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CLANDESTINE IMMIGRATION: ECONOMIC AND POLITICAL ISSUES¹

Introduction

Considered over a long period of time (since the 1970s), and against a backdrop of otherwise moderate growth in international migration (Tapinos and Delaunay, 1998), the increase in the variety of forms of clandestine residence and the growing length of stay of clandestine immigrants have had the effect of virtually reducing the debate on immigration policy to one on the issue of clandestine immigration. The curbing of illegal inflows and of foreigners' irregularity with regard to residence and employment has become one of the priorities of migration policy. This policy orientation is now common to all the countries of Europe, particularly the new countries of immigration in the south (*i.e.* Italy, Spain, Greece and Portugal), as well as to North America, although the United States and Canada are still open to regular immigration.

To examine the economic and political challenges deriving from clandestine migration is to investigate whether clandestine migration possesses specific features as compared to regular migration. It is from such a perspective that this paper considers the problems of measurement, the economic dimension and control policies.

A. ILLEGAL MIGRATION

1. Illegal migration: a multi-faceted concept

The extent of States' sovereignty defines the scope of clandestine migration flows. The clandestine nature of such migration is defined by reference to the rules of law (and their shortcomings), the restrictions on entering and leaving a country, and

the regulations governing access to the labour market. By definition, clandestine immigration eludes registration and statistical coverage. The first difficulty confronting one is that of how to define and measure clandestine immigration.

Convention No. 143 adopted by the 1975 ILO Conference defines clandestine or illegal migration movements as those where migrants find themselves "during their journey, on arrival or during their period of residence and employment [in] conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations" (Moulier Boutang, Garson and Silberman, 1986). This definition places the stress on the diverse aspects of irregularity: entry, residence in the host country and the undertaking of an occupation.

In a world without restrictions on entering or leaving a country, illegal immigration would be a concept without reference. Unless there simultaneously exists both restrictions and a degree of tolerance illegal immigration cannot take place. It is a manifestation of an imbalance between the effectively unlimited supply of candidates for emigration and the limitations placed by recipient countries on the acceptance of new entrants.

In countries like the United States and Canada which remain essentially open to immigration, illegal immigration is an alternative entry procedure for those who do not meet the required criteria, for those who would have to wait longer than they would wish in order to obtain an immigrant's visa, as well as for those for whom unauthorised immigration is less expensive. Where opportunities for entering and staying in a country are limited, as in Europe at the present time, illegal entry is, excepting being the subject of a family

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reunion application or applying for asylum, the only option available to candidates for migration. In the cases of both types of country, once there exists a statutory maximum length of stay, whether this depends on the type of visa (*e.g.* for tourists, students and temporary workers) or whether indeed there is any obligation to have a visa at all, overstaying² places the person concerned outside the law.

This fundamental distinction is easier to draw in the United States where there exists at entry a statutory dividing line between immigrants and non-immigrants, and where the statistical system estimates the number of non-immigrants by counting those who do not amend their status after entry, whose departure from the country is not registered, and who are assumed to be still in the country after the expiry date of their visa.

In European countries, where no such distinction is made on entry, overstaying usually occurs when an immigrant is turned down after applying for the obtention or renewal of a residence permit. This situation, the reflection of rules governing legal residence, can result not only from wilfulness on the part of migrants but also from the ambiguity or incoherence of the rules themselves. For example, in countries like Italy and Spain where there have been frequent regularisation programmes and where a permit obtained at the time of a regularisation exercise is normally limited to a period of one year, with the possibility (non-automatic) for it to be renewed, repeated regularisations of the same people have been observed. By contrast, in the United States, those who benefited from the amnesty law of 1986 [the Immigration Reform and Control Act (IRCA)] obtained permits enabling them to remain in the country until they met conditions for the obtention of a permanent residence permit (Green Card).

Illegal immigration also has a time dimension as it can be defined by length of stay. From the immigrant's point of view, illegality may represent either a temporary phase in the migration cycle (as was the case in France during the 1960s where there existed the possibility for illegal immigrants to be regularised) or a permanent state (in the absence of regularisation or when regularisation is exceptional and non-renewable – which is what American regularisation in 1986 and the regularisation programmes recently undertaken in European countries are assumed to be). This distinction also holds from the point of view of the recipient country, which may be either a country of first entry or one where the immigrant intends to settle permanently. In this regard,

the situation develops over time. When Spain and Italy, emigration countries *par excellence*, began to accept immigrants at a time when traditional European immigration countries were closing their borders to immigration, the authorities in these countries liked to think they were countries of first entry. By the late 1980s and early 1990s, it had become clear that these countries had in turn become settlement countries with a significant number of clandestine immigrants.

The examination of clandestinity cannot be reduced to the clandestine migrant himself. The analysis of the phenomenon and the formulation of policies to combat it should look at the whole length of the chain of clandestinity, which brings into play a series of agents: the migrant, the intermediary who facilitates his passage or placement, the company for whom the migrant works and, according to the case, the principal contractor. One is therefore confronted by a wide array of complex situations and circuits which range from the arrangement of the meeting between the clandestine immigrant and the employer through to far-reaching and powerful organisations which control a veritable trade in labour. In America, workers from Mexico or Central America endeavour to cross the border with the help of a smuggler, who might also arrange their obtention of employment. Elsewhere, nationals of sub-Saharan Africa enter Algeria by aeroplane, continue their journey by land through to the Spanish enclave of Melilla in Morocco in the hope of being transported to Spain at the time of a regularisation programme.

The organisations involved in smuggling operations can be of considerable scale. In the United States, the INS dismantled in 1998 an organisation which had arranged the passage to the United States of approximately 10 000 people; in November of the same year two million fake identification papers were seized in Los Angeles (INS, March 1999). The clandestine chain sometimes goes further back than the migrant himself. For example, the Moroccan youths who are known to have entered Europe were not, as one might have supposed, unoccupied youths who had taken the initiative to emigrate clandestinely, rather they had been sent by their parents who had elected to take advantage of their children's minority which, in Europe, protects them against expulsion. This extreme heterogeneity should rule out judgements on this phenomenon made on purely humanitarian or, conversely, purely criminal bases.

These distinctions have considerable implications for the measurement and characterisation of

illegal migrants, the economic impact of illegal migration, administrative effectiveness and the aspect of control policy.

2. Measurement methods

Estimating the number of people in an irregular situation is inherently problematic. Account must be taken not only of the legal system of immigration, the system of statistical observation and mechanisms involved in undocumented living, but also, given that such estimates rely to varying degrees on survey evidence, of the perception that the clandestine migrants have of the acceptance of their clandestinity by the local population and of the nature of the risks that they are taking.

In that it concerns the measurement of an unobservable event, the measurement of irregular migration runs into well-known problems. The difficulties are particularly severe in the case of clandestine migration for whilst measurement in this field can only be indirect, the absence of regularities in the phenomena that might be linked to this form of migration limits the usefulness of indirect methods. Indeed, the classic demographic distinction between direct and indirect methods is hard to sustain. Strictly speaking, one rarely has direct observations at one's disposal. At best, observations are incomplete; in every case complementary information is required – which is itself often estimated – for the phenomenon to be satisfactorily understood.

Figures for apprehensions in border regions, for example, have to be adjusted to take account of the number of times that individual migrants attempt to cross. Figures derived from regularisation programmes need to be amended to take account of those excluded for failing to meet the criteria (particularly those relating to the date of arrival, the obligation to remain in the country continuously, and the presentation of a work permit). Similarly, surveys that focus directly on the clandestine population (“snowball” sampling or the Delphi technique) which presume to identify from the outset people who are known to be in an irregular situation contain substantial biases. Measurements made in the frontier zones of sending countries before migrants cross the frontier (*cf.* the Mexican COLEF survey) constitute an exception.

It is important first of all to know what one is measuring. Is it numbers (stocks) or movements (flows)? Is it workers or the whole of the population? To measure clandestine *entries*, is to attempt to assess

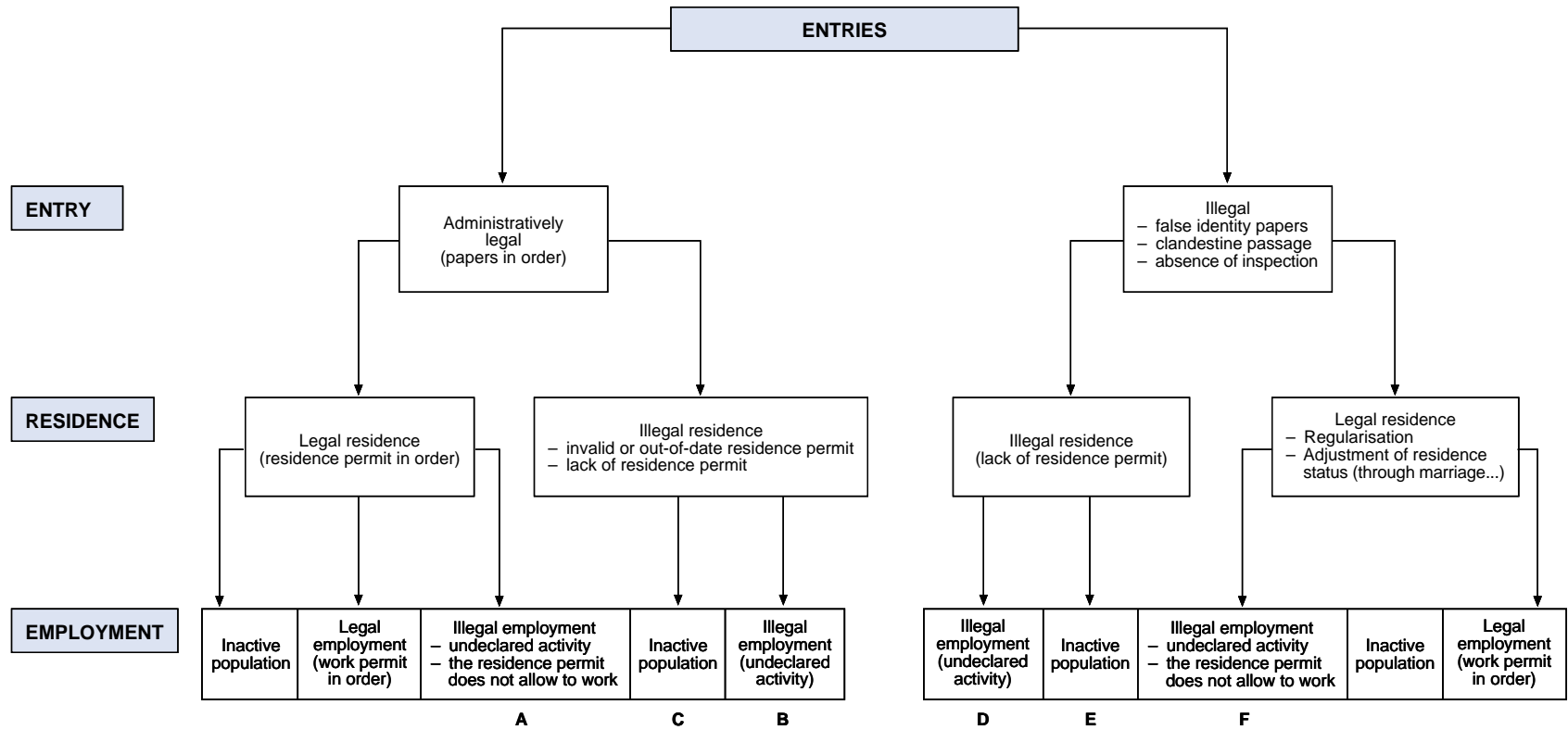
the volume of the *flows* of people entering the country without the required legal administrative documentation, whether they cross the frontier with false papers or at a point that is not controlled. By contrast, irregularity in respect of those who *reside* concerns *stocks* which comprise both the net cumulative flows of people who have entered without authorisation and are not regularised, and those who have entered clandestinely but have lost their right of residence and are still in the country. It should also be considered as essential, in so far as the employment status of those in an irregular situation will also, logically, be irregular too, to attempt to measure the number of foreigners in irregular employment.

Defining the groups in these ways allows one to distinguish the possible estimates, those of: *clandestine entrants* (inflow of illegal migrants over a given period), *clandestine residence* (the total foreign population residing in the country illegally at a given moment) and *clandestine workers* (the number of clandestine workers in employment at a given moment).

Chart III.1. summarises the different entry, residence and employment situations in which foreign migrants can find themselves. It is possible to identify six categories of clandestinity:

- A. Migrants who have entered the country legally with a legal residence permit, but who are working illegally either because the job is not declared or because their residence permit does not allow them to work.
- B. Migrants who have entered the country legally, who are living in the country illegally (either because their work permits are invalid or have expired, or because they do not have residence permits), and who are working illegally. It is assumed that a migrant without a residence permit cannot work legally under the legislation in force.
- C. The same category as above, but covering inactive migrants.
- D. Migrants who have entered the country clandestinely, who have no residence permit, and who are working illegally.
- E. The same category as above, but covering inactive migrants.
- F. Migrants who have entered the country clandestinely, who have a residence permit (*e.g.* following regularisation, or by variation in their status through marriage) and are working illegally.

Chart III.1. Presentation of the various situations in which foreign migrants can find themselves



The problem is how to go from administrative statistics, which are marked by characteristics specific to each country, to a method of measuring the phenomenon.³ Most methods rely on data from the recipient country, and they are based on two kinds of logic with the estimate of the stock of clandestine immigrants made either by comparing statistics on entry and modifications to status with data relating to stocks, or by using comprehensive registers of demographic events such as births and deaths.

Methods of estimating the clandestine population were first developed and applied in the United States. Direct calculation, through comparing entry statistics and modifications to status from INS (Immigration and Naturalization Service) data, permitted the inference of the number of visa overstayers. To this component of the stock of clandestine immigrants should be added clandestine entrants (*entries without inspection*) estimated by means of an indirect procedure (Warren, 1994).

“Residual” estimating is based on census data. From the total *foreign-born* population counted at the time of the census, 1990 say, and the theoretical legal *foreign-born* population estimated for the same point in time from INS figures, an estimate of the population of clandestine immigrants picked-up by the census can be obtained by subtracting one from the other. To be of analytical interest, the censuses would have had to have counted a high proportion of the illegal migrants (Clark, Passel, Zimmermann and Fix, 1995). Mention should also be made of estimates of clandestine entries arrived at by adjusting the number of arrests on the basis of the likelihood of being apprehended at the United States-Mexico border (Espenshade, 1995).

In Europe, measurement of clandestine migration has been attempted only relatively recently. The wide range of methods contemplated and used is a reflection of the similarly wide range of statistical observation systems employed but is above all testament to the exploratory nature of these first attempts. Tables III.1 and III.2 summarise the results of comparative research carried out by Eurostat in some ten European countries; its objectives were to compile a register of methods used in the various countries and to suggest viable procedures in the light of the kind of data available (Delaunay and Tapinos, 1998). In practice, the measurement is based on direct observation of the individual in an irregular situation or considered likely to be so, either at the moment of his crossing the border (for example data on apprehensions and forced departures), during his

residence (for example, from regularisations and refusals of asylum). Such information constitutes the basis for only an imperfect measure. This is why recourse to indirect estimation methods is necessary.

Estimates based on the population of sending countries are really an application of classical expected-population and gender ratio methods integrating additional information derived from data from immigration countries. The “expected population” method involves a comparison between expected and observed stocks broken down by age and gender in two successive censuses. Starting from the population distribution on that date (t), and allowing for deaths and births registered or estimated during the period ($t + k$), the difference between the population actually observed and that extrapolated in ($t + k$) gives an estimate of the sending country’s net migration during the inter-census period. Evaluating clandestine migration involves comparing this net migration estimate with variations in stocks (or in net migration) registered world-wide for nationals of these countries which necessitates knowledge of the stocks in recipient countries of the nationals of the country concerned. Such a method is appropriate only under the hypothesis that the nationals of the country concerned migrate to a very small number of countries.

The second method focuses on the high proportion of men among clandestine migrants; this is observed by default in gender ratios (women appear to be in a majority) of populations counted in sending countries. An estimate of those missing is then possible if one knows the ratios of men among those remaining and among all nationals registered both in their own countries and abroad. These indirect methods are not reliable. A small weakness in one of the links of the estimating chain (*e.g.* in census coverage, or in measuring the death rate) can easily lead to a substantial variation in the measure of clandestinity. Furthermore, they only provide an overall estimate of the number nationals who are living abroad; their distribution by recipient country would remain unknown.

In so far as clandestine immigrants work in the hidden economy, it will be possible to consider an estimate of clandestine immigration as a by-product of a measurement of the hidden economy,⁴ defined as those activities which evade payment of tax and social security contributions. This approach has two limitations: firstly, with a few exceptions, clandestine migrant workers account for only a small proportion

Table III.1. Typology of the methods used to estimate clandestinity

Direct measures	Administrative statistics	Statistics on refusals	Visas/entries	1
			Political asylum	2
			Residence and work permits	3
		Infractions	Entry/border	4
			Stay	5
			Work or job	6
	Surveys	Regularisations	Mass	7
			Exceptionnal	8
		Without sample	Delphi "method"	9
			With sample	"Snowball" technique
At the time of the regularisation	11			
On employment	12			
On mobility/border flows	13			
Indirect estimates	Comparison of sources	Expected populations	15	
		Pairing of files	16	
	Inferences from secondary events	Sex-ratio	17	
		Common law crimes	18	
		Births and deaths	19	
		Statistics on school attendance	20	
		Social/health benefits	21	
	Work statistics	National data	22	

Source: Delaunay, Tapinos, 1998.

of those clandestinely employed; secondly, the methods used to measure the hidden economy reflect concerns linked to taxation and national statistics (*e.g.* the amount of, and growth in, GDP), and are not directly concerned with the legal status of migrant workers. Moreover, in the hidden economy the dividing line between clandestine employment and registered employment tends to be very difficult to draw (see below).

The most elaborate attempts to estimate the number of clandestine foreigners by measuring the hidden economy have been made in Italy. They have relied on observed divergences in the national accounts between declared added value and estimates of added value based on average productivity throughout a given sector and anomalies observed in changes in participation rates.

Three concluding remarks on these measurement methods:

It is not possible to place on the same plane, on the one hand, the innumerable *gestimates* (guess estimates) that tend rather to reflect the feeling of anxiety (or the need to give reassurance) that their authors feel with regard to clandestine immigration and, on the other hand, the difficult and imperfect

attempts, conducted in conformity with the procedures of scientific research, to arrive at a statistical measurement. Most certainly, there is no guarantee that the measurements arrived at on the latter basis will more closely correspond to reality than those based on the former approach. However, that their method of calculation, the field covered, the hypotheses used and statistical biases are all explicit does present a considerable advantage. Such an approach, in offering the possibility of subjecting to comparison the results obtained through a variety of statistical methods, is the sole means of coming close to an accurate estimate.

The issue is not so much the number of clandestine immigrants but rather the characteristics and the mechanisms of the reproduction of clandestinity: these give real meaning to the estimate of the stock obtained. The stock of clandestine immigrants results from the difference between their inflow and outflow and depends therefore on the average length of time spent in the state of clandestinity. It is of some importance to know the relative extents to which a change in the stock of clandestine immigrants is due to a change in inflows and a change in the average duration of clandestine stay.⁵

Table III.2. Tested or conceived methods to estimate clandestinity

	Method												
			Europe	United Kingdom	Belgium	France	Greece	Netherlands	Italy	Portugal	Czeck Rep.	Switzerland	
Entry/Exit	Visa refusals	1											
	Entry refusals	1											
	Passenger cards												
	Apprehensions at border	4											
	Biographical inquiries	14											
	Surveys on flows	13											
Residence	Breaches of residence regulations	5											
	Refusals of residence permits	3											
	Refusals of political asylum	2											
	Regularisations	8											
	Common law crimes	18											
	Comparison of sources	16											
	Deaths and births	19											
	Expected populations	15											
	Sex-ratio	17											
	School, social assistance	21											
	Delphi Method	10											
	Surveys by stage	11											
Work	National data	22											
	Employment infraction	6											
	Surveys on irregular employment	12											
			<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="width: 15px; height: 10px; background-color: #0070C0; margin-right: 5px;"></div> Methods being applied </div> <div style="display: flex; justify-content: space-between; align-items: center; margin-top: 5px;"> <div style="width: 15px; height: 10px; background-color: #ADD8E6; margin-right: 5px;"></div> Collaborators' proposals </div>										

Irregular migration is by definition a breach of immigration law, and we have long pretended that it was an exceptional phenomenon. This allowed us to believe that we were dealing with a problem to which we had to find a solution. This confusion between normative and positive had the effect of concealing the need to put in place a statistical apparatus that would provide for both measurement and the carrying out of longitudinal surveys with a view to understanding the mechanisms of migration and the characteristics of clandestine migrants. Clandestine immigration is not an exceptional, non-renewable event. It is an inevitable phenomenon, one that is likely to grow as globalisation, economic transition and inter-ethnic conflict continue.

B. THE ECONOMIC IMPACT

Is there an economic dimension that is specific to illegal migration as compared to legal migration? To what extent are the economic implications of ille-

gal labour immigration linked to the foreign workers' legal status?

In the standard model of the labour market, the incidence of immigration, legal or illegal, depends on the nature of the migration process and the degree to which immigrants and nationals complement or substitute one another. In this way, one may contrast the situation according to which immigration derives from an economy-wide or sectoral labour shortage and may therefore be seen as endogenous, with that where immigration is exogenous and likely to engender competition with the pre-existing domestic labour supply. Under this latter hypothesis, which standard labour market theory assumes to be the case, the equilibrium wage falls; the quantitative impact on the employment of nationals depends on the (downward) elasticity in the supply of nationals' labour compared with the (upward) elasticity of employers' total labour demand. A significant displacement effect is only observed where a lower equilibrium wage rate leads to a substantial with-

drawal by nationals from the labour market without a significant increase in labour demand.

The empirical scope of such a prediction is dependent on the extent to which we can determine the elasticity of the various segments of the workforce's labour supply (*e.g.* with regard to age, gender, marital status and skills) and the nature of changes in labour supply (*e.g.* variations in participation rates, hours worked, etc.). Another school of thought sees labour market segmentation as a key factor underlying the resort to immigrant workers. Layard, Nickell and Jackman (1991) suggest, given the differing characteristics of jobs in the primary and secondary sectors, that a fall in wage rates in the primary sector causes labour demand to rise, whereas a fall in wage rates in the secondary sector causes labour supply to fall. This could be expected to have a positive impact on the employment of foreigners in the latter sector.

Could the anticipated effects be extended to irregular immigration? The highlighting of an effect that is specific to irregular immigration or irregular employment would necessitate an examination of the behaviour of labour supply and demand and the institutional variables that influence it (in particular the existence of an informal sector) and the specific impact of illegal immigration at a macroeconomic level with regard to resource allocation, distribution and taxation.

1. The behaviour of labour supply and demand

For the migrant, there can be advantages in clandestine employment, but illegality is rarely the result of choice.⁶ When a regularisation exercise is in progress, the eagerness of most people who meet the criteria to file an application shows that illegal workers have a marked preference for legal status.⁷ However, the argument that clandestine workers (who are assumed to be more interested in financial gain than in working conditions) are prepared to accept longer working hours needs qualification. In an attempt to isolate the sole impact of incentives and constraints on working hours, Dunn (1960) sought to assess the extent to which pay rates match the marginal rate of substitution between income and leisure. To that end, he compared the results obtained from three samples distinguished by the existence and amount of bonuses linked to long working hours and the fixed costs linked to obtaining employment. It appeared that in agriculture, the economic sector that comes closest to the hypothesis of economic theory (*i.e.* the absence of overtime bonuses, low fixed job-obtention

costs, plentiful information on wages, and competition between employers), there was no difference between the working hours of legal and illegal workers. From this, the author concluded that preferences in respect of working hours are independent of a worker's legal status.

The advantages of illegal migration tend to be on the employers' side. In that the migrant's illegal status vis-à-vis his residence or employment places him in a situation of marked dependence rendering him more willing to accept a very low wage, often below the legal minimum, the employer might expect to benefit. The threat of being caught weighing on the migrant is for the employer a source of protection against being penalised himself. And conversely, legal residence status combined with semi-clandestine employment status can represent for the employer an advantage in so far as they allow a part of the work undertaken by the migrant to go undeclared or for the migrant to be considered as an independent worker. The monograph recently published by Iskander (1999) on the garment fabrication sector in Paris and the Parisian suburbs shows that employers' preference for one or the other of these situations depends on whether the firm's strategy is oriented more towards producing a quality product or to the minimisation of wages. There exists for the employer, leaving aside the cost of sanctions against unauthorised employment (this issue is examined below), three reasons for preferring clandestine foreign workers: differences in pay, differences in social charges, and flexibility in the production process.

For the employer to benefit from lower labour costs, undocumented migrants have to accept wages below the current market rate. Taking into account differentials in pay, standards of living and job opportunities in the sending and host countries, both legal and illegal migrants normally have a lower reserve wage. Do clandestine migrants have a lower reserve wage than documented migrants?

On the one hand, those embarking on clandestine emigration have to evaluate the expected costs of their illegality; these mainly comprise the cost of entering the country (*e.g.* the likelihood of being arrested in the course of each attempted entry, the average number of attempts made before a successful entry, brokerage fees) and similarly the expected cost of being penalised for taking up clandestine employment. On the other hand, the threat of being caught coupled with the desire, perhaps obligation, to pay back rapidly the monies spent on entering the country limit the incentive for prolonging job-search

efforts. Clandestine immigrants are therefore inclined to accept a lower rate of pay than nationals and regular immigrants of the same skill category.

As far as social charges and non-wage costs are concerned, *ceteris paribus*, the advantage for employers in hiring undocumented workers increases in line with the proportion of labour costs that would otherwise be accounted for by mandatory deductions and conformity with health and safety regulations. In this context, we might talk of a “*welfare magnet*”, but in a quite different sense from how it is normally understood. Moreover, given the precariousness of his situation and weak negotiating power, clandestine status also renders him more susceptible to discriminatory practices.

2. Undocumented migrant workers and the hidden economy

The structure of the labour market and the hidden economy constitute for both the employer and the worker the critical element in their decision making processes. It is by no means true to say that the hidden economy and clandestine foreign employment cover one and the same domain, but equally they are not unrelated given that the hidden economy is the only way for foreigners in an illegal situation and with no work permits to enter the labour market. Clandestine work by foreigners is the point at which two domains converge: on one side, irregular migration (which is located within the dynamic of international migration) and, on the other, the hidden economy (which is linked to changes in the labour market, but cannot be simply reduced to the work of foreigners in an irregular situation) (Moulier-Boutang, 1991). For clandestine foreign workers, these two domains are superimposed upon one another. Work carried out by foreigners in an irregular situation is therefore located in the overall dynamic of the labour market, independent of the dynamics of international migration. The emergence of a hidden economy is part of a complex process of labour market hierarchisation and the bypassing regulations directed at responding to competition through achieving greater flexibility in production and pay. It is also accompanied by formal “desalarisation” and frequent movement from employee status to non-employee status (from salaried employment to self-employment, for example in the building industry), and the activation of community (*i.e.* family, ethnic and political) links in employment relations. These strategies for managing work are particularly important in highly seasonal jobs

that demand a rapid response to variations in demand and changing tastes.⁸

These ‘atypical’ jobs are performed by different categories of the labour force: young school-leavers and students, women looking for a second job, home helps, and foreigners in a precarious situation (whether regular or otherwise in terms of residence status) are the most commonly employed on such a basis.⁹ Irregularly employed foreigners constitute one of the elements of the hidden economy; they are not the cause of its existence. However, the existence of a hidden economy that is broadly tolerated by society as a whole makes the recruitment of unauthorised migrants more likely, particularly as networks of migrants make it easier to hire undocumented workers in this sector.¹⁰ However, though the recourse to clandestine foreign labour can be regarded as an element of a flexibility strategy, were precariousness to be extended to other segments of the labour force the relative advantage of hiring clandestine foreign labour would diminish (Iskander, 1999).

Clandestine employment is also observed among sole traders (such as door-to-door salesmen and people who sell goods in underground railway stations). In such cases, clandestinity can be both a necessity and a choice for immigrants.¹¹ It would appear that these activities are more the consequence of an exogenous inflow than a response to a demand for labour in the host country. That said, it cannot be denied in that the ‘African’ products sold by Senegalese street-sellers in Italy are in fact produced locally within the informal sector.

There is an interrelationship between declared and undeclared employment, that reflects both the prohibition/tolerance dialectic of control policy and the complementarity/substitutability debate on the labour market. Whether it involves legal activities that breach tax and employment legislation or illegal activities (*e.g.* the sale of prohibited goods), the informal sector develops from the formal sector in the same way as immigration is a consequence of the existence of a system of legal immigration. The informal sector results from institutional rigidities in the formal sector (*e.g.* tax regulations and working time rules) and could not thrive unless tolerated by society.

3. Impact on the labour market. Empirical results

To what extent does the employment of clandestine immigrants affect the employment and wages of nationals and legal immigrants? What differences in wages are observed between nationals,

legal migrants and illegal migrants? For otherwise identical individuals, are these differences the outcome of market adjustments or an expression of discriminatory practices?

Ten years of scholarly debate on the subject in the United States from the end of the 1970s through to the end of the 1980s have highlighted the problems one encounters when one attempts to isolate the specific effect of migrants' legal status and the difficulties one meets when attempting to reconcile apparently contradictory results. One requires, in fact, data which allow one to take into account self selection effects (age, sex, marital status, education, time spent in the United States, social capital, etc.), the self selection of those who return and also unobservable events (for example, attitude towards risk). The kind of data that we have at our disposal rarely allow us to exploit the sophisticated statistical techniques that might eliminate these biases. The research undertaken by Massey (1987) on four Mexican communities observed the United States and in Mexico is exemplary in this regard. It shows that the resulting status of inequality does not of itself lead to a lower wage but does exert an indirect influence in the sense that it is associated with interrupted periods of residence and to shorter total periods of stay. Experience in the United States is consequently limited and the workers tend to be confined to badly paid jobs, factors which have the effect of diminishing wages, be the persons legal or illegal. One of the earliest studies in the United States on the relative impact of illegal and legal immigrants on the wages of nationals shows that illegal migrants have a smaller negative impact (Bean, Lowell and Taylor, 1988). The explanation for this outcome may lie in the fact that most legal immigrants enter the country irrespective of labour market conditions in the United States, whereas illegal migrants respond more to an endogenous demand for labour in that country. Other studies concluded that the results obtained should be subject to some qualification. On the whole, the results are not clear-cut, and the impact, if there is one, is moderate.

In Europe, in the absence of appropriate data the results have been more fragmentary and contrasted.¹²

In addition to the methodological problems already mentioned, these divergences may be explained by the heterogeneity of the forms of illegal migration, differing contexts, as well as by the differing dynamics underlying the process of unauthorised migration. In France during the 1960s, for example, when regularisation programmes were frequent,

enterprises had a two-tier strategy whereby they directly recruited irregular workers who were already in the country whilst at the same time, as an insurance mechanism for times when they might find themselves unable to recruit such labour, they also went through legal procedures to hire migrant workers (Tapinos, 1973).

For migrants, too, it was a short-cut compared with the legal recruitment system; it enabled them to cut down their waiting time and, in some cases, even the cost of migration. Illegal immigrants would accept the first job they were offered, and usually at the lowest rates of pay. As soon as they were regularised, they had little difficulty, at a time of substantial industrial growth and labour shortages, in finding jobs that were sometimes better paid than those of the legal immigrants who continued to accept minimum wage rates.

The impact of a migrant's legal status can also be measured indirectly by looking at how migrants' wages have changed following their regularisation. Figures are generally lacking, and where they exist they come from cross-country surveys that contain biases and are therefore difficult to interpret. An exception to this has been the exploitation of two American surveys, the Legalised Population Survey (LPS) and the Current Population Survey (CPS) which incorporate a longitudinal follow-up (Tienda & Singer, 1995). This analysis seeks to break down salary variation since regularisation into what can be attributed to characteristics at entry that are specific to illegal workers (*e.g.* younger, more likely to come from non-English-speaking countries, lower standard of education, a shorter period of residence in the United States), and to factors that may have influenced increases in their wage in the United States (*e.g.* education, command of English, professional experience, changes in the labour market, entry cohort, the first sector of activity, economic indicators in the geographical area of activity, and changes in the economic situation in the United States). Results point to a substantial rise in the wage of workers following regularisation, correlated with the year of entry and the duration of residence, with major variations according to country of origin.

4. The macroeconomic impact, distribution and taxation

What, then, is the total macroeconomic impact specifically attributable to the employment of illegal foreign labour on distribution and taxation. Accord-

ing to standard economic theory, immigration reduces the equilibrium wage, increases total employment (*i.e.* nationals and immigrant workers) and alters the distribution of income between labour and capital. The greater the fall in wages rates due to immigration, the higher is the surplus and return on capital investment. Do variations in the amount of surplus and its distribution depend on the legal status of the migrant workers? Insofar as the effects of illegal immigration are linked to a reduction in labour costs and the equilibrium wage rate, illegal immigration, by offering the possibility of labour costs lower than would be the case under legal migration, has *ceteris paribus* a more pronounced positive effect on GDP than legal migration.

However, it is also important to take account of the characteristics of migrants, their skills, the sectors and branches in which they are employed, the conditions of supply and demand for nationals, and the time horizon in question. For example, Djajic presents an open economy model with full employment in two sectors: unskilled workers, both nationals and unauthorised migrants, are employed in branches whose product is an input for branches where only nationals are employed. The effects on wages and flexibility in a sector brought about by the employment of undocumented workers increase the total product and *per capita* product for the workforce as a whole. In the long term, the employment of illegal foreign workers may promote the acquisition of skills and the upward mobility of the domestic labour force, and thereby raise incomes for society as a whole (Djajic, 1997). However, results are linked to migrants' skill levels and to their exclusive concentration in a branch or sector, rather than to their illegal status. A structure of this type provides an equally good description of both legal and illegal migration in Europe during the 1960s and early 1970s (Lutz, 1963; Tapinos, 1973).

By contrast, given the current situation in Europe, particularly in southern Europe where the labour supply and unemployment are both high, substantial non-wage labour costs in the formal sector and the shortage of capital can lead to a displacement of capital and workers towards the low-cost informal sector. This is an undesirable consequence in the long term (Dell'Aringa and Neri, 1989). It is a hypothesis that needs checking; the detailed sectoral analyses required for this have yet to be carried out (*cf.* Venturini, 1997).

The most sensitive area concerns the effects of undocumented migration on the most disadvan-

tagged workers in society. Insofar as immigration increases the total product, specific groups affected by immigration could receive compensation. The minimum wage and other forms of guaranteed income seek to meet this redistributive objective for the most disadvantaged. However, such measures can themselves encourage illegal immigration. The argument is not that undocumented migrants are attracted by the "*welfare magnet*", but rather that by raising the reserve wage of nationals, welfare-state policies increase the return for employers on the use of illegal immigrant workers and, to a lesser extent, on the use of legal immigrant workers.

It is precisely considerations of this type that are adduced in support of restrictive policies. However, restrictions on legal and illegal immigration that aim to protect the least skilled groups on the labour market have to be compared in an open economy with effects on the same groups that would result from an equivalent increase in labour-intensive imports. Potential migrants unable to leave their countries would specialise in the production and export of labour-intensive products; the employment and earnings of unskilled workers in what would otherwise have been immigration countries would thereby be affected.

The fear of a crowding-out effect on nationals and legal migrants is reinforced when illegal immigration occurs during situations of rising unemployment. According to a neo-classical approach, an increase in unemployment would be analysed as a further voluntary withdrawal by nationals and legal immigrants from the labour market, their reserve wages being higher than the now lower equilibrium wage brought about by the employment of illegal foreign workers. Though what exactly voluntary unemployment and reserve wage mean in such a model is, to say the least, somewhat ambiguous, particularly in an open economy with the possibility of temporary labour migration.

Let us imagine a large inflow of undocumented foreigners ready to accept jobs at a wage 50% below the market rate – a movement that could lead to a massive withdrawal of nationals from the labour market. To consider these nationals as voluntarily unemployed because their reserve wage is too high would be to render the notion of a reserve wage meaningless. The reserve wage is established in relation to certain expectations that workers have with regard to their standard of living – taking into account time and place, to use the academic definition of the right price. Migrants are prepared to accept wages which,

given the constraint of an irreducible level consumption in the country where the jobs are, provide a standard of living desired for family members who stayed behind through remittances that increase in value with improvements in the terms of trade. The reserve wages of residents of immigration countries and of potential migrants are associated with different reference spaces and life styles. Differentials may explain why people resort to unauthorised immigration, but they also pose the problem of an inter-personal comparison of utilities.

The question of labour market competition needs to be examined together with concerns for the fiscal impact of illegal immigration. This brings us back to an examination of the extent to which deductions and benefits are linked to territoriality, nationality and regularity in respect of residence.

In terms of taxation, whatever calculation technique is used to itemise the expenditures and resources put into immigration as a whole (it is a calculation that cannot be simply reduced to a cross-sectional analysis, and has aroused a debate notable for its extremely divergent positions), the fiscal impact of unauthorised foreign workers and their families is generally positive as far as the national budget is concerned: illegal migrants pay indirect taxes in the same way as all other consumers and although they avoid paying income tax their revenues are generally such that the loss to the public exchequer cannot be significant and is unlikely to exceed what they obtain in return, given that their use of community services tends to be even lower than their incomes. The only real "cost" linked to irregularity is for services the use of which is not determined by the legality of residence status; these mainly concern the education of children of illegal immigrants.

As far as social protection is concerned, contributions and entitlements are linked to regularity in respect of residence and work. On the hypothesis that regular migrants realise a net gain from the social protection system, a relative increase in the proportion of illegal immigrants in the immigrant population who do not contribute – but do not draw benefits either – actually reduces the cost of the system. On the hypothesis that the contributions of regular migrants are greater than the benefits they receive, which is usually the case, a similar relative increase in the proportion of illegal immigrants represents a loss to the system. Whichever of these hypotheses is retained, the claim that the money that illegal migrants take out of the social protection system is

the determining factor behind their decision to migrate should be treated with caution. There is, however, an argument in favour of reallocating resources between the various administrative tiers in order to pay for higher charges at the local level.

The research by McCarthy and Vernez (1997) that reports on the results of surveys conducted by the Rand Corporation in California can be cited as an example. According to United States law, illegal immigrants are not eligible for certain assistance programmes, although they do qualify for education and for food programmes. Children qualify for assistance in the same way as all children born in the United States. In fact, the drawing of social benefits depends more on migrants' socio-economic status rather than on their legal status. However, it is noteworthy that: *a)* hospitalisation is higher among children born in the United States of illegal immigrants; *b)* many illegal immigrants qualify for access to certain social programmes (*e.g.* AFDC, food stamps and Medicaid) insofar as their children born in the United States are eligible or one of the parents has the status of legal immigrant; and, *c)* illegal immigrants tend not to apply for reduced tax liability.

The final element to be considered in this calculation is the cost of control, which can indeed be very high. Entry control seeks to counter a wide range of illegal activities including drug trafficking and terrorism. Not all the costs incurred in entry control can be attributed to illegal migration. Moreover, the specific cost of applying laws (*e.g.* frontier controls, the imposition of penalties on employers, and the investigation and sending back of foreigners lacking the proper documents) are an integral part of general immigration policy and as such is the price to be paid for operating a legal migration regime – unless, that is, we were to imagine a totally open-frontier system. In other words, for illegal immigration to represent a fiscal burden, it would have to be assumed that the cost of control (properly adjusted) exceeded the positive net balance of fiscal revenues less social expenditures attributable to it. That is a highly unlikely outcome given the extent of illegal immigration's positive impact on GDP.

In conclusion, in order for the phenomenon of clandestine immigration to be comprehended it is essential that its economic dimension be taken into account. It would appear however that economic analyses of the labour market have not identified and incorporated within its models the specific features of clandestine immigration. This explains why the majority of the studies of illegal immigration, in

particular to the United States, analyse the employment of illegal immigrants as if it were coterminous with that of unskilled legal immigrants. The difference in the economic incidence of illegal and legal immigration appear then as a matter of degree rather than of nature

C. COMBATING CLANDESTINE IMMIGRATION

Before turning to an examination of the administrative effectiveness of controls, the questions of the legitimacy of restrictions on movement and settlement and their economic efficiency, from both the world and national point of view, naturally pose themselves.

With regard to economic efficiency, as defined by some criterion of world or national welfare, there are arguments in favour of both an open frontier and a control policy. Using very restrictive hypotheses, particularly an otherwise fixed national supply of labour, it is possible to demonstrate that total world welfare would increase were all frontiers opened up (Hamilton and Whalley, 1984). At a national level, one may more realistically say that, for the recipient country, immigration has distributive and “*free rider*” effects in that it allows new entrants to benefit from the past accumulation of capital and technological progress, the cost of which has been borne by previous generations. However, looking over the long term, there are too many non-measurable parameters. That is why immigration policies are usually founded on short-term economic arguments, or on arguments of political philosophy that have nothing to do with the issue of economic impact.

In this regard, two observations can be made. First, in a democratic society, whilst the regulation of inflows and the definition and implementation of rules for accepting new members of the community are seen as forming part of the legitimate attributes of a nation-state, the issue of sending immigrants back against their will is much more problematic. There is an asymmetry here which, for the individual, recalls the asymmetry between the right to leave one's country and the absence of an equivalent right to enter another. Liberal societies have also made a commitment not to close their frontiers to refugees and asylum seekers. What, then, in these conditions, are the options for the State?

The combating of clandestine immigration is effected by measures that attempt to control inflows and length of stay, and curb the clandestine employment of foreign labour. These two elements are closely linked: curbing the clandestine employment

of foreign labour aims to limit clandestine inflows and residence; the main justification for the control of flows is to protect the domestic workforce from unfair competition thought to come from the clandestine employment of foreign labour. To these two administrative activities, we must add free trade and co-operation policies that seek to reduce the propensity to emigrate.

1. Frontier control and controlling the length of stay

To measure the effectiveness of administrative measures requires that the policy's objective has been clearly defined. If the objective is to reduce illegal immigration and settlement in the country, are the entry restrictions efficient, do they represent the best option? To answer this question, we need to take account not only of the direct effects on inflows, but also of the effects on net migration. However, entry control is only one of the possible ways of limiting inflows and settlement in the country. It follows, therefore, in relation to the established objective, that we need to compare the cost-effectiveness of frontier controls with other indirect methods, for example the imposition of penalties on the employers of clandestine foreign workers or policies of co-operation with origin countries.

The policy of *controlling inflows* responds to general principles of immigration policy regarding the number and characteristics of legal migrants. In settlement countries, in particular the United States, this involves defining immigration criteria and measures for combating clandestine immigration; in the European Union, it takes the form of severely restricting labour immigration from non-member countries. Whether they limit access to the country through a policy of visas or prevent the clandestine crossing of frontiers, these policies of controlling migration flows have revealed their effectiveness but also their limitations. Although they have reduced the number of entries of the categories concerned, they have also led to their substitution, to some degree, by those categories whose entry continues to be possible and/or less controlled, and who have subsequently transformed themselves into clandestine residents. Clearly, policies for controlling inflows cannot on their own hope to regulate immigration. The international opening of economies, the volume of cross-border movements, the maintenance (indeed the heightening) of economic imbalances between rich and poor countries, and the existence of networks sustained by the presence of estab-

lished foreign communities ensure that control is not simply a matter of visas and frontier police.

In the context of globalisation, entry control presents a real problem for developed countries. First, outside a closed system (such as that of the Soviet Bloc or the Berlin Wall), and in a democratic environment, a selective, partial system of control is difficult to implement. Moreover, it is generally the case that countries that attract migrants are often those that also attract entrants of all kinds, mainly tourists and family visitors. The problem is how to distinguish clearly at the point of entry between potential migrants and other flows. No administrative measure [e.g. visa policies that distinguish between different categories of inflow, the insistence on special conditions for tourists such as the obligation to have a return ticket and/or a certain amount of money, and the recently withdrawn French system of an “accommodation certificate” (*certificat d’hébergement*)] has proved itself sufficient to meet the problem.¹³

In this context, the United States’ migration policy, which focuses mainly on entry (*i.e.* the visa system)¹⁴ and the surveillance of land frontiers, provides a particularly good illustration. How effective is the threat of being apprehended by the Immigration and Naturalization Service (INS)? Research by Espenshade (1995) does not offer a firm response.¹⁵ There is a 30% chance of being apprehended each time an attempt is made to enter the United States, but of course migrants can simply keep trying until they succeed. There is a 1-2% chance of being apprehended on American soil. It is clear that, when migrants reach the American border, they will cross it eventually, and once they are inside the country, there is very little likelihood of their being arrested. It appears, then, that there is no link between the perceived risk of being arrested at the border and the total number of illegal immigrants in the United States. However, Espenshade concludes that implementation of INS policies “does have some dissuasive effect”. Over recent years, although the strengthening of INS controls has increased the risk of apprehension it has also been accompanied by an enlargement in the number of crossing points.

Assessing the administrative effectiveness of control policy by its impact on flow reduction can be deceptive as soon as there exists ambiguity in the policy’s objective. In North America and Europe, the stepping up of controls does not rule out a degree of acceptance of irregular entries. In the United States, at least until 1994, the declared control policy at the Mexican border was exercised somewhat selectively.¹⁶

In Europe, after frontiers were closed the admission of asylum seekers was for a time and without calling the principle of closure into question an indirect and more efficient means of selecting entries.

Control over entry in no way guarantees *control over the length of stay*. The strengthening of external controls, however effective they may be as far as inflows are concerned, does have an impact on the rate of migration return, on length of stay and, therefore, on the stock of illegal immigrants in these countries. In the United States, where the risk of being apprehended at the frontier has increased over recent years, migrants have tried to compensate for the additional cost by crossing the border less often and spending more time in the United States. In Europe, the closing down of frontiers has had the effect of slowing down the rate at which labour migrants return home (with marked differences by nationality), consolidating the family reunion process, and extending the length of stay.

Democratic and liberal states face a range of political, legal and administrative difficulties. Sending back long-standing foreign residents, particularly if they are in employment is, irrespective of their legal status, open to question. Among developed countries, no recipient country has introduced plans for a mass-scale repatriation. Public opinion is in favour of restrictive measures at entry but is much more reluctant to accept coercive repatriation measures. There are also legal and technical difficulties that hinder the implementation of forced departure measures. The law requires compliance with strict conditions for repatriation or expulsion: these take the form of individual legal or administrative decisions, notifying the foreigner of the decision personally, and the possibility of verifying the individual’s identity and citizenship. There is no shortage of examples of people against whom decisions have been taken, but which have proved impossible to carry out: these include individuals who have had their identity papers taken away from them and cannot be expelled or escorted to the border, and cases where, despite strong evidence of a person’s nationality, it has been necessary, in the absence of formal proof, to obtain acknowledgement of citizenship from the consulate in the country of origin, the latter’s co-operation in such matters being linked to considerations outside the field of migration. Readmission agreements are specifically aimed at dealing with this type of problem.

The *asylum applications* system is a typical illustration of the limitations affecting the control of inflows and length of stay. The asylum system seeks to guar-

antee legal protection for asylum seekers in situations where they are few in number and where there exists an indisputable means of assessing personal risk in the country of origin. In the late 1980s and early 1990s, the use of the asylum procedure by candidates for migration, when all other means were out of the question or more difficult, has been reflected in a substantial growth in the number of asylum seekers in western Europe, particularly Germany – to the point of severely hampering the functioning of the system. This crisis has led to reform of national legislation.

Let us take the case of someone entering a country and applying for asylum. He files an application but, because of the large number of requests outstanding, the processing can take months, sometimes longer than two years. In most cases, the request is rejected in the first instance and the application goes through to appeal, a procedure designed to ensure so far as possible that no legitimate request for refugee status is turned down. The appeal procedure is suspensive; the person can therefore stay in the country for the duration of the procedure. During this time, the country has to decide between the following alternatives: either the asylum seeker obtains a work permit, which means that if the appeal is rejected (which is what usually happens), the asylum seeker is to all intents and purposes settled and the implementation of the judicial decision (which should involve sending him to a foreign country) turns out to be technically and humanely out of the question; or the country does not grant the asylum seeker a work permit, and this involves giving him financial assistance and enabling him to qualify for social security benefits while he awaits the final decision. In the latter case, the charge increases over time and becomes increasingly difficult to justify, especially so given that some asylum seekers manage to find jobs in the hidden economy.¹⁷

Countries faced with this dilemma have initially chosen to speed up the process by increasing the budgets of the government departments responsible for refugees. This has been effective. However, it ultimately proved necessary to make the asylum scheme more restrictive: in Germany, this resulted in an amendment to Article 16 of the Basic Law; in Europe more generally, it took the form of implementing the Dublin Convention whereby candidates may make only one application in the European Union. These measures have led to a significant reduction in the number of asylum seekers. Yet, greater financial resources and stronger controls have only a limited effect on the principle of the asylum system; there is therefore reason to believe that

the asylum route will continue to be a one of the key components of migration flows. The asylum procedure, which is specific with regard to entry, illustrates the general difficulty of controlling the length of stay.

It appears therefore that there is an inter-relationship between entry control and the regulation of migration return. A country which makes entry more difficult thereby reduces the incentive to leave for those already present. However, when confronted with the difficulty of exerting control over length of stay, countries react by raising barriers to entry, often going further than the degree of closure that was initially planned and seen by the country as desirable. Immigration control can only be carried out at entry, but the economic, social and political problems of immigration are more the result of the settlement of migrants.

As soon as unauthorised migration is, in the absence of reliable data, assumed to reach proportions deemed “large”, governments face a dilemma: either they apply the existing legislation and thereby create a group of marginalised individuals, or they decide on an amnesty which has to be presented and perceived as an exceptional and “one-off” operation. In the latter instance efforts are made in the hope of ensuring that the amnesty does not attract new inflows,¹⁸ and in particular that it does not stimulate expectations of another amnesty.

The European experience, particularly since 1973-74, and the American experience (IRCA, 1986) show that no regularisation exercise has ever put an end to the presence of clandestine immigrants, in the sense that none have affected the decisive factors and mechanisms underlying illegal migration. This does not mean that regularisation programmes should be ruled out, rather that it is important to realise that amnesties (partly) efface the past, but have no effect on the future. However, the American example shows that, even in the absence of any prospect of a new amnesty, illegal migration has once again increased; this makes it quite clear that there does not need to be the prospect of a new amnesty for the stock of clandestine immigrants to increase. Recent experience in Europe shows that it is not an option to decide whether to have an amnesty or not; rather, the choice is between repeated amnesties and discreet amnesties carried out on a case-by-case basis.

2. Employment controls and penalties against employers

The imposition of penalties against employers who use clandestine labour, that is to say the second

form of control, aims to influence the determining factors of unauthorised migration but, like regularisation, it is a means after the fact of dealing with the problem.

In the light of the most recent European and American experiences, sanctions against employers would appear to be of very limited effectiveness. There are a number of reasons for this. First, there are intrinsic difficulties in implementing such a system; some are legal or technical, while others are linked to the socio-cultural environment. In most cases, employers are not asked (or, more accurately, they cannot be asked) to check the validity of documents produced by migrant workers. As a result, even if the employer is under a duty to check on a worker's status, he can only be punished for not ensuring that the documents were valid. More importantly, the system of sanctions can only be effective if it is perceived by society, particularly at local level, as a legitimate element of labour market intervention.

In reality, there is usually quite a gap between being found breaking the law and being found guilty in a court of law. It is hardly surprising, therefore, that the legal process comes to a halt somewhere between the two as a result of local considerations and political pressures that highlight the difficulties that enterprises would face if they had to pay for labour at the current market rate and the risks that a cessation of activities would have on the employment of nationals.

Sanctions against employers also have an economic dimension. The effectiveness of the system of sanctions depends on the extent to which a sanction reduces the demand for unauthorised workers by adding a risk premium to their wage. This effectiveness also depends on the extent to which sanctions encourage the replacement of clandestine immigrants by nationals or legal immigrants thereby reducing clandestine entries. There is a price that entrepreneurs are prepared to pay to be able to hire unauthorised workers; the problem may be formulated within the theory of optimal taxation (Hill and Pearce, 1990). Entrepreneurs will risk employing unauthorised foreigners for as long as the expected cost of being penalised (a function of the expected size of the penalty and the likelihood of being caught) is lower than the difference between the labour costs of illegal and legal migrants.

The unknown element for the employer is the likelihood of being checked up on. It can however be calculated, or at least its determinants can be

assessed on the basis of such factors as the amount of money invested by the competent government department (the INS, for example), the degree of geographical and sectoral concentration of illegal workers, and the size and location of the company. This economic analysis needs qualification in the case of European countries. The vision of the market economy ignores the shame that can go with being found guilty of employing illegal workers. Clandestine workers can be hired by small enterprises in the formal and informal sectors, but not by large firms. These latter possess, however, the political influence to recruit the migrants they need through other, more widely accepted, means. It follows that the perceived concentration of illegal workers in certain jobs, and in firms marked by certain characteristics, can be deceptive.

There remains the question of the discriminatory effect that employer sanctions have on legal migrant workers. An honest employer who does not seek to hire illegal migrants might refuse to hire workers who display characteristics that point to a high probability of their being clandestine (*e.g.* a low level of skills, or a poor command of the language). Paradoxically, law-abiding employers who have no intention of discriminating are more likely to operate on this basis thereby actually discriminating against legal workers. However, this legitimate concern must not be used as an excuse for relaxing a system of sanctions that aims to prevent unfair competition among unskilled workers (North, 1994). In any case, that administrative effectiveness is limited does not justify the conclusion that there should be no controls at all. After all, that the police will never succeed in completely stamping out criminality would not justify disbanding their force.

The significance and scope of these measures also depend on the context in which they operate and on the importance attached to the socio-economic and legal dimensions of the offence. In European countries such as France, the combating of the employment of foreigners in an irregular situation forms part of the wider campaign against clandestine employment. It aims above all to secure compliance with employment legislation with a view to preventing the unfair competition that would result from hiring clandestine labour. The penalties are directed at employers, not at workers. To this end, drawing upon the lessons learned from applying the law, in particular the variety of legal devices used with the aim of evading employment and taxation regulations, attempts have been made to strengthen and reposition control provisions (*i.e.* focus on pre-

vention), the justification for which goes beyond administrative and economic efficiency. The question of the efficiency of sanctions, notably with regard to how much they reduce clandestine immigration and what impact they have at the macroeconomic level, has been accorded rather less attention.

The perspective in the United States is different. The imposition of penalties on employers seeks to reduce clandestine entry and residence; it is not first and foremost a legal instrument of regulating the labour market. Here, as a result of experience acquired since 1986, less effort has been made to alter labour market regulation in response to the inventiveness of clandestine workers and their employers. Instead, questions have been asked about the relative efficiency of implementing laws against employers as compared with measures aimed directly at curbing clandestine inflows at frontiers. Taken to their logical conclusion, were it to be shown that, by comparison with legal immigration, illegal immigration is of greater benefit to the economy then such considerations of economic efficiency would lead to the conclusion that implementing laws against employers has a negative economic impact.

This means that sanctions are efficient only if they reflect society's view of the legitimacy and necessity of combating clandestine employment and form part of a more general policy directed to this end. Real control is social control, as the Swiss example testifies. It necessitates at the local level a consensus on the need to combat the phenomenon and implement sanctions against employers. The new strategic orientation adopted by the INS, which proposes to associate local communities and the implementing agencies in its actions in order to "identify and define the problems linked to illegal immigration" is in line with such an view (INS, March 1999).

3. Policies designed to reduce the propensity to emigrate

In a world where demographic and economic imbalances produce a supply of emigrants out of all proportion to the reception capacities and demand in developed countries, it has become necessary to re-situate migration in the context of development, and to promote a strategy of trade liberalisation, incentives for private investment, aid and co-operation, from which one might eventually hope to see a reduction in inequalities between nations and less incentive to emigrate. The realism of this approach, and the confidence we can have in it, depend on the

answers to two lines of inquiry: What effect can the liberalisation of national economies and trade liberalisation be expected to have on growth in revenues and employment? and, What effect can stronger economic growth in origin countries be expected to have on the incentive to emigrate (Tapinos, 1999)?

The impact of external opening on the growth of economies is highly debatable. The analysis mainly (and often solely) focuses on the impact on exports and imports and on growth in the economy; it is more discreet about the effects on employment and income distribution.¹⁹

The relationship between economic growth and emigration is even more uncertain. Economic theory and empirical observation suggest two possible approaches. If the explanation for migration is mainly to be found in income differentials (this is the only scenario produced by the theory of international trade that assumes full use of factors of production) and employment (the neo-classical theory of allocation of factors), and if the opening up to trade and movements of capital is likely to encourage growth in the revenues and well-being of all trading partners and stronger growth among the less developed countries, it is possible to predict that the surplus workforce will be absorbed and that there will be convergence in wages.

A reduction in the incentive to emigrate follows from this; free trade and development aid are then an alternative to population movements. On the other hand, if it is true that the origin of migration lies in the breakdown of the demographic-economic equilibrium, which results notably from the take-off of the development process, then an increase in internal mobility, which is inherent to this process, normally extends outside the confines of the country. According to this hypothesis, development and international migration go hand in hand (Tapinos, 1974; Diaz Briquets and Weintraub, 1991, Massey, 1988). This hypothesis finds confirmation in empirical studies of the American and European cases. The two viewpoints may be reconciled through the introduction of a time dimension. In the medium term, the kind of development fostered by trade liberalisation strengthens the incentive to emigrate; in the long term, improved standards of living make emigration less advantageous for potential candidates.

The decrease in clandestine migration is envisaged in this way as the consequence of a fall in the general propensity to emigrate. However, the selec-

tive character of migration needs to be taken into account. If those who are disposed to migrate clandestinely are different from other potential migrants, whether these characteristics be observable or otherwise, then the question of the specific impact of development and trade liberalisation will remain open. A partial indication in this context was provided by Hanson and Spilimbergo (1996), who showed that illegal migration as measured by apprehensions is a function of wage differentials between Mexico and the United States, but that it is more responsive to variations in real wages in Mexico than to variations in real wages in America. Generalisation on the basis of this observation would not, of course, be warranted.

Conclusion

What lessons can we draw from this examination of the economic and political issues of international migration in the light of experiences in North America and Europe? What is the scope for public intervention in the context of accelerating globalisation alongside the persistence of demographic and economic disequilibria between the rich and poor countries and the instability resulting from intra- and inter-national conflicts?

The phenomenon of clandestine migration is not confined to any one migration regime in particular. Neither a regime open to regular migration such as that in North America nor one of closed borders such as that prevailing in Europe guarantees the containment of clandestine entries and the prevention of unauthorised residence by foreigners in an irregular situation. The diversity of the potential forms of clandestinity, the multiplicity of the objectives in the fight against clandestine immigration, the conflicts of interest between different groups in recipient countries and the ambivalence of public opinion necessitate the implementation of a range of measures. The effectiveness of these measures rests on the assumption that

migration is a process with inflows and outflows. It is the obstacles to entry which have the effect of ultimately inducing an increase in the number of illegal immigrants greater than would be the case under a more liberal system of entering and leaving.

The problem of the control of migration flows should not be viewed as being uniquely bilateral. The emergence of new geographic areas for migration imposes on governments forms of co-operation ranging from the exchange of experiences through to co-ordination in the methods they employ to regulate migration flows.²⁰ Yet in a world increasingly open to the circulation of goods and capital, where the reduction in transport costs leads to considerable cross-border movements linked to tourism, to the acquisition of tertiary education and professional training and to business travel it is anachronistic to conceive of immigration control exclusively in terms of sovereignty.

A distinction needs to be made between *movement*, the expression of the human right to come and go, and *settlement* which is conditional on the legitimate prerogative of societies to decide the extent to and the conditions under which they are ready to accept new members. For all that, the difficulty of managing the risk that incomers will remain beyond the duration of their visa cannot legitimise the imposition of restrictions on the circulation of persons for this would be detrimental to the majority of them who desire merely and with honest intent to undertake a brief stay.

It should be noted also that migrants belong neither to their country of origin nor to their country of destination. It is an illusion to imagine that irregular migration can be eliminated solely by state intervention and improved co-operation between the origin and destination countries. Clandestine migration, as well as being a breach of the law is also a manifestation of individual liberty. Between the inspector who carries out his duty and the migrant in search of his destiny, the issues are not of the same nature. This is the root of the problem.

NOTES

1. The OECD and the Dutch authorities with the support of the United States organised a seminar on preventing and combating the employment of foreigners in an irregular situation. The seminar took place in The Hague on 22-23 April 1999. The seminar was a continuation of the work carried out since 1995 by the OECD Secretariat under the auspices of the Working Party on Migration. This work has facilitated the study of illegal immigration in several OECD Member countries in relation to labour market and other programmes to regularise foreigners in an irregular situation. The seminar comprised three sessions. The first session analysed the impact of irregular migration on the economy and the labour market. The second session was dedicated to the comparative analysis and the evaluation of measures undertaken to prevent and combat the employment of foreigners in an irregular situation. The third session was composed of two round tables. Participants in the first round table included OECD policy makers, representatives of governmental administrations in charge of the implementation of sanctions against labour traffickers, dishonest employers and foreigners in an irregular situation. Representatives of Trade Unions also contributed to the discussions on the difficulties encountered in implementing sanctions at national levels and proposals for actions to overcome these difficulties. The second round table was devoted to the extension and improvement of international co-operation directed at effectively preventing and combating the employment of foreigners in an irregular situation. The proceedings of the seminar as well as the conclusions and recommendations of the OECD Secretariat will be published by the OECD in January 2000. The document presented at the seminar by Georges Tapinos (Irregular migration: economic and political issues) has been chosen for the Special Chapter of this edition of the annual report *"Trends in International Migration"*.
2. The relative proportion of these two components in the number of illegal migrants varies from country to country. In the United States, it has been estimated that illegal entries (entries without inspection) and overstayers each account for 50% of total illegal immigration (Warren, 1994). A more recent estimate by the INS puts the figures at 60% and 40% respectively.
3. One can not always distinguish these different categories in the administrative statistics. Indeed, these record either legal movements or infractions which, when they are penalised, measure clandestinity at the very moment that it has ceased to exist. Moreover, administrative statistics, cross-sectional by nature, record the events or migrants affected by the events without, in general, it being possible to attach the events to a reference population. Further, there is distinction to be drawn as to the reliability of the information: between administrative records which can include a fiscal dimension or an element of sanction which might incite inexact declarations, and data which respond to a desire for socio-economic knowledge such as censuses and some surveys; they do not necessarily have the same utility when one seeks to determine the number of clandestine immigrants. When clandestine immigration is tolerated, it is quite possible that a census will record a non-negligible proportion of the clandestine immigrants.
4. It is a gross over-simplification, but we can identify three overlapping types of procedure. Firstly, there are surveys that have the advantage of including characteristics of economic sectors and the workers concerned, but do not identify variations over time. Then, there are numerical methods that focus on anomalies between observed and assumed developments; the variables customarily used are participation rates, the disparity between national revenue and expenditures, the proportions of expenditure using cash and large-denomination notes, and household electricity consumption. These methods need a departure point at which time it is reasonable to assume that the hidden economy is, to all intents and purposes, non-existent. It is then possible to identify growth in the hidden economy over time. A more ambitious econometric procedure uses a theoretical model of the informal economy that involves the introduction of a series of variables defining determiners (e.g. fiscal pressure or regulations covering employment) and indicators of the hidden economy (e.g. participation rates). Because of the wide variety of procedures used and specific features of the statistical factors requested and the field covered, it is difficult to make comparisons. As a percentage of GDP, estimates range between 2% and 4%, with particularly high levels for certain sectors such as building, hotels and catering, domestic services and agriculture.
5. Despite the multiplicity of conceivable procedures, for most of the countries concerned we do not have a single estimate worthy of the name. For the European countries, one is obliged to content oneself with very partial measurements, typically estimates inferred from the number of asylum or regularisation applications refused. In the United States, however, the civil

- service furnishes one of the most reliable estimates of the stock of clandestine immigrants. The number in October 1996 was put at 5 million, there having taken place between 1992 and 1996 an annual growth of 275 000 (US Statistical Abstract 1996 and GAO, April 1999).
6. This can vary for nationals and established regular migrants. Although there is certainly more of an incentive for nationals to work in the informal economy than for undocumented foreigners, the advantages for the former outweigh the risk; this is not so for illegal workers. Contini (1982) cites the example of Fiat whose staff between the mid-1960s and the early 1970s left for employment with smaller enterprises where there was more work and higher capitalisation and profits. Regular migrants, too, have accepted restrictions that limited their mobility.
 7. However, it should be pointed out that there are cases where undocumented migrant workers have lost their jobs following regularisation; they are less likely to repeat the experience another time.
 8. The decision to sub-contract part of production reinforces, and often conditions, the opportunity to reduce wages and avoid mandatory deductions (*i.e.* taxes and social security).
 9. Sub-contracting, a practice that responds to a logic of efficiency, also allows artificially created companies to expand by employing unauthorised labour. For example, a French legal judgement refers to a sub-contractor who employed eight people, five of whom had no residence permits or work permits, and one of whom had no work permit. Work was supervised by a charge-hand from the main company, the workers were lodged in huts hired by the same company, and all the equipment and materials used for production were also the property of the main company. Sub-contracting enabled the main company to avoid paying taxes and social charges (Pupier, 1992).
 10. Unauthorised migrants often have a better understanding of conditions in the informal labour market than nationals and immigrants who have been in the country for a long time, particularly in the services sector. This gives them a comparative advantage.
 11. For example, some Sri Lankans who had no real intention of settling, applied for asylum in order to take advantage of the slow pace at which the application process is conducted, and used the time to build up their savings before returning home (Costes, 1991).
 12. We have indeed very little research material of the statistical quality necessary to make an assessment. One of the monographs worthy of note, that by Venturini (1997) measured the elasticity of regular employment compared with unauthorised, irregular employment and threw doubt on the hypothesis that there is competition from irregular foreign labour. Using ISTAT data on the hidden economy during the period 1980-1994, she showed in 14 branches in 5 sectors (agriculture, industry, construction, tradable services and non-tradable services) that there are variations between sectors, in particular that the depressive effect is more pronounced in agriculture, but that the overall impact is small. However, in another context, other studies show that the pay of undocumented workers is lower than that of nationals (allowing for different levels of productivity), and that they perform lowly regarded jobs with few differences in pay determined by qualifications, gender or age (Lianos, Sarris and Katseli, 1996; Markova and Sarris, 1997).
 13. However, as statistics on flows into European countries show, it would be wrong to under-estimate the impact of the visa policy.
 14. Under American law, obtaining a visa from an American consulate abroad does not remove the right of immigration officers to refuse entry at the point of entry.
 15. In 1993, the INS spent \$US 362m on implementing the policy; to this sum, we must add the \$US 12.2m spent on equipment used in achieving the same objective. That year, 1 282 000 apprehensions were carried out by border patrols; another 45,000 were made inside the United States. In 1998, the INS spent around \$US 900m for the Budget Authority for Border Patrol (*cf.* Tightened Controls and Changing Flows: Evaluation the INS Border Enforcement Strategy by R. Suro in Research Perspectives on Migration, Vol. 2, n°1, 1999).
 16. This has been well documented by the Zapata Canyon Project (Bustamante, 1990). Illustrations of this include the fact that most migrants do not choose to cross the frontier where the geographical conditions are least dangerous, but where there is a large labour market on the American side (*e.g.* the Tijuana-San Diego border), and the large number of 'illegal commuters'.
 17. It is interesting to note that countries choosing the former option (*e.g.* France) have subsequently gone for the latter, and countries choosing the latter (*e.g.* Germany) have subsequently adopted the former.
 18. This assumes that provision is made for deadlines, proof that the applicant is indeed residing in the country, and possibly further proof that he has a job.
 19. Given the wide range of experiences, it is particularly interesting to identify the factors likely to influence the direction of variations and to measure their effects. In a review of the literature, Edwards (1993) selects five elements: liberalisation measures, in particular the distinction between, on the one hand, the removal of quota and tariff barriers and, on the other, devaluation that can become necessary as a result of the opening; the time-tabling and speed of the opening; the stage of development that the country has reached; the international environment; and labour market distortions.
 20. Hence the lifting of internal controls within the European Union and the drafting of common regulations for external border control (the Schengen inter-governmental agreement and the Dublin Convention on asylum seekers). For all this, none of the countries concerned has ruled out the possibility of applying special conditions to certain categories of would-be entrants.

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