



ESF RESPONSE TO EUROPEAN COMMISSION GREEN PAPER ON EU APPROACH TO MANAGING ECONOMIC MIGRATION – COM (2004)811 FINAL

The European Services Forum (ESF) represents the interests of European services companies in the international trade in services negotiations. It includes more than 40 companies at CEO level and more than 30 sector-specific European Trade Associations, covering more than 20 services sectors.

We welcome the European Commission's initiative in launching a discussion on economic migration. If managed correctly, economic migration has great potential for improving productivity and knowledge transfer in the services sector and in the wider EU economy.

Though immigration policy largely remains in the hands of the Member States, national laws in one Member State do affect immigration in other Member States given their proximity and existing agreements. Thus, we believe that there is a need for a coherent EU framework. The European Council's requested "a policy plan on legal migration including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market" The European Services Forum has been requesting this for several years in the framework of the WTO GATS negotiations (mode 4 of the GATS, i.e. Movement of natural persons as described in Article I, 2, d) of the GATS Treaty signed in Marrakech in 1994 and its related annex). We therefore welcome any initiatives that would help achieve such a goal.

The Commission Green Paper raises several questions. Many of the questions are on topics outside the interest of the European Services Forum. ESF has only responded to questions within its mandate (GATS Mode 4). For the other issues, we would like to refer to the replies of UNICE, as the pan-European employers organisation and/or replies of other ESF members.

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ESF is supportive of EU legislation that would allow **highly skilled temporary legal workers covered by GATS Mode 4 to enter the EU with the minimum possible administrative delays**. Waiting for migration authorisation for more than three weeks leads to loss of business opportunities and access to workers with the highest qualifications. Unfortunately, the average waiting period in the EU is often longer than that. EU companies cannot complain to our WTO Trading Partners about the difficulties getting the required authorisations when third countries nationals encounter similar administrative delays when entering EU Member States. We focussed on the three categories of workers covered by the GATS Mode 4. Most of the remarks included in this paper have already been made to the European Commission (DG Trade) in the framework of previous ESF Position papers on the mobility of key business personnel as defined in the GATS, that can be consulted on ESF web site (www.esf.be).

1. Intra-corporate transferees (ICTs)

ESF would support legislation leading to easier movement of Intra-Corporate Transferees. This is the largest group of economic migrants entering the EU for a temporary period of time. It is a category that is easy to identify and control, given that the persons concerned already have a work contract with their employer when they enter the EU territory. EU companies spend a lot of time and money in clearing immigration procedures for these people, to the detriment of their productivity. We are convinced that cooperation between EU companies and the immigration authorities should speed up the process of getting visas and work permits for the ICTs. Any EU legislation should ensure that all EU countries should exempt the intra-corporate transfer of key business personnel from non-EU countries from demonstrating there is a labour market needs.

For Spouses and companions of temporary intra corporate transferees, the difficulty - if not the impossibility - of looking for a job is an impediment to attract high-skills employees to their subsidiaries/branches, etc. ESF is pleading for improvement on this issue in non-EU countries as well as the EU Member States.

2. Contract Services Suppliers (CSS)

The second group that EU legislation might cover are Contract Services Suppliers (CSS). Legal economic migration has changed over the past few years and European companies must respond to such changes: very specific needs sometimes require very specific skills on a very short term for a very short period of time. It should be possible to quickly move third country professionals into our companies for a short period of time, with respects to all relevant legislation, when this professional can show a duly signed contract to provide services with an EU company.

We would like to draw attention to the necessity of coherence in the action of the various Union policies. The EU has adopted a positive stance towards the services negotiations in the current WTO DDA round on this aspect of movement of natural persons and ESF has supported that proposal. The proposed “numerical ceilings” by the European Union in its GATS Initial offer dated April 2003 (i.e. for non EU workers) to be adopted for the admission of CSS should be set up in coordination with all departments concerned in the Commission and the Member States. The EU and its Member States should ensure that their international commitments are respected. The “Independent Professionals” (IP) that might be allowed in the EU following the above mentioned EU GATS Initial offer should be treated in the same way than the “Employees of Juridical Persons” (EJP) by the immigration authorities. This is of particular importance for the small and medium enterprises (SMEs).

Quotas of temporary workers (or “numerical ceiling”) have the benefit of transparency and predictability for the companies. However, to be efficient they have to correspond to the needs. If quotas are considered necessary by the authorities, some predetermined formula for adjusting the quota (downwards or upwards) should be envisaged. One should avoid as far as possible the coexistence of Quotas and any other admission system.

3. Business visitors

Business Visitors are a third category of economic temporary migrant for which ESF believes that something should be done. These are business people entering the territory to explore the EU market and examine the possibility of establishing a partnership or commercial presence. As set out in the Lisbon Agenda, the EU must remain an attractive destination for FDI. The APEC countries have set up a specific Business Travel Card system, with a “fast track procedure” at the borders of the countries party to the system. We would like to encourage the EU to create such a system with its main trading partners.

Finally, facilitating mobility of third country nationals that fall within the scope of the three categories above, from one Member State to another, would be beneficial for the EU economy. For example, it would be a good move that an Indian IT expert who is temporarily employed by a British company should be allowed to go in the French or German subsidiary of that British company to set up an intra-company IT programme.

ESF would be happy to bring any further information on the content of this position. The European Services Forum would appreciate that its remarks are taken into consideration by the Commission in its own reflection towards a better EU policy on economic migration.

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**List of ESF Members Supporting
ESF Response to Green Paper on Economic Migration—11 April 2005**

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