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## EUROPEAN REGIONALISM AND MIGRATION GLOBAL GOVERNANCE

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# European Regionalism and Migration Global Governance

Emmanuel COMTE

The European regionalist tradition includes the formation of a relatively liberal migration regime<sup>1</sup>. Migrations regulate the inequality of opportunities between the populations of different territories. They contribute to individual and family aspirations and, in certain circumstances, to the development of emigration countries by reducing labour surpluses, by limiting disturbances caused by economic transitions, and through emigrants' remittances. Crime, piracy, and terrorism develop in poor areas of hampered emigration, such as the North of South America, the Sahel, the Southwest of Africa, the Horn of Africa, and Afghanistan. Such concerns are even more intense for global stability as migratory pressure is likely to increase with the population explosion Africa could experience in the 21<sup>st</sup> century. African population may increase from 1 to 4 billion people by the end of the century, or from around one seventh in 2010 to one third in 2100 of the world population<sup>2</sup>. As African countries are often high-emigration countries, the costs of restrictive migration regimes would explode in the 21<sup>st</sup> century. The Europeans' success in creating, on a regional basis, a relatively liberal migration regime invites to question the role of regionalism for migration global management. Firstly, consideration will be given to useful lessons for contemporary concerns that can be drawn from the European regionalist experience of initiation of a liberal migration regime in the 1950s (I). The next step will be to study how the European Community came, from the early 1970s to the early 1990s, to encourage

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<sup>1</sup> For a detailed presentation of the various arguments in favour of a liberal migration regime, see: Antoine Pécoud, Paul de Guchteneire, eds., *Migrations sans frontières. Essais sur la libre circulation des personnes* (Paris: Éditions UNESCO, 2009), Chap. 2-6.

<sup>2</sup> United Nations (UN), Department of Economic and Social Affairs (DESA), Population Division (2011). *World Population Prospects: The 2010 Revision*. "Total population (both sexes combined) by five-year age group, major area, region, and country, annually for 2011–2100".

Online: <http://esa.un.org/wpp/Excel-Data/population.htm> [accessed 6 December 2011].

regionalism in migration global governance (II). Finally, the results of these first two steps will be combined to determine how European regionalist orientations in migration global governance could be improved on the basis of the lessons learned from the European experience of the 1950s (III).

### **The conditions for migratory regionalism**

In the 1950s, France, the Federal Republic of Germany (FRG), and Italy, main emigration country to the first two, agreed on the goal of a liberal migration regime. This objective set in the March 1957 Rome Treaty establishing the European Economic Community (EEC), was actually carried out successfully in the following years. Better understanding the conditions that led to this agreement can provide a repertoire of experience to which to refer to meet contemporary challenges.

#### *Geopolitical context*

The changing geopolitical context was the first favourable factor allowing the liberalization of migration in Western Europe. This firstly included the disappearance of measures by which European States denied access to their territories to those who had supported the Third Reich. In February 1948, the French general commander in chief in Germany confirmed to the Ministry of the Interior, regarding the recruitment of German workers for France, that the candidates “are allowed to enter [France] only if they do not bear on the body the indelible mark of the SS”<sup>3</sup>. At the Franco-Saar border, tensions were running high against German migrants. As noted by the Ministry of the Interior in January 1950:

The influx of Saarlanders in France would cause serious incidents, especially in Moselle [...]. [...] Lorraine was occupied from 1940 to 1944 mainly by Saarlanders. They seized the assets of people and managed them on their own account while the inhabitants were

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<sup>3</sup> Archives nationales, Paris (AN). F7 16115. Germany and Austria, 1947–52. Report of the French general commander in chief in Germany on the recruitment of foreign labour for France in Germany. Baden-Baden, 20 February 1948.

expelled. They come back from time to time in Moselle to retrieve their furniture, which causes many incidents<sup>4</sup>.

Under these conditions, most European States required visas for Germans and Austrians for any movement, which was an obstacle to any liberalization. To free its nationals from this obligation, the FRG gave up, from 1 July 1953, by a unilateral decision, the visa requirement for all nationals of the Member States of the Council of Europe and the Organization of European economic cooperation (OEEC) wishing to stay in the Federal Republic for a period of less than three months.<sup>5</sup> Around 1954, most European States agreed reciprocity. This development resulted from the settlement of specific disputes and from a new geopolitical context.

The end of territorial claims between Germany and its Western neighbours was a decisive condition for the formation of a liberal migration regime. So that migratory movements could not open the way to future annexations, the French minister of the Interior, by a decree and an order of 18 March 1946, established a list of departments in which aliens could not “establish their home without having previously obtained the permission of the prefect”. This list included the three border departments with Germany.<sup>6</sup> Prefects were instructed not to accept Germans there. Alluding to this piece of legislation, in July 1950, the Europe Department in the French Ministry of Foreign Affairs reassured the Ministry of the Interior on the recent Franco-Saar Convention of establishment: “The faculty to oppose the settlement of Saar nationals in the Eastern departments [provides] the Government with the means to prevent the formation of homogeneous Germanic nuclei.”<sup>7</sup>

However, the alliance in the Cold War between the FRG and its Western neighbours in NATO and the Western European Union, the cooperative attitude of the German Government in the European Coal and Steel Community (ECSC), but also the decline in German emigration

<sup>4</sup> AN. F7 16066. Relations with Saarland after WW2, 1948-55. Note on Saarlanders in France. Paris, 19 January 1950.

<sup>5</sup> Archives of the Council of Europe (ACE).

Online: <http://www.coe.int/lportal/web/coe-portal>. Doc. 201, 22 September 1953. Simplification of passport formalities, customs and currency controls. Report of Mr Montgomery Hyde (UK), Commission for Legal Issues and Human Rights.

<sup>6</sup> *Journal officiel de la République française*, 19 March 1946, p. 2264.

<sup>7</sup> AN. F7 16066, *op. cit.* Letter from the Ministry of Foreign Affairs, Europe Department, Saarland Service to the Ministry of the Interior, to the attention of Mr Pagès. Paris, 5 July 1950.

convinced the partners of the FRG that migrants were not likely to be used for future annexations. The French Ministry of the Interior did not reaffirm the order of 18 March 1946 in the three Eastern departments after 1954 and even suppressed this device there in 1957. The possible use of migrants in interstate rivalries for territories therefore impedes a liberal migration regime. Only when such fears appeared unfounded, migration liberalization in Western Europe progressed. But these factors show the removal of obstacles to a liberal regime.

Such regime formed in Western Europe when the geopolitical context, far from preventing, favoured it. In its memorandum to the 1955 Messina Conference, the German Government was the first to introduce the question of the free movement of workers in the negotiations that led to the EEC Treaty. The FRG had strong bargaining power in this field since it had become an immigration country within the Six of the ECSC. The German memorandum was prepared in a context of concern for the relations with the East, at the eve of the Geneva meeting of the Four Powers in July 1955 and of the visit of Chancellor Konrad Adenauer to Moscow in September 1955. The German Government wanted to support its requests of reunification by demonstrating the stability of the FRG and of Western Europe. A preparatory document of the Auswärtige Amt for the session of the Committee of Foreign Affairs of the Bundestag on 3 May 1955, devoted to European integration and the preparation of the Messina Conference, stated:

Europe can lead successful negotiations with the East only if it presents itself as a unit. This interests Germany particularly, in the prospect of reunification. [...] The strengthening of the political concord must grow from integration.<sup>8</sup>

At the second meeting of the Messina Conference, on 2 June 1955, the secretary of State Walter Hallstein declared: "The lack of unity in Western Europe gives the USSR the hope and the prospect of progress sooner or later of the world revolution."<sup>9</sup> When underlining the risk of communist revolution, which would break the political concord among the Six, W. Hallstein was particularly concerned about the situation in Italy, where the Communist Party had won a quarter of the seats in the

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<sup>8</sup> Auswärtiges Amt, Politisches Archiv, Berlin (AAPA). Fund B10: 225-10-01. 900, Außenministerkonferenzen, Messina, 1-2.6.1955, Band 1, Feb.-Juni 1955. Zur Sitzung des Auswärtigen Ausschusses vom 3. Mai 1955.

<sup>9</sup> Central archives of the Council of the European Union, Brussels (CACEU). CM3 NEGO 6. Minutes of the meeting of the ministers of Foreign Affairs, Messina, 1-3 June 1955. 2<sup>nd</sup> session. 2 June 1955.

Chamber of deputies in 1953. Accordingly, under German influence, in January 1957, in EEC negotiations, the Six agreed on a radically new provision: “to mention in the article on the general objectives of the Treaty, the willingness of Member States to achieve full employment of labour available within the common market.”<sup>10</sup> A key instrument for that was the free movement of workers inside the common market. The specific interest of the Germans to full employment in Italy – what was at stake – came from the desire to prevent the spread of communism in Italy because of the interdependence of all Western Europe. The geopolitical context is an important factor to understand the possibility of and even the interest in a liberal migration regime. However economic and demographic contexts also play a key role.

*Limited level of migratory pressure in the area*

Labour-importing States in an area – which only have bargaining power in the establishment of a liberal migration regime – accept such a project if the level of migratory pressure between the different countries of the area remains limited. This firstly requires a balance between the need for and the availability of workers. The issue of the free movement of people arose in a European framework under French influence in the Conference of European economic cooperation in 1947. France was under-populated relative to its neighbours and its economy needed labour. Nevertheless, migration liberalization failed within the OEEC as the needs of other countries did not balance the availability existing in many member countries. While France requested 300 000 foreign workers in the Recovery Program, the total number of requests for the sixteen participating countries was only 416 300.<sup>11</sup> Moreover, as Algerian immigration increased in the metropolis, France experienced smaller labour needs. France even asked for a derogation to the yet limited October 1953 OEEC agreement on the movement of workers, Decision C(53)251, asking for a period of two months, against one in the decision, in which an offer of employment could be reserved to its nationals: “The

<sup>10</sup> HAEU. CM3 NEG0 229. Committee of the heads of delegations. Drafting approved on 22 Jan. 1957, concerning Title III, Chapter 3, Free movement of workers (articles 74–7). Brussels, 27 January 1957. Ch. Del. 257. MAE 314 f/57 gd.

<sup>11</sup> OECD Archives, Paris (OECD). Film 124. MO(49)14. Note by the Secretariat of the Manpower Committee. Paris, 8 February 1949. Annex. Requests of foreign workers in the Recovery Program.

one-month period provided for in paragraph 1 (b) [of the decision is not sufficient to France], because [...] [of the] problem posed by the integration of North African workers in the French economy."<sup>12</sup>

While the OEEC included Mediterranean countries with structural labour surplus, two factors made the more limited framework of the Six more balanced. Firstly, the strong growth of the FRG made it vis-à-vis its Western neighbours a country of immigration rather than emigration. On 20 December 1955, an agreement was signed in Rome between the FRG and Italy, planned for more than a year, providing for the introduction of one hundred thousand Italian workers in the FRG.<sup>13</sup> The second factor was the detachment from France of its Algerian departments. While in the 1954 ECSC negotiations on the movement of skilled coal and steel workers, France had refused any formula that would not bring Algerian workers on an equal footing with metropolitans,<sup>14</sup> in EEC negotiations the French delegation agreed to treat differently the citizens of the metropolis and of overseas departments:

The French Government [recognizes] in connection with the application of Treaty provisions on the free movement of workers [...] that adaptation problems may arise in other Member States with regard to the workforce of Algeria.<sup>15</sup>

This changing French position between 1954 and 1957 could attest that the prospect of Algerian independence was already looming, as the Suez operation had failed and as the Algerian War intensified. Accordingly, the application of the free movement of workers to Algeria would require a subsequent unanimous vote of the EEC Council. The FRG having demonstrated important needs for manpower and the availability of labour in Algeria having been detached from the Common Market, a balance existed between needs and availability in this framework and made liberalization possible. The Algerian case however did not impede liberalization only because of large availability of labour,

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<sup>12</sup> OECD. Film 125. MO(54)2. Letter of the head of the French delegation to the OEEC to the Manpower Committee. Paris, 14 January 1954.

<sup>13</sup> AN. F7 16115. Security Missions for the control of the foreign workers recruited in France, 1955. Information note of the Security Mission for the control of the foreign workers recruited in Germany and Austria, Baden-Baden, 23 December 1955.

<sup>14</sup> HAEU, CM1 1954 196. Minutes of the 19<sup>th</sup> meeting of the Council of 27 October 1954.

<sup>15</sup> CACEU. CM3 NEGO 254. 1956-7. Draft letter from the French Government to the other Governments of the States participating in the negotiations. Brussels, 7 March 1957. MAE 791 f/57.



but also because of differences in living standards with the rest of the Common Market.

Significant differences in living standards between countries accentuate the downward pressure exerted by immigrants on native workers' wages. In most immigration countries, work permits were granted only if wages and working conditions were consistent with current practice in the region and the profession concerned.<sup>16</sup> In the negotiations of OEEC Decision C(53)251, Italy made a proposal which provided for the abolition of work permits and did not mention the obligation immigrant labour's wages be of the same level as those commonly utilized for local labour. The French expert declared that Italian proposals:

Would cause [...] a general lowering of the level of wages, migrants [...] being naturally inclined to accept less than the normal remuneration in their haste to get a job [...]. [...] We would have to deplore strikes, serious incidents, a wave of xenophobia against which all efforts of appeasement would be futile.<sup>17</sup>

These fears were justified by large differences in living standards among OEEC member countries, especially with Greece, Portugal, and Turkey. If the last two decided not to participate in the agreement, probably for fear of an exodus of their workers, they made this announcement at the end of the negotiation and retained the possibility to easily join in, so that the decision was designed considering the specific case of those countries. Here again, the framework of the Six should prove more favourable for a liberal regime.

The last way to reduce migratory pressure is to combine the free movement of persons with that of goods and capital. The free movement of persons was always discussed by European States in broader negotiations on a comprehensive common market. When the French foreign minister, Georges Bidault, spoke of the free movement of men at the meeting of the Committee for European economic cooperation (CEEC), in March 1948, this freedom was connected to that of goods and capital: "We hope that soon [...] men, goods, capital will be able with the minimum of impediments to move and settle where they are the most

<sup>16</sup> 1) HAEU. MAEL, PS20, *op. cit.* 2) HAEU. MAEF, 501. Conversations on the Schuman plan. Response of Belgium to the questionnaire on the movement of labour, p. 13. October 1950.

<sup>17</sup> OECD. Film 124. MO(53)25. Manpower Committee. Report of the Working Group on the release of the movements of labour. Paris, 26 June 1953.

useful to the free community.”<sup>18</sup> In the negotiations for the European Political Community (EPC), the Commission for the EPC was even more explicit on the absolute link between the free movement of persons on the one hand and other freedoms of the common market on the other hand: “the Commission agrees that the liberation of the movement of people must proceed in harmony with the liberalization in the areas of goods, capital, and services.”<sup>19</sup> With the free movement of goods and capital, trade flows could substitute for migration flows. This however applies only with roughly similar economies. As a result, again, the framework of the Six was more favourable. European experience thus shows that the factors reducing migratory pressure are conducive to a liberal migration regime. Again however, this only reduces inconveniences caused to immigration countries. For migration flows to be liberalized, these countries must find a specific economic interest in the process.

*Specific economic interest in a liberal migration regime in the area*

Even in the absence of formal preference, a liberal regional migration regime favours regional labour over external labour, still subject to immigration procedures. Labour-importing States accept such preference only if the regional workforce has for them a comparative advantage. This can be derived from linguistic characteristics. The agreement to recruit Italian miners for the United Kingdom (UK) in early 1952 provided for fourteen weeks of training after the arrival in the UK, of which ten were entirely devoted to learning the English language.<sup>20</sup> Conversely, France, whose language is much closer to Italian, did not encounter such problems with Italian labour. The French foreign minister, Georges Bidault, as he prepared to propose, within the Conference of European economic cooperation, the liberalization of the movement of persons in a customs union with Italy, considered, at the

<sup>18</sup> OECD. CEEC, box 366, bundle 9. CEEC (2) 5. Address by Mr Georges Bidault, minister of Foreign Affairs, at the meeting of the CEEC, 15 March 1948.

<sup>19</sup> HAEU. CM3 NEG01 44. Intergovernmental Committee: Sub-Committee on Social Problems. Extract from the report to the ministers of Foreign Affairs submitted by the Commission for the EPC. Title VIII. Analytical presentation of the work carried out during the period from 7 January to 5 March 1954. Chapter 3. Achievement and maintenance of the common market.

<sup>20</sup> OECD. Film 124. MO(52)3. Manpower Committee. 2<sup>nd</sup> report of Working group N° 5 (vocational training). Paris, 7 February 1952.

French council of ministers on 8 August 1947, that the “great manpower” Italy had might “give France a great prosperity”<sup>21</sup>. As also implied in the words of G. Bidault, skills as well create an advantage for a certain workforce. Regarding immigration to industrialized countries, the average skill level of immigrant labour is proportional to the degree of industrialization and mechanization of agriculture in its area of origin. Italy had the peculiarity of being the most industrialized country of emigration to Northwest Europe, in contrast with Turkey or Greece, which were “victims of a [...] lack of industrial equipment”<sup>22</sup>. This made the framework of the Six, in which Italy was the only high-emigration country, more favourable than the OEEC framework. Linguistic or professional facilities of adaptation to work are therefore key reasons to favour a specific workforce through a liberal migration regime.

Besides, two other factors increase the costs of framed migration and lead to a liberal regime. Firstly, complex economies, between which the combination of labour demand and supply is more difficult to determine, are more liable to enter a liberal migration regime. In those terms Italy sought to convince its partners in EPC negotiations: “Only freedom allows [...] fully satisfying the capillary capacity to absorb labour in economies as complex as those of European countries.”<sup>23</sup> This was true among the economies of the Six, but not with economies such as those of Greece, Portugal, and Turkey. Secondly, between economies with close standards of living, framed migrations are too costly because of frequent disappointments of migrants. In October 1952, the French Ministry of the Interior wrote to the director of the French National Office of Immigration on a “number of workers recruited in Germany by your organization who, accompanied by their families, come to France, stay a few months, and under any pretext request to return to Germany”. These returns were caused by the fact that these workers did not eventually accept “the working and housing conditions”. The Ministry of the Interior was all the more concerned as “the costs of travel and

<sup>21</sup> Vincent Auriol, *Journal du septennat (1947-1954)*, vol. 1, 1947 (Paris: Armand Colin, 1970), p. 391.

<sup>22</sup> OECD. Film 71. C(51)173. Paris, 17 May 1951. Annex C. Synthesis of the responses of the Governments of the Member States concerning full employment, prepared by the Secretary-General of the Council of Europe.

<sup>23</sup> AAPA. Fund B10: 224-23-41. 884, Sachverständigenkonferenz über die Gründung einer Politischen Europäischen Gemeinschaft in Paris - Dokumente des Wirtschaftsausschusses, Band 2, February 1954. Considerations on the release of the movement of persons in the EPC (presented by the Italian delegation). Paris, 13 February 1954.

accommodation of those aliens [were] at the expense of the French community".<sup>24</sup> Between complex or close economies, framed migration proves too costly.

Geopolitical context, migratory pressure, and specific economic interest are the key conditions for a liberal regional migration regime. Mainly regional until the early 1970s, interdependence became global at that time with the assertion of Third World States and increased flows of goods, capital, people, and information. How did the European Community, inheritor of the above-presented negotiations, arrive in this new context to promote regionalism in migration global governance?

### **The interest of the European Community in regionalism for migration global governance**

The European orientation in migration global governance was defined from 1973 to 1992, as international forums of discussion on this issue proliferated. The Europeans' aim was to have their restrictive policies accepted, which was to gradually lead them to promote regionalism.

#### *The Euro-Arab Dialogue at the time of European restrictions to immigration*

The main forum in the 1970s where the Europeans had to discuss migration was the Euro-Arab Dialogue, as many European States of immigration had restrictively revised their immigration policies. At the request of the Arab delegation, a draft declaration on the principles governing the conditions of life and work of foreign workers was discussed. Arab migrant workers in Europe were the first victims of the disturbances of the 1970s. The economic crisis of the first half of the decade, technical change, as well as the increase in the employment norm threatened their jobs particularly. The last point was the consequence of trade unions' demands in European countries in the late 1960s and early 1970s, after more than a decade of unfettered immigration, causing downward pressure on native workers' wages and

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<sup>24</sup> AN. F7 16115. Germany and Austria, 1947-1952. Letter of the Ministry of the Interior, National Security Department, Regulation Service, Subservice of Aliens and Passports, to the director of the National Office of Immigration.

work conditions. These changes made European labour markets out of reach for poor Arab migrants, lacking of technical and social capital in Europe. In France, in 1979, while Maghreb workers accounted for only 39 per cent of immigrant labour, unemployed Maghrebi represented 54 per cent of unemployed immigrants.<sup>25</sup> The continued employment of Arab workers in Europe required enhanced vocational training. In a version of the draft declaration under discussion, transmitted in October 1976, the Arab delegation requested specific measures to allow migrant workers to have access to vocational training.<sup>26</sup> The European delegation refused this request.<sup>27</sup> The Group of Social Questions of the EEC Council (GSQ), in November 1977, finally only agreed specific information should be available for migrant workers about the different activities organized for unemployed immigrants.<sup>28</sup> Following a proposal by the Arab part to organize a colloquium on the vocational training of Arab workers in Europe, the GSQ, in February 1977, stated that “this hypothesis could be considered, in any case, only in the sense of a seminar whose conclusions would not value orientations to implement”<sup>29</sup>. The GSQ also stated that the subject of this seminar could be that of the professional preparation of migrant workers for their reintegration in their countries of origin.<sup>30</sup> The European part refused specific expenditures for Arab workers’ vocational training in Europe.

Under these conditions, the very presence of Arab workers in Europe was threatened. In October 1976, the Arab delegation proposed to clarify in the draft declaration that “both parties consider that the return of immigrants to their countries of origin must be voluntary”<sup>31</sup>. The

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<sup>25</sup> Groupe œcuménique, *La population algérienne en France* (Paris: Centre d’information et d’études sur les migrations méditerranéennes, 1981), 32 p.

<sup>26</sup> CACEU. Red list 25201. Declaration on the principles governing the conditions of life and work of foreign workers (draft). 30 November 1976–27 April 1979. European Communities. The Council. Brussels, 20 December 1976. I/464/76 (SOC). Note.

<sup>27</sup> *Ibid.* European Communities. The Council. Brussels, 22 December 1976. I/465/76 (SOC). Note, p. 15-6.

<sup>28</sup> *Ibid.* European Communities. The Council. Brussels, 30 November 1977. I/377/77 (SOC 12) (DEA 20). Note.

<sup>29</sup> CACEU. Red list 25202. Vocational training of migrant workers for their reintegration in their country of origin. 8 December 1976–27 April 1979. European communities. The Council. Brussels, 22 February 1977. T/166/77 (SOC) (DEA). Consultation in the GSQ, 15 February 1977.

<sup>30</sup> *Ibid.* European Communities. The Council. Brussels, 1 April 1977. T/310/77 (SOC) (DEA). Note.

<sup>31</sup> CACEU. Red list 25201, *op. cit.* I/464/76 (SOC), *op. cit.*

European delegation refused any formula along such line.<sup>32</sup> In January 1977, the GSQ decided, under Belgian and French pressure, to remove a clause in the draft declaration providing for a right of appeal for migrant workers and members of their families hit by a deportation order.<sup>33</sup> In a note for the meeting from 31 May to 2 June 1977 of the Working Commission on Manpower Questions of the Euro-Arab Dialogue, the European delegation stated that:

Regardless of cyclical reasons, several immigration countries of the Community have fundamentally redesigned their immigration policies at the beginning of this decade and have decided as main objective the stabilization of the non-national workforce to a level below that reached on the eve of the deterioration of the employment situation.<sup>34</sup>

The Europeans wanted to preserve the discretionary power of States to expel undesirable aliens and to reduce the foreign population. This went against the interests of emigration countries.

The Euro-Arab Dialogue stemmed however from interdependence. The Dialogue had arisen at the Copenhagen Summit of the Nine in December 1973.<sup>35</sup> In a context of rising oil prices, the Nine had had no choice but to engage in cooperation with the League of Arab States. The Europeans then tried to have the Arabs accept their new migration directions. In a note of March 1977 to the Arab part, the European part considered that a “policy for the reintegration of return migrants [...] [was] a concrete contribution [...] to a new international division of labour”<sup>36</sup>. This concession was not limited only by the hierarchical dimension of the concept of “international division of labour”. In addition, as highlighted in an OECD report, “the type of development in the host country [was] too remote from the development and thus the nature of labour requirements in sending countries to ensure the proper

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<sup>32</sup> *Ibid.* 1) I/465/76 (SOC), *op. cit.* 2) European Communities. The Council. Brussels, 20 March 1978. I/88/78 (SOC 7) (DEA 9). Note. Subject: Meeting of the Working Commission for Cultural, Social, and Manpower Questions (Cairo, 3 January-1 February 1978). Annex I.

<sup>33</sup> *Ibid.* European Communities. The Council. Brussels, 27 January 1977. I/34/77 (SOC) (DEA 7). Note, p. 6.

<sup>34</sup> CACEU. Red list 25202, *op. cit.* European Communities. The Council. Brussels, 31 March 1977. T/304/77 (SOC) (DEA).

<sup>35</sup> CACEU. Red list 25201, *op. cit.* Extract from the communication of the group for the coordination of the Euro-Arab Dialogue. Bonn, 6 November 1978.

<sup>36</sup> CACEU. Red list 25202, *op. cit.* T/304/77 (SOC) (DEA), *op. cit.*

use of the skills and training acquired abroad.”<sup>37</sup> Moreover, the training for reintegration the Europeans were ready to undertake was to be much limited. At the GSQ meeting on 15 February 1977, the German delegation considered more appropriate “to stick to a broader concept of preparation for the return process. [...] The training itself [...] can remain only very limited, while [...] appropriate information constitutes the dominant element for the greatest number.”<sup>38</sup> Finally, the French delegation pointed out that these measures should apply to unemployed workers and, with the Belgian delegation, referred to the information and financial participation to require from the countries of origin. Consequently, the Europeans did not envisage compensating emigration countries for their restrictions to immigration.

### *Increased pressure on the Europeans*

With increasing global interdependence, the pressure on the Europeans intensified because of their restrictive policies. The periodic crises in surrounding areas forced the EEC to provide assistance to refugees, in order to avoid unwanted flows to Europe. This practice took a global dimension around the mid-1970s. The solicitation of Community institutions by the United Nations High Commissioner for Refugees or other offices of the United Nations (UN) led the Community to act under the threat of future inflows. These acts consisted most often in emergency food aid, but could also include more diverse forms of assistance. From December 1974 to October 1983, 11 Council decisions, 22 Council regulations, and 24 other acts were adopted by the Community. A few areas focused the bulk of aid: the Near East (Cyprus, Kurdistan, and Palestine), Equatorial Africa (Angola, Zaire, Mozambique, and Burundi), Southeast Asia (Indochina, East Timor, and Bangladesh), the Horn of Africa, and Afghanistan. All were areas of emigration to Europe which went through major crises in this period. As migration flows became global, each crisis in Africa or Asia challenged the restrictive migration regime the Europeans wished to maintain.

Similarly, at the diplomatic level, the pressure on the Europeans became global in the UN framework. In December 1979, the UN General

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<sup>37</sup> R. Van Gendt, *Services pour le retour et la réinsertion des travailleurs émigrés : Rapport de synthèse* (Paris: OECD, 1977), p. 59, par. 44.

<sup>38</sup> CACEU. Red list 25202, *op. cit.*, T/166/77, *op. cit.*

Assembly, where poor emigration countries had the majority, instructed, by its Resolution 34/172, a working group open to all Member States “to develop an international convention on the protection of the rights of all migrant workers and their families.”<sup>39</sup> The selected terms challenged European restrictive policies. The reference to “all migrant workers” could include both legal and illegal migrants, whose number had significantly increased and who had then no rights as migrants. The phrase “and their families” could lead to regulate family reunification as well as the payment of social security benefits outside the territory where the migrant worker resided and worked. The Europeans were nevertheless forced to immediately participate in the work “to avoid all the disadvantages the contrary situation may lead to in the third reading, during which all decisions are taken by majority”<sup>40</sup>.

The European position, as defined in the GSQ under German, British, French, and Italian influence, was to establish a clear distinction between legal and illegal migrants, the latter being mentioned only to promote cooperation between sending and receiving countries for the return of these persons to their countries.<sup>41</sup> As for family members, the GSQ decided “in any case to obtain that the term ‘family member’ within the meaning of the convention be defined narrowly”<sup>42</sup>. The Europeans even wanted to use the convention to outline hostility to migration. Unlike the project established under the influence of emigration countries in the UN, they did not wish to speak of “positive effect” of migration, but only of “impact” of migration, not of “vulnerability” of migrant workers, but of the “difficulties” faced by these workers. Finally, they suggested removing a paragraph mentioning “the beneficial effects the

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<sup>39</sup> A/RES/34/172. 17 December 1979. Measures to improve the situation and enforce the human rights and dignity of migrant workers. Online: [http://www.un.org/french/documents/view\\_doc.asp?symbol=A/RES/34/172&Lang=F](http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/34/172&Lang=F) (accessed 5 December 2011).

<sup>40</sup> CACEU. Red list 32104. Proposal for a decision of the Council of the 20 July 1983 authorizing the Commission to participate on behalf of the Community in the development in the UN of an International Convention on the protection of the rights of all migrant workers and their families. Withdrawn by the Commission on 21 July 1988. 8 July 1983–21 July 1988. European Communities. The Council. Brussels, 29 May 1985. 7019/85 SOC 160.

<sup>41</sup> CACEU. Red list 68488. Establishment of a preliminary draft convention on the protection of the rights of all migrant workers and their families (UN). EEC Participation. 20 March 1981–10 May 1982. European Communities. The Council. Brussels, 1 October 1981. 9572/81 SOC 277. Summary of the work of the GSQ dated 29 September 1981.

<sup>42</sup> *Ibid.* European Communities. The Council. Brussels, 6 Apr. 1981. 6008/81 SOC 101. Summary of the work of the GSQ dated 24 March 1981.



international mobility of labour has”, considered as “useless”.<sup>43</sup> To take into account the interests of emigration countries, the Europeans proposed, in March 1981, to add to the preamble to the convention that “the new international economic order should have the consequence that labour migrations – such as we have known them in the last twenty-five years [...] – do not repeat anymore and that the decision of workers to emigrate be no longer dictated by the economic situation of the country of origin”.<sup>44</sup> This position displayed so radical goals – removing factors related to the economic situation of the country of origin in the decision to emigrate – that the Europeans were unlikely to take up the development aid costs of such a project. Intense tensions marked therefore the relations between EEC States and labour-sending States from the rest of the world.

Similar pressure was exerted in the partnership between the EEC and the African, Caribbean, and Pacific Group of States (ACP). In the negotiations on the renewal of the Lomé Convention, ACP States pushed the ACP/EEC Joint Committee to request on 31 January 1979 that the negotiators of the new convention conclude an agreement to protect the rights and improve the living conditions of ACP migrant workers. Annex XV of the second Lomé Convention (Lomé II), concluded in October 1979, actually dealt with this issue, but only granted legal ACP migrants in the EEC equality of treatment with local workers as regards wages and conditions of work, something local labour unions required in any event. The ACP worker’s family members qualified for employment-related social security benefits, but only if they resided with the worker in the host country.<sup>45</sup> In a June 1982 Geneva meeting between representatives of ACP and EEC economic and social circles and a delegation of the Joint Committee of the ACP/EEC Consultative Assembly, ACP countries’ representatives again referred to the question of migrants, but, as the synthesis of debates reported, “participants paid particular attention to [...] [the problem] of return to the country of origin”. The Europeans still claimed they wanted the returns of ACP

<sup>43</sup> CACEU. Red list 32104, *op. cit.* 7019/85 SOC 160, *op. cit.*

<sup>44</sup> CACEU. Red list 68488, *op. cit.* Commission of the European communities. SEC (81) 466. Brussels, 20 March 1981. Working document of the services of the Commission.

<sup>45</sup> 2<sup>nd</sup> ACP-EEC Convention signed at Lomé on 31 October 1979 – Joint Declaration on workers who are nationals of one of the contracting parties and are residing legally in the territory of a Member State or an ACP State (Annex xv). *Official Journal* (OJ) L 347, 22 December 1980, p. 170.

Online: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21979A1031%2825%29:EN:HTML> (accessed 29 February 2012).

migrants to their countries of origin to be “an effective contribution to the development of the country of origin”.<sup>46</sup> The Europeans were therefore frequently pressured because of their restrictive policies. Their refusal of concessions in this area obliged them to implement concrete programs.

### *New European orientations on migration governance*

In the first half of the 1980s, the EEC began to develop new initiatives to reduce the incentive to emigrate to Europe. In continuity with the European positions to use the return of migrants for the development of sending countries, the first type of migration-related promoted programs was to finance the return of highly skilled workers to their countries of origin. As part of Lomé II, the European Commission funded from 1982 a skilled African migrants return program, with a budget of ECU 375 million. In late 1986, 320 people had, with this program, returned to their country. They belonged in a third of cases to health professions; they were otherwise scientists, engineers, architects, economists, accountants, lawyers, and mathematicians.<sup>47</sup> A similar but smaller program was implemented for Latin American migrants<sup>48</sup> and another, larger, was implemented for African migrants again, from 1987.<sup>49</sup> These programs, a loss for European countries, concerned however a small number of migrants. From the European point of view, they should deter potential migrants and encourage other returns.

A second direction taken by the Europeans was to encourage emigration countries to regional migration cooperation. Title VII of Lomé III, concluded in December 1984, assigned to regional cooperation among ACP States the goal of “maximization of the use of ACP human

<sup>46</sup> CACEU. Red list 83948. ACP. Working document of the Economic and Social Committee (ESC) concerning ACP migrant workers and their families in the EEC. 16 June 1982–8 Oct. 1982. ESC. Brussels, 8 October 1982. CES 691/82. Synthesis of the debates.

<sup>47</sup> CACEU. Red list 74814. Treatment by the Assembly on the impact of the creation of the single market of 1992 on migrant workers from developing countries. 20 December 1991–15 June 1992. European Parliament (EP). Session documents. 20 December 1991. Report of the Committee on Development and Cooperation.

<sup>48</sup> ACE. Doc. 5913, 16 June 1988. 25<sup>th</sup> report on the activities of the Intergovernmental Committee for Migration, 1986–1987. Commission on Migration, Refugees, and Population.

<sup>49</sup> CACEU. Red list 74814, *op. cit.* EP, session documents, *op. cit.*

resources” (Article 103).<sup>50</sup> This provision was repeated in Title XII of Lomé IV (Article 158), concluded in December 1989. Article 3 of the Financial Protocol to Lomé IV provided an amount of ECU 1,250 million to finance ACP States’ regional projects. The Europeans made their financial aid to ACP States dependent on a commitment of these States, in a “Joint declaration on ACP migrant workers and ACP students in the Community”, Annex V to the Final Act of Lomé IV, to “take the necessary measures to discourage irregular immigration of their nationals into the Community”.<sup>51</sup> The meaning of the “maximization of the use of ACP human resources” in Article 158 of Lomé IV was precised in a resolution of the European Parliament of 14 May 1992, which envisaged “the realization of labour-intensive development projects” in ACP countries and the development of intraregional migration. The resolution also invited to develop other regional projects among Mediterranean countries, in Latin America, and in Asia.<sup>52</sup>

Meanwhile, a global-scale agency for migration appeared, as in May 1987 the Intergovernmental Committee for Migration finished revising its constitution and decided to adopt the name of International Organization for Migration (IOM), change entered into force in November 1989. This organization, where European States were initially over-represented, was less intended to produce international norms on migration than to organize migratory movements against remuneration. IOM objectives were thus closely related to donor States’ interests. The types of migration specifically mentioned in the preamble to IOM Constitution did not include the yet most common migration, that is economic migration from poor countries to rich countries. Intraregional migration was however a type of migration the new organization intended to promote.<sup>53</sup>

<sup>50</sup> 3<sup>rd</sup> ACP-EEC Convention signed at Lomé on 8 December 1984. OJ L 86, 31 March 1986, p. 3-208.

Online: [http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21986A0331\(01\):EN:HTML](http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21986A0331(01):EN:HTML) (accessed 29 February 2012).

<sup>51</sup> 4<sup>th</sup> ACP-EEC Convention signed at Lomé on 15 December 1989. OJ L 229, 17 August 1991, p. 3-280.

Online: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21991A0817%2801%29:EN:HTML> (accessed 29 February 2012).

<sup>52</sup> CACEU. Red list 74814, *op. cit.* Minutes of the meeting of 14 May 1992. Texts adopted by the EP. Resolution A3-0393/91 on the impact of the creation of the single market of 1992 for migrant workers from developing countries.

<sup>53</sup> IOM Constitution.

Online: [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about\\_iom/iom\\_constitution\\_fr\\_booklet.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about_iom/iom_constitution_fr_booklet.pdf) (accessed 6 December 2011).

European orientations in migration governance thus came to encourage the management of migratory tensions through regional cooperation, in order to reduce the migratory pressure at European borders. Yet these orientations have failed: the pressure at the European Union's (EU) borders is even expected to intensify because of prospective demographic changes. These orientations have not resulted in relatively liberal migration regimes that regulate international tensions. How could European regionalist orientations be adjusted with the lessons learned from the European experience in regional migration governance in the 1950s?

### **New regionalism for migration global governance**

The type of regionalism promoted by the Europeans for migration management does not fit the lessons drawn from European experience. In West Africa, the recognition to the citizens of the Economic Community of West African States (ECOWAS) of a right of residence for a maximum period of ninety days took effect in April 2000.<sup>54</sup> Elsewhere in Africa, achievements have been much lower. A draft protocol on the facilitation of the movement of persons was completed in August 2005 among the Member States of the Southern African Development Community. Nevertheless, this document, down from an initial draft protocol on the free movement of persons, has not yet entered into force for lack of signatures and ratifications.<sup>55</sup> The ECOWAS regime has been upheld by Nigeria's economic growth in the 2000s. However, in the 1980s, Nigeria had denounced several articles of the protocol then in force to expel more than a million immigrants.<sup>56</sup> The sharp increase in the labour force of Nigeria in the years to come, as well as throughout the region, where one third of the population is under ten,<sup>57</sup> may undermine the regime. Elsewhere in Africa, population growth may only increase present difficulties. Migratory regionalism in Africa has failed because a fundamental criterion for success, which can be inferred from

<sup>54</sup> Aderanti Adepaju, "Créer une Afrique de l'Ouest sans frontières. Contraintes et perspectives en matière de migrations intrarégionales", in Antoine Pécoud, Paul de Guchteneire, eds., *Migrations sans frontières...*, op. cit., p. 221-39.

<sup>55</sup> Sally Peberdy and Jonathan Crush, "La liberté de circulation en Afrique australe: histoires, réalités et négociations", in Antoine Pécoud, Paul de Guchteneire, eds., *Migrations sans frontières...*, p. 241-271.

<sup>56</sup> Adepaju, op. cit.

<sup>57</sup> UN, DESA, op. cit.

European experience, is not met: the balance between the need for and the availability of workers.

Migratory regions including areas of high emigration must be built around large poles of growth.<sup>58</sup> With the lessons learned from European experience, for each of such poles in the present world, the geopolitical context must be considered, that is the absence of international tensions and of territorial claims, as well as political interdependence; the level of migratory pressure in the area must be assessed, that is the balance between the need for and the availability of workers, the differences in living standards, and the ability to create a general common market. Finally, labour-importing States must find a specific economic interest in a liberal migration regime in the area: this interest may be derived from a comparative advantage for regional labour, from economic complexity or from close standards of living.

The fastest growing large economy today is the Chinese economy. While China is still one of the main emigration countries in the world, the Chinese population may reach its maximum by twenty years, before a rapid decline. Under these conditions, China may become a major immigration pole. Cooperation could then develop between China and the Association of Southeast Asian Nations (ASEAN). The area would include major emigration countries: Indonesia, the Philippines, and Myanmar. Geopolitical tensions in the area, although notorious, do not include any litigation over inhabited territories, what matters in the first place for a migration regime. Growth in the region makes a balance between the need for and the availability of labour likely; differences in living standards remain limited, except with Myanmar on one side and Singapore and Brunei on the other; the ability to create a more general common market, already sketched in ASEAN, is great. These elements, as well as the complex economic structures of these new industrialized countries, make the probability of a liberal migration regime in the region high. The second major quickly growing economy today does not fit this picture. India is the first emigration country in the world. Its population may keep growing much longer than the Chinese population,

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<sup>58</sup> Developments that follow are based on: 1) IMF, *World Economic and Financial Surveys, World Economic Outlook Database*, September 2011 Edition. Online: <http://www.imf.org/external/pubs/ft/WEO/2011/02/weodata/index.aspx> (accessed 6 December 2011). 2) "Net number of migrants (both sexes combined) by major area, region, and country, 1950-2010" and "Total population (both sexes combined) by five-year age group...", *op. cit.*, both in UN, DESA, *op. cit.* Online: <http://esa.un.org/wpp/> (accessed 6 December 2011).

while Indian economic growth is less high. India's neighbours are also important emigration countries. In addition, the geopolitical context is particularly negative in the case of India for a regional liberal migration regime. India retains territorial litigation on almost all its land borders and maintains age-old hatred with Pakistan.

After China and India, two large economies experience some growth: Russia and Brazil. Russia's population is declining and the country has been a country of immigration for over 10 years. Differences in living standards between Russia and the countries of the Caucasus, Kazakhstan, and Turkmenistan are limited. A common market is already planned within the Eurasian Economic Community, formed by the former Member States of the Community of independent States, including therefore the much poorer countries of Central Asia. Ultimately, this region could extend to Afghanistan, despite the country's extreme poverty and expected population explosion. Russia's needs of people, especially in its eastern part, as well as its geopolitical interests could enable it. The main geopolitical difficulty lies in the Caucasus, especially between Russia and Georgia. But given the scale of the region, this dispute is of limited importance. As for Brazil, it has grown in recent years comparably to Russia and may keep this track. Brazil's population may reach a maximum by the middle of the century, before declining. Still an emigration country, Brazil may become in the next decades an immigration country. A regime of free movement would then be possible within Mercosur. Except with Paraguay, differences in living standards are limited. Economic growth is significant throughout the region. As a result, the balance between the need for and the availability of workers may be quickly assured. Mercosur's common market is already advanced. There are no major territorial claims in the area. Linguistic proximity in the region makes regional labour advantageous. Eventually, a South Atlantic association may be possible between Mercosur and Angola, a Portuguese-speaking country.

In Africa, only South Africa can, now and in the coming decades, support a liberal migration regime. This country experiences some growth and its population is stable, unlike most African countries'. Nevertheless, because of the small size of this economy, its region could hardly, to be sustainable, be broader than the Southern African Customs Union, extending only to Zimbabwe. Consequently, migratory regionalism would barely touch the African continent, but, because of the interdependence between the different parts of the world system, migration management in a region may bring about changes in other

areas. Decreasing interregional migrations from Southeast Asia may lead the Gulf countries to focus on other sources for labour recruitment, including Northeast Africa, alleviating migratory pressure in this area.

To conclude, a global governance of migration on a regional basis appears possible. Europe is particularly interested in migration governance to regulate the migratory pressure at its borders. However, the migratory regionalism promoted by Community Europe and now the EU in the rest of the world is not consistent with the criteria for success arising from European experience. Using these criteria to build viable regional groupings leads to consider regional cooperation in Southeast Asia around China, in Central Asia around Russia, in South America around Brazil, and in Southern Africa around South Africa. As far as migratory regionalism is concerned, the Europeans can only encourage those viable frameworks and support possible extensions, as suggested for Afghanistan, Angola, and Zimbabwe. Regional cooperation could as well ease existing and future migratory tensions through the impact of these processes on other areas. However, regional cooperation will not integrate all areas of emigration, particularly in Africa, and will therefore have a limited capacity to solve global migratory tensions.