

**PRODUCTIVITY COMMISSION INQUIRY
MIGRANT INTAKE INTO AUSTRALIA
SUBMISSION BY ALEX DOBES**

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Summary

The Trans-Tasman Travel Arrangement between Australia and New Zealand is a model approach for allowing greater mobility of labour. Australia should consider similar arrangements with other compatible (small and wealthy) countries. Such an arrangement may be feasible with around 20 countries, with the largest possibly being Canada. A first step could be a pilot program with countries such as Ireland, Malta and Norway.

About the author

Alex Dobes has worked on regulatory and microeconomic reform in a number of jurisdictions. This submission expresses only his personal views. Alex is preparing an article on the topics covered in this submission for publication later in 2015.

Introduction

On 1 May 2015, the Productivity Commission (PC) released an issues paper and called for submissions to its inquiry on *Migrant Intake into Australia*. The issues paper notes that the “terms of reference are broad”, and the primary focus of the inquiry will be on three areas: the costs and benefits of immigration; mechanisms for determining immigrant intakes, with a focus on a particular charging option; and the balance between temporary and permanent immigration. Additionally, “the inquiry may also examine other related issues, to inform its policy recommendations” (PC 2015 p. 2).

The issues paper notes the specific arrangements applying to New Zealand citizens in Australia under the Trans-Tasman Travel Arrangement (PC 2015 p.11).

This submission proposes that the government consider the possibility of extending a New Zealand style arrangement to other countries with a similar profile, namely small and wealthy countries.

Agreements on free movement of labour

Under the Trans-Tasman Travel Arrangement (TTTA), New Zealand citizens who satisfy health and character requirements are granted free access to Australia’s labour market under a Special Category Visa (SCV) (DIBP 2015a). Around 650,000 SCV holders (over 10% of New Zealand’s citizens) are estimated to be in Australia (DIBP 2014a, p. 21).

SCV holders who arrived before 26 February 2001 have the same rights as Australian permanent residents, including full access to welfare benefits. SCV holders who arrived after that date have access to a more narrow range of welfare benefits, and are subject to significant waiting periods. The waiting period is two years for benefits such as Child Care Benefit and Family Tax Benefit, and 10 years for unemployment benefits (Newstart Allowance) and Sickness Allowance (DHS 2015b).

Arguably, the TTTA is a successful arrangement. It has been in place for over 40 years, and has bipartisan support in both countries. Arguably its success is due to two major factors:

- It provides limited opportunity for government transfer shopping, more popularly known as “welfare tourism” or “benefits tourism”. In response to perceptions (whether accurate or not) of benefits tourism, the Australian government has in the past moved to restrict access to welfare benefits for New Zealand citizens.
- The two countries have similar standards of living, similar cultures, and similar skill levels. Citizens of one country easily integrate into the other, and are not perceived as undercutting wages or causing social tensions.

In the absence of a counter-factual, there is no direct proof that the TTTA is successful, nor is there direct proof of reasons for success. However, it is worth considering the outcome of other example agreements on free movement of labour:

- The Nordic Council has allowed free movement of nationals between the five member countries¹ since 1954 (1955 in the case of Iceland) (Nordic Council 2015).
- The European Union incorporates free movement of EU nationals, one of the four freedoms, as a core feature of EU membership (European Commission 2015). The European Free Trade Association² (EFTA) has a European Economic Area (EEA) agreement with the EU that also incorporates free movement of nationals as a basic principle (EFTA 2015).

The Nordic Council free movement protocol operated for decades without notable controversy until it was superseded by broader arrangements, namely the Schengen Agreement and the EEA Agreement. Arguably, the protocol's smooth running was due to the Nordic Council member countries having similar standards of living, similar cultures, and similar skill levels.

EU and EFTA free movement also operated with minimal controversy until the accession of countries with noticeably lower standards of living. Initially there was disquiet about countries such as Poland, but a more serious backlash began with the impending accession of Bulgaria and Romania (FT 2006). As a result of this and other factors, the UK is now planning to hold a referendum on EU membership (Guardian 2015, FT 2015b). Similarly, a backlash in Switzerland resulted in a 2014 referendum whose outcome has forced the Swiss government to draft quotas for EU nationals moving to Switzerland (FT 2015a).

At the same time as questions arose about free movement of citizens from low-income EU members, a UK think tank published a report, with a foreword written by Mayor of London Boris Johnson, entitled *How to Solve a Problem like a Visa*. The report recommended the establishment of "bilateral labour mobility zones" between the UK, Australia and New Zealand, and suggested that a "variation of the Trans-Tasman Travel Arrangement (TTTA) between Australia and New Zealand" would be a good approach. The report noted that a strength of a TTTA style arrangement would be lack of immediate access to the UK's welfare state, and recommended Canada's eventual inclusion in the arrangement (Commonwealth Exchange 2014, p. 8). The report also noted that the TTTA "is not expressed in any binding bilateral treaty; rather it is a set of procedures applied by each nation and underpinned by joint political support. ... We argue that this template represents the most practical means" to establish bilateral free movement. "At bottom this would be a flexible arrangement." (Commonwealth Exchange 2014 pp. 29-30)

¹ Members of the Nordic Council are Denmark, Finland, Iceland, Norway and Sweden.

² The four current members of EFTA are Iceland, Liechtenstein, Norway and Switzerland. Six previous members (Austria, Denmark, Finland, Portugal, Sweden and the UK) joined the EU.

Table 1

Wealth, population and visa profile of selected countries

	<i>Population (million)</i>	<i>GDP per capita (nominal \$US)</i>	<i>GDP per capita (PPP)</i>	<i>Working holiday agreement with Australia</i>	<i>Working holiday visa holders in Australia</i>	<i>Australian residents' place of birth</i>	<i>General non- return rate (%)</i>	<i>Reciprocal health care agreement with Australia</i>	<i>US Visa Waiver Program</i>
Australia	23.6	61,219	46,433	--	--	16,890,250	--	--	Y
New Zealand	4.5	43,837	35,152	--	--	616,960	0.44	Y	Y
Brunei	0.4	36,607	73,233	N	NA	3,180	0.62	N	Y
Canada	35.5	50,398	44,843	Y	4,620	50,940	0.66	N	--
Cyprus	0.9	26,115	30,769	Y	63	20,780	2.28	N	N
Denmark	5.6	60,564	44,343	Y	910	11,180	0.26	N	Y
Estonia	1.3	19,671	26,999	Y	1,486	3,910	3.87	N	Y
Finland	5.5	49,497	40,347	Y	1,073	9,820	0.36	Y	Y
Germany	81.1	47,590	45,888	Y	18,286	129,040	0.36	N	Y
Hong Kong	7.3	39,871	54,722	Y	10,905	94,420	0.65	N	N
Iceland	0.3	51,262	43,637	N	NA	730	1.61	N	Y
Ireland	4.6	53,462	49,195	Y	6,121	93,180	1.27	Y	Y
Latvia	2.0	15,729	23,707	N	NA	5,150	3.61	N	Y
Lithuania	2.9	16,386	27,051	N	NA	3,250	2.99	N	Y
Luxembourg	0.6	111,716	92,049	N	NA	280	0.17	N	Y
Malta	0.4	24,876	33,216	Y	75	45,920	1.61	Y	Y
Norway	5.2	97,013	66,937	Y	271	4,770	0.36	Y	Y
Singapore	5.5	56,319	82,762	N	NA	70,100	0.26	N	Y
Slovakia	5.4	18,454	28,175	N	NA	6,430	0.87	N	Y
Slovenia	2.1	24,019	29,658	N	NA	8,060	0.82	Y	Y
Sweden	9.7	58,491	45,987	Y	3,385	12,510	0.60	Y	Y
Switzerland	8.1	87,475	58,087	N	NA	15,720	0.24	N	Y
Taiwan	23.4	22,598	45,854	Y	23,270	55,960	0.73	N	Y
UK	64.5	45,653	39,511	Y	30,315	1,221,260	0.58	Y	Y
USA	319.0	54,597	54,597	N	NA	104,080	0.51	N	--

Risk management - small and wealthy countries

As noted above with the example of Bulgaria and Romania, inclusion of less wealthy countries in free movement arrangements can have unintended consequences – over-extension risks a backlash that can lead ultimately to less freedom of movement. Another risk is that unregulated flows can be larger than anticipated. When the UK opened its borders to newly-acceded EU members in 2004, the government estimated that around 13,000 Poles would move to the UK; by 2011 the actual number was 579,000 (Guardian 2014).

The policy implication is that, to avoid unintended consequences, free movement of labour is best established with small and wealthy countries, at least initially.

Table 1 shows key characteristics of a range of relatively wealthy countries, with Australia and New Zealand included to allow easy comparison. All of these countries are apparently considered low-risk by Australian immigration authorities, judging from their eligibility for eVisitor visas (European countries) or Electronic Travel Authorities (non-European countries). (DIBP 2015b, DIBP 2015c). A more differentiated indicator of risk is the non-return (overstay) ratio for each country's nationals in Australia. This ranges from a low of 0.17% for Luxembourg, to a high of 3.87% for Estonia (DIBP 2015d). Most of these countries are small, but some larger countries are included for the purposes of comparison.

Apart from Cyprus and Hong Kong, all of the countries in Table 1 are eligible for the US Visa Waiver Program (VWP)³. This is another useful indicator of risk, as the US currently extends this privilege to 38 countries, based on extensive analysis of risk factors (USCBP 2015). The equivalent list for visa-free entry to the Schengen area is less useful as a risk indicator, since it errs on the side of inclusiveness, and includes low-income countries usually considered to be high-risk, such as Albania and Paraguay (European Council 2011).

Many of the countries in Table 1 have working holiday arrangements with Australia. Under these arrangements, nationals of those countries can work in Australia for up to 12 months, and longer in regional locations such as Adelaide and Hobart (DIBP 2015e). There is no cap on the number of people taking up working holiday visas, and their activities in Australia are only lightly regulated⁴ (DIBP 2015e). As such, flows under working holiday arrangements are one indicator of potential flows under free movement arrangements.

Another indicator of potential flows is the total number of Australian residents originating from each country⁵.

³ Canada is not included in the US Visa Waiver Program, as Canadian nationals have more favourable entry conditions to the US than those offered to VWP country nationals.

⁴ There is a difference between a *working holiday* visa (subclass 417), and a *work and holiday* visa (subclass 462). The latter has significantly stricter educational and other selection requirements, and usually has a country-specific cap on numbers (DIBP 2015f). US citizens are eligible for a subclass 462 visa, but not a subclass 417 visa.

⁵ The statistics on origin capture country of birth, but not necessarily citizenship or family background. The differences are unlikely to be significant when using place of birth as a very rough indicator of propensity to live and work in Australia.

As an example, we can contrast Canada and the UK. The UK has not quite double the population of Canada, but six times the number of working holidaymakers in Australia, and more than 20 times the total number of residents in Australia. This suggests that a free movement arrangement with Canada is likely to result in significantly smaller flows than a similar arrangement with the UK.

Another example of interest is Malta. As with New Zealand, around 10% of Malta's citizens (46,000 people) live in Australia. At the same time, only 75 Maltese citizens (at last count) have taken up the opportunity of a working holiday visa. In the absence of more detailed analysis, this could result from Malta's increasing wealth over recent decades, or from the alternative opportunities arising from Malta's membership of the EU. Cyprus has a similar profile to Malta, with a large number of residents in Australia, but only 63 on working holiday visas.

The ~10% of New Zealand's citizens residing in Australia give some indication of the potential size of unregulated flows over an extended period. 10% of the UK population would be over six million people. Just 1% of the US population would be over 3 million people. This potential risk factor has been recognised by UK proponents of free movement. The Commonwealth Exchange has noted that "one of the biggest concerns for Australia and New Zealand would be the populations involved" (Commonwealth Exchange p. 30). Boris Johnson has commented "Whether they would be delirious with joy in Australia about the idea of loads more Poms coming out to Australia, I don't know ..." (ABC 2015).

In addition to New Zealand, seven of the countries in Table 1 have reciprocal health care arrangements with Australia, providing access to necessary medical care (but not optional or private care) (DHS 2015a). While it is generally preferable for non-citizens to have limited or no access to welfare, basic health care is an exception. Visitors do not plan to fall ill or have accidents, but it is inevitable that some of them do. In that situation, it is best to know who will cover the expense. One alternative is to make private health cover mandatory, as is the case with most student visas in Australia. However, that creates an enforcement task, and does not guarantee that all visitors will be covered. Student visas have a start date and end date, so verification of insurance cover is relatively simple. An SCV type visa would have no end date, so compliance with insurance requirements would be more difficult to enforce.

A pilot program and beyond

Given the potential risks (and rewards) of free movement arrangements, a sensible approach is to establish such programs on a pilot basis with a small number of the lowest-risk countries. Selection of these countries requires extensive analysis and consultation, as well as an indication that the other party is willing to entertain the idea.

A number of factors may come into play when considering countries for a pilot program:

- Historical affinity. New Zealand's long history of people exchange with Australia, pre-dating the TTTA agreement, has probably assisted in the smooth running of the TTTA arrangement. Australia has similar long-standing engagement with both Ireland and the UK, and to differing degrees with many Commonwealth countries.

- Administrative simplicity. It is easier to establish freedom of movement where Australia already has an extensive framework of administrative cooperation. For example, the existence of a reciprocal healthcare agreement removes one potential complication in establishing free movement. An agreement on data sharing between governments simplifies verification of citizenship and character requirements.
- Strategic value. Singapore, as a business/financial hub and a stable point in an uncertain region, is an interesting prospect⁶.

At first glance, the following countries seem suitable for a pilot program:

- Ireland has had a working holiday arrangement with Australia since 1975 (DIBP 2014b), with few apparent problems. One caveat is that Ireland offers citizenship by descent to people with one grandparent born in Ireland (Citizens Information Board 2015), leading to the risk of a flow larger than suggested by Ireland's current population.
- Malta's small population presents minimal risk. One caveat is that Malta's reciprocal health care agreement with Australia only provides cover for the first six months (DHS 2015a).
- Norway's profile suggests minimal risk. Norway has the highest per capita GDP of the Nordic countries, and the smallest number of working holiday visa holders in Australia.

A successful pilot program could eventually serve to expand free movement to more countries, and potentially to larger countries. It is possible that Canada is the upper bound of expansion, as larger countries present a greater risk of unacceptably large flows. Alternatively, a pilot program could demonstrate that free movement is self-regulating when welfare benefits are severely restricted for non-citizens, so that countries larger than Canada are viable options. However, a move to larger countries would be some way into the future, when the dynamics of free movement to and from Australia are better understood. Our current understanding is based on a sample of one, which is rarely a good basis for extrapolation.

⁶ The Singapore-Australia Free Trade Agreement (SAFTA) facilitates movement of "business persons" (Singapore Government 2015). However, the Singapore government's likely approach to completely liberalised labour flows between the two countries is less certain.

Principles and tweaks – the PC & NZPC analysis

In 2012, to mark the forthcoming 30th anniversary of closer economic relations (CER) between Australia and New Zealand, the PC and the New Zealand Productivity Commission (NZPC) published a report entitled *Strengthening trans-Tasman economic relations*. The report put forward four suggested principles to guide Australia - New Zealand arrangements for free movement of labour:

- “Policy independence - the country in which a person lives should determine the social security legislation under which the person is covered.
- Prevention of government transfer shopping - access to social security should not encourage migration of citizens from one country to another. Waiting periods to prevent this should apply in most circumstances.
- Equal Treatment - individuals should have the same rights and obligations as citizens or permanent residents in the host country, subject to the relevant waiting periods or other initial conditions.
- Portability - each country should have its own portability rules for the payments that each country covers.” (PC & NZCP 2012a, p. 156)

The third point is subject to some debate (for example, it is far from universally accepted that non-citizens should be allowed to vote in Australian elections), but overall these principles are a useful guide to development of free labour movement agreements in general. The first and last points are similar to the emphasis placed by Commonwealth Exchange on the fact that Australia - New Zealand free movement of labour is not based on treaties (which leave governments little or no flexibility), but is based on a set of procedures applied by each country. This leaves each government the flexibility to respond quickly to any change in circumstances or perceptions.

The report also pointed to some possible shortcomings in the Australia - New Zealand arrangement:

- New Zealand citizens who arrived in Australia after 26 February 2001 have no clear pathway to permanent residency and citizenship – their SCV is an indefinite temporary visa with limited rights.
- New Zealand citizens resident in Australia have access to Commonwealth-funded tertiary education, but not to Commonwealth-administered student loans.

The report recommended that the Australian government rectify these anomalies. (PC & NZPC 2012a, pp. 152-155).

Conclusion

- The TTTA is a good model for agreements between Australia and other countries for free movement of labour.
- The smaller countries listed in Table 1 represent a potential pool of partners for free labour movement arrangements. As a first step, the government should consider establishing a pilot program, with a view to eventual expansion to more countries, and potentially to larger countries. Candidates for a pilot program include Ireland, Malta and Norway.
- If and when negotiating agreements for free labour movement, the government should consider the four principles set out in the 2012 PC & NZPC report on strengthening trans-Tasman economic relations. These principles are policy independence, prevention of government transfer shopping, equal treatment of non-citizens with citizens and permanent residents, and portability rules for transfer payments.
- If and when negotiating agreements for free labour movement, the government should consider addressing the issues of equal access to tertiary education and a pathway to permanent residence, as identified in the 2012 PC & NZPC report.

References

Table 1 sources:

- Population and per capita GDP numbers are from IMF 2015. GDP numbers are IMF estimates for 2014.
- Access to working holiday visa (subclass 417) is from DIBP 2015e. Australia has working holiday agreements with 19 countries, of which 13 are shown in the table. These agreements allow for citizens between the ages of 18 and 30 to work in Australia for up to 12 months, subject to health and character requirements. Working holiday visa holders are not allowed to be accompanied by dependants.
- Number of working holiday visa holders in Australia is from DIBP2014b, and represents numbers as at 31 December 2014.
- Number of residents in Australia is from ABS 2014, estimates as at 2014.
- General non-return rate is from DIBP 2015b, and represents numbers as at 30 June 2013.
- Reciprocal healthcare agreement information is from DHS 2015a.
- US Visa Waiver Program information is from USCBP 2015.

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