

Trade Agreements as a Venue for Migration Governance

Potential and challenges for the European Union

The nexus between migration and trade policies in EU's external relations has not yet received attention in the literature about preferential trade agreements, nor in migration studies. In the Delmi report "Trade Agreements as a Venue for Migration Governance? Potential and Challenges for the European Union" Sandra Lavenex and Tamirace Fakhoury provide a first comprehensive review of the linkage between international migration policies and trade policies with focus on EU external relations.

EU trade and association agreements included migration provisions long before the EU started cooperating on migration. EU migration policy towards third country as an area of EU *competence* (the legal authority to deal with a certain matter), started off with a limited focus on migration control in the late 1990s. This has widened to a comprehensive approach that spills over to other EU external policy areas such as development, security, and trade policy. The use of trade policy instruments in international migration governance has become part of the EU's external migration policy. The most recent instruments combining EU trade and migration policy are the so-called 'compacts' that the EU signed with Jordan and Lebanon in 2016. In the report, the authors provide an overview of the evolution of the trade-migration nexus in EU policies as well as an analysis of the implementation of the compacts signed with Lebanon and Jordan.

Historical development of the trade migration linkage

From the 1960s to the 1980s, migration provisions in EU trade agreements concerned the social and economic rights of immigrants from associated countries and were included on demand of these countries and under the influence of the International Labour Organization. For example, the EU's first association agreement with a third country, the 1963 Ankara Agreement with Turkey, contained provisions extending free movement rights to Turkish nationals. The agreement also comprised protection and security of residence for workers and their family members, as well as guaranteeing non-discrimination in working conditions and social security. The next generation of agreements, concluded with the candidate countries of Central and Eastern Europe, provided a right of

free movement for the purpose of self-employment and a degree of protection from discrimination in working conditions. The liberalisation of trade in services from the mid-1990s onwards is another source of migration provisions in EU trade agreements that is external to and disconnected from the development of EU cooperation on migration and asylum. EU commitments under the WTO's General Agreement on Trade in Services (GATS) and in bilateral trade agreements contain provisions facilitating the mobility of businesspersons and service providers. As the report shows the EU has granted such concessions to primarily highly skilled managerial staff linked to investment and in trade agreements with other high-income countries. Demands from developing countries for wider openings of trade-related temporary migration channels have hitherto not materialised, especially among countries included in the European Neighbourhood Policy. The initial manifestations of a trade-migration policy nexus were derived not from a common migration policy, non-existent at the time, but from the externalities of the single market integration.

In contrast to the previous rights approach or the commercial approach in trade negotiations, EU migration policy has addressed trade agreements mostly from the perspective of issue-linkage. This approach intended to incentivize countries of origin and transit of asylum seekers and migrants to cooperate in reducing immigration pressure to Europe. This issue-linkage consists in offering closer economic cooperation in exchange for collaboration on migration control, readmission, and refugee protection. Today, trade policy instruments address aspects related to migrants' rights, the facilitation of economic mobility, the fight against irregular migration, as well as the hosting and protection of refugee populations. However, the report argues that these different elements are not linked in a comprehensive approach; they are inadequately integrated into the EU's migration policy and would clearly benefit from greater coordina-

tion. Consequently, in light of contrasting and overlapping political priorities, the trade-migration policy nexus does not exploit its full potential and fails to effectively contribute to the objectives of well-managed immigration and refugee protection.

Implementation of trade-migration linked policy

The so-called Arab Spring and, in particular, the war in Syria have spurred new attention to the situation of refugees and forcibly displaced persons. The large number of asylum seekers prompted the EU to rethink its partnership priorities with the Middle East and North Africa Region. Since then the EU has embarked on a pro-active agenda of external migration governance. The agenda calls for increased cooperation with third countries and in supporting those bearing the brunt of displaced refugees. At the same time, it stresses the importance of designing more effective border management policies and a more cohesive EU asylum policy. In 2016, the EU established a new partnership framework, which foresees the negotiation of innovative funding instruments that would design "comprehensive partnerships" on migration with third countries. These instruments, or 'Compacts', focus on linking the EU's migration, trade, stabilization, and development policies to offer "positive incentives" for migration management. Countries that cooperate on migration and refugee protection (by improving for example the integration of refugees in their societies and labour markets) are rewarded by means of capacity development and trade facilitation schemes. Against this backdrop, the EU strives to foster the resilience and self-reliance of displaced populations as close as possible to refugees' country of origin. Lebanon and Jordan constitute two regional refugee-hosting states that together have received more than two million Syrian refugees. The report analyses the Compacts signed with these countries as key illustrative cases generating insights into the EU's trade-migration nexus.

The Lebanon Compact

The compact signed between the EU and Lebanon reflects a wide mismatch in expectations and perceptions between Lebanese and EU officials. In addition to being a vague policy template, it could not yield concrete outcomes. The authors note the lacking political will on the part of Lebanon's contending governing coalitions to formally integrate Syrian refugees in the labour market. In practice, the compact's implementation was derailed in the light of Lebanon's exclusionist refugee policies, its style of adversarial governance and contending coalitions' geopolitical interests in the context of Syria's conflict. Also, in light of the authors' findings, Lebanon does not possess the prerequisites that would allow it to take advantage of the opportunity of trade in return for refugee employment. Several reasons are behind the trade imbalances between Lebanon and the EU. The most visible ones are the EU's resistance to relaxing criteria towards Lebanese exports, and, Lebanon's reliance on imports rather than exports. In other words, trade fails to evolve into a positive incentive, and as a potential solution for increasing refugee integration. This implies that when it comes to assessing whether the EU can incentivize countries to employ refugees in return for trade preferences, the Union needs to carefully weigh in whether the host economy is in a position of "competitiveness" to exploit this opportunity. Also, it needs to weight in how its toolbox of positive incentives might become embroiled within polarizing existing governance and geopolitical dynamics.

The Jordan Compact

In Jordan, the compact has succeeded in removing some legal barriers to Syrian refugee employment. Its approach has provoked less political contention than the Lebanese case, and it has been highly enticing to the Hashemite Kingdom, which historically has relied on international deals to extract revenue and optimize economic produc-

tivity. Despite this success, a deeper analysis of the compact's implementation shows that its design remains disconnected from refugee voices, and from Jordan's formal and informal labour market norms and practices. Most importantly, it lacks a deeper understanding of Jordan's socio-political challenges, and its complex historical refugee and migratory legacies. Still, from a comparative perspective, the Jordan Compact has led to more concrete outcomes than the one signed with Lebanon.

Conclusion

EU migration governance has reached out to trade policy instruments primarily as a means of fighting irregular migration. This focus contrasts with the migration provisions found in early EU association and trade agreements, which centred on the social and economic rights of migrants. It also contrasts with the provisions facilitating the temporary mobility of businesspeople that entered EU agreements from the 1990s onwards in the context of trade in services. Migration control and readmission clauses started to be included in EU trade and association agreements in the late 1990s, in parallel with the EU's new competences in asylum and migration matters. In the last decade, the EU has in addition attempted to use trade policy instruments as a positive incentive in the cooperation on refugee displacement. Yet, the trade policies have not paid enough attention to countries' specific geopolitical, economic, and social factors which in turn have affected the outcome. This has led to an aborted implementation of the compact in the case of Lebanon and to mixed results in the case of Jordan. The report concludes that the issue-linkage is illustrative of the deep contradictions and political tensions cutting through contemporary migration policies. The different logics in which EU trade and migration policies have become connected illustrate profound dissonances in how states' approach international migration at the nexus of human rights, commercial prerogatives, and security concerns. Often driven by regional crises and upheavals,

these policies have tended to privilege short-term reactions and temporality, neglecting the long-term normative consequences. Focusing on trade policy instruments as means to shield itself from undesired migration, EU external migration policies have missed opportunities for synergies and coordination.

Policy recommendations

Trade agreements contain an unexplored potential for labour mobility schemes. The liberalisation of the temporary mobility linked to trade in services offers an opportunity for the EU to develop new channels of temporary economic mobility for skilled as well as low-skilled workers moving as intra-corporate transferees, executives, trainees, contractual service suppliers, or independent professionals. This could lead to a **triple win**: Migrants are offered a legal pathway to gather work experience and skills in the EU, the home country gains from the skills that the migrants bring back, and shortages in the EU labour market can be met by foreign labour.

The EU faces an asymmetric constellation of interdependence, in relation to countries of transit and origin for migrants and refugees, where cooperation on migration control and readmission is mainly in its own interest and less in the interest of the third country. This is different in the case of trade, as cooperation is potentially beneficial for both sides. It is this apparent apolitical nature of trade relations that makes them attractive as a venue for cooperation and issue-linkages. However, **it is important that such issue-linkages respect the overarching principle of mutual gains**. It is central that partner governments assess their needs and priorities and communicate them effectively in the negotiations with the EU.

The use of trade instruments in migration policy must pay attention to the preconditions of the partner country in order to create a cooperation dynamic that is mutually beneficial. The Lebanese case sheds light on the difficulty to reach mutual gains when having an imbalanced trade relationship where one part suffers from a limited export capacity. A credible use of trade policy instruments **must also address underlying impediments causing imbalanced trade flows**. In the absence of reciprocal and balanced trade relationships, it is particularly difficult for the EU to offer positive incentives and promote the integration of refugees in the domestic labour market of third countries. Furthermore, using commercial ties for political purposes (such as making trade concessions conditional on cooperation on migration control or holding back refugees from travelling towards the EU) risks undermining economic prerogatives and worsening political relations.

Another recommendation in order for EU policies to be effective, is to avoid “one size fits all” solutions. Policy templates need to be attuned to the countries’ contextual realities, **formal and informal economies as well as underlying historical legacies that govern refugee reception**.

Finally, the EU and partner governments must **ensure that trade-related migration policies respect the broader commitment to refugee protection and rights-based humanitarianism**. It is important that the EU embarks with partner governments on consultative processes regarding solutions for refugees that go beyond temporary opportunities and considering a wider array of durable solutions including integration, resettlement, and return in safety and dignity.



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