

Discussion Paper Series A No.526

**Migration of Nurses in the EU, the UK, and Japan:  
Regulatory Bodies and Push-Pull Factors in  
the International Mobility of Skilled Practitioners**

Jun Inoue

February, 2010

Institute of Economic Research  
Hitotsubashi University  
Kunitachi, Tokyo, 186-8603 Japan

**Migration of Nurses in the EU, the UK, and Japan:  
Regulatory Bodies and Push-Pull Factors in the International Mobility of Skilled  
Practitioners †**

Jun Inoue  
jinoue@ier.hit-u.ac.jp

Assistant Professor  
Institute of Economic Research  
Hitotsubashi University

**Abstract**

This paper examines the regulatory characteristics of the EU, the UK, and Japan concerning the accepting of nurses from overseas, by focusing on the interests of regulatory bodies and policies to promote or mitigate the impact of push-pull factors on the inflow of nurses. These cases show that verifying qualifications, assessing language skills, and admitting work permits are important, instant, and effective measures through which regulatory bodies can promote or mitigate the impact of push-pull factors on the inflow of nurses into their territories. The EU and the UK studies revealed that further research is required concerning the discrimination which is prohibited under EU law. Compared to Europe, Japan's Economic Partnership Agreement (EPA) is a full-course regulatory arrangement that covers issues ranging from quantitative restriction, refusal of mutual recognition, refusal of verification of qualification valid in other countries, and language proficiency to work permit, due to ambivalent interests in a single regulatory framework.

**Keywords**

migration of nurses, the EU, the UK, Japan's EPA, regulatory bodies, push-pull factors

† The author greatly acknowledges financial assistance from the Health Care Science Institute. The author also thanks the participants of the 43<sup>rd</sup> Workshop for EU Studies, hosted by the Keio Jean Monnet Centre for EU Studies (January 23, 2010), for their valuable comments, especially Yasuji Ishigaki, Ikuko Sato, Kazutoshi Matsumoto, Maho Kawagoe, Noriyuki Wakisaka, Eijiro Fukui, and Katsuhiko Shoji, the chairperson of the workshop.

## 1. Introduction

The mobility of goods, services, capital, and people is rapidly growing in this globalized world, and there are many bilateral and multilateral arrangements to liberalize and manage these transnational flows. The international mobility of workers, especially skilled workers, becomes an important and complicated issue in the context of these transnational flows because such mobility has many aspects, including workers' rights, levels of qualification between home and host countries, differences in the quality of service provided by these workers, and protection of the recipients of such service.

As for Japan, the government has recently begun to accept foreign skilled practitioners. The government concludes special arrangements for natural persons in the Economic Partnership Agreements (EPA) with Southeast Asian countries in order to allow nurses from those countries to enter and practice in Japan. While Japan's arrangements were begun quite recently, other developed countries, including the UK, have a long history of accepting nurses from overseas. Concerning the cross-border mobility of natural persons and skilled practitioners, the European Union (EU) has ensured that EU nationals can move to other member states and provide services. What are the characteristics of each regulatory framework? Is there any implication for Japan when we compare it with other regulatory frameworks?

This paper analyzes the legal/institutional settings for the international migration of nurses in the EU, the UK, and Japan, in order to exhibit their regulatory characteristics. When analyzing these characteristics, this paper refers to the push-pull factors in the international mobility of nurses that has been pointed out by certain scholars (e.g. Buchan, Parkin, and Sochalski 2003; Aiken et al. 2004). Poor wages, economic instability in home countries, fragility of health systems, working burdens, risks of practicing (HIV/AIDS), and safety push nurses to leave their countries, while higher wages, better living and working conditions, and opportunities for advancing their education and careers pull nurses to developed countries. These factors are generally used to explain why the international mobility of nurses occurs. However, this paper focuses on the activities of regulatory bodies,

based on the hypothesis that they attempt to promote or mitigate the push-pull factors' impacts on the inflow of nurses into a particular territory as intended.

Many studies have examined the trends of the international mobility of health care workers and its policy implications, and have introduced policies administered by national governments as well as international organizations. However, such studies were not intended to draw a whole picture of regulatory activities by integrating political actors' interests and behaviors (policy-making). As Buchan and Rafferty (2004) and Buchan, Baldwin, and Munro (2008) pointed out, there are a series of constraints on the international mobility of nurses that must be considered in policy analysis. This paper considers the idea that such constraints are imposed by regulatory bodies through regulations and laws. Thus, this paper focuses on the activities of regulatory bodies that intend to promote or mitigate the impact of push-pull factors on the inflow of skilled workers.

First, this paper analyzes the regulatory frameworks concerning the international mobility of nurses, which are provided by the EU and its member states. Before assessing the regulations created by the member states, it is necessary to understand the legal/institutional framework of the EU as a whole, because it prepares some provisions for the free movement of skilled workers (including nurses) with which member states have to comply (Section 2). Then, this paper examines how the UK, which is one of the major destinations for overseas nurses and which once protested the draft of a directive by the EU, arranges its policy for the migration of nurses (Section 3). These sections also assess some of the frictions between the EU and its member states and attempt to add some comments to the regulatory framework within the EU. In the case study of Japan (Section 4), this paper examines the characteristics of Japan's regulatory framework in arranging the EPA with Southeast Asian countries.

## **2. Regulatory frameworks in the European Union: Mitigating the inflow of nurses from the East by preserving the sectoral directive**

In the EU, the free movement of persons is one of the fundamental freedoms provided by the EC Treaty; EU nationals can move from their home country to another member state for the purpose of residence and work. Thus, the EU requires national governments to remove the national barriers that obstruct the intra-EU mobility of persons. As for health care workers such as nurses, the provision of the free movement of services also becomes relevant, as they provide health care services rather than just moving to and living in a destination member country<sup>1</sup>. Thus, fundamentally, nurses in EU member states are allowed to pursue entrance into another member state for the purpose of practicing as nurses.

While the EU ensures the free movement of health care workers and the cross-border provision of health care services, member states are responsible for the organization and financing of health care within their territories and they define the scope of activities specific to a health care profession (Baeten and Jorens 2006: 214-215). This could lead to a divergence of regulations among member states. This divergence constitutes a barrier to the mobility of health care workers. Thus, the EU has prepared sectoral directives for health care workers such as doctors, nurses, and midwives. Sectoral directives provide a regulatory framework for guaranteeing the minimum qualifications to be met by health care professionals specifically, in order to promote the mutual recognition of qualifications among member states (Ibid: 215). As for nurses, directive 77/453/EEC provides the basis for a regulatory framework throughout the EU.

Yet, the actual mobility of nurses within the EU has been very low. Although the European Commission did not systematically collect data on the cross-border

---

<sup>1</sup> The European Court of Justice (ECJ) judged that health care provision is an economic activity in the sense of Article 50 of the EC Treaty. See Case C-158/96 *Kohll / Union des Caisses de Maladie* and Case C-131/85 *Emir Gül v Regierungspräsident Düsseldorf*.

mobility of EU nurses until recently<sup>2</sup>, available statistics show that intra-EU mobility has been at a relatively low level and can only be seen in countries that share the same language (e.g. the UK and Ireland, Belgium and France, and the Scandinavian countries) (Buchan, Parkin, and Sochalski 2003: 58; Buchan 2006: 45-46). Scholars have concluded that the low level of nurse mobility within the EU in the 20<sup>th</sup> century was due to inherent language barriers and the absence of substantial pull factors within Western Europe due to the relatively strong similarity in economics (Aiken et al. 2004: 74)<sup>3</sup>, such as similar wages, working conditions, and career opportunities (Buchan and Rafferty 2004: 154). Until the EU enlargement in 2004, the EU free movement provision itself did not necessarily lead to high intra-EU mobility. Other factors such as language skills, cultural and post-colonial ties, and push-pull imbalances are the main driving forces for mobility (Buchan 2002: 16; Buchan 2006: 44-46).

This migration trend has changed in the 21<sup>st</sup> century, because negotiation with the Central and Eastern Countries (CEECs) for EU membership has progressed. Some of them became eligible to join the EU in 2004. The enlargement of the EU means the opening-up of the Western European market for accessing countries such as Poland and the Czech Republic. Salaries and working conditions in these countries are lower than in the existing EU member states; these could prove to be pull factors and lead to an increase in the inflow of nurses from new member states to Western Europe (Buchan, Parkin, and Sochalski 2003: 58; Buchan and Rafferty 2004: 154-155). Although different languages are spoken in these accessing countries,

---

<sup>2</sup> As can be seen on the EU's website, the data on the cross-border mobility of health care workers were not systematically recorded before the enlargement in 2004. See [http://ec.europa.eu/internal\\_market/qualifications/regprof/index.cfm?fuseaction=profession.crossBorder&profId=12402](http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=profession.crossBorder&profId=12402). The Organization for Economic Cooperation and Development (OECD) (2007) and Buchan (2004, 2006) also pointed out the lack of systematic data on cross-border nursing mobility.

<sup>3</sup> See also European Commission (2000), p. 508.

some studies have revealed that nurses in the CEECs intend to enter Western Europe<sup>4</sup>. Polish nurses, who faced unemployment due to economic problems in their home country<sup>5</sup>, have rushed into Western Europe; Lesniowska (2008) showed that 2,139 Polish nurses, which was 1.5 percent of the country's employed nurses, obtained authorization to practice in five European Economic Area (EEA) countries—Great Britain, Ireland, Italy, the Netherlands, and Norway—between January 2004 and March 2007, while 386 Polish nurses received authorization to practice in four of those same countries between 2000 and 2003 (Lesniowska 2008: 593).

Nevertheless, the accessing countries had to comply with the *acquis*. As for health care provisions, they also implement the minimum requirements for qualification as health care professionals (such as doctors, nurses, and midwives), which were defined under the sectoral directives. The existing member states were afraid that free movement provisions allowed less-skilled nurses from the CEECs to enter and practice in the Western member states, because the EU (via the European Commission) assessed that the standards for nursing qualification in the new member states did not fulfill the standards that were required in the existing sectoral directive for nurses. The existing member states gave careful consideration to the legislation of new directives related to professional qualifications.

For example, in 2002, the European Commission proposed a new directive on the recognition of professional qualifications for regulated professions (European Parliament and the Council 2002), which would later be concluded as the directive 2005/36/EC. The proposed new directive intended to integrate the existing sectoral directives for skilled professionals into a general system for the recognition of professions, because the European Commission wanted a clear, secure, and quick

---

<sup>4</sup> For example, see Vörk, Priinits, and Kallaste (2004), p. 3, which states that 35% of health care workers in Poland planned to work abroad, and 10% had definite plans.

<sup>5</sup> For the details of the Polish nurse labor market, see Zajac (2004), p. 122.

system for the recognition of professional qualifications<sup>6</sup>. The proposal also allowed for the temporary provision of services based on legislation in the country of establishment. Under the proposal, a service provider who is legally established in one member state and attempts to move to another would be allowed to pursue a professional activity for a period of not more than 16 weeks per year under the professional regulation of the member state<sup>7</sup>. However, the proposal met resistance from the member states. The Department of Health in the UK asserted that it was against the proposal to allow health care professionals from the new member states to work without registration for up to 16 weeks even if they are required to possess two years of experience<sup>8</sup>. Together with the Nursing and Midwifery Council (NMC) and the Consumers' Association, UK health regulators feared that patients could be at risk<sup>9</sup>. The Alliance of United Kingdom Regulatory Bodies on Europe (AURE), in which the NMC also participates, protested formally to the European Commission and lobbied members of the European Parliament (EP). The AURE called for public protection safeguards to be included in the new proposals. In particular, it wanted to permit language proficiency assessment tests for EU nationals, because the EU proposal did not specify a process to test the language skills of entrants, even though it stated that EU health practitioners should have the necessary language skills<sup>10</sup>.

The NMC and the Royal College of Nursing (RCN) also doubted that the levels of qualification of the new member states fulfilled the minimum requirement of the existing EU directive. They wrote a joint letter to the Foreign Secretary and called for a requirement that Polish nurses participate in an adaptation programme before

---

<sup>6</sup> For details, see *Bulletin of the EU*, 3-2002, point 1.3.32.

<sup>7</sup> For detail explanations of the draft for new directive, see Baeten and Jorens (2006), p. 220.

<sup>8</sup> "NHS to investigate impact of international recruitment," *Nursing Standard* 18:12 (2003), p. 9.

<sup>9</sup> *Ibid.*; "NMC rejects EU proposals," *Nursing Times* 98:30 (2002), p.5.

<sup>10</sup> *Ibid.*



registering in the UK (Harrison and Duffin 2003: 8). These protests made the EP concerned about the protection of the minimum standard for nursing qualification in the EU as well as the protection of patients. The EP amended the proposed directive<sup>11</sup>.

The amended proposal prescribed that health professionals should have to register in the country in which they are practicing, no matter how briefly they plan to stay. It was also confirmed that nursing professionals were to be regulated by the sectoral directive with a general system for recognition, and the qualifications of immigrant nurses from ten new member countries were investigated and recognized on a case by case basis, rather than being recognized automatically<sup>12</sup>. New member states, especially Poland<sup>13</sup>, attempted to raise the educational standard for nurses in order to meet the requirements set by the existing member states.

It took three years to publish the new directive, 2005/36/EC (European Parliament and the Council: 2005), for the recognition of professional qualifications, which the member states were asked to implement by October 2007. The directive provided that the member states automatically recognize the evidence of formal qualifications on the basis of coordinated minimum conditions for training. As for the provisions for nurses, Article 21 ruled for automatic recognition and provided that each member state shall recognize evidence of formal qualifications, which satisfies the minimum training conditions referred to in Article 31. The specific provisions for nurses in Articles 31 to 33 provided the case for the recognition of the qualifications of Polish nurses. In addition, the directive provided that persons who benefit from the recognition of professional qualifications shall have sufficient knowledge of the

---

<sup>11</sup> For details, see *Bulletin of the EU*, 1/2-2004, point 1.3.47.; *Bulletin of the EU*, 5-2005, point 1.3.14.

<sup>12</sup> “NHS to investigate impact of international recruitment”, *op. cit.*; “NMC rejects EU proposals”, *op. cit.*

<sup>13</sup> The level of the training programmes for nurses in Poland did not meet the EU standard. See Zajac (2004), pp. 115-116.

language necessary for practicing the profession in the host member state (Article 53), although a language test (evaluation) shall not be a part of the recognition process. A specific directive that prepared for the accession of Bulgaria and Romania was also published in 2006 (2006/100/EC).

Despite the fundamental freedom of persons and provision of services under EU law and the minimum requirement for professional qualifications under the sectoral directives, the intra-EU mobility of nurses was low at the time of the enlargement in 2004, due to a lack of pull factor among Western European member states. However, the enlargement changed the situation; push-pull factors between old and new member states emerged, and nurses from the CEECs expressed their intention to enter Western member states. These meant that the migration of nurses from the new member states increased by making use of the rights provided by the EU law and directive. Once the new directive determined that the automatic mutual recognition of qualification applied to the new member states, the old member states were prohibited from taking any measures to stop the inflow of nurses from the East. Thus, the old member states questioned the level of qualification in the CEECs and protested the application of automatic mutual recognition of qualifications to the new (candidate) member states.

Additionally, a provision for knowledge of languages was put into the new directive, although the EU law prohibited the administration of a language test due to potential discrimination by language and nationality. The new directive was arranged to manage the possible inflow of nurses from the East (new member states), although nurses from the CEECs (especially Poland) were allowed to register if their qualifications were verified by the regulatory bodies in the host countries.

### **3. The UK: Managing the inflow of overseas nurses by imposing regulations**

In the UK, most health care is provided through the National Health Service (NHS), which is funded by taxes. Most nurses in the UK work in the NHS, while some

nurses are hired in the private sector<sup>14</sup>. All nurses who want to be employed and to practice nursing in the UK must be registered with the professional regulatory authority, the Nursing and Midwifery Council (NMC). Applicants with general nursing qualifications from the EU/EEA member states have the right to practice in the UK due to the mutual recognition of qualifications provided by the directive discussed in the previous section. Nurses from countries outside of the EU have to apply to the NMC for verification of their qualifications in order to be admitted to register. They also have to be granted work permits in order to obtain paid employment in the UK<sup>15</sup>.

Throughout the 1990s, the government instigated NHS reforms in order to improve its service, performance, and staff shortage. The government decided to increase the size of the NHS workforce by encouraging a return to nursing employment and the international recruitment of health care professionals (Buchan, Baldwin, and Munro 2008: 6, 10; Buchan and Rafferty 2004: 145). The new NHS Plan, which was introduced by Tony Blair's government in 1997, called for an expansion of the NHS and a rapid increase in the number of nurses and doctors working in the NHS (Buchan 2008: 51). The NHS planned to implement a staff increase by 2005, and became active in the international recruitment of health workers in the period between 1999 and 2005. The Border Agency had a category of highly skilled workers who are not numerous enough in the UK, and applied that category to nurses. The measures taken by the NHS and the Border Agency, as well as the push-pull factors, attracted nurses from developing countries that use English

---

<sup>14</sup> Buchan, Parkin, and Sochalski (2003), p. 23.; Buchan, Baldwin, and Munro (2008), p. 10. For details about the NHS, see Ham (2009).

<sup>15</sup> Buchan, Parkin, and Sochalski (2003), p. 23.; Aiken et al. (2004), p. 74.; Buchan, Seccombe, and Thomas (1997), p. 55. According to Aiken, no direct examination is required for foreign-trained nurses, but the NMC assesses nurses' overall credentials, including evidence of proficiency in English. The NMC also ascertains that an employer has agreed to provide employment for the period of the work permit.

and have post-colonial or commonwealth ties with the UK. The UK became one of the major destination countries for international nurses.

In 2002, the number of registered nurses from overseas became more than that of nurses registered within Britain for the first time<sup>16</sup>. According to Aiken et al. (2004), one out of four nurses in London are from overseas, and some private health care organizations are staffed by as many as 60 percent overseas-trained nurses<sup>17</sup>. As we can see from Chart 1, the main source countries are not EU members<sup>18</sup>.

Nevertheless, the active recruitment of nurses from overseas has caused an ethical problem concerning the “brain-drain” in the developing countries from which the nurses emigrate. The UK became aware of the adverse effects of health worker migration on the source countries as well as the international health system. In order to prevent staff shortage and its adverse effects on the health system in developing countries, the UK decided to embark on a self-restraint recruitment campaign toward those countries. The Department of Health (DoH) in England first issued an ethical guide on the international recruitment of nurses (DoH 1999) and published a Code of Practice (DoH 2001), which was revised in 2004<sup>19</sup>.

The Code provided the guiding principles to promote high standards in the recruitment and employment of health care professionals from overseas. It aimed to prevent targeted recruitment from developing countries that are experiencing shortages in health care staff. For example, the Code of 1999 required the NHS not to actively recruit from South Africa and the West Indies (Buchan, Jobanputra, Gough, and Hutt 2005: 19). The Code of 2004 attempted to include the recruitment through agencies of temporary health care professionals, and to widen the scope of

---

<sup>16</sup> See Aiken et al. (2004), p. 73, quoting Buchan, Parkin, and Sochalski (2003).

<sup>17</sup> See Aiken et al. (2004), p.73, quoting Buchan (2003).

<sup>18</sup> For the details and overall analysis of the trend of nursing migration in the UK during the period of the latter half of the 1990s to 2004 (before the enlargement of the EU), see also Buchan, Jobanputra, Gough, and Hutt (2005), pp. 5-6.

<sup>19</sup> For details of the Codes, see Buchan, Parkin, and Sochalski (2003), p. 25.

the Code to include all health care organizations, including the independent sector. The UK also prepared a Code of Practice for the international recruitment of health workers concerning the Commonwealth<sup>20</sup>. In addition, the UK sought bilateral agreements with source countries such as India, the Philippines, and Spain for the recruitment of nurses<sup>21</sup>.

As Chart 1 shows, the intra-EU mobility of nurses was initially very low. Some scholars have pointed out that this was due to the language differences that worked as an inherent barrier, as well as the absence of substantial push-pull factors within Western Europe (Aiken et. al. 2004: 73-74; Buchan, Seccombe, and Thomas 1997: 54; Buchan 2002: 15-16; Cowan and Wilson-Barnett 2006: 265). Although a directive of the EU (77/453/EEC) provides that nurses who have become qualified in EU/EEA countries have the right to practice in every EU country due to the mutual recognition of qualifications, intra-EU mobility did not increase until it became certain that the CEECs could join the EU, as discussed in Section 2.

Although the UK protested against the initial process of the new directive of the EU (see Section 2), Chart 2 shows that the UK accepted nurses from the CEECs, especially from Poland, once the directive was concluded at the EU level. Charts 1 through 3 depict the contrast between registration trends; while the number of nurses registered in the EU increased, the number who were registered overseas and the total number decreased. Such downward trends are parallel with the UK's motivation to decrease the inflow of nurses due to the financial difficulties of the

---

<sup>20</sup> As for the explanation of the Code, see also OECD (2007), p. 180.

<sup>21</sup> The OECD (OECD 2007: 193) said that Spain, which is supposed to have a surplus of nurses, has signed bilateral agreements with France and the UK. Bilateral and inter-regional agreements were arranged by many EU countries; Germany has bilateral agreements with several CEECs for the recruitments of foreign nursing aids. Some provinces in Italy have signed protocols with provinces in Romania to train and recruit nurses.

NHS as well as the achievement of the targeted workforce numbers by 2005. The regulatory framework provided by the government came to reflect such motivations.

For example, the government submitted a Command Paper to introduce the points-based system for immigration. The system, which was officially started by the Border Agency in 2008, simplified the categories of immigration. It requested that applicants translate their career, qualification, and degrees or diplomas into points in order to make sure that they can enter and/or immigrate to the UK. The government attempted to accept highly skilled persons while preventing the abuse of the system. As for nurses, the arrangements for overseas qualified nurses and midwives ended in 2008, and under the new points-based system a nurse could not apply for work permission unless he/she had a job offer from a UK employer<sup>22</sup>.

The NMC, which is the regulatory body for nurses, also decided to introduce a new registration system for international nurses (except EU nationals); it introduced the Overseas Nurses Programme (ONP) in September 2005 in order to provide additional requirements with which international nurses have to comply. The ONP is a compulsory 20-day programme that takes place before registration. Nurses from overseas cannot start work in the UK without having completed the programme<sup>23</sup>. The NMC also requires nurses from overseas to have the proficiency in English necessary to work as nurses in the UK. All applicants for work as nurses or midwives must provide evidence of having completed the British Council's International English Language Test before submitting their application to the NMC. The NMC will not accept applicants who score lower than the required mark, without exceptions<sup>24</sup>. Thus, overseas nurses are required to have the qualification of the English test, have allowances to verify that their qualifications meet the NMC's

---

<sup>22</sup> Even if international nurses received job offers, it was difficult for them to get enough points due to the strict requirements. For example, a diploma is still worth fewer points than degree. See Dean (2009).

<sup>23</sup> See also Buchan, Baldwin, and Munro (2008), p. 34.

<sup>24</sup> See also *Ibid*, p. 35.; Buchan (2002), p. 15.

standards, have evidence of having completed the ONP, and have work permits before starting to work as nurses in the UK. Registrations and work permits have to be renewed every three years. However, nurses from the EU/EEA countries are not required to complete such procedures<sup>25</sup>. Differences in required administrative procedures (and administrative fees) between EU/EEA nurses and overseas nurses have caused the contrasting trends of the inflow of nurses into the UK after 2005.

In the UK, both the NHS's control over the qualification procedure for registration, including language skill requirements, and the Border Agency's introduction of the points-based system worked as instant and effective measures to restrict the inflow of nurses from overseas in times of financial difficulties for the NHS and in the face of an oversupply of the nursing workforce. Together with the Codes, the regulatory framework in the UK contributed to the continuous downward trend of the initial registration of overseas nurses after 2005, as the UK intended.

#### **4. Regulatory framework of Japan's EPA: Ambivalent interests constitute *de facto* barriers?**

The Japanese government has not accepted foreign skilled health care workers for a long time. A white paper of the Immigration Bureau of Japan shows that 15 were recorded as immigrants who have status of residence for medical services between 2004 and 2008 (Immigration Bureau of Japan 2009: 5). When the government was faced with both an increase of human mobility in the globalized world and the promotion of trade liberalization for goods and services, it began to be concerned

---

<sup>25</sup> Nurses from EU countries, except new member states, are not required to verify their qualifications and proficiency in English, because their standard of the qualification are assured by the directive for nursing qualification, and language test before market access (registration) is fundamentally prohibited by the EU law (see also DoH (1999), p.9). Nurses from new member states are required to register before starting to practice, due to sectoral directive (see Section 2).

about attracting highly-skilled foreign workers (Ministry of Health, Labour and Welfare 2009: 232-233). The Japanese government regards the EPA as a tool for strengthening economic cooperation with foreign countries (Ibid.) and has agreed to put special provisions for the movement of natural persons (skilled professionals including nurses) in the EPA with Indonesia and Philippines. The same kind of agreements will be discussed with Vietnam and Thailand in few years.

As for the Indonesian case, Section 6-1 of Annex 10, which refers to Chapter 7<sup>26</sup>, defines that natural persons who has a purpose of being qualified as nurses under the laws and regulation of Japan, who have been qualified and registered as nurses in Indonesia, and who also have at least two years of nursing experience<sup>27</sup>, are allowed to enter and stay in Japan temporarily for one year<sup>28</sup>. That stay may be extended for the same period (one year) not more than twice. Such persons are required to undergo six months of training courses, including a Japanese language course, before practicing at hospitals. They may take the national examination for being qualified as a nurse under Japanese law a maximum of three times. If they pass the examination, they can stay in Japan after the three-year time limit for staying.

As we can see, government ministries and agencies do not officially admit that they regard the EPA as a solution for the health care workforce shortage. Officially, they regard the path of the EPA as a part of trade liberalization and a special arrangement for foreign nurses to enter and practice in Japan temporarily. Thus, government ministries and agencies do not accept the mutual recognition of qualification as nurses, and do not have procedures to assess the qualifications of overseas nurses either. Under the framework of the EPA, if foreign nurses want to stay and work in Japan after the expiration of their temporary stay, they require

---

<sup>26</sup> <http://www.mofa.go.jp/region/asia-paci/indonesia/epa0708/annex10.pdf> (accessed on 14 December 2009)

<sup>27</sup> As for Philippines, three-year practice is required.

<sup>28</sup> They are permitted to enter Japan as “designated activity” in Visa category.



both nurse qualification that is valid in Japan and Japanese language skills. The EPA framework also has a quota that allows Japan to accept no more than 400 foreign nurses two years<sup>29</sup>. Under this framework, 104 persons came to Japan from Indonesia in 2008 and 173 came in 2009, while 92 persons from the Philippines came to Japan in 2009<sup>30</sup>.

It is likely that such regulatory attitudes in Japan are influenced by the Japanese Nursing Association (JNA)<sup>31</sup>. The JNA, which has a strong interest in protecting the national labor market, securing safety for medical staff and patients, and preventing brain-drain in source countries, publicly expressed that it denies the mutual recognition of qualifications. It also expressed that qualification valid in Japan (i.e. a passing the national examination) and Japanese language proficiency are required if foreign nurses engage in medical teamwork at hospitals and provide services to patients<sup>32</sup>. Thus, the only way for foreign nurses to practice nursing in Japan after the expiration of their stay is to attain proficiency in the Japanese language and to pass the national examination for nurse qualification under Japanese law, even if they have already attained qualification from and practice in their home countries.

The JNA also requires host hospitals to pay overseas nurses the same wages as Japanese nurses. This could be a pull factor for nurses from overseas, but it imposes a burden on the hospitals that accept overseas nurses. The host hospitals, which

---

<sup>29</sup> For detailed information, see

[http://www.mofa.go.jp/mofaj/gaiko/fta/j\\_asean/indonesia/kango\\_sdl.html](http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/indonesia/kango_sdl.html) and

<http://www.mhlw.go.jp/bunya/koyou/other21/index.html> (accessed December 14, 2009).

See also *Journal of Care Management, Monthly* 19:11 (2008), pp. 10-11.

<sup>30</sup> <http://www.mhlw.go.jp/bunya/koyou/other07/index.html> (accessed December 14, 2009).

<sup>31</sup> As for the argument that the government's position is parallel to the position of the JNA, see Ninomiya (2008), p. 152.

<sup>32</sup> For the position held by the Association, see for example

<http://www.nurse.or.jp/home/opinion/press/2008pdf/0617-4.pdf> and

<http://www.nurse.or.jp/home/opinion/newsrelease/2006pdf/20060912.pdf>

usually face severe staff shortages, have to train overseas nurses so that they can get used to using Japanese on the job, and must also prepare them for the national examination. Of course, such hospitals cannot and should not see foreign nurses as cheaper staff. The current framework set by the public sector (government) does not work without additional efforts from and costs to private sector.

The outcome in 2009 revealed that it is very difficult for overseas nurses to pass the national examination under the current framework. Of the 87 persons who took the national examination in 2009, none passed, and some pointed out that it was hard for the international nurses to have practiced reading and understanding both Japanese and Chinese characters, both of which are used in the examination. They also called for strengthening the preparation course that foreign nurses take before coming to Japan<sup>33</sup>. The past project and its outcome<sup>34</sup> show that the current framework can produce results if the government, not the private sector, rearranges the programme for language and professional training.

---

<sup>33</sup> For details of the outcome of the national examination and discussions, see *Asahi Shinbun*, November 2, 2009.

<sup>34</sup> In the 1990s, the Asian Human Power (AHP) had an overseas nurse training programme with Vietnam. Although the candidates to enter Japan did not necessarily have qualification and practice experience in the programme, 56 of the 174 participants were validly qualified as nurses in Japan (see [http://www.ahp-net.org/pdf/History\\_1992\\_2007.pdf](http://www.ahp-net.org/pdf/History_1992_2007.pdf) and [http://www.ahp-net.org/pdf/support\\_program.pdf](http://www.ahp-net.org/pdf/support_program.pdf)). In the course of this training programme, the candidates study the Japanese language for 17 months, and those people who pass the second level of the Japanese Language Examination (*Nihongo Kentei*) are allowed to enter Japan and study at nursing schools or colleges/universities. If they graduate from school in Japan, they are able to have qualifications valid in Japan as Japanese students do, and are able to work in Japan. For the details of the programme, see Ninomiya (2008) and *Journal of Care Management, Monthly* 19:11 (2008), pp. 20-21.

In Japan, the government administration and ministries do not officially admit that they recruit nurses from overseas, while hospitals face staff shortages and have a high demand for employees. The arrangement set forth in the EPA embodies such ambivalent and conflicting interests, which leads to the imposition of additional burdens on hospitals rather than simply supplying them with employees. This kind of regulatory framework would decrease the flow of people and incentives of private sector, if foreign nurses give up entering Japan due to less support for language skills and practice, or if hospitals stop accepting nurses from overseas due to demanding efforts and additional burdens.

## **5. Concluding remarks**

The experiences of the EU and the UK have shown that verifying qualifications, assessing language skills, and admitting work permits are important measures for regulatory bodies to promote or mitigate the impact of push-pull factors on the inflow of foreign nurses into their territories.

The debate in the legislation process of the directive 2005/36/EC demonstrates the old member states' desire to secure the right to verify the qualification of nurses from the new member states. The debate also put a language skills provision in the directive, despite the prohibition of discrimination by nationality or language under EU law. In principle, the regulatory bodies of the member states cannot impose a language test on nurses from other member states. The provision concerning language skills does not prescribe the condition, timing, or procedure to assess the language skills of nurses from other member states. Is the provision itself against EU law? How can it be imposed if national governments want to assess the language skills of EU nationals legally? This question has yet to be answered.

The regulatory turnaround in the UK and the migration trend after 2005 demonstrate that the qualification-verification procedure, the requirement concerning language skills, and the procedure for work permits are instant and effective measures for regulatory bodies that want to control the inflow of nurses.

With regard to the relationship between the EU and the UK, it remains to be assessed whether a bilateral agreement between the member states is against EU law. The UK's bilateral agreement with Spain had a quantitative target for recruitment<sup>35</sup>, and the language capabilities of Spanish nurses who used the arrangement were assessed prior to their journey to the UK (Buchan and Rafferty 2004: 151). In a time of intentional decrease of the nursing workforce, bilateral agreements with quantitative targets may constitute barriers against other member states. Although more nurses from the CEECs than from Spain have entered the UK up to now, and the government does not assess the language skills of EU nurses<sup>36</sup>, it has yet to be explored whether such an arrangement constitutes a breach of EU law.

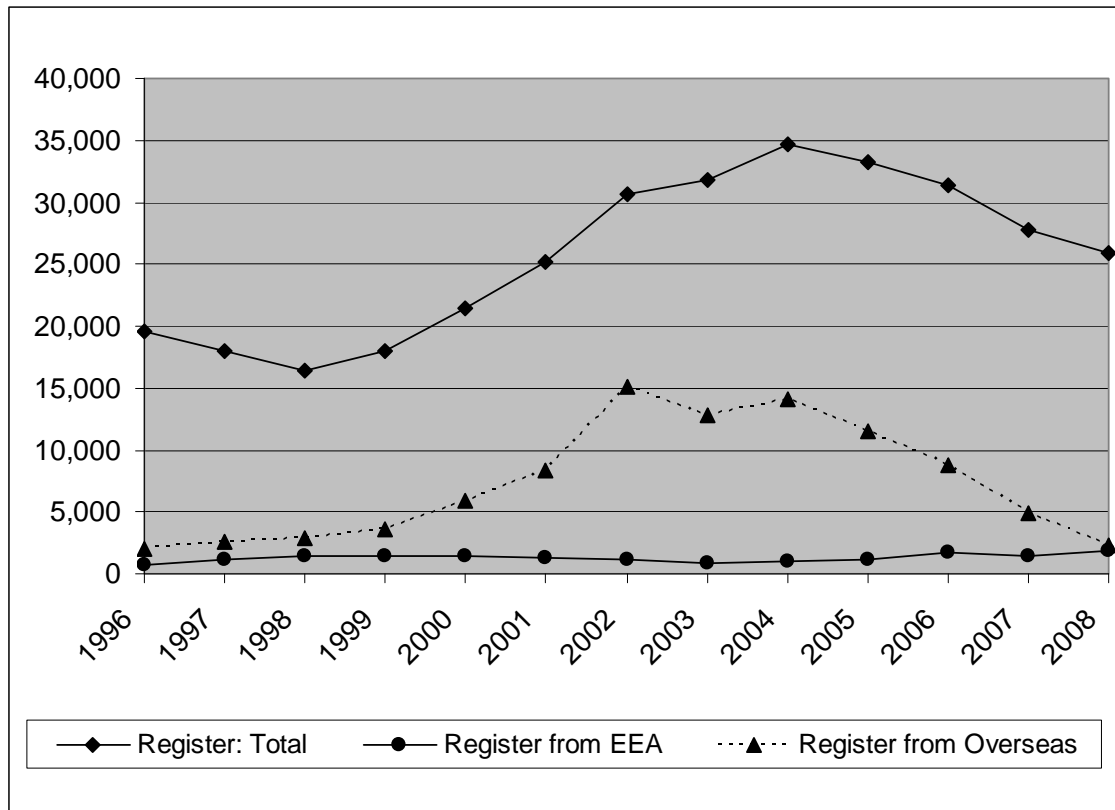
As for Japan's case, when compared with Europe, the more difficult it is for the regulatory bodies to express their single and clear interest (to accept foreign nurses or not), the less unlikely it is for the EPAs to work for producing the desired outcomes. If the regulatory bodies have interests to accept nurses from overseas, one thing that must be recognized is that they need to provide these nurses with a programme through which they can attain proficiency in Japanese, which is less popular and less widely spoken than English. It should also be recognized that the current EPAs have many *de facto* barriers, such as quantitative restrictions, refusal to accept mutual recognition of qualification, refusal to verify the qualifications of foreign nurses, language skill issues, and work permits. Can such a full-course regulatory arrangement be parallel with the primary meaning of, and the appropriate use of, bilateral agreements? To answer this question, one must compare Japan's arrangements with the bilateral arrangements made by other countries such as the UK.

---

<sup>35</sup> The agreement concluded that the UK would employ up to 5,000 Spanish nurses. *Financial Times*, August 27, 2001.

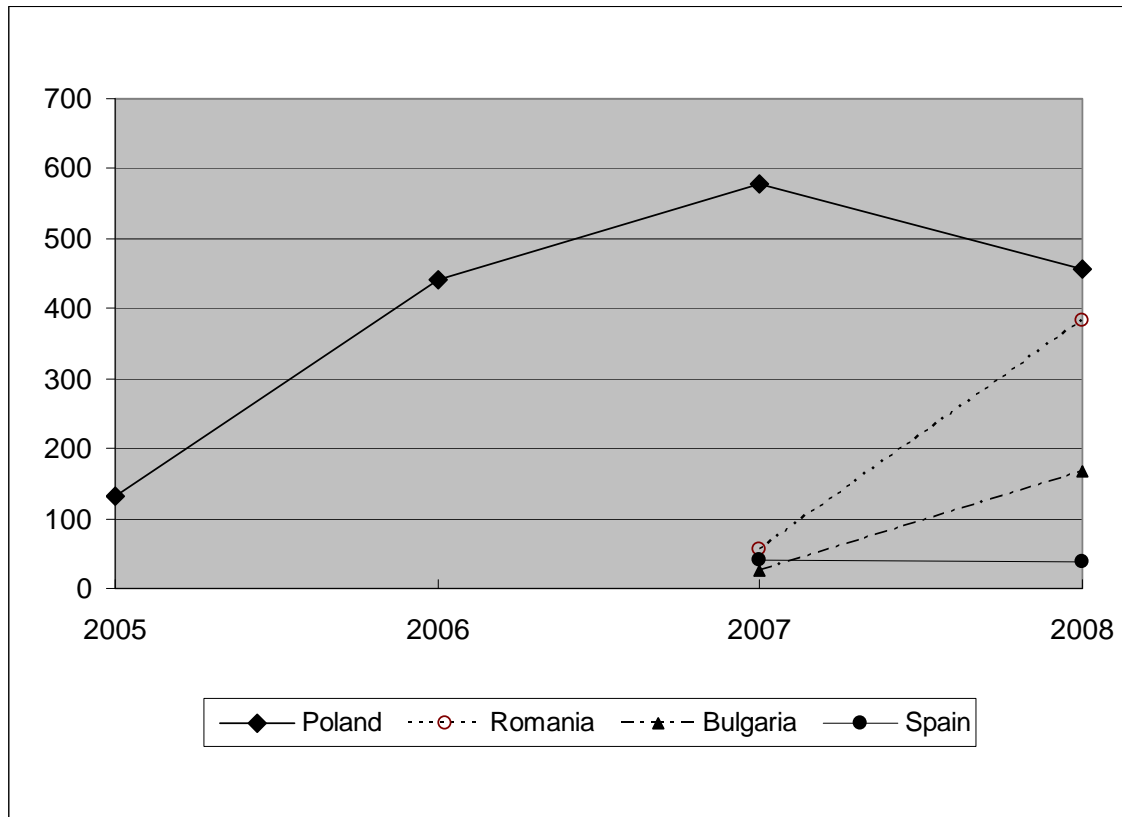
<sup>36</sup> The DoH took the position that it is up to employers to ensure that applicants who have trained in the EU are competent in English as part of employee selection. See DoH (1999), p.9.

Chart 1 Initial Registration Trends in the UK



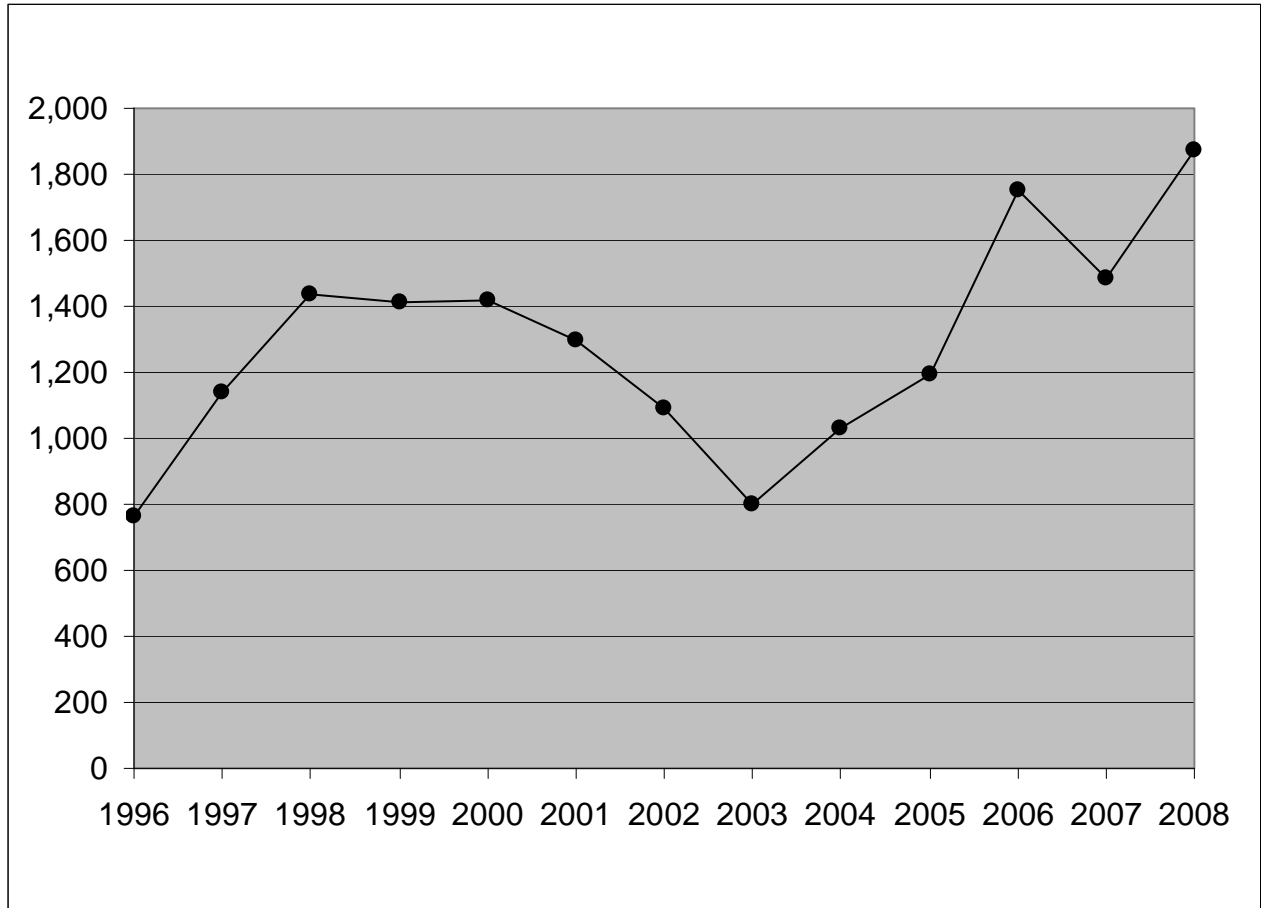
Source: NMC

Chart 2 Number of Initial Registrations in the UK



Source: NMC

**Chart 3** Initial Registration Trends from EEA Countries  
(Abstract from Chart 1)



*Source:* NMC

## References

- Aiken, Linda, James Buchan, Julie Sochalski, Barbara Nichols, and Mary Powell [2004], "Trends in International Nurse Migration," *Health Affairs* 23:3, pp. 69-77.
- Baeten, Rita, and Yves Jorens [2006], "The impact of EU law and policy", in Carl-Ardy Dubois, Martin McKee and Ellen Nolte (eds.), *Human resources for health in Europe* (Berkshire: Open University Press), pp. 214-234.
- Buchan, James [2002], "What's the connection? British nurse recruitment in an enlarged EU," *Eurohealth* 8:4, pp. 15-16.
- [2003], *Here to Stay? International Nurses in the U.K.* (London: Royal College of Nursing).
- [2004], "International rescue? The dynamics and policy implications of the international recruitment of nurses to the UK," *Journal of Health Services Research & Policy* 9: suppl.1, pp. 10-16.
- [2006], "Migration of health workers in Europe: Policy problem or policy solution?", in Carl-Ardy Dubois, Martin McKee and Ellen Nolte (eds.), *Human resources for health in Europe* (Berkshire: Open University Press), pp. 41-62.
- [2008], "New Opportunities: United Kingdom Recruitment of Filipino Nurses", in John Cornell (ed.), *The International Migration of Health Workers* (New York: Routledge), pp. 47-61.
- , Susanna Baldwin, and Miranda Munro [2008], *Migration of Health Workers: The UK Perspective to 2006*, OECD Health Working Paper No. 38, (Paris: OECD).
- , Renu Jobanputra, Pippa Gough, and Ruth Hutt [2005], *Internationally Recruited Nurses in London: Profile and Implications for Policy* (London: Kings Fund).
- , and Fiona O'May [1999], "Globalisation and Healthcare Labour Markets: A Case Study from the United Kingdom," *Human Resources for Health Development Journal* 3:3, pp. 199-209.
- , Tina Parkin, and Julie Sochalski [2003], *International nurse mobility: Trends and policy implications* (Geneva: World Health Organization).
- and Anne Marie Rafferty [2004], "Not from our own backyard? The United Kingdom, Europe and international recruitment of nurses", in Martin Mckee, Laura MacLehose, and Ellen Nolte (eds.), *Health Policy and European Union Enlargement* (Berkshire: Open University Press), pp. 143-156.
- , Ian Seccombe, and Sian Thomas [1997], "Overseas mobility of U.K. based nurses," *International Journal of Nursing Standard* 34:1, pp. 54-62.
- , Ian Seccombe, and Gabrielle Smith [1998], *Nurses Work: An Analysis of the UK Nursing Labour Market* (Aldershot: Ashgate).
- Cowan, David, and Dame Jennifer Wilson-Barnett [2006], "Guest Editorial: European Healthcare Training and Accreditation Network (EHTAN) Project," *International Journal of Nursing Studies* 43, pp. 265-267.



- Dean, Erin [2009], "Foreign nurses disadvantaged by migration rules on diplomas," *Nursing Standard* 23:51, p. 10.
- DoH (Department of Health, UK) [1999], *Guidance on international recruitment* (London).
- [2001], *Code of practice for NHS employers involved in international recruitment of health care professionals* (London).
- European Commission [2000], *Study of Specialist Nurses in Europe* (Brussels).
- European Parliament and the Council [2002], *Proposal for a Directive of the European Parliament and of the Council on the Recognition of Professional Qualifications*, COM (2002)119 final, Official Journal C 181E/183 (Brussels).
- [2005], *Directive 2005/36/EC on the Recognition of Professional Qualifications*, Official Journal L 255/22 (Brussels).
- Ham, Christopher [2009], *Health Policy in Britain*, Sixth edition (Hampshire: Palgrave Macmillan).
- Harrison, Sarah, and Christian Duffin [2003], "Foreign secretary urged to act on underqualified staff," *Nursing Standard* 17:19, p. 8.
- Immigration Bureau of Japan (Ministry of Justice) [2009], *2009 Immigration Control* (Tokyo: Immigration Bureau, Ministry of Justice).
- Kingma, Mireille [2006], *Nurses on the Move: Migration and the Global Health Care Economy* (Ithaca: London: ILR Press).
- Lesniowska, Joanna [2008], "Poland's Nursing Brain Drain to the West," *Health Affairs* 27:2, p. 593.
- Ministry of Health, Labour and Welfare [2009], *Annual Health, Labour and Welfare Report 2007-2008* (Tokyo: Ministry of Health, Labour and Welfare).
- Nimonjiya, Osamu [2008], (in Japanese) "Betonamujin kangoshi yousei sien jigyou kara miete-kuru gaikokujinn seisaku no kadai", in Japan Economic Research Institute ed., *Gaikokujinnroudousya ukeire seisaku no kadai to houkou* (Japan Economic Research Institute), pp. 145-154.
- OECD [2007], *International Migration Outlook: SOPEMI 2007 edition* (Paris).
- Võrk, Andres, Marit Priinits, and Epp Kallaste [2004], *Migration of Healthcare Workers from Estonia: The Potential Extent of Migration, its Influence on the Needs of Healthcare Workers and Political Choices* (PRAXIS Centre for Policy Studies). Summary is available at:  
[http://213.184.49.171/eng/HtmlPages/THTuuring\\_ingl/\\$file/THTuuring\\_ingl.pdf](http://213.184.49.171/eng/HtmlPages/THTuuring_ingl/$file/THTuuring_ingl.pdf)  
 (accessed January 13, 2010).
- Zajac, Monika [2004], "Free movement of health professionals: The Polish experience", in Martin McKee, Laura MacLehose, and Ellen Nolte (eds.), *Health Policy and European Union Enlargement* (Berkshire: Open University Press), pp. 109-129.