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The market for residency in Fabellia: a quick introduction

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Preface

The meaning of the expression *free movement of persons*

In discourse following the UK referendum on 23 June 2016 significant attention has been paid to the question *What does Brexit mean?* The answer seems to be straightforward: it means UK exit from the EU, which requires UK withdrawal from the EU Treaty.

A much more important and challenging question is *What next?* Central to evaluation of the options available is another question, a question about the meaning of words: *What does the expression free movement of persons mean?* Put more specifically: *What conditions need to be satisfied in order to be able to say that free movement of persons has been established?*

Words and expressions have different meanings in different contexts and are appropriately interpreted in the light of those contexts. In relation to Brexit issues, the context of interpretation differs as between the European Union (EU) Treaties and the European Economic Area Agreement (EEAA). Perhaps most significantly, the EU establishes a notion of ‘Union Citizenship’ which in practice has been highly influential in guiding the European Court of Justice’s (ECJ’s) judgments on free movement issues. In contrast the EEAA is not concerned with promoting a shared citizenship.

The differences are explicitly recognised in decisions and in law. For example, Recitals 8 and 9 of the EEA Joint Committee Decision which entered into force on 1 March 2009 say of the EEAA that:

- (8) *The Concept of ‘Union Citizenship’ is not included in the Agreement.*
- (9) *Immigration policy is not part of the Agreement.*

Given these statements, *free movement of persons* almost necessarily means something different in the context of the EU Treaties than it does in the context of the EEAA Agreement. We should not, therefore, be fooled by words into thinking that the relevant conditions for establishing *free movement of persons* post-Brexit are the same as they are now, pre-Brexit.

This creates challenges, but also opportunities. Political language is often designed to obscure and obfuscation can obviously have negative consequences. It can, however, also sometimes have more benign effects, as when different meanings attached to the same words allow parties to reach an agreement that would otherwise be unattainable.

The effectiveness of any market depends upon common interpretations of concepts and rules that are central to the working of that market. There must, therefore, be commonalities in meanings when talking of such matters. On the other hand, the existence of commonalities does not imply complete homogeneity: differentiation is appropriate when contexts differ, as the Recitals 8 and 9 indicate that they do in relation to citizenship and immigration issues when comparing the EU Treaties with the EEAA. In effect, they say that these issues are not central to the operation of the Single Market: they go beyond what is necessary for the functioning of the Single Market.

The report on the residency policy of Fabellia which follows may help to clarify thinking on these points by functioning as a type of Gedankenexperiment. The Fabellian arrangements

have been designed to provide for free movement of persons – by which is meant the freedom of individuals to choose their places of residency in the face of lawfully determined market prices, without constraint from government at the level of the individual decision – whilst satisfying a strong preference of large parts of Fabellia’s electorate that there be a substantial degree of public policy influence on aggregate net inward migration. Questions that the report raises include: *Would the Fabellian arrangement be compliant with the provisions of the EEA Agreement? If not, precisely why not?*

The Fabellian example may also assist in thinking about the related question of *who* it is that determines how the words *free movement of persons* are to be interpreted. Perhaps the most famous English Language expression of this issue is to be found in *Through the Looking Glass and What Alice Found There*:

"I don't know what you mean by 'glory,' " Alice said.
Humpty Dumpty smiled contemptuously. "Of course you don't—till I tell you. I meant 'there's a nice knock-down argument for you!' "
"But 'glory' doesn't mean 'a nice knock-down argument'," Alice objected.
"When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean—neither more nor less."
"The question is," said Alice, "whether you can make words mean so many different things."
"The question is," said Humpty Dumpty, "which is to be master—that's all."

Humpty has been cited many times by senior members of the judiciary.¹ His position (a word “means just what I choose it to mean”) is absurd in most contexts – words require shared understandings, if they are to serve as a means of communication – but his right to express it is defensible in terms of individual liberty (free speech). On the other hand, a public authority does not have a legitimate claim to such an unbounded right to determine meanings: it is necessarily constrained to some degree or other in its exercise of any sovereignty that it possesses over the interpretation.

These points are salient to contemporary Brexit issues. The ECJ, which is ultimately the ‘master’ for EU Member States, inclines towards a purposive approach to the interpretation of EU law. Given that ‘Union Citizenship’ is a driving purpose of the EU, this necessarily has implications for its interpretation of the words *free movement of persons*.

A similar point applies in relation to the euro since it has long been recognised that the degree of labour mobility is an important determinant of the geographic scope of an ‘optimum currency area’. Even on purely economic considerations, cross-border labour mobility tends to be of greater policy significance for countries within a single currency area than for countries that rely on their own, individual currencies.

De facto the question of whether or not the ECJ should be able to take a Humpty-like position in relation to EEA matters has been asked and answered, in the negative, by the Contracting Parties to the Agreement, including the non-EU states of Iceland, Liechtenstein and Norway (in principle at least: practice to date may be a different matter).

¹ See for example Lady Hale, *Magna Carta: Our Shared Heritage*, Supreme Court Historical Society Annual Lecture, Washington D.C., 2015, <https://www.supremecourt.uk/docs/speech-150601.pdf> and also <http://comparativelawblog.blogspot.co.uk/2006/12/humpty-dumpty-and-law.html> for more extensive references to cases.

For policy areas covered by the EEAA, the institutional master for non-EU Contracting Parties is the ‘EFTA’ Court². Since the ‘EFTA’ Court and the ECJ have a range of similar purposes deriving from the shared policy aim of creating a Single Market, it makes sense for the ‘EFTA’ Court to be constrained to follow the same, purposive approach as the ECJ in deciding issues concerned with the relevant (‘shared purpose’) matters. However, where purposes are not shared, such as in relation to immigration, citizenship and currency, divergence of interpretation should be expected: the meaning of words should be sensitive to the contexts in which they are used. The ‘EFTA’ Court has the power to proceed in this way.

The Fabellia example serves to highlight the significance of the ‘who is to be master’ question. Like non-EU Contracting Parties to the EEAA, its Government and Courts do not seek to create a common citizenship with other countries: Fabellia has its own immigration/residency policy and it operates its own currency. The Government of Fabellia has therefore exercised its own, legitimate authority over the use of words in asserting that the arrangements provide for free movement of persons, on the basis that the word ‘free’ is to be given a normal economic meaning (i.e. a choice can be made without any requirement for government approval of that choice, whatever it may be).

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16 September 2016

² See *Brexit and the Single Market* for a discussion of the misleading nature of the ‘EFTA’ label http://www.rpieurope.org/Publications/Yarrow_Brexit_and_the_single_market.pdf

The market for residency in Fabellia

Fabellia is a small, prosperous and densely populated country that is unique in having recently adopted an immigration policy based on the creation of rights to permanent residency whose exercise depends on the possession of a transferable/tradeable ‘consent’ or ‘permit’. In effect, it has established a market for residency rights.

The rationale for creating such a market was that (a) any immigration policy that constrained net inward migration would necessarily create a form of economic scarcity, (b) long historical experience indicates that things that are scarce are most effectively allocated by establishing a market for them (rather than by administering or ‘centrally planning’ the allocations)³, and (c) priced consents would give rise to a substantial revenue yield for the public finances whereas administrative methods would not.

It is a feature of the market that it provides for *free movement of persons* – by which is meant the ability of individuals to choose their places of residency in the face of lawfully determined market prices, free of any direct, government influence or interference – whilst allowing public policy to have a substantial influence on the aggregate net migration flow.

Like all markets, the market for residency in Fabellia operates according to a particular set of rules. The rules are evolving over time as experience and learning accumulate. What follows is therefore only a bare-bones outline of the early stages of a continuing process of policy/market development.

Background

The current arrangements are based on an intent to require that the migration decisions of individuals take account of effects those decisions can have on existing inhabitants of Fabellia. They are guided by the principle that social costs and benefits be reflected in market prices, in much the same way as might be contemplated in schemes that allow for trading in environmental rights, for example certificates to emit carbon dioxide into the atmosphere.

As in relation to a number of environmental policy issues, it was recognised at the outset of the new policy that comprehensive estimation of social costs and benefits was an exercise that would necessarily be subject to high levels of uncertainty, but also that, by and of itself, the existence of uncertainty as to the magnitudes of possible effects provided no grounds for ignoring them entirely. Broad judgments would necessarily be required as a matter of public policy, with the prospect of iterative refinements over time as new information was discovered.

Since successful market arrangements would depend upon the ability of participants to form reasonable expectations about the conduct of public policy going forward, it was also recognised that the institutional arrangements for supervision of the market would be a matter of some importance. On this point, the Government of Fabellia drew attention to analogies with its policies toward the conduct of its central bank.

³ If one person holds a permit and it is more valuable in the hands of someone else, there is scope for a mutually beneficial exchange transaction.

The policy in outline

Two types of residency rights were established:

- Indefinite or permanent residency rights, linked to indefinite or permanent⁴ tradeable consents (permits) that are split into two categories:
 - Acquired consents, bought and sold in the market in a normal way, and
 - Endowed consents, which are subject to a clawback of most of the sales proceeds on first disposal (at which point they transform into acquired consents).
- Temporary residency rights of fairly short duration, which are non-tradeable and the exercise of which does not require a consent.

Both endowed and temporary rights were introduced as part of the transitional arrangements for the new system (see further below). The latter have now all expired.

Issued consents are conditional on (a) compliance with the residency laws and (b) being economically active for a specified minimum proportion of time in Fabellia, except where good cause for inactivity can be shown. Consents are rendered invalid, without compensation, by egregious violations of these conditions, the second of which is generally referred to as the use-it-or-lose-it (UIoLI) provision.

In explaining the policy, it is convenient to start with the allocation of an existing, fixed number of permanent residency consents, then to consider how the number of such consents is varied over time, and finally to summarise how the transition to the new arrangements was effected.

Allocation of a fixed number/volume of permanent residency consents

On the demand side of the market, an intending migrant to Fabellia is required to acquire/purchase a residency consent from the existing pool of consents available. The market is not, however, open to all potential buyers: there is an initial screening process for potential participants.

The general aim of this ‘qualified participant’ test is to screen out potential migrants who could be expected to impose particularly high burdens on Fabellia’s existing inhabitants. The screening criteria include risks to security, risks of criminality, past abuse of immigration and residency rules, etc. The test is not intended to be restrictive of the total number of persons who qualify for market participation and the great bulk of applicants to date have satisfied the criteria. The ‘qualified participant’ test is administered by the country’s Ministry for Home Affairs.

In a sense, anyone who passes the qualified participant test has a ‘right’ to residence in Fabellia, in the same way that it might be said that any potential exporter located in a country that has a free trade agreement with Fabellia has a ‘right’ to sell goods or services in Fabellia. The possession of such a right does not, however, by and of itself give rise to (social) cost causation, which is only triggered if the right is exercised. The consent arrangements are designed to reflect this distinction.

⁴ The permanent nature of the consents is an important feature that affects how the market operates.

On the supply side, the market is open to any holder of an existing, valid consent to exercise permanent residency rights.

The Government of Fabellia can also trade in the market by from time to time adding to the pool of consents available or subtracting from the pool by buying back consents from existing holders. There is an obvious analogy here with central bank participation in money and financial markets.

The actual transfers of consents occur via an exchange that is administered by an independent Residency Authority (RA), operating with powers and responsibilities delegated to it by the country's Parliament. The RA's primary duty is to facilitate exchange transactions in residency consents. Its secondary duty is to provide Government and Parliament with regular assessments of the social costs and benefits of migration flows.

The RA receives bids and offers from qualified participants and seeks to match them. It acts as a counter-party on both sides of the exchange, i.e. it purchases the consent from the seller and then sells it on to the buyer. Put another way, the RA acts as a principal party to transactions, not as an agent for one party or the other. To recover its own costs, the RA charges an administrative fee for its services, which is split equally between buyer and seller.

In purchasing residency consents the buyer acquires an asset that can be resold at a later date. Thus, someone who wants to work in Fabellia for a period of, say, four years faces what is in effect an investment decision. The net present value (NPV) of the cost (to the buyer) of the residency period is the difference between the acquisition cost and the NPV of the proceeds from sale of the consent at the time of departure from the country. This difference will depend on the evolution of consent prices over time, and it can be negative, i.e. the buy/sell transactions can be financially beneficial on their own account.

The Government of Fabellia has been keen to emphasise these points, because the policy has sometimes been criticised on the ground that the acquisition cost of the consents amounts to a discriminatory tax on immigrants, i.e. that it is a tax on *movements* or *flows* of persons. As the Government has pointed out, since the initial payment is for a financially valuable asset that can be resold at a later date, the general position is economically similar to that of a new resident buying a house or building up an initial stock of Fabellia's currency for transactional purposes: in each case the relevant asset has a disposal value. Moreover, unlike the purchase of a house, the acquisition of residency consents is not subject to a transactions tax, precisely because this could be considered discriminatory as between residents and citizens.

In practice, employers of new residents have frequently provided financial assistance in the form of loans for the initial acquisition of residency consents. In pursuit of its primary statutory duty to facilitate exchange transactions in consents, the RA has introduced arrangements to assist in the use of the asset as collateral for such loans. These provide for direct payment to the employer of an agreed part of the proceeds on disposal of the asset. The financial support is referred to as a 'registered loan' and is subject to restrictions on any explicit or implicit rate of interest that can be charged.

A notable feature of the arrangements is that all permanent residents are required to acquire the relevant consents, including dependents and those granted asylum. This provides for a basic simplicity in the scheme, but it does not deal with some of the social and political complexities that can be associated with migration. The underlying philosophy is that, while public policy

should properly address such complexities, that task is not a core function of the market arrangements. Rather a view has been taken that these complexities are better addressed by other means.

Thus, similar to the financial assistance for migrant workers provided by employers, the Government has introduced schemes for helping with the acquisition of consents for dependent children of lower income immigrants and for those acquiring asylum status, by way of public loans given on the collateral of the asset acquired. More limited, less generous financial support mechanisms are also currently available for elderly, dependent relatives of working residents. The relevant matters in each case are administered by the Ministry of Social Security, not by the RA.

The financial support mechanisms have had some small, negative consequences for the public finances, but these have been dominated by the additional government revenues that accrue whenever permanent residents are naturalized or die, and hence when an existing consent is surrendered and resold by the RA (as is about to be explained). In the early period following market-opening there was also a buoyant public revenue flow as existing residents surrendered ‘endowed consents’, which are characterised by limits on redemption values and which were created as part of the transitional arrangements.

In the event of the death of a holder of a residency consent, the asset is sold on in the normal way (via the RA exchange process) and the net proceeds pass into the estate of the deceased, where they are potentially subject to inheritance tax.

In the event that a permanent resident subsequently becomes a citizen of Fabellia – which among other things provides inalienable residency rights (by making a consent unnecessary) – the tradeable residency consent is sold to the RA. In this case, however, only a fraction of the net proceeds is passed back to the seller. The withheld proportion, determined by Parliament, is viewed as the ‘the price of citizenship’. It is currently set at 40%.

The longer-term of supply of residency consents

The longer-term supply of residency consents is governed by the principle that their value should reflect the incremental social costs of migration flows. As already indicated, the evaluation of these costs is necessarily highly uncertain and estimates can be expected to change over time as the general economic context changes. For example, *inter alia* changes in policies governing social security, education, health provision, transport congestion, and land use can each be expected to affect assessments of social costs. The longer-term supply of consents is therefore viewed as an algorithmic process in which supply is iteratively adjusted to demand on the basis of repeated comparisons between market prices and assessed social costs.

In pursuit of its secondary duty the RA is required to provide regular assessments of social costs to Government and Parliament, subject to one specific adjustment to the normal methodology adopted in such cost-benefit exercises: increases in the value of land attributable to increased population density (rather than to, say, land ‘improvements’) are given zero weight in the calculations.

This is non-standard in that conventional analysis does not consider an increase in land values to be a source of social costs (in economic terms it is classified as a ‘pecuniary externality’): land is priced in markets and the gains and losses on the two sides of the market which are attributable to the price changes are usually assumed to cancel each other out. In contrast, Fabellian policy treats increases in land values as a social cost: in effect no weight is given to the benefits such increases confer on landowners.

Although this primarily reflects a political judgment based on considerations of economic and social equity, the policy stance also has links to a very old, radical tradition in classical political economy that viewed major shifts (unrelated to land ‘improvements’) in the distribution of income and wealth toward landowners as having adverse implications for the rate of economic progress. David Ricardo’s model of economic growth is the most fully articulated expression of this view, but a similar sentiment, linked to a general antipathy to monopoly, is to be found in the works of Adam Smith (“*The rent of land ... is naturally⁵ a monopoly price*”) and John Stuart Mill (“... *rent is the effect of a monopoly; though the monopoly is a natural one, which may be regulated, which may even be held as a trust for the community generally*”).

In recognition of the inevitable uncertainties surrounding the assessment exercise, the RA is required to produce upper and lower bound estimates of the social costs and benefits of migration flows, not just a central estimate. In consequence of the uncertainties in estimation and of previous inexperience in the task, there has to date been a substantial divergence between the upper and lower bounds. It is expected that this gap will reduce in magnitude over time, but that some, non-trivial degree of divergence will be enduring.

The policy in relation to the supply of consents is then as follows:

1. If consents are trading at prices within the two bounds and not close to either, there is no change in supply.
2. If prices are close to one of the bounds, the response is more discretionary. For example, if prices are very close to the upper bound social cost estimate and are rising, supply might be increased in anticipation of future overshooting of market prices in the absence of early action.
3. The ‘review and adjust’ process takes place on an annual cycle, although there were special transitional arrangements at the outset to assist in the formation of initial expectations about the future evolution of market prices (see further below).

It has been noted that this ‘floors and ceilings’ approach is not unlike the approach adopted in the implementation of competition law in goods and services markets, where policy actions are responsive to prices that are considered unacceptably low in relation to costs (e.g. because of predatory pricing or, in the case of international trade, dumping) or unacceptably high in relation to costs (e.g. because of exploitation of substantial market power). There are also analogies with monetary policy in circumstances where a central bank is operating with a target range for the rate of inflation and there is a general expectation that more activist monetary policy will be linked to an observed inflation rate that falls outside the target range.

⁵ By this is meant an economic return that exists by virtue of a ‘gift of nature’, not one achieved by merit or effort, as might be the case for a monopoly created by innovation.

Transitional arrangements

In introducing the market arrangements, the Government of Fabellia was conscious of the effects that it would have on three distinct groups of people:

- Existing citizens
- Existing residents
- Future residents (and future potential citizens).

The transitional arrangements were therefore aimed at smoothing out any disparities in the effects of the reforms on these different groups.

At one end of the spectrum of possibilities considered was the option (Option 1) of requiring all existing residents (but not citizens) in the country to acquire residency consents in the new market if they wished to stay in Fabellia. There were divided opinions on this possibility. Advocates pointed to the fact that the consents were marketable assets whose value could be redeemed later, and that there would be large, early benefits for the public finances from requiring existing inhabitants to acquire them. Opponents were concerned that, in practice, (a) the requirements would be excessively burdensome to many established residents who might have difficulty obtaining financial support for the investment in what would be a new and untested market, (b) significant numbers of residents might be close to acquiring citizenship, implying that they would face the prospect of paying a full price for a consent and then, only a short time later, selling it at a 40% ('price of citizenship') discount, or (c) existing residents might suffer unduly from any potential price spikes in the early period after market opening (a risk that could not be discounted in what would be an entirely new market).

At the other end of the spectrum of possibilities was the option (Option 2) of simply endowing all those who were resident in Fabellia on a specified/designated day in the recent past with the new consents. There was however a general consensus that this would be too generous to the beneficiaries relative to the other groups. A recently arrived immigrant would, for example, be endowed with a potentially very valuable and immediately re-sellable asset that would not be made available either to existing citizens or those to those who arrived only a short time later. In particular, the approach would imply an unacceptably large, 'cliff-edge' effect at the specified/designated date.

In the event the Government opted for a hybrid option. Its two main features were:

- All existing residents on a 'designated date' (DD) prior to the 'market-opening date' (MOD) were endowed with consents to exercise permanent residency rights, but with substantially reduced redemption values. That is, for these 'endowed consents' the RA would itself retain, on behalf of the Government, the great bulk of any net disposal proceeds. This percentage was set at 80%. The rationale for clawback of less than 100% was to provide a modest incentive at the margin for existing holders to release consents for onward sale to those who valued them more highly. The designation date was set at 4 years prior to the market-opening date.
- New residents arriving between the designated and market-opening dates were automatically entitled to a temporary, *non-tradeable* right of residence (with no consent required for its exercise) valid for a period governed by the following formula:

$$\text{Duration of right beyond market opening (in years)} = 1 + (\text{MOD} - \text{AD})/4.$$

Thus, for example, the effect was to provide a one-year residency right to a person moving to Fabellia the day before market opening and a two-year right to someone who had arrived in Fabellia on the day immediately after the designation date, four years earlier. The rationale was that this would provide time for recent arrivals to acquire permanent residency consents through the market and also provide some discouragement to a spike in late migration, given that the value of the endowed (in this case non-tradeable) rights of late arrivals would be highly limited.

To get things started, the Government necessarily had to determine the initial number of permanent residency consents that would become available for trading at market opening. Given the above policy decisions, the number could not be less than the number of endowed (tradeable) consents created by the decisions. Settling on this number would have implied an annual net inward migration flow that could not be greater than the number of consents becoming available in any year in consequence of naturalisations and deaths of existing consent holders.

In the particular circumstances of Fabellia at the time, it was considered that this would be too restrictive, i.e. the resulting price of residency consents might be significantly higher than the upper bound of the RA's early social cost estimates (although this was necessarily a speculative judgment: the estimates were at that point not at all refined and there was no observable market price to compare them with). The final decision was that the RA be endowed with an initial stock of consents equal to 0.1% of Fabellia's population which the Authority could sell over the course of the first year of the market's operation.

Given that a residency consent is a financial asset whose value will tend to be heavily influenced by expectations of future prices, it was also thought expedient to pre-commit to further increases in the supply of consents in the subsequent two years, each equal to 0.1% of the population. The intention was to remove an element of uncertainty about supply that might otherwise add volatility to the market in its early period.

Like the net proceeds from resales of surrendered, endowed consents, the proceeds from the sales of the incremental consents (the 0.1% additions) have been passed on to the Ministry of Finance by the RA.

Comments

Before introducing the residency policy, the Government did consider the option of applying administratively enforced restrictions on immigration, for example via some or other variant of a 'points' system or a non-market permit system. As indicated in the introduction, however, it was concluded that any controls on migration that had substantive effect would necessarily create scarcity (in the economic sense) and that the best way of allocating scarce resources was to price the limited supply. Administrative allocation would be prone to inefficiency and arbitrariness – the latter being something that also has tendencies to encourage rent-seeking activities, including by way of corrupt practices – and, by (in effect) making the scarce right available charge-free, it would imply that potentially significant public revenues would be foregone.

A number of countries have arrangements that can loosely be described as ‘citizenship for sale’, but, generally speaking, these are designed to attract high wealth individuals, for example by requiring that a substantial sum of money be invested in the country. Fabellia’s arrangements are very different from these cases. They focus only on permanent residency rights, not citizenship rights, and the policy is not targeted at attracting particularly high-wealth individuals. Potential migrants who satisfy the relatively permissive qualification criteria for participation in the market are treated equally and are not subject to further administrative tests or restrictions.

As in all markets, acquisition of consents is driven by willingness to pay, which in turn is determined by a mix of (a) strength of individual preferences and (b) ability to pay, i.e. financial resources available. Differences in ability to pay are, however, mitigated by the capacity to use the marketable assets acquired as collateral for loans. Additionally, there is supplementary government support for those who are particularly disadvantaged in arranging loans from prospective employees or from other sources.

Notwithstanding the Government’s equity measures, the normal process of market exchange has, to date, tended to shift the composition of consent-holders toward higher skilled workers, since consents have been more valuable to them than to the unskilled. Since exchanges are voluntary, established, less skilled migrants have benefited from the higher prices at which they have been able to dispose of consents.

The reforms are relatively recent and, as with all newly established markets, there has been a gradual, adaptive evolution of market rules. For example, at an early stage the RA began to offer forward purchases of consents that were matched to a current acquisition, with the aim of providing for temporary periods of residency for seasonal workers. A matter (residency rights for seasonal workers) that had previously been handled by administrative means thereby became addressable via the market arrangements – another, small, incremental step away from bureaucratic allocation mechanisms toward greater reliance on exchange transactions.

Further innovations in rule-making aimed at facilitating the use of the general, tradeable residency consent to meet the more specific requirements of particular types of migrant are anticipated to occur over time.

The arrangements were established on a stand-alone basis without causing any substantial inequities between immigrants to Fabellia and Fabellian expatriates living in other countries. The latter may not have had to acquire consents from the host government, but neither did they acquire a marketable asset. Indeed, to the extent that there was any differential treatment of expatriates, it favoured the expatriates of other countries who were resident in Fabellia on the designation date: they were endowed, at no cost to themselves, with an asset carrying a positive redemption/re-sale value. Unsurprisingly, the policy was particularly popular among this part of the population.

Since the introduction of the reforms other countries have been scrutinising Fabellia’s experience and evaluating whether they too might establish markets in residency rights. In these exploratory exercises the main attractions are seen as (a) its combination of strong public influence over aggregate migration flows and freedom of individuals to make their own decisions, unimpeded by discretionary, administrative decisions, and (b) the windfall gains to the public finances that it creates.

One suggestion that has emerged in the evaluations is that smaller-scale experiments might first be conducted in regions within the relevant country. This, however, has been rejected on the ground that it would serve to erode the notion of citizenship. The rejection implies that the ‘natural’ boundaries of any market in residency are appropriately defined by the existence of a common citizenship.

Annex 1

An individual example

Ms Smith and her partner are UK citizens who have been working residents in Fabellia for ten years. They have one child who was born in Fabellia before the designation date. The family is therefore in possession of three ‘endowed’ residency consents, for which they did not have to pay.

They are well settled in the country and one option for the family is to remain and become citizens, for which their extended period of residence now qualifies them. If they did so, they would dispose of their consents to the RA, which would then sell them on.

The current market price of a consent is in the region of \$16,000. Deducting the ‘price of citizenship’ clawback (40% of the sales price) brings this down to \$9,600. However, since the consents were initially ‘endowed’ rather than acquired, only 20% of this (i.e. \$1,920) would be paid to the holder.

On naturalisation the family would therefore receive a payment from the RA of \$5,760 in total, less the relevant administrative charge for the transaction.

From the RA’s perspective, the consents would be sold in the market for \$48,000 plus the relevant administration charge, yielding a net gain (after deduction of administrative costs) of \$42,240. This sum would be passed to the Ministry of Finance.

In the alternative, the family might choose to return to the UK, for example in consequence of attractive employment offers. They would again dispose of the consents, but in this case would receive 20% of the full market value (i.e. \$3,200) for each consent, yielding a net payment of \$9,600 less the RA’s transactions costs. The net yield to the Ministry of Finance would then be \$38,400.

Comment

Since both the Smiths and the Government of Fabellia gain financially, there may be suspicion that the new arrangements are ‘too good to be true’. The source of the finance is, however, transparent: how the white rabbit gets into the magician’s hat is in plain view. It is the yield from the creation and sale of new, valuable property rights, akin to seigniorage in the creation of money.

Another immediate analogy is the income received by governments when they sell new, tradeable certificates or consents to emit carbon dioxide into the earth’s atmosphere. Indeed, in the development of the EU’s emissions trading scheme, considerations very similar to those discussed in relation to transitional Options 1 and 2 were in play, although in that case no permanent consents were being created, only time-limited consents.

Annex 2

Snapshot estimates for the final year of the transition

All figures are approximate.

Net migration of citizens was approximately zero.

Note that, by the beginning of this year, all temporary, non-tradeable residency rights had expired.

Total population	20 million
Residents with consents	2 million
Net inward migration	60,000
Determined by:	
Naturalisations + deaths of holders	40,000
New consents created in transition year 3	20,000
Gross inward migration (residents arriving)	180,000
Gross outward migration (residents departing)	120,000
Observed range of prices for consents	\$14,000-\$18,000
Total market value of consents created (seigniorage):	
In the year	\$320 million
Cumulative to date	\$32 billion