



Home Office

Working Paper: A Framework for International Comparisons

Kiren Vadher and Sam Worby

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The views expressed in this report are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy).

1. Introduction

This paper explores one potential approach to developing a framework to assess how UK immigration policies compare to those of other countries. The analysis that follows is based on a methodology that allows the wide range of different visas available under different countries' immigration systems to be combined into a few key routes of entry (for example, skilled labour, study, family and so forth). These routes of entry are then compared against a standard set of questions in order to assess the ways in which different countries control applications by migrants in each of these routes.

The value of this method is that it allows the various immigration policies to be understood collectively in spite of the vastly different array of policy instruments and legal frameworks in place in different countries. To facilitate this comparison, this method has necessarily required a degree of simplification which may in some ways distort the actual impact of the policies in place. In addition, being based solely on the published legal frameworks and guidelines, this method cannot take into account the actual effectiveness of the systems in place or the degree to which migrants are able to bypass those systems in order to enter a country.

The purpose behind publishing this initial method now is to support further public debate on potential changes to the UK immigration system. The approach is not purely theoretical, and therefore some conclusions on the comparative degree of control exercised under different countries' immigration policies are also presented to prompt discussion. However, these findings are only the result of this initial comparative research and may differ as this methodology or alternatives are developed.

By adopting a comparative approach, this analysis may also help to identify policies and practices adopted by other countries which could be considered in the UK and elsewhere.

2. Methodology

2.1 Scope

The method used in this analysis aims to provide a basis for comparing the stated policies of each country examined towards different types of legal migrant, and in particular the degree to which different combinations of legal regulations appear either more facilitative or restrictive on the movement of foreign nationals across borders. The resulting analysis should not, however, be viewed in isolation and should be understood in a wider context. In particular, it has not been possible to include certain important various aspects of countries' policies towards migrants, for example:

- rules applied to particular sub-groups of migrants;
- the wider policy and operational contexts;
- the intended purpose behind the rules;
- illegal flows or irregular flows that do not follow normal routes; and
- the varying international contexts for legal or free flows of foreign nationals.

2.2 Who and what are we comparing?

The first step in this exercise was to select a manageable number of countries for which we might make a comparison. The countries were selected to provide a range of different approaches to immigration control, both those on a similar basis to the UK and those that were substantially different in their approach. The countries selected for this exercise also needed to be ones which had consolidated and published some account of their rules in relation to immigration.

The countries selected were: the United Kingdom, USA, Canada, Australia, New Zealand, France, Germany, Ireland, Denmark and Japan.

Once the countries for comparison were selected, it was necessary to develop a methodology that allowed them to be compared. Each of these countries has a range of immigration routes and services, some of which may overlap those used elsewhere. For example, a country may have a number of different visa types in respect to skilled workers, some of which may correspond to Tiers 1 and 2 of the UK points-based system (highly skilled migrants, and skilled workers with a sponsor or job offer respectively) but others which may include some form of study or low-skilled work, which would be categorised elsewhere in the UK system.¹

To enable a comparison it was necessary to translate each country's range of immigration products into a standard set, relating to the key main routes taken by migrants. Because our focus for this comparison was the UK system, we adopted a set of migrant routes which

1 The range of work routes examined by the Migration Advisory Committee in their comparison of international equivalents to Tiers 1 and 2 of the UK's points-based system provides an illustration of how complicated this variation is. See: Migration Advisory Committee, Analysis of the Points Based System: Tier 2 and dependants, August 2009, pp.79-83, and Analysis of the Points Based System: Tier 1, December 2009, pp.73-81: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/pbsanalysis-09/>

closely matched the categories applied in the UK. Each country's immigration products were therefore grouped into the following.

1. **Transit:** typically meaning leave to transit ports for a duration of approximately 48 hours while on a journey to another destination.
2. **Visit:** typically meaning short-term leave (for six to nine months), for which paid employment is not allowed (except for some business visitors).
3. **Study:** typically at schools, colleges, or universities, for one to three years or the duration of the course.
4. **Highly skilled work:** most equivalent to Tier 1 of the UK's points-based system. A route for highly qualified, professional or exceptionally skilled individuals, also investors, entrepreneurs, and graduates. Permission is usually given for three or more years.
5. **Sponsored skilled work:** mainly equivalent to Tier 2 of the UK's points-based system. The most general work category; usually requiring the migrant to have a job offer in advance of travel. Permission is usually given for three or more years.
6. **Low-skilled work:** equivalent to Tier 3 of the UK's points-based system. Typically in sectors involving labour, or non-skilled agricultural work. Permission may be seasonal or short term. No qualifications required.
7. **Temporary and other work:** equivalent to Tier 5 of the UK's point-based system. Often a type of leave limited to certain sectors, for example, creative and sporting, working holidaymakers, youth mobility and exchange schemes. Permission is often temporary, for one to two years.
8. **Family:** family or marriage-based leave, other than visits (not including refugee reunion). Typically a permanent settlement category.

This translation of multiple potential visa types into a shorter list of comparable key routes has necessarily required a degree of simplification which may have distorted the actual impact of the policies in place to some degree. However, this simplification is essential in order that some comparison is possible.

2.3 How we defined restrictiveness

Developing a framework for the purposes of this comparison involved several prior decisions around what aspects of policy to compare. In this initial approach we have attempted to reflect a UK focus on the degree of control or restriction placed on the movement of migrants within each key route, which might be interpreted as the degree to which a particular system is either more restrictive or more facilitative in allowing the entry of a migrant for the specified purpose.

On a narrow definition, restrictiveness might be viewed as attempts to limit or minimise the numbers of migrants entering and remaining in a country. This, however, would not be a wholly satisfactory definition because of the varied ways in which restrictiveness can be understood depending on the person, institution or country affected. For example, a target to bring a certain number of migrants into a country could be viewed as facilitative in that it encourages migration, or restrictive if the limit is set at a lower number than might otherwise have been the case if the target did not exist.

This paper therefore adopted a wider view of restrictiveness and has sought a definition across a range of criteria based on an assessment of the type of policy restrictions different countries place on migrants and migration generally, but also on the type of entitlements they offer to attract some categories of migrant, and the controls and checks in place to ensure migrants are legitimate.

The definition of restrictiveness reached in this framework attempted to take into account the intention of the policies applied by the UK and other countries. In all cases, the comparison was based on published guidance or rules for managing migration and did not attempt to take into account variation in the operational effectiveness or application of those rules; nor did the comparison take into account the degree to which migrants may be able to avoid those rules.

Different attitudes to operational risk will affect the immigration controls put in place, such as tolerance for illegal or irregular immigration, or the appetite for risk in the controls placed on migrants. Different systems will also exhibit different degrees of effectiveness. For example, a system with restrictive rules might in practice be comparatively facilitative if the rules were tacitly evaded, or applied only to certain groups. Some of the factors which might need to be considered in looking at capability could include:

- relative resource (cash spent, staff numbers) devoted to immigration control (including balance of resource between decision making, border control and in-country enforcement);
- indicators showing how the rules are applied, for example, relative numbers granted exceptionally outside the rules; metrics for decision quality such as appeal rates; and
- assessment of how rule breaking is addressed, such as the number, proportion and profile of illicit migrants in-country and the number removed.

Drawing on the published rules and guidance only, some of the characteristics of a more restrictive system might include the following.

- 1) How migration is controlled. In a restrictive system all or most other nationalities are subject to immigration control and/or the supply of places available to migrants is controlled, for example limits or caps are applied on particular routes. In a less restrictive system, such as that operating between the countries which have adopted the Schengen Agreement, these controls will be weaker or in some cases not applied at all.

- 2) What evidence individual migrants need to produce to gain permission to enter or remain in a country. In a restrictive system applicants may need to meet a variety of criteria to gain permission to enter; responsibility is placed on sponsors with obligations such as bonds and guarantees; and migrant identity is managed using biometric identifiers, plus photographs, often checked at a number of points in their passage, and sometimes linked to advance entry/exit control. A less restrictive system would have fewer such controls in place.
- 3) The rights or benefits that individual migrants receive as part of their permission to enter or remain. For example, in a more restrictive system a migrant's right to work might be limited or the migrant would be required to have a job offer in advance of travel; migrants would not be able to extend their leave in-country or switch to other categories of leave (including permanent residency status) and might not be allowed to return in the same category of leave; the right of family members to come with the principal migrant might be limited.

Defining the variety of controls put in place on the above basis provides a range of indicators that can then be used for comparison. These indicators were sufficiently broad to be able to be applied across the different immigration products, and although based on the UK's approach, they are independent of the specific rules and legal framework adopted by different countries.

The following criteria were used to assess whether a country appears more or less restrictive (with more restrictive countries scoring high) for a particular route.

- 1) *The number of other nations whose citizens are not subject to immigration control?*
For example, a European country within the Schengen Area would score low on this scale as a large number of migrants from other countries would have the freedom to enter the country without any controls.
- 2) *How does the country respond to demand or control supply?*
For example, a country that applied limits and therefore controlled the supply of places available to migrants within a particular category, such as work visas, would score high on this scale.
- 3) *How many criteria do applicants need to meet?*
For example, a country that required migrants to meet a high number of objective criteria relating to qualifications, income or housing could be setting a high bar which migrants had to satisfy and therefore might score high on this scale.
- 4) *How much responsibility is placed on people other than the applicant?*
For example, a country that placed no responsibility on sponsors or people other than the migrant would score low on this scale.

5) *How does the country manage applicant identity?*

For example, a country which managed a migrant's identity using biometric indicators (photographs and fingerprints) and checked these at different stages of the migrant's journey (overseas and at the border) would score high on this scale because they would be repeatedly linking a migrant to a single ID.

6) *To what degree are migrants entitled to seek work?*

For example, a country that allowed students to seek full-time work, or allowed migrants seeking work to enter without a job offer in advance would score low on this scale.

7) *How far is entitlement to remain in the country limited?*

For example, a country that allowed migrants more easily to extend their current permission, or switch to another type of permission without requiring the migrant to leave the country and reapply would score low on this scale.

8) *How generous are the entitlements for dependants?*

For example, a country that allowed no or few dependants and limited the dependants' ability to seek work or to study would score high on this scale.

2.4 Applying the scoring framework

Using these criteria it was possible to develop a scoring system based on a series of scenarios assessed as more or less restrictive, as illustrated in the grid below. In this framework the most restrictive scenarios were scored 5 and least restrictive 0. The scenarios used are based, as far as possible, on actual examples of the rules applied to different products from the different countries examined. This approach was then separately applied to the rules for each of the different types of migrant route which were compared for each country.

The framework adopted in order to generate the indicative findings in this initial analysis is summarised in the table below.

The sum of the scores for each country was compared for each immigration product or route to see where the country sat on a scale from facilitative to restrictive. For the purpose of the initial assessment, the different indicators have not been weighted. The results of this analysis are presented in the next section of this paper.

	Facilitative	> 1	> 2	> 3	> 4	Restrictive
	0	1	2	3	4	5
How many other nations' citizens are not subject to immigration control?	All nationalities	Most nationalities (101+)	100-51 nationalities	50-11 nationalities	Less than 10 nationalities	None
How does the country respond to demand/control supply?	100% demand driven	Demand constrained by rules	Mix of limits and demand within rules	100% limits (by job, sector, shortages or skills)	Mix of caps and limits (by job, sector, shortages, skills)	100% control of supply: caps on all routes
How many criteria do applicants need to meet?*	Applicants need to meet only 1 criterion	2-3 criteria, or 1 core criterion and mix on points	4-5 criteria, or 2 core criteria and mix on points	6-7 criteria, or 3 core criteria and mix on points	8-9 criteria, or 4 core criteria and mix on points	10 or more criteria, or 5 core criteria and mix on points
How much responsibility is placed on people other than the applicant?	None	Process assurance, e.g. hotel booking, notification of arrival	Applications partly reliant on sponsorship but without assessment of the sponsor (e.g. a job offer)	Applications reliant on sponsor but without obligations on the sponsor	Applications mainly reliant on sponsor guarantee and carries obligations for sponsor, e.g. bonds or obligation to ensure they meet the rules	Applications mainly reliant on sponsor guarantee and carries onerous obligations for sponsor, e.g. bonds and obligation to ensure they meet the rules
How does the country manage applicant identity?	Biographic data on paper only, no entry/exit control	Biographic data on paper only, plus photo	Either some biometric data (in addition to photo), or entry/exit control, plus biographic data	Some biometric data (photo plus other biometric), plus biographic data, in conjunction with paper entry/exit control	Some biometric data (photo plus other biometric), plus biographic data, either checked repeatedly or tied to entry/exit control	Several biometric data (e.g. face and fingerprints), plus photo, plus biographic data, checked repeatedly (e.g. outside country, at border, in country) and tied to entry/exit control

	Facilitative					Restrictive				
	0	> 1	> 2	> 3	> 4	5				
How generous is the migrant's entitlement to seek work?	Migrant free to search for work of any sort/in any sector with no constraints	Migrant work allowed for a limited time (e.g. hours or months) or in limited sectors	Migrant work allowed for a limited time and in limited sectors	Migrant required to make additional application to work in country	Migrant requires a job offer in advance of leave to be able to work	No work allowed				
How far is entitlement to remain in the country limited?	Migrant free to extend leave indefinitely or switch to other categories including permanent leave	Extension allowed for a limited period or switching allowed into other category	Extension allowed or switching, but only for some applicants or into limited categories	Can extend leave for a limited time/single occasion but cannot switch	No in-country extensions or switching to other categories allowed	No in-country extensions or switching to other categories allowed and no return in same category				
How generous are the entitlements for dependants (beyond rights for them to visit)?	Wide family (beyond spouse/partner and dependent children) can come, work and study	Core family (spouse/partner and dependent children) can come, work and study	Core family can work/study with extra permission in-country	Core family can study but not work	Core family can come (including on a non-dependent visa) but cannot work or study	No family allowed				

* Note : excluding intention to leave/intention to obey rules

2.5 Further methodology issues

When an indicative assessment was run using the framework several practical issues needed to be resolved. These came under two broad headings:

- choosing the products to compare; and
- comparability of the scoring.

2.5.1 Choosing what products to compare

Since other countries do not use quite the same product groups as the UK it was sometimes necessary to make a series of choices to fit the other countries' systems to the types adopted for this assessment.

In some cases, 'products' could not be compared across all the questions.

For example, for almost all products in the interim assessment question 8 assessed the following: the ability to bring dependants, the range of family members who could count as dependants, and the ability of the dependant to work or study. For family settlement the question was altered to examine how wide the group of dependants an existing resident or citizen could bring was, rather than (as for other products) how wide the group of relatives the migrant could bring with them was when first entering the country. However, if a country's rules were not designed with this distinction in mind, the simplification that was necessary for a comparison to be made may to some degree have affected the results.

2.5.2 Comparability of the scoring

For some questions data were not available in the public sources used for this analysis.² Therefore, country comparisons were made on the basis of the proportion of scores possible from the data items available for a particular country and migrant route.

Since each country had a range of immigration products that had to be combined into a standardised product set, each 'product' in such a set could be, in fact, an amalgam of several different types of visas each with a different set of rules. It was therefore necessary to find a consistent way of scoring the 'product set' as a whole against each question, taking into account the range of visa types which may have been included in the particular migrant route (or group of products). To address this it was decided to use the rules that applied to the majority of migrants within the overall 'product' (which could in fact be made up of several real visas). Where data were available, this was assessed based on the volume of applicants to whom the rules applied. The aim was to find the answer to the question which generally applied to migrants within that 'product' and to ensure that our scoring was therefore more likely to be representative of that group as a whole.

Although in the majority of cases the choices made during the initial assessment appeared logical, it is of course possible that different analysts applying a similar approach could reach different conclusions, and this could affect the final outcome and analysis. For this reason, the illustrations used to show the results do not attempt to provide precise scorings nor a fine degree of differentiation between the countries assessed here.

² See list of sources in section 4 at the end of this paper.

2.6 Limitations of this approach

The analysis presented in this paper is an initial attempt to produce a framework for the comparison of various countries' systems for the management of migration with that of the UK.

The validity of this initial assessment depends both on the robustness of the definitions we have employed, as well as the approach employed in the scoring framework that underpins the comparisons.

A recently published OECD working paper³ includes a discussion of attempts to develop comparative indicators of the relative restrictiveness (or 'openness') of different countries' migration policies. Although many of the studies discussed by the OECD working party have a different objective or focus, the working paper highlights some of the challenges in producing international comparisons of migration policy, and suggests ways in which our framework might be further developed.

For example, some of the challenges will include the following.

- *Scoring.* The process of 'scoring' a variety of different factors is complicated by the fact that the different systems and products are not directly comparable, having been designed in different contexts and often with varying intentions; although it is necessary to select relative 'scores' to enable their comparison to the UK, this selection is to some degree subjective.
- *Weighting.* Additional sensitivity analysis might explore whether weighting particular questions might affect the overall conclusions for a route. In addition, sensitivity analysis could test whether changing the scoring criteria used for each question might significantly alter the results. Further work in this respect might also allow us to develop a weighting system that would enable a more nuanced and less subjective understanding of comparative restrictiveness.
- *Real versus presumed impacts of policies.* The OECD paper cautions against presuming that accounts of relatively restrictive or open migration systems (or parts of those systems) reflect the actual effects of these systems in restricting migration. The framework presented in this paper depended solely on publicly available material concerning other countries' immigration policies. As such, it may not reflect the actual effectiveness of these systems or the degree to which migrants are able to circumvent them.
- *Displacement.* Linked to the problem of the real impact of policies is the question of 'displacement'. While a particular policy may be relatively restrictive, this may encourage migrants to shift to other routes or products, for example those perceived as more open or facilitative. A more robust comparison of particular aspects of national migration systems might examine to what degree the restrictiveness of those aspects is offset

3 OECD Working Party on Migration, Possible Future Work on International Migration: Note by the Secretariat, June 2009 (DELSA/ELSA/WP2(2009)11).

by the displacement of migrants to other routes into the same country (whether legal or illegal) – an approach not included in the framework presented in this paper.

- *Exceptions with large impacts.* Similarly, while any given part of a country's migration system might be 'scored' with respect to its general restrictiveness, there may be substantial exceptions to general rules which can have a large impact on outcomes. While these may suggest a particular approach to scoring (see above), a lack of detailed knowledge about the intricacies of other countries' migration systems may mean that such exceptions are missed, leading to potentially misleading results.
- *Consultation with national experts.* The analysis presented in this paper has been produced on the basis of published accounts of other countries' migration systems. No attempt has been made to undertake detailed analysis of these systems, nor have other experts been consulted. As a result, this interpretation of different countries' migration systems must be considered preliminary.
- *Changes over time.* So far as possible, the analysis presented in this paper reflects the latest available accounts of national migration systems. However – like the UK's own system – other countries' migration systems are subject to continual change and adaptation. As such, the analysis presented in this paper should be considered a 'snapshot' of the various routes at the time that it was undertaken (January – February 2010).

The issues outlined above illustrate the considerable difficulties faced in producing robust comparisons of national systems for managing migration. The OECD paper comments on the limited extent to which synthetic indicators of openness or restrictiveness – like those offered by our framework – can ever capture the complexity of any immigration system or comparisons between different countries' systems.

These difficulties notwithstanding, the initial analysis presented in this paper provides at least a preliminary comparison of UK immigration products with those of other countries. Further development of this analysis, building on the points raised above, would help to provide more confidence in the results that follow.

3. A preliminary assessment

The assessment of how restrictive or facilitative the UK immigration system appears in relation to certain other countries for each key visa type follows, based on the methodology described in this paper.

In general, it is not possible to describe the UK system as either more restrictive or more facilitative than others, but the UK would appear to adopt different approaches for different routes.

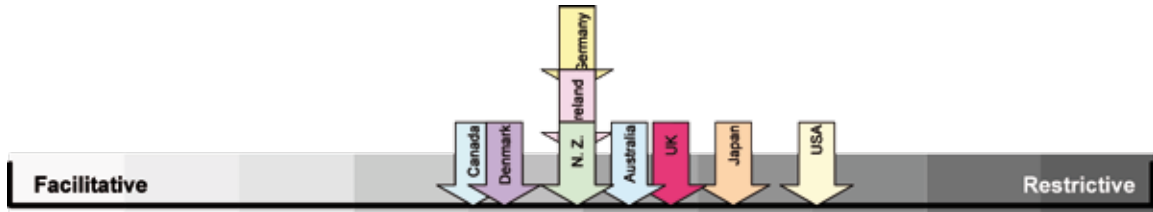
For some routes, such as in-transit passengers, temporary workers and low-skilled workers, the UK's immigration controls would appear to be more restrictive than those in place in most of the other countries included in this comparison. For the categories of visitors, highly skilled workers and those migrants coming for family reasons it would appear that the UK controls are less restrictive than those in place in most of the other countries compared here.

The comparative position of the UK compared to each country on a facilitative-restrictive scale, derived from this methodology, is illustrated below for each of our key routes:



4 Several EU countries which collectively offer Schengen visas score differently here, reflecting the different entitlements they offer once the visa has been granted, and the different information that was provided on country websites.

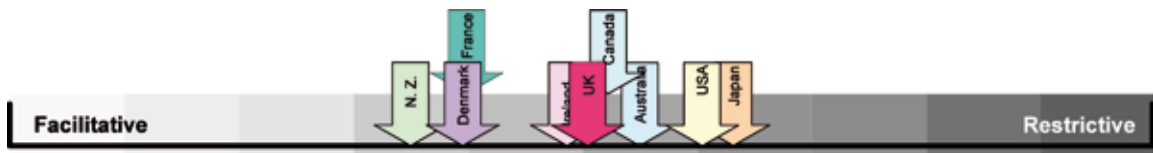
Temporary workers (equivalent to Tier 5 of the UK's points-based system):



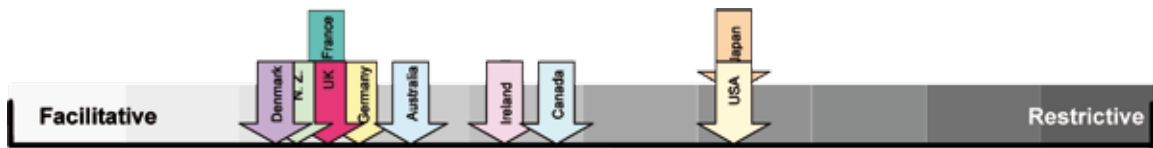
Low-skilled workers (equivalent to Tier 3 of the UK's points-based system):⁴



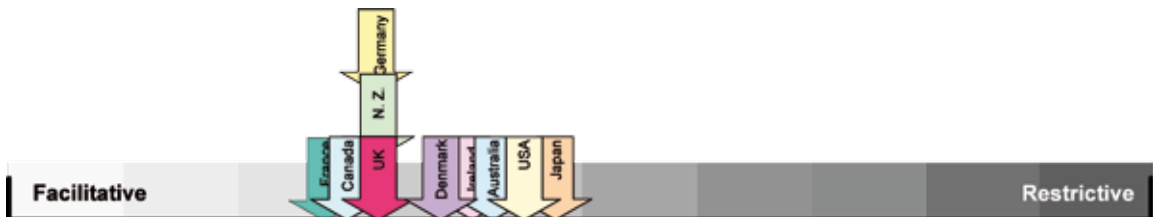
Skilled workers, generally with a job offer (equivalent to Tier 2 of the UK's points-based system):



Highly skilled workers (equivalent to Tier 1 of the UK's points-based system):



Family settlement:



The comparison above is a preliminary view, based on information on the rules and regulations governing the various migration routes that is in the public domain. This information has not been formally validated with the countries in question. However, this initial comparison is being published now in order to support debate on how the United Kingdom's immigration system compares 'on paper' with other countries.

5 Tier 3 of the points-based system, was (and remains) closed. For each of the work 'products' or routes, EEA nationals – who can come to the UK to work under freedom of movement – are reflected in this indicative framework through question 1 only (how many nationalities are not subject to immigration control?).

4. Sources

The sources used are listed below. Information is correct as of January–February 2010.

Australia:

<http://www.immi.gov.au/immigration/>

Canada:

<http://www.cic.gc.ca/english/index.asp>

<http://www.immigration-quebec.gouv.qc.ca/en/index.html>

<http://www.albertacanada.com/immigration/immigrate/ainp.html>

<http://www2.immigratemanitoba.com/browse/index.html>

<http://www.nlpnp.ca/>

<http://www.ontarioimmigration.ca/en/pnp/index.htm>

<http://www.saskimmigrationcanada.ca/>

<http://www.welcomebc.ca/en/index.html>

<http://beinthisplace.ca/ImmigratingandSettling.aspx>

<http://www.novascotiainmigration.com/>

<http://www.gov.pe.ca/immigration/index.php3?number=1014385&lang=E>

http://www.immigration.gov.yk.ca/ynp_overview.html

<http://www.iti.gov.nt.ca/businesseconomicdevelopment/nwtnomineeprogram.shtml>

Denmark

http://www.nyidanmark.dk/en-us/coming_to_dk/coming_to_dk.htm

<http://www.nyidanmark.dk/en-us/citizenship/citizenship.htm>

France

<http://www.ambafrance-uk.org/-Visa,805-.html>

http://www.diplomatie.gouv.fr/en/espaces_dedies.php3?id_rubrique=2045

http://www.diplomatie.gouv.fr/en/espaces_dedies.php3?id_rubrique=2192

Working in France information leaflet. Available at:

http://www.immigration.gouv.fr/IMG/pdf/immigrationprofessionnelle_etrangers_anglais.pdf

EMN Country Report (France): The Organisation of Policies relating to Asylum and Immigration (2009). Available at:

<http://emn.sarenet.es/Downloads/download.do;jsessionid=D71EF346BF88C0B56B12104CB3ED9B17?fileID=715>

Germany

<http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/EinreiseUndAufenthalt/uebersicht.html>

http://www.bmi.bund.de/SharedDocs/Downloads/DE/Broschueren/DE/2010/Migrationsbericht_2008_de.html

EMN Country Report (Germany): The Organisation of Asylum and Migration Policies in Germany. Available at:

<http://emn.sarenet.es/Downloads/download.do;jsessionid=2301C2506F7E969480E0AD05E3164940?fileID=686>

Japan:

<http://www.uk.emb-japan.go.jp/en/visa/visa-main.html>

<http://www.immi-moj.go.jp/english/index.html>

<http://www.moj.go.jp/ENGLISH/information/bpic3rd.html>

http://www.moj.go.jp/nyuukokukanri/kouhou/nyukan_nyukan91.html

http://www.mofa.go.jp/j_info/visit/visa/index.html

New Zealand:

<http://www.immigration.govt.nz/>

Republic of Ireland:

<http://www.dfa.ie/home/index.aspx?id=8605>

<http://www.citizensinformation.ie/categories/employment/migrant-workers/employment-permits/>

<http://www.inis.gov.ie/>

<http://www.deti.ie/>

EMN Country Report (Ireland):

<http://emn.sarenet.es/Downloads/download.do;jsessionid=2301C2506F7E969480E0AD05E3164940?fileID=712>

USA:

<http://www.uscis.gov/portal/site/uscis>

http://www.usembassy.org.uk/cons_new/visa/index.html

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