Abstract
The independent Migration Advisory Committee (MAC) was created in 2007 after a decade in which the share of foreign-born workers in the British labour force doubled to 13 per cent. The initial core mandate of the MAC was to provide “independent, evidence-based advice to government on specific skilled occupations in the labour market where shortages exist which can sensibly be filled by migration.” The MAC’s answers to these 3-S questions, viz, is the occupation for which employers are requesting foreign workers skilled, are there labour shortages, and is admitting foreign workers a sensible response, have improved the quality of the debate over the “need” for foreign workers in the UK by highlighting some of the important trade-offs inherent in migration policy making. The MAC can clarify migration trade-offs in labour immigration policy, but cannot decide the ultimately political questions about whose interests should be prioritised and how competing policy objectives should be balanced.

Keywords: Migrant workers, labour migration, economic needs tests.

Managing labour migration: Supply and demand
A central question in labour immigration policy is how to link the admission of new migrant workers to the “needs” of the domestic labour market and economy. What these needs are, how they vary across sectors and occupations and change with economic cycles are highly contested. There is significant controversy about the role that migrants can and should play to reduce “labour and skills shortages” and overcome “skills needs” in particular sectors and occupations. Employers often claim, especially but not only during times of economic growth, that there is a “need” for migrants to help fill vacant jobs that domestic workers can or will not fill. Sceptics, including some trade unions, argue that in many cases these claims simply reflect an employer preference for cheap and exploitable migrant workers rather than improving wages and employment conditions sufficiently to attract local workers.

The argument that immigration is required because of “skills needs” in the domestic economy can reflect several concerns. First, some argue that a large stock of “human capital” is required to promote economic growth and competitiveness. Human capital models suggest that foreign graduates of local universities should be allowed to settle and that well-educated foreign workers...
should be admitted even without job offers. This “supply approach” to economic growth relies on immigration systems that award points to foreigners seeking immigrant visas, selecting young foreigners with high levels of education who know the local language, as with Australian and Canadian selection systems. Foreigners must achieve a certain number of points to qualify for an immigrant visa, at least 67 on Canada’s 100-point scale, and can receive up to 28 points for English or French language ability, up to 25 points for education, up to 15 points for (non-Canada) work experience, up to 10 points for a Canadian job offer, and up to 12 points for foreigners under the age of 35.\(^1\)

The supply approach can result in immigrants having more education than natives. For example, adult immigrants selected via Canada’s point system have on average more education than Canadian-born adults (Reitz, 2013). However, some newly arrived immigrants do not use the credentials they earned abroad in the jobs they can find in their new host country, resulting in “brain waste,” as when doctors or engineers drive taxis. The Australian and Canadian governments are trying to reduce brain waste by awarding more points to foreigners who have local job offers and speeding up the local recognition of credentials earned abroad.\(^2\)

A second concern deals with using migrant workers to reduce employer complaints of “labour and/or skills shortages” (Ruhs and Anderson 2010). Under the “demand approach” to labour immigration, migrants are admitted to fill vacant jobs after employers try and fail to recruit local workers. The US and most European countries rely on a demand approach to manage the admission of foreign workers, meaning that employers “sponsor” particular foreigners for temporary worker and permanent immigrant visas.\(^3\) In many cases, the foreigners sponsored for immigrant visas first arrive as temporary workers. For example, foreign students may graduate from US universities, be hired by a US employer with an H-1B temporary worker visa and, after a period of satisfactory performance, the employer may “reward” the foreigner by sponsoring him or her for an immigrant visa. This procedure makes US universities the gatekeepers to immigration visas.

Almost all temporary foreign workers are admitted under the demand approach, meaning that employers set the admissions process in motion by requesting permission to recruit and employ guest workers to fill vacant jobs.

\(^1\) Canada’s Federal Skilled Worker Program was revised in 2013 to put more emphasis on English or French language ability and on having a Canadian job offer. www.cic.gc.ca/english/department/media/backgrounders/2012/2012-12-19.asp

\(^2\) Canadian studies in 2005 put “brain waste” at C$2 billion a year, defined as immigrant earnings would be C$2 billion higher if they worked in the occupations for which they are educated. In response, the government made grants to professional organizations to enable them to more quickly determine if foreign-trained doctors, nurses, engineers and other professionals are qualified for licenses to work in Canada. Immigrant children educated in Canada have no problems getting licenses. See Migration News. 2005. Canada: Brain Waste. Vol. 12. No. 1. http://migration.ucdavis.edu/mn/more.php?id=3115_0_2_0

\(^3\) Having employers select foreigners to fill jobs should reduce brain waste, but Mattoo et al (2008) find considerable brain waste in the US as well.

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Governments have several options to respond to employer requests for migrant workers, ranging from a “trust-the-employer” extreme of simply admitting the foreign workers requested to the opposite approach of assuming that most employers can find local workers to fill vacant jobs. In these “show-me-there-is-a-shortage” schemes, employers who request foreign workers must pass a series of tests to demonstrate local workers are unavailable to fill particular jobs.

The US H-1B program is an example of the “trust-the-employer” policy (Martin, 2012). This program, which admits foreign workers who have at least a first university degree to fill US jobs that require such degrees, was created in 1990 when the IT revolution was just getting underway. Employers were given easy access to foreign university graduates in exchange for an annual cap of 65,000 visas a year, almost three times annual admissions at the time, to protect US workers.

Under current regulations, most US employers simply attest or promise via the internet that they are offering genuine jobs, that they are paying the prevailing wage, and that there is no strike in progress, and over 99 percent of employer requests are approved by the US Department of Labor within seconds. Most US employers may lawfully lay off US workers and replace them with H-1B workers (Hira, 2009).

The theory when the H-1B program was enacted was that the burgeoning IT industry would request all available visas immediately, after which the demand for H-1B visas would fall as more US workers acquired IT skills. In fact, it took until 2007 for all available H-1B visas to be requested, and by then there was a significant migration outsourcing infrastructure linking India and the US. Employers mounted successful efforts to persuade Congress to “raise the cap” several times (Martin, 2012).

New industries became closely associated with the “trust-the-employer” H-1B visa, notably Indian-based outsourcers who brought Indian IT workers to the US, learned about a client’s IT needs, and did some of the work in the US with workers on H-1B visas and sent the rest to India, which is one reason why the H-1B visa came to be known as the “outsourcing visa.” So-called “body shops” brought IT workers and nurses from abroad with H-1B visas and sent them from one US employer to another.

The US H-2A program illustrates the opposite approach that assumes US employers will generally find enough US workers to find jobs (Martin, 2009). After the Bracero program that admitted Mexican workers to fill seasonal US farm jobs ended in 1964, a safety valve was created for farmers anticipating too few US farm workers. Farmers are allowed to request that the US Department of Labor certify their need for foreign workers so that they can recruit and employ foreigners who come to the US with H-2A visas. Certifica-

4 Only H-1B dependent employers, those with high shares of H-1B workers in their workforces and those who have violated H-1B regulations, must try to recruit US workers before hiring H-1B workers.
tion involves the employer offering a higher-than-minimum Adverse Effect Wage Rate, housing at no charge to workers, and guaranteeing work for at least three-fourths of the period that the employer wants workers (Martin, 2013).

There is no cap on the number of H-2A visas issued because the certification process aims to ensure that only needed foreign workers are admitted. However, farm employers call the certification process “bureaucratic and cumbersome,” and some assert that they hire unauthorized farm workers because it is too hard to hire legal guest workers (Bruno, 2012). However, many of the farmers who complain loudest of farm labour shortages operate in areas with double-digit unemployment rates, and their assertions of labour shortage are often accompanied by comments that suggest few recruitment efforts.5

In a further complication, the US government uses the trust-the-employer attestation procedure for skilled H-1B temporary workers but the supervise-recruitment certification procedure to regulate access for most types of workers to employment-related immigrant visas. The result is considerable frustration, especially for migrants. In order to obtain an immigrant visa for the migrant who is often filling the job in question, the employer must advertise for US workers in a process that rarely finds US candidates, in part because advisers tell employers how to advertise to attract few US applicants and workers soon learn that there really is no job available.6 In a further irony, as soon as the temporary worker receives an immigrant visa, she has freedom to change jobs, and many foreigners leave the jobs for which they were certified as uniquely qualified to fill as soon as they obtain immigrant visas (Martin and Midgley, 2006).

Expert commissions such as the UK’s MAC can help to steer a middle course between trust-the-employer attestation and overcome-hurdles certification. Commissions can analyse top-down labour market wage, unemployment and other data for evidence of labour shortages in an industry or occupation, and then fine-tune their analysis by considering “bottom up” evidence from employers, unions, and others. Commissions can offer binding or advisory recommendations on whether there are labour shortages that should be filled

5 Peach farmers around Marysville, California in July 2012 said: "Usually, each year the migrant workers show up. This year we keep thinking maybe they'll show up tonight, maybe they'll be here tomorrow morning. Nobody's really showing up yet." Word of the shortage of peach pickers attracted 100 local applicants, but growers said that, without experience, local workers could not pick fast enough at the piece rate they offered, $16 to $20 per 1,000 pound bin, to earn the minimum wage of $8 an hour. Migration News. 2012. Labor Shortages: Congress. Vol 18. No 4. October. http://migration.ucdavis.edu/rmn/more.php?id=1718_0_4_0

6 In one case, the Cohen & Grigsby law firm made a promotional film in which its lawyers said they would help employers seeking immigrant visas for foreigners they were sponsoring to advertise for US workers in ways that minimize the chances of finding qualified US workers. Their lawyer said: “Our objective is to NOT find a qualified and interested U.S. worker” during the required recruitment process. See http://migration.ucdavis.edu/mn/more.php?id=3434_0_2_0
with migrant workers. Under some US proposals, commissions would develop a list of shortage occupations, and employers hiring workers in these occupations could use the trust-the-employer attestation process to fill jobs in labour-short sectors (Marshall, 2009; Papademetriou et al, 2009).

**Britain’s MAC**

Britain in 2008 reformed its policy for admitting migrants from outside the European Economic Area (EEA), which includes the European Union and Iceland, Lichtenstein, and Norway. The number of entry doors was reduced from more than 80 to five major tiers or entry channels, and the independent MAC was created to advise the government on whether there were skilled labour shortages and whether admitting migrant workers to fill vacant jobs was a sensible policy in response to identified shortages (MAC, 2008).

Each entry channel or tier governs the admission of a particular type of migrant from outside the EEA. Tier 1 is for highly skilled workers without a British job offer, and is available to foreigners with personal characteristics that suggest they will be successful in the UK labour market, an example of the supply approach to migration management. Within Tier 1, there are separate categories for “exceptional talent” (in the arts and sciences), entrepreneurs, investors, and foreign graduates of UK universities.

Tier 2 admits skilled non-EEA workers who have British job offers. Migrants sponsored by British employers under Tier 2 receive points for their earnings, English language skills, and additional points if they are filling a job in a shortage occupation. In 2009, some 18,800 foreigners arrived in the UK under Tier 1 and 36,400 arrived under Tier 2; two-thirds of Tier 2 arrivals were intra-company transfers.

Tier 3 is for low-skilled migrant workers from outside the EEA and is currently closed, Tier 4 governs foreign students, and Tier 5 includes other temporary migrants who are not primarily seeking jobs, such as working holiday-makers in the UK.

The purpose of the 5-tiered entry system was to simplify the overall admission system and move from employer-led migrant worker admissions to a policy that maximizes the benefits of migration for the entire British economy. The MAC plays a major role in providing advice on Tier 2 admissions in cases where employers want to hire non-EEA workers (MAC 2009a). There are three major Tier 2 sub-channels: one admits migrants to fill jobs in shortage occupations, a second admits migrants after employers try and fail to find “local workers” (British workers or workers from EEA countries in the UK),

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8 http://migration.ucdavis.edu/mn/more.php?id=3655_0_4_0
and a third admits intra-company transfers employed by a multi-national that the firm wants to move to fill jobs in its British operations.9

A first challenge for the MAC was recommending whether particular occupations should be on the shortage list (MAC, 2008).10 The MAC examines 12 top-down labour market indicators to determine if a particular occupation should be on the shortage list (MAC 2008; MAC 2010a, 44), including:

- Three price-based indicators, such as the growth in wages in the occupation,
- Four volume-based indicators, such as the growth in employment or the unemployment rate in the occupation,
- Three employer-based indicators, such as employer reports of labour shortages, and
- Two other indicators, including job vacancy data

The MAC considers an indicator to suggest a labour shortage if the indicator passes a particular threshold. Each indicator has a different threshold which the MAC calculates based on a “benchmarking approach” (see MAC 2013). This involves fixing the passing threshold for an indicator to its value at a point of historical stability in the labour market, which the MAC defined as having occurred at the end of 2008. For most indicators, the MAC calculates the threshold value using the “median plus 50 per cent rule”. For example, if the median wage increase in all occupations during the stability period was two percent, the wage increase in an occupation must be at least three percent to suggest a shortage”.

In the US, top-down analysis of labour market indicators rarely finds labour shortages. For example, Veneri (1999) defined a labour-short occupation as one in which employment increased at least 50 percent faster than the average of all occupations, wages rose at least 30 percent faster than average, and the occupation in question had an unemployment rate at least 30 percent below average. Her analysis found few labour shortage occupations in the US at the height of the 1990s economic boom. The 50+30+30 test was satisfied by seven of 62 occupations between 1992 and 1997, but only one, special education teachers, had both top-down and bottom-up evidence of shortages. Notably, computer-related occupations did not satisfy the 50+30+30 test despite rapid employment growth and low unemployment rates because earnings did not rise at least 30 percent faster than overall earnings.

Similarly, MAC analysis of top-down indicators finds relatively few labour-short occupations. However, bottom-up evidence from employers, unions, and others may prompt the MAC to find there is a labour shortage in a par-

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9 Intra-company transfers and transferred from a foreign subsidiary to a UK branch of the same firms are exempt from the Tier 2 cap on admissions, which was 20,700 in 2012.
10 If an occupation is on the shortage list, employers do not have to first try to recruit local workers before receiving permission to hire foreign workers.
ticular occupation, and bottom-up evidence has been decisive in most cases where the MAC has determined that there are labour shortages. In some cases, the MAC decides that only some of the job titles within a broader occupation have labour shortages. For example, there may be no shortage of secondary school teachers, but there may be a shortage of secondary math teachers.

The MAC has earned a reputation for careful and public analysis of data, prompting the government to expand the MAC’s mandate. The questions posed to the MAC have expanded from whether there are labour shortages in particular occupations to requests to estimate the economic impacts of dependents who accompany migrant workers and the socio-economic effects of non-EEA migrants on the UK, including the potential of benefit-cost analysis to assess migrant impacts on pre-migration residents (MAC, 2012).

The MAC normally responds to government queries within three to six months, issuing a public report that lays out the questions posed by the government, the analysis, and its recommendations. The fact that the MAC’s advice is public makes it harder for the government to reject MAC recommendations without good reason or further evidence. This is one reason why the MAC’s recommendations have usually, but not always, been accepted and adopted by the British government.

After six years, the MAC has had three major effects on British labour migration policies (Martin and Ruhs, 2012). First, the MAC has earned a reputation for careful analysis of the data and evidence on which it bases its recommendations, which has strengthened its credibility with the government and the public. There are stakeholders who disagree with some of the MAC’s recommendations, but the MAC’s willingness to consider both top-down labour market indicators and bottom-up evidence from employers and advocates gives all stakeholders a voice in the process of determining whether there are labour shortages.

Second, even if the MAC concludes there is a labour shortage, it does not always recommend that migrant workers be admitted. The MAC is charged with weighing whether it is “sensible” to admit migrant workers to fill jobs in occupations where it has found labour shortages. This means that, even if the top-down and bottom-up evidence suggests a shortage, the MAC may recommend against admitting migrant workers.

This “sensible” question highlights the trade-off issues that complicate migration policy making. For example, London is one of the world’s most expensive cities, and two thirds of the care givers who look after the elderly and disabled in their homes or in nursing homes were born outside the UK. Care givers are often employed by private firms and NGOs that have contracts with the local governments that pay for social care from local taxes (Ruhs and Anderson, 2010). Public underinvestment in the care sector has kept care giv-

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11 A list of MAC publications is available at: www.ukba.homeoffice.gov.uk/aboutus/working-withus/indbodies/mac/.
ers’ wages low, while the desire to provide good care means that care givers must have credentials that require training. British workers with credentials can earn more outside the publicly funded care sector, so training more British workers, a common suggestion to curb labour shortages, would not help in this case.

The MAC’s analysis highlighted the trade-off between taxes and care giver wages. It concluded that care “budgets need to be larger, or at least better targeted towards those parts of the sector suffering from labour shortage, so that those workers can be paid more.” The MAC recommended that only the highest skilled care workers be added to the shortage occupation list to avoid “institutionalising low pay in the care sector.” (MAC 2009b, 96).

Third, MAC shortage findings can trigger debates and reviews of the training system that prepares British workers for the occupation in question. Linking labour shortages to training is important in sectors such as construction, where apprenticeship systems that trained workers to be carpenters and electricians have shrunk (Ruhs and Anderson, 2010). Apprenticeship systems are much stronger in central Europe, which is one reason many British and other employers turn to “Polish plumbers” to fill skilled manual jobs. By calling attention to the links between labour shortages, migration, and training, the MAC was able to highlight the choices that policy makers must confront.

Conclusions
How should governments respond to employers’ requests to hire more migrant workers to fill “labour and skills shortages”? Most governments are not well equipped to assess employer claims of labour shortages. Defining and measuring shortages is not easy, especially in small geographic areas, but the cost of flawed policy decisions can be high. On the one hand, restricting access to foreign workers could adversely affect particular employers and slow economic growth. However, if local workers are left jobless by an influx of migrants, or if employers delay the productivity-increasing changes necessary to remain competitive in a globalizing world because migrant workers are available, the economy may become less competitive over time.

The British MAC shows that expert commissions can improve decisions on whether to admit foreign workers. The MAC helped to steer the debate over whether migrant workers were “needed” from competing assertions about whether labour shortages were due to faster job than labour force growth or a poor “work ethic” and attitudes of British workers to an analysis of labour market data. Careful analysis of both top-down labour market indicators and bottom-up evidence from employers, unions, and other stakeholders raised the quality of the debate.

Second, the MAC helped to clarify the various measures of shortages, highlighting the data sources that are most useful to determine whether there are sufficient local workers. The MAC has also been able to move from data
to analysis by asking whether migration is a sensible response to labour shortages.

Third, the MAC’s analysis helped to make the trade-offs that underlie competing policy objectives clearer.

Analysing trade-offs does not necessarily mean determining which of two competing goals should have higher priority. Immigration generates uneven benefits, and migration policy making ultimately requires a balancing of competing interests. Deciding whether the optimal response to labour shortage complaints is the admission of migrant workers, higher wages, or some other option is an inherently political decision. Independent expert commissions such as the MAC can make the trade-offs between these options and their consequences clearer, but they cannot and should not replace an explicit political debate about how to balance and prioritise competing policy objectives.

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