



Dutch National Contact Point for the
European Migration Network (EMN)

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Temporary and Circular Migration

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Empirical Evidence, Current Policy Practice
and Future Options in The Netherlands



Immigratie- en Naturalisatiedienst
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Koninkrijksrelaties



The objective of the European Migration Network (EMN) is to meet the information needs of Community institutions and of Member States' authorities and institutions on migration and asylum, by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with information on these subjects.

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Immigration and Naturalisation Service (IND)

Staff Directorate for Implementation and Policy (SUB)

IND Information and Analysis Centre (INDIAC)

Dutch national contact point for the European Migration Network (EMN)

Executive Summary

Report Contents and Research Methods

This study report deals with the current practical implementation in the area of temporary and circular migration in the Netherlands. In addition to the relevant national legislation and policy rules, much attention will be paid to the social and political debate conducted on this subject. The report will also provide initial information on the temporary nature of labour migration to the Netherlands. The study was conducted in the context of the EMN work programme 2010 and is in keeping with the EMN study 'Satisfying Labour Demand through Migration' (*Inzet Migratie op de Nederlandse arbeidsmarkt*), which was also published in 2010.

Similar studies have been conducted in all EU Member States. The contributions of the different Member States will result in one synthesis report. The purpose of the study is to meet the information requirement in the area of temporary and circular migration in order to obtain a better picture of the nature and scope of temporary and circular migration in the Member States of the European Union.

This study was largely based on desk research. The examination of policy reports, government memorandums, parliamentary documents, policy rules, and newspaper articles produced a picture of Dutch policy in the area of temporary and circular migration, and the political and social debate conducted on this subject. The examination of project descriptions provided information on the concrete projects that were being carried out in the Netherlands at the time. This was supplemented by several interviews. These interviews provided additional information on the framework in which policy lines and project plans were being developed. Finally, quantitative data originating from Statistics Netherlands, the Netherlands Employee Insurance Executive Agency (UWV), and the Immigration and Naturalisation Service (IND) was collected and analysed for the purpose of this study.

Dutch View and Policy

Dutch migration policy has developed into a policy that is inviting to migrants needed by Dutch society and restrictive to others. This view is also reflected in the Bill on Modern Migration Policy, which will enter into force when the new IND computer system has become fully operational. In Dutch migration policy, the residence permit of highly skilled migrants is not linked to a maximum residence period. The other forms of labour migration are intended to be of a temporary nature, which partly solve temporary bottlenecks in the labour market but which avoid future reliance on collective benefit schemes at the same time. In this model, employers of third-country nationals can only obtain a work permit if there is no available labour supply from the EU or the EEA with respect to the relevant type or sector of work.

Promoting circular migration has been regarded in the Netherlands as a strategy combining the interests of the migrant, the country of origin, and the country of destination: the 'triple win' situation. The economic crisis and increased unemployment have, however, raised questions again about the desirability of temporary and circular migration of medium educated and low educated people. A new government has recently taken office in the Netherlands. This government has indicated that it plans to continue the main features of existing policy on labour migration and highly skilled migrants.

In the Netherlands, temporary and circular migration is considered the last option in a package of measures to be taken to reduce the shortages in the labour market. The general opinion is that the solution to the problem of the ageing labour market population should mainly come from an increase in labour participation of groups of people who currently are – either partly or entirely – still on the sidelines, for all sorts of reasons.

In the Dutch public and political debate on migration from developing countries to industrialised countries, the fear of 'brain drain' has been a prominent theme for years. In the Netherlands, a generally reticent attitude has been adopted in respect of contracting care staff from developing countries, in particular. The view which had prevailed in the past, namely that labour migration predominantly has negative consequences for developing countries, has been adjusted in the last few years. Nowadays, people also point to the positive sides of labour migration from developing countries, such as the reduction of poverty in the country of origin and the contribution of migrants towards society in the country of origin, both financially and as regards knowledge.

The key question in the Netherlands is whether migrants will actually return to their country of origin. This has its origin in the experiences with guest workers in the sixties and seventies, with respect to whom it was initially assumed that their migration was temporary in nature. These workers stayed in the Netherlands, though, and were responsible for subsequent immigration of family members. For the level of support of Dutch migration policy, it is consequently considered important that large-scale migration of low educated migrants does not occur.

Circular Migration Pilot Project

On the initiative of the Ministries of Foreign Affairs, Security and Justice, and Social Affairs and Employment, the Netherlands has recently launched a pilot project on circular migration. The purpose of this pilot project is to examine whether temporary labour migration will actually produce advantages for all parties concerned: the migrants, the Dutch labour market, and the countries of origin. The focus in this project is on labour migrants who are medium educated. In the context of the pilot project, a maximum of 160 labour migrants from South Africa and Indonesia will be given the opportunity to learn and work in the Netherlands for two years. The pilot project is being carried out in sectors dealing with shortages in medium educated employees. In order to be able to carry out the work-study programme properly, a Personal Development Plan (PDP) is drawn up together with the migrant. The external monitoring and evaluation of the pilot project is in the hands of the World Bank (World Bank Development Research Group). The study results may lead to the development of larger-scale initiatives in the future.

Temporary Assignments of Migrants to their Countries of Origin

In particular the IOM has gained much experience with assigning migrants temporarily to their countries of origin for the purpose of expanding capacity. In this context, the migrants are seen as 'agents of change', with the migrants having little difficulty to assimilate and being able to work effectively together with local organisations because of their knowledge of the country's language and culture. The MIDA Ghana Health Project, which has been in progress since 2005, contributes to capacity building in health institutions in Ghana by means of short assignments in the country of origin. The Temporary Return of Qualified Nationals Project is aimed at the reconstruction and development of Afghanistan, Bosnia and Herzegovina, Ethiopia, Georgia, Sierra Leone, and Sudan. This is realised by the temporary placement of highly skilled migrants who live in the Netherlands or other EU countries and who originate from one of these countries. Within the framework of this project, IOM has also facilitated virtual return assignments through Internet connections to provide, in particular, technical training courses. In addition, IOM the Netherlands, Portugal and Italy are collaborating in the DIAS de Cabo Verde Project, which is aimed at building capacity in Cape Verde, through the diaspora of professionals. In 2010, the Ethiopian migrant organisation 'Stichting DIR' - in addition to IOM - has started the temporary return of 30 Ethiopians residing in the Netherlands for a period from six to twelve months. Finally, PSO, an association that consists of nearly 60 Dutch development organisations, has made it possible for highly skilled migrants to return temporarily to their country of origin by means of the Cross Over stimulation fund.

National Legislation, Conditions, Criteria, and Enforcement

The admission and employment of (temporary) labour migrants in the Netherlands has been incorporated in the Aliens Act 2000 and the Labour Act for Aliens. The Aliens Act 2000 and the Labour Act for Aliens (and subordinate legislation) stipulate, in conjunction, the conditions under which persons with foreign nationalities are permitted to come to the Netherlands and are permitted to work in the Netherlands. The right of free movement between the Member States applies to citizens from the European Economic Area (consisting of the EU Member States and Norway, Iceland, and Liechtenstein) and Switzerland. The labour market has not yet been opened up fully for citizens from Bulgaria and Romania. Until 1 January 2012 (with a possible extension until 1 January 2014), transitional arrangements regarding the right of free movement of employees will apply to these nationalities.

The employer of a third-country national who wants to work in the Netherlands usually needs a work permit. The basic principle for granting a work permit is the availability of the priority workforce in the Dutch labour market. This means that foreign nationals will only obtain access to the Dutch labour market if there is insufficient labour supply available from the Netherlands and the EEA countries in the relevant line of work. Consequently, a condition for obtaining a work permit is that the employer must prove that he has first made efforts to recruit staff in the Netherlands and the EEA. Some groups of

foreign nationals, such as highly skilled migrants, do not require a work permit. In addition to general policy for labour migrants, Dutch legislation and regulations include policy on admission for specific categories of temporary migrants (labour and other migrants), such as trainees and migrants for the purpose of work experience, guest lecturers, scientific researchers, au pairs, and participants in exchange programmes. There are also admission schemes for third-country nationals who wish to come to the Netherlands temporarily for study purposes. In addition, special policy has been developed for participants in the circular migration pilot project. In the near future, legislation will become effective on the basis of which work permits will be granted sooner to seasonal workers. The policies for these categories of foreign nationals are explained further in Section 2.2.3.

Co-operation with Third Countries

In the context of the Migration and Development programme, the Netherlands has co-operated with third countries. One part of this programme addresses the promotion of circular migration. In addition to this, the Netherlands has participated in experimental mobility partnerships with Cape Verde and Georgia. So far, these partnerships have not yet resulted in temporary or circular migration.

Data on Temporary and Circular Migration

In the period of 2005-2009, a total of 40,000 labour migrants from third-countries came to the Netherlands. The largest group consisted of highly skilled migrants (approximately 21,000), followed by migrants admitted to work as an employee (approximately 12,000), and those admitted to work as a researcher (approximately 3,500). Figures obtained from Statistics Netherlands indicate that the majority of labour migration of third-country nationals to the Netherlands was temporary in nature: 68% of the labour migrants who came to the Netherlands in 2005 has left the country by now. This percentage was slightly more than 40% for 2007 and 2008.

In the period of 2005-2009, slightly more than 8,000 third-country nationals travelled to the Netherlands for a temporary stay in the context of cultural exchange. In the same period, nearly 40,000 residence permits were granted to third-country nationals for study purposes.

Conclusions

In Dutch legislation and regulations, measures concerning labour migration for highly skilled migrants and for the purpose of work as an employee are not initially focused on the temporary nature of such migration. The verification against the priority workforce from the EU or the EEA may be a safeguard to ensure that labour migration to the Netherlands is in proportion to the labour requirement in the labour market. In addition, the Netherlands has residence permits for the purposes of study, cultural exchange and work which are explicitly temporary in nature. The intended amendment to the conditions for seasonal workers, which will make it possible to grant an employer a work permit once again for seasonal workers, after they have not worked in the Netherlands for a period of 14 weeks, may encourage a pattern of circular migration.

The start of the circular migration research pilot project will make it possible to test the assumptions underlying the promotion of circular migration (in particular the 'triple win') in practice. The pilot project is a co-operation among public and private partners in the Netherlands and in the countries of origin, whereby the criteria for selection specifies countries which have a qualitatively good labour supply, and of which the governments are paying attention to return and reintegration initiatives. IOM the Netherlands has also opted for close co-operation among all parties concerned regarding the assignment of temporary migrants to their countries of origin, in which context it has sought to respond to the needs felt in the countries of origin. It prefers to co-operate with governments that are positive towards the role the diaspora may play in the development of their countries of origin. Virtual assignments have shown to provide good possibilities for giving technical training courses.

The Municipal Base Administration (GBA) has shown that a central data system registering specific features of all residents of a foreign country provides possibilities in the area of data analysis regarding the temporary nature of migration. The possibility to connect registration systems of different governments to each other would contribute to a better understanding of migration patterns.

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1. Introduction: Purpose of the study and Methodology

1.1 European and Dutch policy framework

Within the EU, increased attention is being paid to temporary and circular migration from, in particular, third countries, as a possible solution to meet the changing needs in the labour market. As a result of developments such as the economic crisis and an ageing Europe, there has been an increased demand for flexible and temporary workers. Immigration could play a significant role in this respect.

In its Communication of 16 May 2007, the European Commission pointed to the importance of promoting circular migration, because this would help Member States address their labour needs.¹ The development need of the countries of origin could also be met and the impact of negative effects, such as 'brain drain' could be mitigated². In addition, this form of migration was said to be advantageous to the migrants themselves. Circular migration was expected to produce a triple-win situation to all parties concerned: the country of destination, the country of origin, and the migrant. In the Netherlands, the policy document 'Development and Migration' was published in 2004.³ This document from the Minister for Development Co-operation and the Minister for Immigration and Integration outlined the relationships between development and migration with the purpose to come to integrated policies on foreign affairs and migration. In 2008, the Minister for Development Co-operation and the State Secretary for Justice published a second policy document 'International Migration and Development 2008' (*Internationale migratie en ontwikkeling 2008*). This document contained six policy priorities for the government to address in the subsequent years.⁴ One of these priorities was to encourage circular migration / brain gain.⁵

The government then in office collapsed in February 2010. On 14 October 2010, a new government took office which formulated a restrictive admission policy as one of its key objectives. In addition, the budget for development co-operation will be reduced from 0.8% to 0.7% of the GNP. At the time of writing this report, no detailed plans have, as yet, been made known. The new Dutch government did, however, indicate that it intends to continue the main features of the existing policy on labour migration and highly skilled migrants.

In addition to policy in the area of migration and development, the implementation of the Modern Migration Policy will play an important role in relation to temporary and circular migration. This Act will enter into force when the new IND computer system has become fully operational. Modern Migration Policy centres on the principle of selectivity. This means that Dutch migration policy will be inviting to migrants needed for Dutch economy, culture or science, and restrictive to others. The sponsor (e.g. the employer) will play a key role in Modern Migration Policy. Recognised sponsors have the possibility of using an accelerated procedure, as a result of which the application for a residence permit may be processed in two weeks time. On the other hand, however, the sponsors also have a number of obligations in the area of keeping records and reporting any changes in the foreign national's rights of residence to the authorities. In anticipation of the new legislation, the Highly Skilled Migrant Scheme – which operates in a comparatively similar manner – has already been implemented in the Netherlands. Although migration need not be temporary in the context of Modern Migration Policy, this bill will simplify the temporary and circular migration of people for which Dutch society has a need. Temporary migrants who are important to Dutch society will also be able to make use of this more flexible legislation and can be admitted to the Netherlands in a simplified procedure.

¹ COM (2007) 248 final.

² Brain drain is the loss suffered by a country as a result of the emigration of a highly-qualified person (EMN Asylum and Migration Glossary).

³ Lower House of Parliament 29 693 no. 1., July 2004.

⁴ Lower House of Parliament 30 573 no. 11., July 2008.

⁵ Brain gain is the benefit to a country as a result of the immigration of a highly qualified person (EMN Asylum and Migration Glossary).

1.2 Objective

Temporary and circular migration has been addressed several times at the European level, including by the European Council and European Parliament. This often resulted in a call to the European Commission and the Member States to explore ways and develop solutions to facilitate temporary and circular migration. The most recent example of this is the Stockholm Programme, which was adopted in December 2009 and contains the multi-annual policy programme in the area of security for the Justice and Foreign Affairs Departments.⁶ In this policy programme, the Member States expressed the wish to arrive at common policy in the area of asylum and immigration. In respect of labour migration, the Member States stated to agree on common policy based on supply and demand from the different labour markets in the EU. In this context as well, expression was given to the need for ideas on how the concept of circular migration could be investigated further.

Many countries already have schemes for temporary migration, for instance in the area of seasonal work, but also for other sectors of the labour market. Various countries also stated to have the intention or to be in the process of implementing policy and/or actions dealing with aspects of temporary and circular migration. There is, however, still little information available on the circularity of migration, and on the scale in which the flows of temporary migration occur. In addition, there is no comprehensive overview available of existing regulations and legislation in the European countries that facilitate this form of migration.

The purpose of this study is to meet this information requirement in order to obtain a better picture of the nature of temporary and circular migration in Europe. This study will contribute to the development of EU policy on temporary and circular migration. The study was conducted by the European Migration Network (EMN) and is part of the 2010 Work Programme. The EMN was established by the European Commission to improve the availability of objective, reliable and comparable information on migration and asylum at the European level. Improvements in the availability of information - both at the European level and at the national level - will also support the policy-making process. It is EMN's aim to improve information exchange among policy-makers, government bodies, non-governmental organisations, and the scientific world by bringing people together who are professionally engaged in migration and asylum.

In 2010, all Member States have conducted similar studies into temporary and circular migration, the results of which will be merged into one synthesis report.

This study is aimed at temporary and circular migration of third-country nationals. The term 'third-country national' means a person who is not a citizen of one of the EU Member States. This study covers the period from 2004 up to and including 2009. For data-technical reasons, the data represented in Chapter 3 are limited to the period of 2005-2009.

1.3 Methodology

This study was largely based on desk research. The examination of policy reports, government memorandums, parliamentary documents, policy rules, and newspaper articles produced a picture of Dutch policy in the area of temporary and circular migration, and the political and social debate conducted on this subject. The examination of project descriptions provided initial information on the concrete projects that were being carried out in the Netherlands at the time.

This information was supplemented by several interviews (by telephone, in writing or face-to-face) with employees of the organisations concerned.⁷ These interviews provided more insight into the framework in which policy lines and project plans were being developed. The draft report was provided to the organisations concerned for inspection in advance in order to fill any gaps and to obtain additional insights.

For the purpose of this study, the researchers also collected quantitative data. Statistics Netherlands provided files in which the data on labour migration in the period of 2005-2009 had been linked to data

⁶ Council 17024/09.

⁷ IOM, HIT Foundation, and the Ministry of Foreign Affairs

from the Municipal Administration (GBA).⁸ On the basis of these data, it was possible to make an assessment about the temporary nature of labour migration. The Netherlands Employee Insurance Executive Agency (UWV) provided files on the sectors in which work permits had been granted. Finally, IND's INDIS system was used to generate tables about the scope of labour, study and cultural migration of third-country nationals to the Netherlands.

1.4 Definitions

In the above-mentioned Communication of 16 May 2007, the European Commission emphasised that it was necessary to have one common definition of the concept of circular migration within the EU to be able to examine which programmes for circular migration produced the best results.

According to the European Commission, circular migration may be defined as a form of migration that is managed in a way that allows some degree of legal mobility back and forth between two countries. It also mentioned the two main forms of circular migration that could be most relevant in the EU context.

1. Circular migration of third-country nationals settled in the EU.

This category of circular migration gives people the opportunity to engage in an activity (business, professional, voluntary or other) in their country of origin while retaining their main residence in one of the Member States.

2. Circular migration of persons residing in a third country.

This form of circular migration could create an opportunity for persons residing in a third country to come to the EU temporarily for work, study, training or a combination of these, on the condition that, at the end of the period for which they were granted admission, they must re-establish their main residence and their main activity in their country of origin. Circularity can be enhanced by giving migrants the possibility, once they have returned, to retain some form of privileged mobility to and from the Member States where they were formerly residing, for example in the form of simplified admission or readmission procedures.

The Netherlands considers circular migration a form of migration in which the positive development effects on both the country of origin and the country of destination could be combined. In the policy document 'Development and Migration'⁹ of 2004, the Minister for Development Co-operation and the former Minister for Immigration and Integration referred to the concept of circular migration. With the publication of this document, the Netherlands was among the forerunners in the area of migration and development. The Netherlands defines 'circular migration' as follows: 'Migration in which the migrant resides in one country after another, including his or her country of origin, for a longer period of time. In the context of its migration and development policy, the Netherlands applies the following two forms of circular migration:

– Temporary assignment from the Netherlands to the country of origin

This form of circular migration concerns a temporary assignment of migrants with a permanent residence permit in the Netherlands to the country they originally come from, for instance to contribute to reconstruction. In addition to other development strategies, the temporary assignment of migrants may contribute to the development of the country of origin.

– Temporary migrations from developing countries to the Netherlands

This form of circular migration concerns migrants from developing countries who temporarily come to the Netherlands to work or study and who subsequently return to the country of origin. With the knowledge, experience and funds thus acquired, they are supposed to contribute to the development of their countries of origin.

⁸ In this system, the Dutch municipalities record specific personal data of all persons who resided or had resided in the relevant municipality for at least 4 months and who had registered in the municipality.

⁹ Lower House of Parliament 29 693 no. 1., July 2004.

It may be concluded from the above that the Netherlands defines the concept of circular migration in nearly the same manner as the European Commission does. In respect of circular migration, the Netherlands mainly focuses on temporary migration from and to developing countries, and emphasises the perspective of development as a result of this. As circular migration is related to migration as well as development policy, there is much co-operation in these policy areas.

In this study, the term 'temporary migration' is used as defined in the EMN Glossary (January 2010).¹⁰

In this glossary, the term 'temporary migration' is defined as follows:

Migration for a specific motivation and/or purpose with the intention that afterwards there will be a return to the country of origin, or onward movement to another country.

Dutch legislation and regulations regarding residence permits other than asylum residence makes a distinction between temporary residence permits and permanent residence permits, and between temporary rights of residence and permanent rights of residence. The question as to whether the right of residence is temporary or permanent is no longer relevant for the foreign national who has a permanent residence permit. Temporary residence permits are subject to restrictions that relate to the purpose for which the residence permit is granted. Article 3.5(2) of the Aliens Decree stipulates which restrictions result in a temporary right of residence. A temporary residence permit is granted for a maximum period of five successive years.

For foreign nationals who apply for a residence permit to work in the Netherlands, the employer usually also needs a work permit in addition to the residence permit, so that the foreign national can be granted access to the labour market. The foreign national's right of residence is restricted to the period for which a work permit has been granted. The duration of a work permit is limited, but may be extended depending on the type of permit. A work permit is granted for a maximum period of three years. The employer of a foreign national is no longer obliged to have a work permit if the foreign national has held a residence permit for work for three years. Section 2.2 will deal with current admission policy for temporary or permanent labour migrants in the Netherlands.

The concepts of temporary and circular migration imply that, in addition to admission, return is also an essential part of the process. As stated in the above-mentioned EMN study into facilitated return of foreign nationals in the Netherlands (October 2009), Dutch return policy is strongly focused on repatriation from the Netherlands, and not on return to the country of origin or to another country. The term 'return' consequently does not occur in Dutch legislation and regulations on this subject. The obligation to leave is an automatic legal consequence of the fact that a residence permit has not been granted, has not been extended or has been withdrawn. As a result of this circumstance, the foreign national may decide to leave voluntarily, may decide to co-operate in his or her departure, or may be forced to leave.

The difference between the terms 'circular' and 'temporary' migration is that circular migration may also be regarded in the context of mobility back and forth between the EU and the country of origin (facilitated, for instance, by simplified admission or readmission procedures for these types of migrants), whereas the term 'temporary migration' refers to a single movement, with a limited period of residence in the EU.

¹⁰ EMN Asylum and Migration Glossary

2. Dutch Approach to Temporary and Circular Migration

2.1 Dutch view, policy, and programmes

2.1.1 Dutch migration policy: Inviting to highly skilled migrants, restrictive to others

In the Netherlands, the policy document 'Development and Migration' was published in 2004.¹¹ This document, which was drawn up by the Minister for Development Co-operation and the Minister for Immigration and Integration, outlined the relationships between development and migration, with the aim of achieving integrated policies on foreign affairs and migration. In this document, the government then in office had adopted the position that industrialised countries would benefit from selective and - to the extent that this did not concern internationally highly qualified migrants-temporary migration.

The overall approach to legal migration by the Dutch government has not changed fundamentally since then. The principle of selectivity is the key element of the Modern Migration Policy Bill, which was adopted by the Senate on 5 July 2010 and will come into force when the new IND computer system has become fully operational. The term 'selectivity' means that migration policy will be inviting to migrants needed for Dutch economy and restrictive to others.

In conformity with the European Lisbon Strategy,¹² one of the key objectives of the policy pursued by successive governments was to develop a knowledge economy. Highly skilled migrants were assumed to be able to contribute to this objective. The Modern Migration Policy Bill consequently developed a policy that was inviting to highly skilled labour migrants. The policy is also inviting to foreign students. This will contribute to the internationalisation of higher education in the Netherlands, which is considered necessary for the country's international competitiveness and which may contribute to an international orientation among Dutch students. The basic principle in respect of migration for study purposes is that it is temporary in nature, whereby the student is, however, offered the opportunity to seek a job in the Netherlands after completing the study (during a so-called 'search year'). The legislation and regulations for students will be discussed in more detail in Section 2.2.

The basic principle that the Netherlands did not want to link the residence permits of highly skilled migrants to a maximum period of residence was adopted into the policy document 'Development and Migration' as early as in 2004. In respect of other labour migrants, the residence permits will initially be temporary in nature. The main reason for this, as set out in the policy document, is that this will partly solve temporary bottlenecks in the labour market, and at the same time will prevent a possible future reliance on collective benefit schemes by these migrants. As a result of this, policy plans and recommendations for temporary and circular migration have been directed, in particular, towards the middle and bottom segment of the labour market, as the Dutch government did not link a maximum period of residence to migration in the top segment of the labour market. Promoting circular migration has been regarded as a strategy in which the interests of the migrant, the country of origin, and the country of destination are combined: the 'triple win' situation.

2.1.2 Migration, ageing, and the economic crisis

In the Netherlands, temporary and circular migration is considered the last option in a package of measures to be taken to reduce the shortages in the labour market. According to the different advisory committees, the solution to the effects of ageing must mainly be sought in an increase in labour participation of persons and groups of persons who are, either partly or entirely, still on the sidelines, such as persons entitled to a benefit, women, and people over 55, and in an increase in labour

¹¹ Lower House of Parliament 29 693 no. 1, July 2004.

¹² The Lisbon Strategy was adopted by the European Council on the proposal of the European Commission in 2000. One of the objectives of the Strategy was to ensure that, in 2010, the EU would be the most competitive and dynamic knowledge economy worldwide. This objective has not been achieved. In 2010, the Lisbon Strategy was succeeded by the Europe 2020 Strategy. See also: <http://www.europa-nu.nl/id/vh7dotpnvfe/lissabonstrategie>.

productivity¹³ The Dutch view on the shortages in the labour market and the role that migration could play in this respect is discussed extensively in EMN's report 'Satisfying Labour Demand Through Migration.'¹⁴

As stated above, during the last few years Dutch migration policy has developed into a policy that is inviting to highly skilled migrants and restrictive to migrants in the middle and bottom segment of the labour market. The basic principle for the latter group of migrants is that employers can only obtain a work permit for third-country nationals if there is no labour supply from the EU or the EEA. The idea is that, in this way, labour migration is in proportion to the shortages in the labour market: if there are no suitable workers available in the EU/EEA, a work permit may always be granted in respect of a third-country national.

The economic crisis and increased unemployment resulting from this have once again raised questions again in the Dutch public and political debate about the desirability of temporary and circular migration of medium educated or low educated people. During the debate in the Lower House of Parliament on the government policy document 'International Migration and Development 2008' (*Internationale Migratie en Ontwikkeling 2008*), various parties asked questions about the timing of the circular migration pilot project (see below in this Section) and how this would be compatible with the sizeable wave of dismissals that were being announced at the same time in the Netherlands.¹⁵ The debate resulted in a motion from the liberal VVD (People's Party for Freedom and Democracy) requesting the government to cancel the pilot project with a view to the increasing unemployment. In the end, the motion, which was also supported by the PVV (Party for Freedom), and ToN (Proud of the Netherlands), was not adopted. On 14 October 2010, a new coalition government of CDA (Christian Democratic Appeal) and VVD, with the passive support of PVV, took office in the Netherlands. As a result, one of the coalition parties and the party supporting the minority government passively are negatively inclined towards the circular migration pilot project. By now, the pilot project has started and will be discussed in more detail in Section 2.1.⁶

The legislation and regulations in the area of labour migration will be explained further in Section 2.2.

2.1.3 Brain drain versus development of countries of origin

In the Dutch public and political debate on migration from developing countries to industrialised countries, the fear of 'brain drain' has been a prominent theme for years. A recent example can be retrieved from the debate in the Lower House of Parliament on the Modern Migration Policy Bill of 10 February 2010.¹⁶ During this debate, the members of Parliament from the Socialist Party (SP) objected to the principle of 'enticing the best people from poor countries to serve our own interest, the economic interest of the Netherlands.' In Dutch politics and society, the concerns expressed related, in particular, to recruiting medical staff in developing countries where there is a shortage of medical staff. The Dutch government then in office was of the opinion that there were both ethical and practical objections to labour migration of health care staff. In addition to the risk of brain drain, language and cultural differences between foreign health care staff and Dutch patients are considered barriers that are difficult to surmount.¹⁷ This opinion is based on bad experiences of the Netherlands in the recent past with labour migration projects for nursing staff from Poland, Indonesia, the Philippines, and South Africa. None of these projects was successful: the intermediaries proved to be unreliable and there were often misunderstandings about the salaries, the educational levels, and/or work experience. There were also often insurmountable cultural differences and language problems.¹⁸

Dutch care institutions hardly ever recruit staff in developing countries.¹⁹ At least five Dutch hospitals, however, recruited in total 62 OR assistants in India in 2008 and 2009, despite the bad experiences in the

¹³ SER Advice 07/02 (2007); Commissie Arbeidsparticipatie (Labour Participation Committee) (2008); ACVZ (2009).

¹⁴ NL EMN NCP, August 2010.

¹⁵ Lower House of Parliament 30 573 no. 35, 5 March 2009.

¹⁶ Lower House of Parliament 53-4861, 10 February 2010.

¹⁷ Lower House of Parliament 2009-2010 Appendix to the Proceedings 424.

¹⁸ Advisory Committee on Aliens Affairs (ACVZ) (2009).

¹⁹ Lower House of Parliament 30 573 no. 34.

past, whereas there is a shortage of medical staff in the country itself. Members of Parliament repeatedly asked questions about this in the Lower House of Parliament.²⁰ On 8 September 2010, the Dutch newspaper *NRC Handelsblad* published an article stating that nearly all OR assistants required additional training.²¹ In particular, cultural differences and language were said to cause problems, as a result of which communication in the operating room was difficult. Indian OR assistants were said to adopt a more reticent attitude than usual in the Netherlands and, in addition, it appeared to be necessary to pay attention to compliance with Dutch hygiene regulations. As a result of this newspaper article, the SP once again asked questions in the Lower House of Parliament about such issues as the costs involved, the risks posed by the problems outlined, and about a possible prohibition on this 'neo-colonial practices of hospitals'.²²

In the Netherlands, a Governance Code for socially responsible business practices and a Quality Mark for Intermediary Agencies for Foreign Workers have been developed. In addition, the Netherlands has made efforts to realise a code of conduct at the European level in the area of ethical recruitment of medical staff from outside the EU; so far without much success.²³

In general, only a limited number of highly skilled migrants from developing countries work in the Netherlands, as a result of which the Dutch contribution to the phenomenon of brain drain is considered small.²⁴ The Dutch government recently had a study conducted concerning policy recommendations on brain drain.²⁵ This study was initiated in response to the wish of several parliamentary parties in the Lower House of Parliament to set up compensation projects in the countries where brain drain was causing damage.²⁶ One of the conclusions of the study was that policy to counter or compensate brain drain should be demand-driven by developing countries. Experts consider countering brain drain by means of inspections and discouraging measures hardly effective. The former State Secretary for Justice has promised to work out the results of the study in concrete policy proposals.

The view that labour migration predominantly has negative consequences for developing countries, which had prevailed in the past, has, however, been adjusted in the last few years.²⁷ The government policy document 'International Migration and Development 2008' suggests that most studies concluded that South-North migration has reduced poverty in developing countries. The above-mentioned policy document stated that, in addition, many developing countries have to contend with unemployment among more highly educated people, and migration may result in brain *gain* in developing countries in the long term. Migration of more highly educated people was said to encourage those staying behind to study longer. In addition, migrants from developing countries were said to be able to give an economic boost to their countries of origin by trade between the country of origin and the Netherlands. They were also said to commit themselves to political and socio-economic development in their countries of origin.

Money remittances by migrants may also have a positive effect on the economy in general and on the participation in education and the educational level of children that stayed behind, in particular. Strengthening the relationship between money remittances and development was designated the government's prime focus priority in its policy document 'International Migration and Development 2008'. A prime consideration in this context is that money remittances by migrants are private, and that the government is not allowed to play a steering role in how this money is spent. The Dutch government sees, however, possibilities to ensure that the entire population will benefit in a more lasting and structural way from the improved purchasing power of the family members and relatives that have stayed behind, by encouraging the development of the financial sector in the countries of origin.

²⁰ Lower House of Parliament 2009-2010 Appendix to the Proceedings 424. Lower House of Parliament 2009-2010 2010Z12640.

²¹ NRC, 8 September 2010

http://www.nrc.nl/binnenland/article2616815.ece/Zware_belasting_chirurgen_door_inzet_Indiaas_personeel

²² Lower House of Parliament 2009-2010 2010Z12640, questions.

²³ Lower House of Parliament 30 573 no. 54, 26 January 2010.

²⁴ Lower House of Parliament 30 573 no. 34, 10 February 2009.

²⁵ Lower House of Parliament 30 573 no. 54, 26 January 2010.

²⁶ Lower House of Parliament 30 573 no. 15, 9 December 2008.

²⁷ Lower House of Parliament 30 573 no. 11, 4 July 2008.

In order to improve the transparency of the Dutch market for money remittances, the foundation IntEnt²⁸ has designed the website www.geldnaarhuis.nl. This site was expanded in 2007, with a subsidy from the Ministry of Foreign Affairs. In addition, the Netherlands sees possibilities in investigating 'remittance corridors', defined as the aggregate of money flows from country A to country B. Substantial flows of money remittances would be an additional encouragement for the development of the financial sector in the countries of origin. Possibilities in this context are, for instance, linking money remittances to other financial services, such as mortgages, forms of saving, and credit. The role of the government could be to encourage banks to design these types of products by drawing their attention to the existence of substantial corridors.

Some questions were, however, also raised about the desirability of money remittances. In October 2009, the former Minister for Housing, Communities and Integration questioned the phenomenon of 'newcomers to the Netherlands renting houses here and saving money for a second home in Morocco or Turkey'.²⁹ He was of the opinion that newcomers to the Netherlands were directing their focus too much on the countries of origin, which would hinder integration in the Netherlands. He called on newcomers to the Netherlands not to put all their savings aside for a house in their country of origin, but to invest part of the money in their own living environment ('in which the government and the housing corporations also invest much money'). In addition, he pointed to the possibility of investing in the future for their children in the Netherlands, for instance, by participation in sports clubs and the purchase of a PC for homework. The Minister expressed the wish that immigrants should really make a choice for the Netherlands and should not 'keep one foot in their homeland'.

2.1.4 Advantages and disadvantages of temporary and circular migration for the individual and his/her family

In its government policy document 'International Migration and Development 2008', the Dutch government referred to a number of studies which showed that international migration is a social and economic strategy of families and households from the middle class. The purpose of such a strategy is to spread the income risks, to increase incomes, and to gain access to a potential source of investment capital in order to realise greater social and economic security. In addition, the policy document pointed to studies which showed that international migration often enabled families to improve their living conditions in the form of better food, housing, clothes, and education. Temporary migration may also contribute to the quality of life of the migrant him/herself by gaining knowledge and developing skills that he/she may apply upon return in the country of origin. This last criterion is also the basis of the possibilities offered by the Netherlands for temporary migration in the context of traineeships and cultural exchange. The legislation and regulations in this respect will be discussed in more detail in Section 2.2.

Although the general opinion in the Netherlands on the influence of international migration on living conditions of the individual and his/her immediate circle is predominantly positive, there have also been some critical remarks. In particular, criticism has been directed at the possible disadvantages of migration for the family members that stay behind. In the debate in the Lower House of Parliament on the Modern Migration Policy Bill, the SP pointed to the fact that in Poland, children's homes had been established for children of parents who work abroad.³⁰ The government policy document 'International Migration and Development 2008' pointed to an increase in the expenses, tasks, and concerns of women who stayed behind, without this necessarily being accompanied by a permanent increase of their position of power. In addition to these disadvantages for those staying behind, the concerns expressed also related to the vulnerable position of the labour migrants themselves, as this may cause abuse and marginalisation.

²⁸ IntEnt provides training courses and advice to persons who wish to start up their own business in countries that participate in the programme of the foundation. See also: <http://www.ondernemenoverdegrens.nl/>

²⁹ http://www.nrc.nl/binnenland/article2399699.ece/Van_der_Laan_wil_beperking_terugkeer_allochtonen

³⁰ Lower House of Parliament 53 4863, 10 February 2010.

2.1.5 Return of temporary and circular migrants

Concerns about the return of temporary labour migrants have taken up a prominent place in the Dutch political and public debate. This has its direct origin in the experiences with guest workers in the sixties and seventies, with respect to whom it was initially assumed that their migration was temporary in nature.³¹ As set out in the government policy document 'Development and Migration 2004', experience has shown, however, that as soon as a migration system gets going, it is quite difficult for countries that respect international law to stop it again. The guest workers remained in the Netherlands, and the result was the subsequent immigration of family members, even when employment opportunities decreased in the seventies and eighties due to the economic recession. The above-mentioned document from 2004 suggested that migration to industrialised countries is not regulated well by the labour market, as the facilities in the welfare state make it possible for migrants to stay in these countries, even if there is no longer a demand for their labour. It furthermore suggested that, in the last few decades, migration has been accompanied by considerable integration problems in the Netherlands.

For the implementation and the level of support of Dutch migration policy, it is consequently considered essential that migrants who no longer have lawful residence leave the Netherlands.³² As a result of this, the issue of return also features prominently in the debate on temporary and circular migration. The Advisory Committee on Aliens Affairs (ACVZ) stated in its advice 'Temporary Labour Migration 2015-2035'³³ that the success of temporary labour migration will depend on the degree in which return is safeguarded at the end of the employment agreement. In order to promote the return of temporary migrants, this Committee made the following recommendations:

- Do not admit any family members of temporary migrants. It is assumed that the decision whether or not to return after several years is influenced by the wishes of the family members present. If the family continues to reside in the country of origin, the likelihood of return is larger.
- Impose an obligation on employers to report and to co-operate in a migrant's return.
- Conduct research into the possibility of imposing sanctions on organisations and persons who let houses to illegal foreign nationals.
- Introduce sanctions for migrants, such as exclusion from a subsequent period of residence as a labour migrant or postponement of the payment of pension contribution refunds until the migrant has returned to the country of origin.
- Introduce bonuses for migrants, for instance, by initiating a money flow to assist the migrant after his/her return to the country of origin.
- Provide assistance in reintegration of migrants in the country of origin, for instance, by providing a migrant a guaranteed place to work for a year in a business location of the company where he/she worked in the Netherlands.

During the debates in the Lower House of Parliament on the circular migration pilot project, which commenced recently, the return of circular migrants was one of the core issues. The Minister for Development Co-operation indicated that return is essential for the success of the pilot project. Through their return, migrants can contribute to the sustainable development of their country of origin.³⁴ The pilot project will be discussed in more detail in the next subsection.

2.1.6 Blue Birds - Circular migration pilot project³⁵

The political debate on migration and development, that has been conducted on an ongoing basis since the publication of the policy document 'Development and Migration' in 2004, finally resulted in the

³¹ In the sixties, the Netherlands was confronted with a shortage of manpower, in particular, for heavy and unskilled work. As a result of this, Dutch employers recruited workers in countries around the Mediterranean Sea in the sixties and seventies, including Spain, Italy, Yugoslavia, and later on, in Turkey, and Morocco. In 1973, the government announced a recruitment freeze.

³² NL EMN NCP, August 2009.

³³ May 2009

³⁴ Lower House of Parliament 30 573 no. 52.

³⁵ Part of this section is derived directly from the EMN study 'shortages in the labour market' (*Tekorten op de Arbeidsmarkt*). EMN NL NCP, in press.

decision of the Dutch government, in 2007, to launch a circular migration pilot project on the basis of which people from developing countries were given the opportunity to work temporarily in the Netherlands. The pilot project is a joint initiative by the Ministry of Foreign Affairs, the Ministry of Security and Justice, and the Ministry of Social Affairs and Employment. The purpose of this pilot project is to examine whether temporary labour migration will actually produce advantages for all parties concerned: the migrants, the Dutch labour market, and the countries of origin. The primary target group for this pilot project is the group of migrants with a senior secondary vocational education. The upper limit for participation in the pilot project is determined by the Highly Skilled Migrant Scheme. Migrants who would be able to come to the Netherlands on the basis of this Scheme do not qualify for participation in this pilot project.³⁶

After a public tender, HIT Foundation was selected to implement the pilot project. HIT's mission is: 'to promote a balanced society in which the social and economic benefits of and for migrants are optimally exploited'.³⁷ HIT focuses on innovative projects and experiments focused on the interface between migration and labour, and is also engaged in research and other projects in the area of sustainable return and reintegration.

The reason for choosing HIT was that in their offer a relatively large sum accrued directly to the preparation, employment, and reintegration of the circular migrant. In addition, HIT was paying much attention to the return and reintegration of circular migrants, which the Dutch government considered an essential element of circular migration.³⁸ Even before the start of the pilot project, HIT identified and listed initiatives in the area of local return and reintegration, which could be taken up by HIT later on.³⁹ The name of the pilot project is *Blue Birds*. Blue Birds was launched on 1 December 2009 and it runs until 30 December 2012. The evaluation of the project, by the World Bank, will continue until 1 October 2013. More detailed information about the conditions and features of this project will be given below.

Research project aimed at influencing migration flows of medium educated or low educated people.

In the first place, Blue Birds must be seen as a research project. The pilot project will study how temporary labour migration can contribute to sustainable development in developing countries and how the Dutch business sector may benefit from this.⁴⁰ Apart from the Netherlands, the European Commission and a number of European countries are also interested in the results of this research.

The project is conducted by HIT Foundation on the instructions of the Ministry of Foreign Affairs, the Ministry of Security and Justice, and the Ministry of Social Affairs and Employment. The Dutch government will act as a facilitator where necessary.⁴¹

An external Advisory Board of politicians and experts in the area of employment, justice, and development has been set up especially for this pilot project. The World Bank (*World Bank Development Research Group*) is responsible for the external monitoring and evaluation of the pilot project. For this purpose a special Terms of Reference (TOR) document⁴² has been drawn up.

The pilot project has been divided into 3 distinct phases.⁴³

Phase 1: Matching professional needs (March until December 2010)

At this stage, interested employers in the Netherlands are matched to suitable candidates. This phase consists of the following steps:

- Identifying vacancies in the Netherlands;
- Recruiting candidates:

³⁶ Verbal information from the HIT Foundation.

³⁷ <http://hitfoundation.eu/nl/over-hit/missie>, consulted on 6 September 2010.

³⁸ Lower House of Parliament 30 573 no. 52.

³⁹ Written information from the Ministry of Foreign Affairs.

⁴⁰ www.hitfoundation.eu, consulted on 13 August 2010

⁴¹ Written information from the Ministry of Foreign Affairs.

⁴² Terms of Reference (TOR) is a term for an assignment that has been given to a mission or an expert, and to which a mission or expert is to refer in the performance of their/his duties. A TOR often includes a formulation of the duties to be performed and a list of matters that must be investigated.

(<http://www.mijnwoordenboek.nl/vertaal/EN/NL/terms%20of%20reference>), consulted on 20 October 2010.

⁴³ www.hitfoundation.eu/bluebirds, consulted on 13 August 2010

- Drawing up personal development plans;
- Logistical preparation, including intercultural preparation.

At the time of writing this report, approximately 50 definite vacancies had been identified. So far, 10 candidates have been selected. In addition to this, interviews were being conducted with regard to another approximately 50 potential jobs with interested employers. Two recruitment and selection partners have been found in South Africa.⁴⁴

Phase 2: Work & Learn in a foreign country (from October 2010 at the latest)

In this phase, the migrant will work and learn in the Netherlands. During the whole period, the focus will be on developing new competencies that the migrant cannot acquire in his country of origin, and that will give the migrant more job prospects in the labour market upon return. In this phase, the migrant will be assisted in finding his/her way around the workplace and in daily life in the Netherlands.

Phase 3: Realising development impact (2012)

In this phase, the migrants will return home. There will be special attention paid to the prospects for a good job in the home country. In addition, a number of activities will be set up in the home country to help participants find work, including an active professional network, training for entrepreneurs, and investment opportunities.

Participation requirements and rights

- The participants will be permitted to work and live in the Netherlands for a maximum period of two years;
- The jobs concerned must be regular jobs (no traineeships or work experience places) for at least four days a week;
- The salaries must be in line with market rates in the Netherlands;
- Jobs in the health care sector are excluded;
- The jobs are exempt from a so-called 'labour market test' for priority workforce (see section 2.2);
- Family reunification is not permitted in the context of this pilot project;
- Participants must draw up a Personal Development Plan;
- Taking out a health insurance policy is compulsory;
- Housing will be arranged for participants;

The substance of the public and political debate on temporary and circular migration is reflected in the requirements for Blue Bird participants. The requirement that a permit be granted for a maximum period of two years, and that family reunification will not be permitted, stems from the wish to prevent these migrants from settling permanently in the Netherlands. Taking out a health insurance policy and arranging for housing will prevent the migrant from ending up in a distressing situation. Due to the bad experiences of the Netherlands with labour migrants in the health care sector, and due to the resistance felt in the Netherlands against recruiting health care staff in developing countries, this sector has been exempted from participation in the project.

Co-operation with South Africa and Indonesia

The countries selected for co-operation are South Africa and Indonesia. The maximum number of participants from each country is eighty. The decision to select Indonesia was made on the basis of its huge economic capacity. In addition, discussions were held between the governments about an integrated return policy in terms of social, economic and financial assistance. The decision to select South Africa was made on the basis of its abundant supply of skilled professionals. Another essential criterion was that English language proficiency is generally high among this target group. The South African government attaches great importance to the return of South Africans whose experience abroad will benefit the local employment market. Although South Africa has no comprehensive reintegration programme yet, there have been developments in the area of job integration, including several of which are aimed at setting up a one's own business. The pilot project will aim to join efforts with these developments.

At the moment of writing this report, no co-operation agreements had been signed yet between the Dutch government and the governments of South Africa and Indonesia. Nor did Indonesia and South

⁴⁴ HIT Foundation 2010

Africa make any commitments in relation to taking back circular migrants. Return will be promoted by application of the Personal Development Plan (see below).⁴⁵

Recruitment aimed at sectors with shortages in the labour market

The pilot project is being carried out in sectors dealing with shortages in medium educated employees. The selection of specific professions was made on the basis of consultations with UWV WERKbedrijf⁴⁶, entrepreneurs, and international recruitment agencies. In this context, account is being taken of the volatile nature of demand side of the labour market. Each separate request made to the UWV list of professional shortages is being assessed for its added value for the job seeker and for the opportunities for international entrepreneurs. The consultations revealed that shortages of manpower are present in the following sectors: the metal industry (shipping and machine building), the food industry, agribusiness, and logistics. The first experience in the pilot project was that the number of potential vacancies (professional shortages) had decreased drastically due to the economic crisis. It is only since mid-August that the number of vacancies seems to be gradually increasing.⁴⁷ Most vacancies can be found in technical and IT jobs. In the first phase of the project, there appeared to be clearly more interest in employees from South Africa than from Indonesia.

Personal Development Plan (PDP)

In order to be able to carry out the work-study programme properly, a Personal Development Plan (PDP) is drawn up together with the migrant. The aspects included in a PDP are the labour migrant's professional ambitions and long-term objectives (in the country of origin), his performance, the employer's long-term objectives, and the current and future job requirements. It is important to develop new competencies and skills which the labour migrant cannot acquire in his country of origin. The first companies that welcomed participants in the project as employees were Royal Haskoning, Witteveen + Bos, and OTTO Work Force.

Focus on return and contribution to sustainable development in the country of origin

Return is essential in the pilot project. The pilot project is meant to contribute to the aim that, upon return, the labour migrants will be able to use the work experience gained to strengthen their labour position or to start up a business of their own. Success in sticking to the personal development plan (PDP) has been linked to the receipt of a return bonus for the migrant.⁴⁸ The pilot project encourages the labour migrant to develop greater self-reliance and to maximise his/her individual development. The underlying principle is that this will prevent poverty and brain drain in the long term. In this way, the migrants can contribute to the sustainable development of their countries of origin, and as a result of this also to the objectives in the area of development formulated by the Dutch government. The pilot project aims at expanding and intensifying the co-operation of the Netherlands with the countries of origin (at the level of business communities as well as that of governments) in the context of development and/or migration.

Provisional findings

In its semi-annual report of September 2010, HIT Foundation mentioned several provisional findings, which were based on a limited number of observations. These observations are as follows:

Employers in the Netherlands:

- Employers are enthusiastic about engaging international employees if a good match is established between demand and supply;
- The engagement of international employees still has so many bottlenecks that employers only consider engaging employees for jobs for which no one can be found in the Netherlands or in the EU/EEA;

⁴⁵ Written information from the Ministry of Foreign Affairs.

⁴⁶ The UWV WERKbedrijf is the work placement division of the UWV (the Netherlands Employee Insurance Executive Agency), and is the meeting point for job seekers and employers. It offers employers information and facilities in the search for qualified personnel. It offers job seekers support in finding work. Job seekers are assisted, until they have once again found work, in their applications for benefits. For employers, the UWV WERKbedrijf handles applications for dismissals, and applications for employment permits.

⁴⁷ HIT Foundation 2010

⁴⁸ Written information from the Ministry of Foreign Affairs.

- The maximum period of 2 years, which the labour migrants are permitted to work in the Netherlands, is much too short for many employers, and an important reason to decide against participation in the pilot project;
- Language and culture are also reasons for employers to decide not to recruit employees in third countries;
- The use of intermediary agencies, such as Randstad and OTTO Work Force, proved to be a safe way for employers to participate in this pilot project;
- Intermediary agencies considered business development an important reason to participate in the pilot project.

Employees in South Africa and Indonesia:

- The employees who appeared to be readily employable in the Netherlands also have jobs in the country of origin.
- Money does not seem the only motivation for participation in the pilot project. Security, challenge, adventure, personal development, and improved job prospects upon return are – insofar as noticeable until now – also mentioned as important motives for participation in the pilot project;
- Due to the type of jobs, more men than women appear to have participated so far, although the proportion for the first ten jobs was 50/50.
- There appear to be slightly more participants, but certainly not exclusively, from the age group of 25-35 years of age.

2.1.7 Temporary assignments of migrants to their countries of origin

The majority of public and political attention in the Netherlands in the area of temporary and circular migration is paid to migration of third-country nationals to the Netherlands. The focus in this report is consequently on this form of circular migration. As formulated in section 1.3, however, the term 'circular migration' also means temporary assignment of third-country nationals with a right of residence in the EU to their countries of origin. In the Netherlands, several organisations have been active in this field. Their activities will be described in this section.

International Organisation for Migration in the Netherlands (IOM the Netherlands)

The relationship between migration and development is an important point for attention of IOM the Netherlands. IOM is of the opinion that, in these times of unprecedented migration, there is an urgent need for a better understanding of the interrelationship between migration and development, and for specific projects that promote the positive impact of migration on development.⁴⁹

In this context, IOM the Netherlands has launched three projects for temporary return of migrants to their countries of origin for the purpose of strengthening capacity. In the context of these projects, migrants are seen as 'agents of change'. The idea is that migrants, because of their knowledge of the country's language and culture, have little difficulty in assimilating, and are able to work effectively together with local organisations. IOM the Netherlands has experienced that migrants who have been assigned to their countries of origin tend to be quicker than foreigners at understanding what the problems are and, consequently, are able to be quicker at seeking a solution. This poses, however, the risk that the migrant will be inundated by demands upon him by the society in the country of origin, because people in his environment will frequently appeal to him. It is important that the migrant remains focused on the task for which he was assigned. In addition to being an insider, migrants have partly also become outsiders. Due to their migration, they sometimes see things differently from the people in their countries of origin. This has advantages, but this may also result in the fact that migrants need some time to prove themselves. Young people who are being assigned to such a task and who arrive in a working environment where the majority of employees are older people might initially be confronted with a mutual lack of understanding.

Some migrants who are being assigned to such a project may use the assignment period to see whether they would be able to build up a life again in their country of origin. It sometimes occurs that migrants who came to the Netherlands when they were young decide to return to the country of origin for a longer period of time. This depends, of course, on the situation in the countries of origin: a Cape Verdean is

⁴⁹ http://www.iom-nederland.nl/Programma_s/Migratie_Ontwikkeling, consulted on 16 August 2010.

more likely to see possibilities in his country of origin than an Afghan will. Others will find a job upon return to the Netherlands, thanks to their assignment abroad.

IOM the Netherlands has identified an increased awareness in the countries of origin about the fact that migrants could make a positive contribution to the development of the country. In the implementation of these projects, IOM the Netherlands has co-operated with migrant organisations to some extent. IOM encourages the organisation of professional networks in the diaspora (networks of migrants with the same profession). There are hardly any such networks in the Netherlands. The diaspora in the Netherlands is mainly organised on the basis of origin. According to IOM, networks of professionals (which exist in the United Kingdom and the United States of America) will be more visible in the country of origin and better able to share knowledge with the home country.⁵⁰

Below is a more detailed description of the three IOM projects.

*MIDA Ghana Health*⁵¹

In 2005, IOM the Netherlands launched the MIDA Ghana Health Project in co-operation with the Ministry of Health of Ghana and the Dutch embassy in Accra. The objective of this project is to contribute to the development of, and improvement in, the health sector in Ghana. On the one hand, Ghanaian migrants in EU countries can transfer knowledge, skills and experience through temporary assignments to Ghana. On the other hand, health workers from Ghana have the opportunity to do specialized training at health care institutions in the Netherlands.

After the successful projects of MIDA Ghana I & II, IOM the Netherlands launched its MIDA Ghana III Project in April 2008. This project runs until 2012. The focus of the MIDA Ghana III Project is to contribute to the improvement of the human resources development. The emphasis is consequently on knowledge transfer and training.

The project provides individual arrangements. Starting from the specific needs of training institutions and hospitals in Ghana, members of the diaspora may be assigned once or several times on a temporary basis, or may transfer their knowledge virtually. An assignment averages between two weeks to three months. In addition, health care institutions in Ghana have the option of selecting candidates for additional training in the Netherlands. IOM is investigating the training options in European hospitals. Matching demand and supply is done by IOM and the Ghanaian Ministry of Health. IOM provides financial support and assistance in arranging for the visa, work permit, transport, and housing.

The reason for starting this project is the brain drain of, in particular, doctors and nursing staff in Ghana, and its consequences for the quality in the health care sector. The assignments are, however, not intended to put an end to the exodus of medical staff in Ghana and to fill the gaps as a result of staff shortages.⁵² Solving the brain drain problem is, consequently, not an objective of the project. IOM is of the opinion that in order to solve this problem it will be necessary for Ghana to take measures that make the terms and conditions of employment for medical staff more attractive. Assignments always relate to capacity building; people will never be assigned to perform regular jobs. In this context, however, efforts have been made to deploy people who are being assigned as strategically as possible, for instance, in the area of orthopaedics and emergency care, areas in which Ghana still needs capacity building. In addition to medical training courses, specialists in the area of management and IT in the health care sector are sometimes also sent out on such assignments. Capacity building in these areas may contribute to improving the enabling conditions for medical staff in Ghana, as a result of which it will become more attractive to continue to work in Ghana.

Some people who had been sent out on such assignments went back for a longer period of time. In addition, it has sometimes occurred that people were assigned several times to take part in this project. This causes long-lasting relationships, as a result of which co-operation agreements between health care institutions in Ghana and in the EU have taken definite shape. Some training courses which are provided

⁵⁰ Interview IOM the Netherlands

⁵¹ The project descriptions in this section were derived from the information on the projects on the IOM site on 16 August 2010.

⁵² Interview IOM the Netherlands

in Ghana within the framework of the project have been acknowledged by the Ghanaian government and have been institutionalised in this way.

Since the start of the project, IOM has assisted in approximately 150 to 200 temporary assignments to Ghana.⁵³ In 2008, there were 44 assignments, and in 2009, there were 35 assignments.⁵⁴ In total, approximately 10 Ghanaians travelled to the Netherlands or to the United Kingdom for a short traineeship or training course.⁵⁵

The project is evaluated regularly by a task force, which was established in Ghana and in which the Ministry of Health, training institutions, and mission hospitals participate. The success of the project is measured on the basis of the impact of the assignments on the institutions themselves. IOM the Netherlands and the Ghanaian Ministry of Health have planned a workshop in October 2010 to evaluate the provisional results of the project.⁵⁶

Temporary Return of Qualified Nationals II

The *Temporary Return of Qualified Nationals Project* (TRQN II) is aimed at the reconstruction and development of Afghanistan, Bosnia and Herzegovina, Ethiopia, Georgia, Sierra Leone, and Sudan. This is being realised by the temporary assignment to these countries of highly skilled migrants who live in the Netherlands or other EU countries and who originate from one of these countries. The assignment periods may vary from several weeks to a maximum of three months. The objective of the assignments is to contribute to the capacity building of local institutions by means of a 'train the trainer'⁵⁷ approach. An important starting point is the demand in the countries of origin. In this project, IOM co-operates closely with partner organisations in the public and private sector in the countries of origin and with migrant networks in the Netherlands and other European countries. IOM provides financial support and assistance in arranging for the visa, work permit, transport, and housing of the assigned migrant.

In the Dutch IOM TRQN Project, countries have been selected which are on the list of partner countries of the Minister for Development Co-operation. The project is financed from the budget for Migration and Development of the Ministry of Foreign Affairs. Another criterion for selection was that the countries must have large communities of migrants in the Netherlands. In addition, the countries concerned must have a local IOM office with an appropriate network. IOM also considers it important that the country's national government is positive towards the diaspora and the role the members of the diaspora may play in the development of the country. In this context, IOM also considers it important that the role to be played by the members of the diaspora in the country of origin has been adopted into the country's development objectives, and that it is part of its poverty reduction strategy.⁵⁸ In several countries (Bosnia and Herzegovina, Sierra Leone, and Sudan), the positive results of the project have also resulted in the development of a migration and development policy.⁵⁹

In the context of TRQN, IOM has also facilitated virtual assignments which are intended for on-line transfer of knowledge. In Afghanistan and in Sudan, for instance, Autocad courses (a computer programme for technical drawing) have been provided by means of e-learning. In different parts of the country, the students log on at the same time with the course leader in the Netherlands to follow the course. For this purpose, a programme is used which makes it possible to see each other's screens. Another programme that is used for this purpose is Skype. A precondition for a virtual assignment is that a good and rapid Internet connection is available, which is not always the case. According to IOM the Netherlands, the virtual assignments are specifically suitable for technical training courses. IOM considers virtual assignments not suitable for training courses for, for instance, midwives and awareness raising, as interpersonal contact is essential in these courses. In addition to the virtual assignments, digital exchange also occurs at a more basic level. Each physical assignment produces e-mail traffic, but some people also keep web logs and so on.

⁵³ Interview IOM the Netherlands

⁵⁴ IOM Annual Report 2009 (2010)

⁵⁵ Interview IOM the Netherlands

⁵⁶ IOM (2010)

⁵⁷ In this formula, one employee is trained and he/she is subsequently assigned the task to train other employees.

⁵⁸ Interview IOM the Netherlands

⁵⁹ IOM (2009)

TRQN II runs until June 2011. Since the start of the TRQN in April 2006, IOM has assisted in more than 180 to 200 temporary assignments to Ghana. In 2008, there were 49 assignments, and in 2009, there were 96 assignments.⁶⁰

Within the framework of TRQN II, 300 'physical' assignments and 50 'virtual' assignments have been planned.⁶¹ The project is supported financially by the Ministry of Foreign Affairs.

DIAS de Cabo Verde

DIAS DE Cabo Verde is carried out by IOM the Netherlands, Portugal, and Italy in co-operation with the Instituto das Comunidades de Cabo Verde and the Cape Verdean diaspora in the aforementioned countries. The project is co-financed by the European Commission and by the Portuguese Ministry of Foreign Affairs. The project aims at capacity building in Cape Verde, through the engagement of members of the diaspora residing and working in Portugal, Italy and The Netherlands. Another objective of the project is to contribute to tightening the transnational network of the diaspora, and reinforcing the communication network between diaspora members and institutional entities in Cape Verde.

The core activities are:

- Mapping the needs in Cape Verde;
- Developing a website where all interested parties can register and make their profile available for future training missions;
- Developing a database to store the knowledge and skills of Cape Verdeans abroad and the needs in Cape Verde;
- Organising short training missions;
- Organising network missions to promote development initiatives of migrants;
- Disseminating information on investment possibilities for migrants and facilitating partnerships between business partners abroad and in Cape Verde.

Stichting DIR

The Ethiopian migrant organisation 'Stichting DIR' received a subsidy from the budget for Migration and Development in 2010 for the purpose of sending thirty Ethiopians residing in the Netherlands on assignment to Ethiopia for a period of six to twelve months.⁶² These migrants will be assigned within the organisation's Capacity Building through Diaspora Programme.⁶³ The organisation expects that an informal after-care project will be developed once the participants are back in the Netherlands.

PSO

PSO is an association that consists of nearly 60 Dutch development organisations, which aims at capacity building of civil society organisations in developing countries.⁶⁴ In 2006, PSO set up a stimulation fund named 'Cross Over', for the secondment of highly skilled migrant and second-generation migrants to their countries of origin. The fund provides for possible supplementary courses, allowances as supplements to local salaries as well as allowances for the costs of family reunification, housing, and supplementary insurance. The programme was evaluated in 2009. In 2008, four projects were completed successfully. In 2008, there were thirteen secondments. The number of applications was lower than expected because the organisations often had difficulty finding the right candidates or because the temporary employment conditions acted as an obstacle for the migrants.⁶⁵ In response to this, PSO amended its temporary employment conditions. At this time, applications for financial support may only be submitted by member organisations of the association. The organisation is currently developing application procedures for migrant organisations. In addition, PSO initiated a partnership with other organisations (Emplooi⁶⁶ and the African Diaspora Policy Centre⁶⁷) to recruit suitable candidates.

⁶⁰ IOM Annual Report 2009 (2010)

⁶¹ IOM (2009)

⁶² Lower House of Parliament 30573, 26 January 2010.

⁶³ <http://www.stichtingdir.nl/>, consulted on 19 August 2010

⁶⁴ <http://www.pso.nl/content/over-pso>, consulted on 6 September 2010

⁶⁵ PSO Annual Report 2009 (2010)

⁶⁶ Emplooi is an employment agency for refugees See also <http://www.emplooi.net>.

Partly in response to the evaluation, PSO has established a link between the Cross Over Programme and a learning pathway for cultural diversity in the development co-operation sector. One of the objectives of the programme is to realise a further career within the development sector for the participants, after secondment, so that the knowledge gained is not lost. In this context, PSO has assisted member organisations in creating a diverse workforce.

2.2 National legislation, conditions, criteria, and enforcement

2.2.1 Legislation and regulations regarding labour migration, migration for the purpose of study or training and exchange.

The admission and employment of (temporary) labour migrants in the Netherlands has been incorporated in the Aliens Act 2000 and the Labour Act for Aliens. Both Acts have been specified in further detail in subordinate legislation and policy. In respect of the Aliens Act, subordinate legislation has been incorporated in the Aliens Decree, the Aliens Regulations, and the Aliens Act Implementation Guidelines. In respect of the Labour Act for Aliens, subordinate legislation has been incorporated in the Labour Act for Aliens (Implementation) Decree and the UWV Labour Act for Aliens Policy Rules.

The Aliens Act 2000 and the Labour Act for Aliens (and subordinate legislation) stipulate, in conjunction, the conditions under which persons with foreign nationalities are permitted to come to the Netherlands and are permitted to work in the Netherlands. The right of free movement between the Member States applies to citizens from the European Economic Area (consisting of the EU Member States and Norway, Iceland, and Liechtenstein) and Switzerland.⁶⁸ The labour market has not yet been opened up fully for citizens from Bulgaria and Romania. Until 1 January 2012 (with a possible extension until 1 January 2014), transitional arrangements regarding the right of free movement of employees will apply to these nationalities.

The framework within which a foreign national may be granted temporary residence as a student, au pair or for any other form of exchange is stipulated in the Aliens Decree. Dutch policy on admission of foreign students is aimed at giving foreign nationals, under specific conditions, the opportunity to study or follow a course in the Netherlands on a temporary basis. The general criterion for granting a residence permit in the context of exchange is that the purpose of the residence is to learn about Dutch society and culture. Performing paid work is permitted only in specific cases.

The following section sets out the general conditions of admission for labour migrants from third countries. A special policy applies to specific categories of migrants and labour migrants who wish to work temporarily in the Netherlands. Section 2.2.3 describes the policy that applies to the admission of these groups of migrants. The admission policy for other groups of labour migrants, in respect of whom the temporary nature of the residence plays a less explicit role, is described in detail in the EMN report 'Satisfying Labour Demand through Migration'.⁶⁹ Section 2.2.4 will discuss the conditions for residence of foreign students from third countries. Section 2.2.5 will give a description of the admission policy regarding residence for exchange purposes, including residence as an au pair.

⁶⁷ The African Diaspora Policy Centre provides a platform to the African diaspora in Europe to make their contributions to the promotion of peace, better governance, and brain gain in Africa. See also: <http://www.diaspora-centre.org/>

⁶⁸ On 1 May 2006, Directive 2004/38/EC of the Council of the European Council had been incorporated into Dutch aliens policy. This Directive concerns the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. As a result of this, citizens of the EU/EEA and Switzerland who wish to stay in the Netherlands for a period longer three months are no longer obliged to apply for an EU document. Instead, they only have to register with the IND. This obligation still applies, however, to citizens from Bulgaria and Romania.

⁶⁹ NL EMN NCP, August 2010.

2.2.2 Admission policy for labour migrants from third countries

For a third-country national who wishes to work in the Netherlands, the requirements for admission are dependent on the individual situation: either the person has arranged for his/her own residence permit, and/or the employer must apply for a work permit for the relevant person.

A residence permit is required if the third-country national wishes to stay in the Netherlands for a period longer than three months. If he/she intends to come to the Netherlands to work for a period shorter than three months and he/she originates from a country requiring a visa, he/she must apply for a short stay visa before commencing his/her residence in the Netherlands. Workers from countries that are not subject to the visa requirement must carry a declaration stating that the person is known to the police in the Netherlands (a sticker in the person's passport).

Third-country nationals generally require a work permit before they will be permitted to work in the Netherlands. The obligation does not only apply to workers, but also to trainees, volunteers, freelancers, and self-employed persons. Clients of self-employed persons who have obtained a residence permit for work on a self-employed basis are exempt from this obligation, as long as the activities are covered by the work for which the permit has been issued. Workers who only work or stay in the Netherlands occasionally and for a short period of time in order to perform their work are also not obliged to apply for a work permit. Think, for instance, of musicians, guest lecturers, and journalists. Highly skilled migrants also do not require a work permit. In order to be able to be considered a highly skilled migrant, the employee must fulfil a number of conditions. He/she must have entered into an agreement with an employer established in the Netherlands and he/she must have a contract to earn at least a specific minimum income. The employer, on his part, is obliged to participate in the Highly Skilled Migrant Scheme.

Conditions for lawful residence of labour migrants

In order to be considered for a residence permit for work (either as an employee or on a self-employed basis), the presence of the foreign national must serve an essential Dutch interest. The Minister for Immigration and Asylum is responsible for granting residence permits on the basis of the Aliens Act. A foreign national who is applying for a residence permit for work as an employee will be granted a temporary residence permit if his/her employer has been granted a work permit after verification against the priority workforce in the Dutch labour market (see next section).⁷⁰ In the absence of this compulsory work permit, the application for a residence permit or the extension thereof will be rejected. Before granting the residence permit, it will be examined whether the foreign national will obtain a permanent and independent net income with the work as an employee. The residence permit will be granted for a period that is at most equal to the duration of the work permit. In the case of *work on a self-employed basis*, the foreign national must make a major contribution to Dutch economy with its business activities. This will be assessed on the basis of a system of points that was developed by the Minister of Economic Affairs, and will be the basis for his/her advice to the IND. The interests served by the activities of the foreign national may also be related to the area of public health care, economy, and culture or the social and economic area. The considerations in this respect will often include the opinions of the other Ministries. In addition to serving Dutch interests, the foreign national must be able to obtain financial resources independently and for a long period of time, and meet the general and professional requirements set with respect to the performance of the profession or business activities. In agreement with the Minister of Economic Affairs, specific business activities may be designated by ministerial regulation as not serving an essential Dutch economic interest.

Conditions for a work permit

The Labour Act for Aliens stipulates that it is prohibited for an employer to have a foreign national perform work in the Netherlands without a work permit, with the exception of specific categories of foreign nationals. This prohibition does not apply to work performed outside the Netherlands, also if this work is performed by a foreign national who is in the employment of, or on the orders of, a Dutch employer. The prohibition also does not distinguish between paid or unpaid work. Work permits must be

⁷⁰ In addition, the foreign national must comply with a number of general conditions to be considered for a temporary residence permit. One of these conditions is the obligation for specific nationalities to have a valid provisional residence permit (see Section 16 of the Aliens Act and section B1/4 of the Aliens Act Implementation Guidelines for the applicable grounds for refusal).

applied for by the employer, and will generally only be granted to employees who are over 18 years of age, but younger than 45 years of age. The responsibility for granting the foreign national a permit on the basis of the Labour Act for Aliens, and as a result of this for the admission to the Dutch labour market, rests with the Minister of Social Affairs and Employment. Implementation of the Labour Act for Aliens has been delegated to UWV WERKbedrijf (the work placement division of the Netherlands Employee Insurance Executive Agency).

The basic principle for granting a work permit is the availability of the so-called priority workforce in the Dutch labour market. This means that foreign nationals will only gain access to the labour market if there is insufficient supply from workers from the Netherlands and the EEA countries. Consequently, a condition for obtaining a work permit is that the employer must prove that he has first made efforts to recruit staff in the Netherlands and the EEA.⁷¹ In this way, the Labour Act for Aliens protects the Dutch and European labour market. These conditions may be deviated from in specific cases, and, in particular, when foreign nationals are employed in the Netherlands for the purpose of schooling, courses, international exchange, and other international cultural contacts. In addition to the employer's recruitment efforts, there must be evidence that the salaries paid are in line with market rates (which must at least be equal to the statutory minimum wage) and that suitable housing is available for the foreign national, as conditions for granting a work permit.

After having held a residence permit for work for three years, the foreign national is entirely free to move in the labour market. This means that this foreign national's employer will not, or no longer, be obliged to have a work permit after this period.

Types of work permits

There are different types of work permits. UWV WERKbedrijf decides which work permit will be issued for the foreign national. The permit only applies to the type of work for which the permit has been issued.

A work permit for a maximum period of three years

A work permit may be issued for a maximum period of three years. The maximum period is three years, because a work permit is no longer required for a foreign employee who has held a residence permit for work as an employee for three years without interruptions.

A work permit for a period shorter than three years

There are two types of work permits that are issued for a period shorter than three years:

- A temporary, non-extendable permit for temporary, short-term work
This permit is valid for a maximum period of 24 weeks. The foreign national may not have held a valid temporary residence permit to work within a period of 28 weeks prior to the issue of this work permit.
- A temporary, non-extendable permit for specific purposes, for instance, for trainees and students on work placements (see Section 2.2.4).

The granting of a work permit may be subject to an instruction. The instruction may, for instance, be that the employer must make more efforts to find staff, or that the employer must improve the terms and conditions of employment, the working conditions, or the employment relationships.

The work permit also has a number of restrictions. These restrictions relate, in particular, to the function, workplace, and period of validity of the permit. The permit is only valid if the employer observes the restrictions.

Link between work permit and residence permit

Just as a work permit is required in order to grant a foreign national a residence permit to work as an employee, the requirements for the employer – in order to be considered for the granting of such work permit – is that the employer must have submitted an application for a residence permit (or a Regular Provisional Residence Permit) for work, or a visa for work for a period shorter than three months. It will be considered sufficient if the employer can submit the confirmation of receipt of the application for a

⁷¹ Employers are obliged to report the vacancy at least 5 weeks before submitting the application for a work permit to a local office of UWV WERKbedrijf. The minimum period in this respect depends on the job and the professional group. In the UWV Labour Act for Aliens Policy Rules, vacancies are considered difficult to fill if they cannot be filled within a period of three months, or if, in previous years, insufficient priority workforce was available for these jobs.

residence permit. On the basis of the Aliens Act, an assessment is made as to whether the conditions for granting a residence permit have been met. On the basis of the Labour Act for Aliens, an assessment is made as to whether there are grounds to grant a work permit to the employer for whom the foreign national is to work. The procedures that must be followed on the basis of the Aliens Act and the Labour Act for Aliens are closely connected. The decisions on the application to grant a temporary residence permit and the application to grant a work permit influence each other. Both the order in which the applications are submitted and the order in which the decisions on the applications are made are important. It is also important that the organisations involved in the decision-making process exchange information on the applications they have received and their decisions on these applications, in order to avoid ending up in a vicious circle. Because of this information exchange, there is close co-operation between the services responsible for the implementation of these regulations. The basic rule is that the decision on the application for a temporary residence permit is not made until the decision on the application for a work permit has been made. If the work permit is granted, the temporary residence permit will usually also be granted, provided that the other conditions are also met. If the application for a work permit is rejected before a decision has been made on the application for a temporary residence permit, a temporary residence permit to work as an employee will usually also be rejected.

2.2.3 Admission policy for special categories of temporary (labour) migrants

The labour migrant's right of residence is limited to the period for which the employer has received a work permit for him/her. The duration of a work permit is limited, but may be extended depending on the type of permit.

Trainees and students on work placements

The term 'trainee' refers to foreign nationals who come to the Netherlands to perform work that is necessary to complete the training course in the country of origin.

The term 'student on work placement' refers to foreign nationals who come to the Netherlands to gain work experience which is important for their future performance in the country of origin.

An employer must also have work permits for trainees and students on work placements from third countries. The corresponding residence permit for trainees or students on a work placement is temporary. The maximum period of validity of the residence permit for trainees is one year. The maximum validity of the residence permit for students on work placements is 24 weeks. Neither of the permits may be extended.

Trainees may be granted a work permit for a maximum period of one year, without the permit being subject to the obligation of verification against the priority workforce in the labour market. This scope for exemption is subject to the condition that the trainee will have followed sufficient professional basic training in his/her country of origin.

In respect of traineeships at senior secondary vocational educational level, the duration of the traineeship is usually not more than 6 months, as a result of which a work permit will be granted for a maximum period of 6 months.

In respect of unskilled work or work at pre-vocational secondary educational level, a traineeship in the Netherlands is generally not considered necessary for completing the training course. As a result of this, a work permit will usually not be granted for this purpose, unless its necessity for completing the training course has been sufficiently demonstrated.

In respect of foreign nationals with the Surinamese nationality who will be doing a traineeship as a specialist trainee for their specialisation in the Netherlands, a work permit with a period of validity of more than two years may be granted, provided that the relevant specialisation, or parts thereof, is not available in Surinam and there is an additional training place available. Work permits may be granted for each period of 24 months for a maximum of 12 training places and the specialist trainees attached to this.

In respect of foreign nationals with Serbian nationality who wish to do a traineeship on Dutch river barges for the purpose of their training course, it is also possible to grant work permits with a period of validity of more than one year, provided that the conditions are met as set out in the Memorandum of Understanding entered into by the governments of the Netherlands and Serbia regarding the employment of Serbian trainees on Dutch river barges. In respect of sailor trainees, there is a maximum

traineeship period of two years; and in respect of navigation trainees, there is an additional maximum traineeship period of two years.

In respect of students on work placements, the work permit will usually be granted for a maximum period of 24 weeks, without the obligation of verification against the priority workforce in the labour market. This scope for exemption is subject to the condition that these students on work placements will have followed sufficient professional basic training and will gain business experience in a company in the Netherlands by way of instruction on the basis of an agreement between a company established abroad and a company established in the Netherlands.

Work in addition to one's study

In order to be able to work in addition to one's studies, students require a work permit.

Verification against the priority workforce in the labour market is not required for foreign students who hold a temporary residence permit for study purposes as long as the work is performed on conditions which are in line with the market and:

- the work is done only in the months of June, July, and August; or
- the work does not take up more than 10 hours a week;

and the application is accompanied by a declaration from the educational institution to the effect that the relevant student has registered with the relevant educational institution.

A work permit is not required if the foreign national – with a residence permit for study purposes – is employed as a trainee and this traineeship is part of the training course, provided that the employer has entered into a traineeship agreement with the relevant student and educational institution.

Guest lecturers

Guest lecturers give guest lectures at universities, higher vocational educational institutions or institutions for higher international education, or at a research centre that is attached to or performs research in the area of the universities, higher vocational educational institutions or institutions for higher international education.

A work permit is not required if the guest lectures are given within a maximum period of one year. A work permit is, however, required for guest lectures given within a period of more than one year. In this case, the normal verification procedure applies, including the verification against the priority workforce in the labour market. A work permit granted for a period of one year may be extended, provided that the extension is applied for in time.

Scientific researchers

The Labour Act for Aliens distinguishes among the following groups of scientific researchers:

- PhD candidates at a university;
- foreign nationals who carry out research for a period shorter than three years after passing the final examination of a scientific educational programme; and
- highly-educated researchers who come to the Netherlands to carry out research on the basis of a temporary appointment upon the recommendation of the KNAW (Koninklijke Nederlandse Academie voor Wetenschappen).

These groups of researchers may be considered for a temporary residence permit, and their employer may be considered for a work permit. Verification against the priority workforce is not necessary. If a work permit is granted to the above-mentioned groups of researchers without verification against the labour market, his/her spouse may also be granted a work permit for the same maximum period without this verification.

The policy regarding unpaid scientific researchers is different. Unpaid scientific researchers are:

- scholarship and stipend students who come to the Netherlands to carry out research on a temporary basis with a scholarship issued by or on behalf of the EU, an institute for international education or research funded by the Ministry of Education, Culture and Science, the Dutch government, or a Dutch educational institution or research centre for the period for which the scholarship has been granted; or

- scholarship and stipend students who come to the Netherlands to carry out research on a temporary basis within the framework of a bilateral or multilateral agreement to which the Netherlands is a party for a period as stipulated in the bilateral or multilateral agreement.

A work permit is not required for these groups of scientific researchers. The residence permit will initially be granted for a period of one year. The residence period depends on the period for which the scholarship has been granted, with a maximum period of five years. It is not possible to extend the residence period at the end of the maximum period.

Work as an employee within the framework of a bilateral or multilateral agreement

Employers do not require a work permit for foreign nationals who come to the Netherlands to carry out paid research on a temporary basis within the framework of a bilateral or multilateral agreement. The residence permit will initially be granted for a period of one year. The residence period depends on the period stipulated in the bilateral or multilateral agreement, with a maximum period of five years. It is not possible to extend the residence period at the end of the maximum period.

Work as an employee within the framework of EU action programmes

Employers do not require a work permit for foreign nationals who come to the Netherlands to perform paid work on a temporary basis for a period as stipulated in an EU action programme. The EU action programmes referred to here (education and training programs) are those announced in the Official Journal of the EU. This regulation also applies to participants in EU exchange programmes such as Leonardo da Vinci, Socrates, or Tempus.

Residence in the free period

Foreign nationals who wish to reside within the so-called free period are, for instance⁷²:

- tourists and students who wish to work during the holidays, whether or not through an employment agency; and
- foreign nationals who wish to do a short traineeship for a maximum period of three months or within the period of validity of the visa granted.

They have lawful residence, as a result of which they do not require a residence permit. The employer, however, is obliged to have a work permit (save in exceptional cases). For a work permit for work for a maximum period of 12 weeks, the foreign national must have proof of lawful residence. A work permit for work for a period longer than 12 weeks will not be granted until an application for temporary residence permit for work as an employee has been submitted.

A work permit is required for employers who wish to let foreign nationals who are residing lawfully in the Netherlands work on a self-employed basis in their free period or on the basis of a visa. In this context, the normal verification procedure is applicable, unless otherwise provided by treaty.

Musicians and artists

Employers are required a work permit for musicians and artists, save in cases where the work is performed within a maximum period of 4 consecutive weeks within a period of 13 weeks. In cases where the requirement for possession of a work permit is applicable, the verification against priority workforce does not apply to a number of specific artistic function groups in a limited number of sectors (i.e. dance, classical music, opera, musical, theatre, drama, and cultural workshops).

Amended policy in the context of the Circular Migration Pilot Project

On 15 June 2010, the Aliens Act Implementation Guidelines was amended for the purpose of granting residence permits to foreign nationals who come to the Netherlands to work as employees in the context of the Circular Migration Pilot Project.⁷³ In order to be granted a permit, the foreign national who wishes to work as an employee in the context of the pilot project must comply with all regular residence conditions required for this purpose.⁷⁴ In assessing the application of the employer with regard to the

⁷² The term 'free period' refers to the period for which foreign nationals from countries that do not require a visa have lawful residence in the Netherlands without the obligation to hold a residence permit. The period corresponds to the period of validity of a short stay visa issued to foreign nationals from countries requiring a visa, which is 3 months.

⁷³ The amendments referred to were included in the decision of the Minister of Security and Justice of 15 June 2010, number WBV 2010/9 and entered into force on 1 July 2010.

⁷⁴ See the conditions in B5 of the Aliens Act Implementation Guidelines and Section of the Aliens Act 2000.

work permit for the foreign national who complies with the conditions of the pilot project, the verification against priority workforce in the labour market may be abandoned. In the context of this pilot project the application for a residence permit is submitted to the IND by HIT Foundation as authorised representative of the foreign national and his/her employer. The intended residence as a foreign national is of a temporary nature. The maximum period of validity for this type of residence permit is two years. At the end of this two-year period, it is not possible to extend the period of validity. The temporary nature of the residence implies that the circular migrant must leave the Netherlands if the employment agreement is terminated early, unless a new employer is found in the context of the pilot project. Applications for a residence permit for regular or extended family reunification or family formation with the foreign national who is residing in the Netherlands in the context of the pilot project will be rejected. Family reunification and family formation is not permitted, as the foreign national's right of residence is of a temporary nature.

Future policy: Accelerated work permit procedure for seasonal workers

On 25 September 2009, the Cabinet adopted the Bill proposing an accelerated procedure for granting work permits to seasonal workers. It will be possible for employers of seasonal workers from outside the European Union to be granted a work permit if the foreign national has not previously worked in the Netherlands for a minimum period of 14 weeks. In the current situation, this waiting period is 28 weeks. This amendment will enable employers to re-employ their former workers more rapidly. Think in this respect of work in the agriculture and horticulture sectors. The amendment relates to persons from outside the EU who wish to work in the Netherlands on a temporary basis, and to employers with seasonal work. The bill has been adopted by the Lower House of Parliament and has been submitted to the Senate for review.

2.2.4 Admission policy for migrants from third countries coming to the Netherlands for study purposes

Foreign students who wish to come to the Netherlands temporarily to study or to follow a training course will be permitted to reside here under specific conditions. It is possible to obtain a residence permit for a study at an institution for higher education, an institution for secondary or vocational education, or to prepare for a study at an institution for higher education in the Netherlands. This will enhance the position of Dutch higher education abroad, while admission to an educational programme at an institution for secondary or vocational education will enable the foreign national to make a positive contribution to the development of the countries of origin.

In order to be considered for a residence permit, the following conditions must be complied with:

- The foreign national is going to follow a full-time higher, secondary or vocational educational programme at an educational institution to be designated by ministerial regulation;
- The foreign national must submit a proof of registration issued by the competent authorities of the educational institution evidencing that he/she has been registered or will be registered as a student for a full-time course; and
- The departure of the foreign national from the Netherlands upon completion or early termination of the study is reasonably guaranteed.

If the foreign national wishes to reside in the Netherlands to follow a secondary or vocational educational programme, the residence permit will only be granted if it is a day course for which the Netherlands is the most appropriate country and which will allow the foreign national to make a positive contribution to the development of the country of origin.

A foreign national may also be granted a residence permit for residence in the Netherlands to prepare for a study at an institution for higher education in the Netherlands. In this case, the foreign national must submit a written declaration issued by the competent authorities evidencing that the foreign national will be admitted to a full-time course.

Conditions for a study at an institution for higher education (university or higher vocational education)

In addition to the general conditions for the granting of a temporary residence permit, the following conditions apply to foreign nationals who wish to study at an institution for higher education:

- a (provisional) proof of registration as a full-time student at an educational institution;
- a signed declaration of temporary residence; and
- the availability of sufficient and lasting financial resources.

It must be certain that the foreign national has been registered or will be registered for a study or training course at an institution for higher education established in the Netherlands. The (provisional) registration must be evidenced by a declaration issued by the Board of Directors or the competent authorities of the educational institution.

The temporary nature of the residence implies that the foreign national holding a residence permit for study purposes must leave the Netherlands upon early termination of the study or if he/she has not been able to complete the study in time. The foreign national will consequently sign a declaration that he/she is aware of the fact that he/she is only permitted to reside in the Netherlands for study purposes.

A maximum residence period applies to foreign nationals who wish to reside in the Netherlands for study purposes (i.e. study including preparatory year). The maximum residence period depends on the course load of the study or the training course being followed, and is two years more than the course load. If the study or training course is not completed within the maximum residence period, the conclusion will be that the student's progress is insufficient. In this case it will not be possible to extend the residence permit; it will also not be possible for the foreign national to be considered for a residence permit to follow a different study or training course. If the foreign national changes a study or training course, the time used for the initial study or training course will be deducted from the maximum duration of the new study or training course.

If the foreign national has completed the study or training course within the maximum residence period and wishes to start a new study or training course, the maximum residence period does not apply, for in this case it is not possible to say that the student's progress is insufficient. If the foreign national complies with all conditions for the granting of a residence permit for study purposes in this situation, the residence permit may be extended and the calculation of the maximum residence period starts anew.

If a residence permit is granted subject to a restriction that relates to the preparation for the study, the maximum residence period will be extended by one year.

If the study has a bachelor-master structure, the course load for the bachelor programme and the master programme will be added together. The maximum residence period is two years more than the course load. It is not necessary that the master programme be followed at the same institution as the bachelor programme. If the foreign national follows a pre-master programme between a bachelor programme at an institution for higher education and a master programme at a university, the maximum residence period will be extended by one year.

The foreign national's financial resources must be sufficient to cover the costs of study and daily living during the envisaged residence period. In respect of the assessment of whether the foreign national has sufficient financial resources, it is important to know whether the costs of study and residence are paid by either:

- the foreign national himself/herself or a natural or legal person established outside the Netherlands, or
- by a natural or legal person established in the Netherlands.

Since 1 January 2008, there has been arrangement for graduates of Dutch universities or higher educational institutions. These graduates will be allowed a period of one year to look for a job in the Netherlands with a salary criterion of €28,600. When they find such a job, they will be considered for a residence permit as a highly skilled migrant. During this orientation year, the foreign national is not entitled to a social assistance benefit.

Conditions for a training course at a secondary or vocational educational institution

In addition to the general conditions for the granting of a temporary residence permit, the following conditions apply to foreign nationals who wish to follow a training course at a secondary or vocational educational institution.

- The foreign national must have a (provisional) proof of registration as a full-time student at an educational institution;
- The foreign national must sign a declaration of temporary residence;
- The course must be a day course for which the Netherlands is the most appropriate country and which will allow the foreign national to make a positive contribution to the development of the country of origin; and
- The foreign national must have the availability of sufficient and lasting financial resources.

If the study or training course or a similar study or training course is also available in the country of origin, the foreign national will not be considered for a residence permit.

The fact that the Netherlands must be the most appropriate country means, in addition, that if there are other countries that are more appropriate than the Netherlands for following the relevant study or training course, this criterion is not met. More appropriate are, for instance, neighbouring countries or countries where the same language is spoken.

In assessing the question of whether the Netherlands is the most appropriate country, the following factors may be included:

- It is a training course of which it has been demonstrated that it can only be followed in the Netherlands;
- The foreign national's country of origin has historical ties with the Netherlands;
- The foreign national has family ties with persons residing in the Netherlands;
- The foreign national has a command of Dutch.

Whether a positive contribution will be made to one's own country also depends on the current developmental stage of the relevant country. If it is a highly industrialised country, there will hardly be question of a positive contribution. In addition, the nature of the training course will be important. If the training course or study is not essential to the labour market of the country of origin, it is not reasonable to assume that a positive contribution will be made to one's own country.

For the purpose of following secondary and vocational education, the residence permit may be extended as long as the student continues to be registered for the training course. A student who does not make any progress in his/her study is not permitted to continue to be registered with an educational institution.

Conditions for a preparatory period for study at an institution for higher education

In specific cases, a student requires a preparatory period to enable himself/herself to qualify for the envisaged higher educational programme. He/she will be required to take additional examinations, such as a Dutch proficiency test.

In addition to the general conditions for the granting of a temporary residence permit, the following conditions apply to foreign nationals who wish to prepare for a study at an institution for higher education.

- The foreign national must have a (provisional) proof of registration or (provisional) proof of admission to an educational institution for higher education;
- The foreign national must sign a declaration of temporary residence; and
- The foreign national must have the availability of sufficient and lasting financial resources.

The residence permit will be granted for a maximum period of one year. At the end of this year, the period of validity of the residence permit cannot be extended.

2.2.5 Admission policy for residence for exchange purposes

Cultural exchange gives foreign nationals the opportunity to learn about Dutch society and culture. Young Dutch people must also be given the opportunity to learn about the society and culture of the country which foreign young people originate from.

The granting of a residence permit for exchange purposes is subject to the following general rules.

- The nature of the residence permit is to learn about Dutch society and culture and will therefore be nonrecurring. The residence permit may be extended for a maximum period of one year, to be calculated from the day following the date of entry into the Netherlands;
- The migrant who comes to the Netherlands for cultural exchange purposes may not be financed from public funds and the (timely) return trip must be guaranteed;
- Continued residence for exchange purposes will not be permitted. This means that the period of validity of the permit for this purpose will not be extended after a year;
- The foreign national will only be permitted to perform paid work in specific cases. In these specific cases, young people may be granted a work permit for a maximum period of 24 weeks, without the obligation of verification against priority workforce in the labour market. Condition for the applicability of this scope for exemption is that work is not the principal purpose for these foreign nationals to reside in the Netherlands.

Exchange with Australia, Canada, and New Zealand

The Netherlands has made agreements with Canada, Australia, and New Zealand on the basis of which young people younger than 31 years of age having the nationality of one of these countries will be given the opportunity to learn about Dutch society and culture in so-called working holidays. On the basis of these agreements, this opportunity is also open to Dutch young people in the above-mentioned countries.

Young people from these countries may participate in the Working Holiday Program (Canada) or the Working Holiday Scheme (Australia and New Zealand). They need not be or have been students. This means that they also have the right to make use of this programme if they travel alone and not only when they participate in an exchange programme via an organisation.

In order to be able to pay the costs of their stay, these young people are permitted to perform paid work. Being permitted to work is however not the purpose of stay, but only a way to be able to finance the stay. An employment agreement may, however, be concluded for a longer period of time and it may also be open-ended.

Various organisations provide different programmes within the framework of the Working Holiday Program and the Working Holiday Scheme. The young person is not obliged to make use of these programmes. If not expressly agreed otherwise with an exchange organisation, the young person is fully personal responsible and liable during his/her stay.

If the young person no longer has sufficient financial resources – considering the costs of his return trip – and he does not have the prospect of having paid work within six weeks, he/she must leave the Netherlands.

The Young Workers Exchange Program (YWEP) is an exchange programme for working young people from Canada between 18 and 30 years of age who are following a study programme or who have graduated less than 12 months before the time of application. The young people must also live in Canada at the time of application. The employer must apply for a work permit for the Canadian trainee. The Young Workers Exchange Program is subject to the same conditions as those which are applicable to the residence permit for trainees.

Programmes of private exchange organisations

Foreign young people who fall outside the scope of above-mentioned programmes will be able to participate in cultural exchange programmes of private organisations. The IND has a list of the exchange organisations. A foreign young person who wishes to participate in a programme provided by one of

these organisations may be granted a residence permit for exchange purposes. One of the conditions to be complied with is that the programme is bilateral. Dutch young people must also be able to go to the country from which the foreign young person originates.

The participant in a cultural exchange programme of a designated organisation will be placed in a host family of the organisation under the full responsibility of that organisation. The participant will learn about Dutch society and culture by staying in the host family, participating in activities organised by the organisation, and by following a course.

Doing voluntary work is permitted, but only if a work permit or a volunteer declaration has been granted by UWV WERKbedrijf.

A foreign national may be granted a residence permit for exchange purposes if

- he/she is 15 years of age or older, but younger than 26 years of age;
- he/she is unmarried and does not have the duty of care for children;
- he/she wishes to stay in the Netherlands on a temporary basis as part of an exchange programme in a host family consisting of two or more persons with whom the foreign national has not previously had a working relationship;
- he/she did not previously stay in the Netherlands on a residence permit; and
- his/her departure from the Netherlands is reasonably guaranteed.

Upon application, the exchange organisation will sign a sponsor declaration.

If a young person with the Canadian, Australian, or New Zealand nationality complies with all conditions, the programme that is most advantageous to the young person will have priority.

European Voluntary Work

The Netherlands has committed itself at the European level to implement the Youth in Action exchange programme, which is part of the European Voluntary Service (EVS). Within the framework of the EVS, young people – including young people from outside the EU – are given the opportunity to do voluntary work in the Netherlands.

The National Agency for the EVS has been incorporated in the Netherlands Youth Institute.⁷⁵ The young people do voluntary work at local organisations, so-called host organisations, in the Netherlands. These organisations are accredited by the Netherlands Youth Institute. This means that the Netherlands Youth Institute assesses the organisation and the contents of the voluntary work provided. The assessment also pays attention to whether the organisation is capable of providing adequate guidance to the young people and of arranging the practical matters, such as housing, meals, and transport, properly. The Netherlands Youth Institute is included in the list of exchange organisations.

The foreign national who resides in the Netherlands on the basis of the EVS programme is in principle free in choosing his/her place of residence. The host organisation will, however, continue to be fully responsible for the participant. Within the framework of the action programme of the European Union, the foreign national will also be exempt from the work permit requirement.

In order to be considered for participation in the programme, the foreign national must comply with the following general conditions:

- He/she is over 18 but younger than 30 years of age;
- He/she did not previously stay in the Netherlands on a residence permit;
- His/her departure from the Netherlands is reasonably guaranteed; and
- His/her residence is not financed from public funds.

The residence permit will be granted for a maximum period of one year. At the end of this year, the period of validity will not be extended.

Residence as an au pair

⁷⁵ See also: <http://www.nji.nl/>

Basic principle for residence as an au pair is to provide foreign young people the opportunity to learn about Dutch society and culture in a short period of time and under specific conditions, with the au pair not being permitted to perform work within the meaning of the Labour Act for Aliens. An important aspect in the assessment in advance and in the supervision is taken up by the declaration of awareness and the agreement between the au pair and the host family. In the agreement, the au pair and host family agree that they will comply with the obligations set out in the agreement. The agreement applies directly to the relevant au pair and host family.

The family provides facilities to the au pair, in return for which the au pair will carry out light domestic work to assist the host family. The residence permit is consequently primarily cultural in nature. As a result of this cultural nature and the necessity to counter abuse of the au pair policy, the policy is applied restrictively.

The au pair will stay in a host family (this may also be a single-parent host family) of at least two persons.

In return for his/her stay in the host family, the au pair is not permitted to perform work within the meaning of the Labour Act for Aliens for which a work permit is required. In that case, an application for a residence permit for work as an employee must be submitted. If the host family has the au pair perform work for which a work permit is required on the basis of the Labour Act for Aliens, the host family is punishable on the basis of the Labour Act for Aliens.

A foreign national may be granted a residence permit residence as an au pair if:

- he/she is 18 years of age or older, but younger than 26 years of age;
- he/she is unmarried and does not have the duty of care for children;
- he/she did not previously stay in the Netherlands on a residence permit;
- he/she wishes to stay in a host family consisting of two or more persons as an au pair, with which family the foreign national has not previously had a working relationship;
- he/she will carry out light domestic work to assist the host family in return for the residence for not more than thirty hours a week; and
- his/her departure from the Netherlands is reasonably guaranteed.

The residence permit may be granted if the host family has at its disposal lasting and independent financial resources and has signed a sponsor declaration. Financial resources are lasting if they are available for at least one year.

Upon submission of the application, the foreign national and the host family both sign a declaration in which they declare, among other things, that the foreign national will be residing in the host family as an au pair on a temporary basis.

2.3 Co-operation with third countries

In the context of the Migration and Development Programme, which is financed by the Ministry of Foreign Affairs, the Netherlands is co-operating with third countries. One part of this programme is targeted towards the promotion of circular migration. The projects that are being carried out in this context have been described in the Sections 2.1.6 and 2.1.7.

In addition, the Netherlands is participating in trial mobility partnerships⁷⁶ with Cape Verde and Georgia. The IND is partner for the implementation of the trial mobility partnership with Cape Verde. The Netherlands has funded a study, which was conducted by the International Centre for Migration Policy Development (ICMPD), at the request of the Cape Verdean government to identify the needs of Cape Verde in the area of asylum and migration. In addition, the IND Information Analysis Centre (INDIAC) currently provides technical support to the Cape Verdean authorities to map the migration flows.⁷⁷ The

⁷⁶ Mobility partnerships are part of a larger package of measure in the context of the EU 'Global Approach to Migration'. The Stockholm programme has specified a number of instruments for co-operation with third countries, one of which is mobility partnerships. The purpose of such a partnership is to identify new ways to improve the management of legal migration.

⁷⁷ Lower House of Parliament 30 573 no. 54, 26 January 2010

Repatriation & Departure Service is partner for the implementation of the trial mobility partnership with Georgia. The support is mainly aimed at providing assistance in the repatriation process, such as providing assistance in the development of a return and reintegration programme.⁷⁸

Both Georgia (TRQN II) and Cape Verde (DIAS de Cabo Verde) are participating in the projects described in Section 2.1.7, on the basis of which migrants residing in the Netherlands are assigned to their countries of origin on a temporary basis. In the Circular Migration Pilot Project, which was launched only recently (see Section 2.1.6), the Netherlands is co-operating with South Africa and Indonesia. Co-operation in the area of circular migration in the context of a trial mobility partnership has not been placed on the agenda yet. In future mobility partnerships or if current partnerships are continued, circular migration may be included in the considerations. In that case, it will be necessary to establish a match between the labour market needs of the Netherlands and those of the country of origin.⁷⁹

⁷⁸ Reslow, Natasja (2010)

⁷⁹ Written information from the Ministry of Foreign Affairs.

3. Data on Temporary and Circular Migration

3.1. Labour migration

3.1.1 Temporary nature of labour migration

The debate on temporary and circular migration in the context of labour market policy has raised the question to what extent labour migration of third-country nationals to the Netherlands is temporary. In other words: Is labour migration often temporary in nature, or does it actually come down to the fact that, for the most part, migrants take up residence in the Netherlands permanently? As described in Chapter 2, with respect to specific groups of labour migrants (e.g. highly skilled migrants), Dutch policy is not aimed at measures to enforce the temporary nature of the migration. With respect to other groups (such as the regulations regarding work as an employee), the Netherlands is of the opinion that migration must be in proportion to the needs of the labour market.

The data represented in Table 1 provide an initial insight into the degree in which labour migration to the Netherlands is temporary in nature. The data relate to the group of labour migrants as a whole, a distinction by subcategory (such as highly skilled migrants, and work as an employee etc.) is not possible in this respect. Table 1 represents the group of third-country nationals who took up residence in the Netherlands for work purposes in the period 2005-2009⁸⁰ and for how long they lived or have lived in the Netherlands.⁸¹ For this purpose, the entry data of the IND have been linked to data from the Municipal Administration (GBA).⁸² The reference date is 1 January 2010.

Table 1. Period of residence of labour migrants from third countries by year of taking up residence in the Netherlands⁸³

Residence Period	Year of Taking up Residence in the Netherlands										
	2005		2006		2007		2008		2009		Total
up to 1 year	609	14%	196	4%	1,155	16%	1,415	16%	41	1%	3,416
1 to 2 years	922	21%	827	15%	1,479	21%	898	10%			4,125
2 to 3 years	771	18%	983	18%	520	7%					2,273
3 to 4 years	455	11%	337	6%							792
4 to 5 years	197	5%									197
Total departed	2,954	68%	2,343	42%	3,154	44%	2,312	26%	41	1%	10,803
Still in the Netherlands	1,381	32%	3,239	58%	4,008	56%	6,649	74%	6,183	99%	21,460
Final Total	4,334	100%	5,581	100%	7,162	100%	8,961	100%	6,224	100%	32,263

Source: Statistics Netherlands

Table 1 shows that 68% of the labour migrants who came to the Netherlands from outside the EU in 2005 had left the country on 1 January 2010. The Table also reveals that the majority of this group of temporary labour migrants resided in the Netherlands for a period of 1 to 3 years. Out of the number of labour migrants from outside the EU who have come to the Netherlands, 32% is still residing in the Netherlands. Out of the number of labour migrants who came to the Netherlands in 2006, 42% has, in the meantime, left the country. It is notable that nearly an equal percentage of labour migrants who came to the Netherlands in 2007 left again (44%). A quarter of the labour migrants who came to the Netherlands in 2008 stayed here for a period shorter than two years.

Table 2 shows, with regard to the top 10 nationalities of labour migrants from third countries who came to the Netherlands in the period 2005-2009, whether they left the Netherlands again, and if so, where they went to after leaving the Netherlands.

⁸⁰ Provided that they registered with the Municipal Administration (GBA).

⁸¹ These figures have been processed so as to make a statistical correction for the number of migrants whose motive for migration is not known (approximately 10 to 15% of all migrants from third countries).

⁸² In this system, the Dutch municipalities record specific personal data of persons who resided or have resided in the relevant municipality for at least 4 months and who had registered in the municipality.

⁸³ The figures on 2005 and 2006 also include Romanians and Bulgarians, figures from 2007 do not (admission to the EU).

Table 2. Departure, top 10 nationalities of labour migrants from third labour countries 2005-2009

Nationality	Country of origin		Other Country		Unknown		Still in the Netherlands		Total
Indian	1,853	29%	175	3%	669	11%	3,636	57%	6,332
American	1,108	24%	228	5%	596	13%	2,655	58%	4,587
Chinese	431	12%	74	2%	243	7%	2,851	79%	3,600
Japanese	675	30%	112	5%	108	5%	1,317	60%	2,212
Turkish	116	6%	33	2%	136	7%	1,553	84%	1,838
Russian	79	9%	23	3%	88	11%	646	77%	835
Canadian	136	17%	64	8%	102	13%	507	63%	809
Australian	138	18%	78	10%	89	12%	452	60%	757
South African	112	15%	25	3%	68	9%	541	73%	745
Brazilian	130	19%	48	7%	78	12%	416	62%	672

Source: Statistics Netherlands

Compared to the other groups of migrants, Japanese and Indian migrants returned relatively often to their countries of origin. Onward migration to another country also appeared to occur regularly. Compared to the other groups of migrants, onward migration was seen relatively more often among Canadians and Australians than in the other groups mentioned in the top 10. Turkish, Chinese, and Russian labour migrants from the period 2005-2009 were relatively often still in the Netherlands on 1 January 2010.

In respect of the whole group of labour migrants from third countries who came to the Netherlands in the period 2005-2009, Table 3 shows how many of them migrated onwards to another EU Member State.⁸⁴

Table 3. Onward migration within the EU 2005-2009

Destination	Number
United Kingdom	234
Germany	177
Belgium	75
France	74
Spain	35
Rumania	35
Italy	25
Bulgaria	20
Sweden	19
Austria	17
Denmark	17
Other	42
Total	771

Source: Statistics Netherlands

In total, 771 persons (approximately 2% of the total) migrated onwards to another EU Member State. Most onward migration within the EU occurred to the United Kingdom, followed by Germany.

3.1.2. Scope of labour migration from third countries to the Netherlands 2005-2009

This section will focus more closely on labour migration to the Netherlands. A breakdown will be made by different groups of labour migrants on the basis of data from the IND on the number of permits granted. The figures relate to the number of initial regular residence permits.⁸⁵ For each group of labour migrants, the tables below show the nationalities that occurred most in the period 2005-2009. Registrations of labour migrants recorded in the IND system do not match the registrations recorded in

⁸⁴ Insofar as these data are known. Table 2 shows that, in respect of a considerable group, information about the country to which they migrated has not been registered.

⁸⁵ The figures relate to new migration, and not to foreign nationals who have resided in the Netherlands on the basis of a residence permit granted previously and who have been granted, for instance, an extension of the permit. In essence, the number of applications granted is not necessarily the same as the number of migrants, because the same persons may have submitted and been granted several applications in the period referred to. However, this does not occur often.

the Municipal Administration, for the IND does not enter details about whether migrants have left or still live in the Netherlands. The data presented below are not entirely comparable to the data in Section 3.1.1.

Table 4. Number of granted applications from third-country nationals for work as an employee 2005-2009

	2005	2006	2007	2008	2009	Total
China	301	291	522	724	989	2,827
United States	582	409	497	413	238	2,139
Japan	391	331	264	227	102	1,315
India	252	194	70	82	112	710
Turkey	152	86	69	73	174	554
Other	1,621	990	727	855	767	4,960
Total	3,299	2,301	2,149	2,374	2,382	12,505

Source: IND

In the period 2005-2009, a total of 12,505 permits were granted to third-country nationals with the restriction 'work as an employee'. Since 2006, the number of permits granted has been rather stable between 2,100 and 2,400 on an annual basis. The number of permits granted to Chinese migrants has risen from 301 in 2005 to 989 in 2009. As a result of this, the Chinese rank first, followed by the Americans.

Data from UWVWERKbedrijf show that the majority of Chinese to whom a work permit has been granted have been employed in the hotel and catering industry, followed by research and production.⁸⁶ Americans score high in the sectors of management, creative professions, sports, and research/consultancy. Indians for whom a work permit has been granted in the Netherlands mainly work in the IT sector, followed at a distance by jobs in the area of research/consultancy. Japanese people were mainly employed in the Netherlands as managers, followed by jobs in the hotel and catering industry. The work permits for Turkish people were mainly granted for researchers, followed by spiritual counsellors and agogic/social counsellors.⁸⁷

Table 5. Number of granted applications from highly skilled migrants from third countries 2005-2009

	2005	2006	2007	2008	2009	Total
India	280	935	1,514	2,115	1,585	6,429
United States	286	527	734	838	704	3,089
Japan	88	189	259	317	313	1,166
China	71	142	267	349	310	1,139
Turkey	79	160	256	341	255	1,091
Other	695	1,429	1,881	2,450	1,728	8,183
Total	1,499	3,382	4,911	6,410	4,895	21,097

Source: IND

In the period 2005-2008, the entry of highly skilled migrants from third countries in the Netherlands increased strongly from 1,499 in 2005 to 6,410 in 2008. In 2009, the entry of highly skilled migrants from third countries fell to the level of 2007 (4,895). The Indian nationality ranks first with 1,585 granted permits in 2009, followed by the American nationality with 704 granted permits in 2009. It is noticeable that in respect of work as an employee and the Highly Skilled Migrant Scheme, the top 5 of nationalities in the period 2005-2009 consisted of the same 5 countries, with only a difference in the order of ranking. In particular Indians took advantage of the Highly Skilled Migrant Scheme, whereas the Chinese mainly submitted applications for work as an employee.

⁸⁶ A work permit is not required for highly skilled migrant and self-employed people.

⁸⁷ Source: UWVWERKbedrijf

Table 6. Number of granted applications from third-country nationals for work as a scientific researcher 2005-2009

	2005	2006	2007	2008	2009	Total
China	57	125	151	228	349	910
Indonesia	12	23	38	54	74	201
Brazil	10	25	29	49	78	191
Pakistan	5	35	82	51	17	190
Iran	4	14	24	52	94	188
Other	139	356	362	430	693	1,980
Total	227	578	686	864	1,305	3,660

Source: IND

In the period 2005-2009, a total of 3,660 permits were granted to third-country nationals with the restriction 'work as a researcher'. The number of permits granted showed a strong upward trend, from 227 in 2005 to 1,305 in 2009. During the entire period, China ranked first, at the clear distance from the rest, with 349 researchers in 2009, followed by Iran, Brazil, and Indonesia.

Table 7. Number of granted applications for work as a trainee/student on work placement 2005-2009

	2005	2006	2007	2008	2009	Total
Indonesia	80	132	126	125	68	531
Thailand	70	46	31	13	13	173
Brazil	13	12	15	34	49	123
China	16	12	22	21	46	117
India	20	26	22	22	20	110
Other	189	192	151	159	236	927
Total	388	420	367	374	432	1,981

Source: IND

In the research period, a total number of 1,981 trainees and students on work placements travelled to the Netherlands from third countries. The number of permits granted during the entire period is rather stable and is around 400 a year. Indonesia is the country of origin that supplied most trainees and students on work placements, with a total of 531 permits in the period 2005-2009.

Table 8. Number of granted applications for work on a self-employed basis 2005-2009⁸⁸

	2005	2006	2007	2008	2009	Total
United States	33	42	52	35	41	203
Bulgaria	33	72	0	0	0	105
Rumania	22	16	0	0	0	38
Turkey	1	1	1	3	10	16
Japan	6	0	2	2	4	14
Other	19	21	16	30	25	111
Total	114	152	71	70	80	487

Source: IND

Compared to other groups of labour migrants, there were not many third-country nationals who took up residence in the Netherlands to work on a self-employed basis (487 persons in the entire research period). Since the entry of Bulgaria and Rumania to the European Union, the Americans have ranked on top, with 41 applications granted in 2009.

⁸⁸ The figures relating to the period since Bulgaria and Rumania entered the European Union (1 January 2007) were not included in the selection. The applications that were granted in 2007, but those which had been submitted before 1 January 2007, were added to the figures over 2006.

3.2. Cultural migration

In Dutch legislation and regulations, cultural migration is an outstanding example of a form of temporary migration with the main purpose being learning about the Dutch language and culture. Section 2.2.3 gives a detailed description of the regulations regarding cultural migration.

In the Netherlands, cultural migration is divided into two categories: Au pair and exchange. In total, 5,043 au pairs came to the Netherlands in the period 2005-2009. The number of au pairs tripled in the period 2005-2008, followed by a slight decrease in 2009. The Philippines and South Africa together were responsible for approximately half of the number of au pairs that entered the Netherlands.

Table 9. Number of granted applications for residence as an au pair 2005-2009

	2005	2006	2007	2008	2009	Total
Philippines	103	154	248	476	442	1,423
South Africa	166	150	188	269	258	1,031
Peru	52	82	93	119	56	402
Brazil	7	28	57	88	66	246
Indonesia	30	46	41	60	63	240
Other	181	258	330	496	436	1,701
Total	539	718	957	1,508	1,321	5,043

Source: IND

In the research period, 3,714 young people from third countries came to the Netherlands for exchange purposes. In the period 2005-2008, the number of people entering the Netherlands showed an upward trend from 590 to 820 which number has stabilised at 817 persons since 2009. Australia ranks number 1 with a total of 1,542 persons, at a distance followed by Canada (967) and New Zealand (475).

Table 10. Number of granted applications for exchange purposes 2005-2009

	2005	2006	2007	2008	2009	Total
Australia	237	326	294	327	358	1,542
Canada	150	190	176	224	227	967
New Zealand	73	96	80	122	104	475
Brazil	40	38	51	46	24	199
United States	11	33	29	29	18	120
Other	79	78	96	72	86	411
Total	590	761	726	820	817	3,714

Source: IND

3.3 Study migration

Table 11. Number of granted application for study at higher education institutions 2005-2009

	2005	2006	2007	2008	2009	Total
China	1,276	942	1,099	1,261	1,538	6,116
United States	379	797	880	1,086	1,284	4,426
Indonesia	502	435	587	519	521	2,564
Turkey	345	400	526	513	628	2,412
India	215	271	265	309	300	1,360
Other	4,220	4,090	4,050	4,221	4,521	21,102
Total	6,937	6,935	7,404	7,909	8,792	37,980

Source: IND

In the period 2005-2009, 37,980 students came from outside the European Union to the Netherlands. The number of people entering the Netherlands shows an upward trend from 6,937 in 2005 to 8,792 in 2009. China took up the first place in the entire period. Migration for study purposes from the United States increased from 379 in 2005 to 1,284 in 2009.

4. Conclusions

In Dutch legislation and regulations, the policy on labour migration is in many cases not aimed at enforcing the temporary nature of such migration. For highly skilled migrants it is easy to gain access to the Dutch labour market. Their residence is, in principle, not linked to a time limit. Employers of labour migrants who wish to come to the Netherlands under the restriction of 'work as an employee' were often granted temporary work permits. In general, a work permit may not be granted until it has been demonstrated that there is no labour supply available within the EU/EEA. This must guarantee that labour migration is in proportion to the labour market, with permits only being granted to workers of which there is a shortage in the Dutch labour market. It should be noted in this context that in most cases these migrants will gain free access to the Dutch labour market after three years of residence, even if the shortage in the labour market has disappeared by then.

The Netherlands also has a number of residence permits which are explicitly temporary in nature. The maximum period of validity of a residence permit for a trainee is one year; for a student on work placement the maximum period of validity is 24 weeks. Students may obtain a residence permit for a maximum period that is equal to the course load, increased by two years. Third-country nationals who come to the Netherlands for exchange purposes are permitted to stay in the Netherlands for a maximum period of one year. This maximum period must guarantee that this form of migration is actually of a temporary nature. In addition, it is verified as to whether the migrant's return is reasonably guaranteed, and the third-country national must show that he/she has sufficient financial resources. In some cases, additional conditions must be met, such as signing a declaration of temporary residence. A step towards encouraging circular migration in regular labour market policy is the intended amendment regarding seasonal workers. In the future, it will be possible to obtain a work permit again after not having worked in the Netherlands for a period of 14 weeks, instead of the current 28 weeks. As a result of this amendment, it will be easier for employers to reemploy their former workers. This will promote a circular form of labour migration, with the employee regularly returning to the Netherlands (and, if desired, to the same employer).

On 1 December 2009, a circular migration pilot project was launched in the Netherlands within the framework of the Migration and Development Programme. This project is to encourage a maximum of 160 employees from South Africa and Indonesia to come to the Netherlands to work and learn for a period of two years. This research pilot project provides the opportunity to test the assumptions underlying the concept of circular migration (in particular the concept of 'triple win') in practice, and for this reason alone this pilot may be referred to as a 'best practice'. In the first phase of the pilot project – the phase in which candidates are recruited – it has been established that the use of intermediaries (recruitment agencies) is the safest way for employers to participate in the project. In addition, the Personal Development Plan, which includes professional ambitions and long-term objectives of the labour migrant, has already been classified as a 'best practice', although this must still be shown in practice. In the pilot project, three relevant Ministries work together (the Ministry of Foreign Affairs, the Ministry of Security and Justice, and the Ministry of Social Affairs and Employment), as a result of which all aspects that are important to such a pilot project (such as the co-operation with countries of origin and the shortage in the Dutch labour market) could be involved in the project. In the pilot project, it was explicitly decided to select countries of origin which have a qualitatively sound workforce and which have developed initiatives in the area of return and reintegration of migrants, which initiatives may be followed.

During the last few years, IOM the Netherlands has gained broad experience with projects within the framework of the Migration and Development Programme. On the basis of this programme, migrants with a residence permit in the Netherlands have been assigned to their country of origin on a temporary basis in order to make a contribution to capacity building in that country. In this context, the aim is to connect with the needs in the country of origin and to co-operate closely with partner organisations. In addition, it is considered important that the government in the migrants' countries of origin have adopted a positive attitude towards the diaspora and the role that the members of the diaspora may play in the development of the country. Temporary migration to the country of origin is considered a solution for any staff shortages resulting from 'brain drain'; adjustments to the terms and conditions of

employment in the country of origin are therefore considered essential. An advantage of capacity building is that it becomes more attractive for the local population to continue to work in one's own country. IOM has encouraged the development of migration networks of professionals because, according to the IOM, they are more capable with respect to sharing knowledge with the home country than 'ordinary' migration networks. Upon return, each assignment will produce digital exchange in the form of e-mail traffic, weblogs, and suchlike, so that the assignment continues to make a positive contribution also after the migrant's return. In addition, it has regularly occurred that migrants were assigned on a temporary basis more than once, as a result of which long-lasting relationships have been developed which have thus created permanent partnerships between institutions in the Netherlands and the country of origin. Finally, the virtual assignments are also worth mentioning. During these assignments knowledge is transferred on line. This form of assignment works particularly well with training courses of a technical nature, provided that a number of specific preconditions are met (such as a rapid Internet connection).

In general, data systems in the Netherlands have not been designed to monitor the temporary nature of, and circularity of, migration. This is connected with the fact that the attention for temporary and circular migration is relatively new and that in the past, migration was usually assumed to be of a permanent nature. The IND, for instance, registers the duration for which a permit has been granted, but the fact that a permit has lapsed does not necessarily imply that someone has actually left the country. When taking up residence in the Netherlands for a period of at least 4 months, migrants have the possibility to register in municipalities with the Municipal Administration. In this system, the Dutch municipalities record specific personal data of persons who have been residing, or have resided, in the relevant municipality for at least 4 months and who had registered in the municipality. After registration, each person is given a citizen service number (BSN). This number is required in nearly all contacts with the authorities and the employer. The municipalities do not record the purpose for which the foreign national has come to the Netherlands. The UWV registers the period for which a work permit has been granted. The period for which a work permit has been granted does not necessarily correspond to the foreign national's residence period.

By linking data of labour migrants and other migrants who have come to the Netherlands (which data originate from the IND) to data from the Municipal Administration, Statistics Netherlands has obtained statistics about the residence period of migrants. This has made it possible to provide insight into the degree to which the residence of labour migrants in the Netherlands is, in fact, temporary. Because Dutch municipalities also record the address where someone will be moving to when he/she deregisters from the Municipal Administration, the future country of residence is also known in many cases. Migrants do not, however, always deregister when they leave a municipality. As a result of this, for a number of migrants the length of their residence in the Netherlands is not known and it is also not known whether they have returned to the country of origin or whether they have migrated onwards to another country.

A central administration system, such as the Municipal Administration, provides many possibilities in the area of data analysis. The assignment of a unique identification number to each person, which is used by every government body, makes it possible to link data of specific authorities. As a result of this system, it is also possible to gain a better understanding of the background characteristics of migrants, because these characteristics have been recorded and updated in the Municipal Administration. For the purpose of data collection, such a central administration system of residents of a country may be referred to as a 'best practice'.

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