stirs up anti-immigration sentiment relating to burdening the social welfare systems. To the international trade scholar, migrant worker recruitment through such partnerships poses the risk of overlap and unresolved prospective conflicts with labour mobility clauses in Switzerland's free trade agreements on the one hand and its multilateral market access commitments on mode 4 in the WTO General Agreement on Trade in Services (GATS). And yet, migration partnerships provide a unique opportunity for filling in skill gaps and labour shortages, which will only increase due to demographic change and consequential scarcity of labour, not only in Switzerland, but also within the EU.

The role of the private sector in migration partnerships is yet to be clarified. As experiences in other destination countries, such as Canada and Spain show, migrant labour recruitment is more efficient when employers and business associations partake in a bilateral migration agreement. Beyond recruitment, the private sector plays an additional role in enhancing the development dividends of migration-for-employment. By providing for pre-employment training prior to worker deployment abroad and other skill upgrading initiatives, employers contribute to human skill development and the emergence of a globally trained workforce. The private sector also fosters reintegration of return migrants by establishing business links to entrepreneurial return migrants, which become contact points for new foreign direct investment in their country of origin.

Unveiling the promise of migration partnerships will include asking the question whether labour recruitment ought to be linked to combating irregular migration from a human rights and international trade law point of view, who the actors of development cooperation should be and if migration partnerships today are more innovative than their predecessors agreements on migration issues. The goal of the workshop is to bring together international trade and migration specialists, young researchers and government officials for sketching out costs and benefits of this new instrument of Swiss migration policy for managing North-South labour mobility.

#### **Suggested Topics:**

- What are the essential elements of the new generation packaging solutions to migration of the EU, its Member States and Switzerland? What lessons do current models, such as Swiss partnerships and the EU's with Cap Verde hold for the future of these single undertakings of

comprehensive migration policies, especially towards North- and West African source countries?

- Should readmission agreements and/or FRONTEX border patrol operations be part and parcel of such migration/mobility partnerships or concluded separately, but concurrently? What do experiences of EU Member States with respect to conditioning readmissions to labour market admissions hold for the future design of comprehensive migration management agreements?
- Are Switzerland's migration partnerships equipped and will they be used to offer preferential labour market admission quotas in exchange for the source country cooperating in preventing and combating unauthorized flows? Would such preferential labour market openings be consistent with the WTO most-favoured nation treatment clause of the GATS?
- Do migration- or mobility partnerships contribute to concretizing the migration-development nexus more effectively than prior programmes or agreements? What types of preferential partnerships with non-state actors (immigration associations, employers, business associations, non-governmental organizations) have proven particularly useful in such new generation migration agreements (examples of France, Spain, Switzerland, others) for alleviating the root causes of migration, retaining skills and reintegrating return migrants?
- How to operationalize partnerships and shared responsibility with non-state actors (capacity building with international organizations and mobilization of non-state actors, such as the Diaspora and immigration associations are an important innovative feature of such new generation migration agreements?)
- Which are the functions (integration of migrants, pre-employment training and pre-departure orientation) such agreements could outsource to the private sector (for instance to foreign investors opening a commercial establishment in the source country) and non-governmental entities. What are experiences of EU Member State's with such delegation of state power (Spain vis-à-vis Morocco, France's co-development concept applied to Mali, Senegal and Morocco)?
- What is the relationship, if at all, between migration partnerships in Article 100 and Article 30 of the Swiss Federal Law on Foreigners, the exceptions from the regular entry requirements? Could some of these exceptions be "regularized" for certain migrant source countries; in the sense that an exceptional entry under Article 30 becomes the official (and thus preferential) entry channel for migrants from that non-EU country if that exception is embedded into a migration partnership concluded under Article 100?
- What role is the private sector in Switzerland or in EU Member States within such partnerships? Prospecting missions of employers, employer unions and business associations to source countries and experiences of Spain applied to other EU Member States and Switzerland?

**Format:** The workshop will take place over the course of one to one and a half days and will comprise of up to six panels (two per half day), but this is subject to change in the final program depending on the submissions received and selected. Each panel will ideally include three presentations by young scholars. Another young scholar or policy expert (junior to mid-level government representative or officer of an international organization) will serve as a discussant. Each panel will be chaired by a senior scholar. The working languages are English, French and German. Based on the grant obtained from the association for the promotion of mid-level scholars of the University of Bern and on the NCCR Trade Regulation project funding, the workshop will cover travel and accommodation costs of those presenting a paper. A final program of the workshop will follow in mid-October.

**Workshop committee:**

Professor Dr. Sandra Lavenex, International Relations and Global Governance, University of Lucerne  
Professor Dr. Thomas Gächter, Constitutional and Administrative Law, University of Zurich  
Laurent Perriard, Head International Agreements, Federal Office for Migration, Bern  
Odile Rittener, Desk Officer Migration, Federal Department of Foreign Affairs, Bern  
Dr. Erika Laubacher-Kubat, Head, Bern Office of the International Organisation for Migration, Bern  
Joy Kategekwa, Policy Adviser, Trade and Investment, OXFAM International, Geneva

**Submission of proposals:**

Doctoral and post-doctoral researchers interested in addressing these topics either theoretically, comparatively (EU mobility partnerships, other bilateral migration management agreements) or in the context of Switzerland's migration partnerships and the Swiss Federal Law on Foreigners are invited to respond to this call for papers with a one-page proposal for an article and presentation, along with a brief CV. Proposals should be submitted no later than **15 October 2008**, by email to: [marion.panizzon@wti.org](mailto:marion.panizzon@wti.org)

Proposals will be selected by the workshop committee by **30 October 2008** and all applicants should receive notification by this date. Short written papers (of approximately 8-10 pages) based on the selected proposals will be expected by **10 December 2008**. Full length papers based on presentations made at the workshop will be considered by the organizers for possible inclusion in a book to be published following the conference.

Sincerely yours,

Dr. Marion Panizzon  
World Trade Institute, University of Bern