



High-level Breakfast Meeting on Decent Work and Fair Labour Migration

6 December 2017, 07.00 – 09.00am

Westin Hotel, CUEVAS Conference Room 1st Floor

(Av. Paseo de la Marina Sur 205, Marina Vallarta, Puerto Vallarta, Mexico)

Concept note

The Global Compact offers the international community the opportunity to improve workplace productivity and deliver decent work outcomes for migrant and national workers, as well as to shift current misperceptions of migration, by readjusting migration policies to effectively include *all labour market aspects*. Laws, policies and institutions, in the country and across borders, matter greatly in achieving this goal.

Most migration today is linked directly or indirectly to the search for decent work opportunities.¹ Even if employment is not the primary driver, it usually features in the migration process at some point.² ILO estimates that there are 150 million migrant workers, representing over 65 per cent of all migrants. Among migrant workers, 56 per cent are men and 44 per cent are women. Migrant workers account for 4.4 per cent of all workers, and have higher labour force participation rates than non-migrants globally (73 per cent and 64 per cent respectively).³

Evidence suggests that poorly governed labour migration can increase the incidence of irregular migration and raise the risk of exploitation for migrant workers and governance challenges for countries of origin, transit and destination. For low-wage workers, these risks include: being trapped into jobs with poor wages and working conditions, often in the informal economy; exposure to violations of labour and other human rights; dangerous workplace and health hazards; child labour; forced labour; debt bondage; trafficking in persons; and other decent work deficits.⁴ Exploitative recruitment practices, at the very start of the migration process, add to the challenge through exorbitant recruitment fees and other costs charged to migrant workers. The mismatch of skills to the jobs available in destination countries; separation of families; and absence of social protection also contribute to the social and economic costs of migration.

Conversely, when labour migration is well-governed, fair and effective, it can deliver benefits and opportunities for migrant workers, their families, and host communities alike. It can balance labour supply and demand, help develop and transfer skills at all skill levels, contribute to social protection systems, foster business innovation, and enrich communities both culturally and socially. Below, suggestions are put forward on the Global compact's possible structure, elements, commitments and means of implementation that can most contribute to delivering on these goals.

In June this year, the International Labour Conference sent a clear message: the positive benefits of labour migration are both possible and achievable only if we adopt fair and effective labour migration governance. Governance of labour migration is applicable at all levels – global, regional and national. It requires a comprehensive, integrated and “whole of government” approach nationally, and strong cooperation across migration corridors and regions, rights based and grounded in social dialogue. These approaches should be guided by international labour standards, in particular the fundamental principles and rights at work and the

¹ ILO: World of work report: Developing with jobs (Geneva, 2014).

² ILO-OECD-World Bank, *The Contribution of Labour Mobility to Economic Growth*, joint paper for the G20 Labour and Employment Ministers' Meeting, Ankara, Turkey, 3-4 September 2015, pp. 3–4.

³ ILO: *Global estimates of migrant workers and migrant domestic workers: results and methodology* (Geneva: 2015).

⁴ ILO, *Conclusions concerning fair and effective labour migration governance*, International Labour Conference, 106th Session, Geneva, 16 June 2017, para. 3.

relevant ILO and UN Conventions; policy frameworks, including the ILO Multilateral Framework on Labour Migration; and guidelines, such as the General Principles and Operational Guidelines for Fair Recruitment.

Social dialogue, in all its different forms is central to achieving fair labour migration. There is solid evidence that participation of the tripartite constituents – ministries of labour, business, trade unions, employers and workers organizations – at the national, regional and global levels can strengthen the effectiveness and sustainability of labour migration policies.

Objectives

The main purpose of this breakfast meeting is to identify core decent work possible actionable commitments outcomes that could be considered in the Global Compact on Migration. A tentative list of suggested actions is provided in the annex to this note.

Specific objectives of this event are to discuss within a Davos style panel of experts the following 4 ‘how-to’ questions, simply put, in concrete terms through good practices and guidelines:

1. How to support the implementation of international labour standards?
2. How to end exploitative recruitment practices?
3. How to develop systems and partnerships for effective skills-jobs matching?
4. How to ensure a partnership that is ‘whole-of-government’ in approach while engaging the social partners in a sustainable manner?

The panel will be followed by an interactive discussion with participants.

Draft programme

Opening note:

- Ms. Michelle Leighton, Chief, Labour Migration Branch, International Labour Organisation

Moderator

- Mr. David Donoghue, Permanent Representative of Ireland to the UN in New York (2013-2017)

Panel:

- Mr. Pietro Mona, Ambassador of Switzerland for Development, Forced Displacement & Migration
- Government of the Philippines (tbc)
- Ms. Barbara Span, Western Union
- Workers Representative (tbc)

Interactive discussion with the audience

Annex 1 – Possible actionable commitments that could be considered in the Global Compact on Migration

Given the diversity and complexity of labour migration governance, it would be important to consider fair and effective labour migration governance frameworks that are evidence-based, gender-sensitive and grounded on international labour standards and Decent Work. The following elements could be considered as part of the frameworks.

- **Labour Rights and Decent Work.** To avoid the violation of international labour standards and to support a decent work agenda, a ‘whole of government’ approach should be adopted that engages labour ministries, employers’ and workers’ organizations through social dialogue. Actionable commitments and targets could include:
 - Ratifying and effectively implementing all relevant ILO Conventions, including Migration for Employment Convention No 97 and the Migrant Workers (Supplementary Provisions) Convention No. 143.
 - Ensuring cohesion and coherence between labour migration policies and employment and social protection policies.
 - Extending labour legislation protection and access to justice to migrant workers in vulnerable situations (e.g. domestic workers) and support implementation of Convention 189.
 - Reducing labour migration costs and abusive working conditions (e.g. wage protection mechanisms) and promoting labour market integration (combatting discrimination of migrant workers).
 - Taking effective measures to combat and prevent child labour, forced labour and trafficking.
 - Abolishing tied employment and sponsorship requirements.
- **Freedom of association.** In a large number of countries, the legislation remains unclear, or is not respected, as to whether migrant workers can enjoy fundamental rights such as to form and join trade unions, hold office in trade unions, are protected against discrimination based on their trade union activities, and have freedom to strike. Actionable commitments and targets could include:
 - Ensuring implementation of ILO fundamental principles and rights at work, and promoting migrant workers’ ability to organize, be represented and participate in trade union organisations, irrespective of their immigration status in line with SDG indicator 8.8.
 - Promoting universal ratification of ILO Freedom of Association and Protection of the Right to Organise Convention No. 87 and ILO Right to Organise and Collective Bargaining Convention No. 98.
 - Protecting migrant workers from discrimination on the grounds of their trade union activities and freedom to strike, including through specific legislation and programmes.
- **Irregular migration.** Irregular labour migration increases migrant workers’ vulnerability to exploitation and, in some cases, can undercut established wages and working conditions⁵. The ILO is developing a compendium of good practices, law and policy frameworks on reducing irregular labour migration, including through pathways out of irregularity and informality, and protecting migrants in irregular situations by 2020. Actionable commitments and targets could include:
 - Adopting global or consensus-based guidance on good practices for addressing irregular migration. These may include principles and guidelines for regularization of migrant workers, particularly those well-integrated in the labour market or who have fallen into irregular status through no fault of their own and/or due to circumstances beyond their control.
 - Promote decent work and job creation in countries of origin and transit with dedicated assistance.

⁵ ILO: *Fourth item on the agenda : Labour Migration, Reports of the Committee for Labour Migration : Resolution and conclusions submitted for adoption by the Conference*, International Labour Conference, Provisional Record, 106th Session, Geneva, June 2017, p. 4.

- Establish more regular migration opportunities for migrant workers of all skill levels.
 - Undertake labour market needs assessments to identify supply and demand for migrant workers through social dialogue processes.
 - Carry-out awareness-raising campaigns on the risks and challenges of irregular migration, and ensure where return occurs it is in compliance with international human rights standards and includes support for reintegration, including through access decent work opportunities.
- **Fair recruitment oversight and practice.** The recruitment process is often where exploitation of workers starts. Data from ILO–KNOMAD research shows that inflated recruitment costs can amount to up to a year’s salary⁶ increasing migrant debt burdens. ILO and the World Bank are developing a methodology to monitor recruitment costs under SDG indicator 10.7.1. Moreover, a growing number of countries and global businesses are adopting measures to eliminate worker paid recruitment fees, fraud and abuse, as called for the 2016 ILO’s General principles and operational guidelines for fair recruitment⁷ and based on international standards and the ILO Fair Recruitment Initiative.⁸ Other good practices include the International Trade Union Confederation’s Migrant Recruitment Monitor and IOM’s IRIS initiative. Actionable commitments and targets should include:
 - Adopting fair recruitment mechanisms and processes across migration corridors based on ILO’s Operational principles and guidelines on fair recruitment.
 - Eliminating by 2030 worker-paid recruitment fees in-line with the SDGs.
 - Providing capacity-building to Public Employment Services to serve a larger role in technical support for labour mobility across borders.
 - Enhance labour inspectors’ capacity to better monitor private employment agencies.
 - **Skills development and recognition.** Low-skilled migrant workers are frequently confronted with limited access to skills development and recognition, especially prior learning, which contributes to skills and jobs mismatches, deskilling and lower productivity and rights protection. Public employment services, and private employment agencies when properly regulated and informed by sound labour market assessments, can play an important role in addressing these challenges. With this in mind, ILO has produced practical guidance.⁹ Actionable commitments and targets could include:
 - Assessing skills needs and gaps with the view to inform effective skills-jobs matching.
 - Adopting skills recognition mechanisms for skills acquired formally or non-formally, including at the sectoral level and across migration corridors.
 - Establishing regional and global skills partnerships involving relevant government institutions, business, workers and employers’ organisations to facilitate skills recognition and support integration and reintegration of migrant workers returning home.
 - **Social protection.** Migrant workers and their families experience significant difficulties in accessing social protection, including health protection, and other social security benefits, due to eligibility requirements relating to their nationality, status or insufficient periods of employment and residence¹⁰. The ILO can provide active and effective support through guidance tools for extending social protection to migrant workers within and across borders, and institutional capacity building. Actionable commitments and targets could include:

⁶ ILO–KNOMAD Surveys, 2015, cited in Background paper prepared by the ILO at the Global Forum on Migration and Development, Roundtable 1.1, Reducing migration costs. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_550269.pdf.

⁷ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_536755.pdf.

⁸ http://www.ilo.org/global/topics/fair-recruitment/WCMS_320405/lang--en/index.htm

⁹ “How to facilitate the recognition of skills of migrant workers: Guide for employment services providers” http://www.ilo.org/skills/pubs/WCMS_572672/lang--en/index.htm.

¹⁰ ILO, *Addressing governance challenges in a changing labour migration landscape*, International Labour Conference, 106th Session, 2017, Geneva, paras. 51-52.

- Establishing non-discriminatory national social protection systems, including social protection floors for migrant workers.
 - Adopting and implementing gender-responsive bilateral and multilateral social security agreements to ensure the portability of social security entitlement and benefits (acquired and in course of acquisition).
- **Labour migration statistics.** Updated, reliable and comparable labour migration data, disaggregated by age and sex, among others, are key for evidence-based policy-making, evaluating the impact of labour migration schemes, protecting migrant workers' rights and building public confidence in migration issues. Harmonization of statistical definitions, capacity building and sufficient data collection systems remain some of the key challenges. The ILO is currently supporting preparatory work for defining international standards on labour migration statistics, in line with SDG 17.18. Actionable commitments and targets could include:
 - Improving the collection and production of labour migration statistics at national, regional and global levels.
 - Grounding labour migration policies in accurate sex-disaggregated labour migration data and statistics, aligned with international standards and International Conference of Labour Statisticians (ICLS) guidance.
 - **Bilateral and regional cooperation agreements and arrangements.** Bilateral and regional cooperation on labour migration has become an essential tool for properly governing migration flows that are increasingly complex and dynamic.¹¹ The international community can deepen its support for cooperation across migration corridors and with regional economic communities and processes. Actionable commitments and targets could include due consideration to:
 - Adopting bilateral and regional labour migration and mobility agreements and arrangements grounded on ILO standards and model agreements that promote regular channels for migration and equal access for women and men to decent work opportunities.
 - Adopting dialogue processes and mechanisms to facilitate cooperation actions to assure migrant workers' rights enforcement, fair recruitment, mutual skills recognition, social protection, portability of social security entitlements and benefits, and data collection among others, and adopting standard employment contracts in line with international standards and instruments.
 - Engaging in and enhancing inter- and intra-regional dialogue and platforms to strengthen policy coordination, governance within regional labour markets, and exchange of good practices

¹¹ ILO: Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review
http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_385582.pdf