

INTERNATIONAL LABOUR ORGANIZATION

CONCEPT NOTE

Interregional consultation on labour migration and mobility from Asia/Africa to the Middle East

Beirut, Lebanon, 4-5 October 2017

1. BACKGROUND AND JUSTIFICATION

Global policy context

Through the New York Declaration for Refugees and Migrants,¹ adopted by the UN General Assembly on 19 October 2016, the global community launched the process of intergovernmental consultations and negotiations leading to the adoption of two global compacts: one global compact for safe, orderly and regular migration; and the other a global compact on refugees, 'noting that the two processes are separate, distinct and independent'.²

The global compact for safe, orderly and regular migration (hereafter the GCM), expected to be concluded by the end of 2018, will 'set out a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions' following a series of global³ and regional consultations⁴ covering six core migration themes. One theme relates to 'addressing irregular migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications, and other relevant measures' – which has long been an important priority area for the International Labour Organization (ILO).

Given the nature of migration with both a source and destination dimension and the specifics of labour migration in the interrelated corridors of Asia/Africa to the Middle East, the ILO considers of crucial importance the need to contribute to the consultations feeding into the GCM by hosting an interregional consultation amongst relevant actors in key migration corridors. Given the important numbers of migrants in the Middle East, in particular from Asia and also increasingly from Africa, and the relatively few platforms bringing these three regions together, ILO will host an interregional tripartite consultation on decent work and mobility in the Asia/Africa to Middle East corridors. The outcome of this consultation is expected to feed into the global thematic consultation on decent work and mobility, to be held on 12-13 October 2017 in Geneva,⁵ and ultimately contribute to the development of the GCM.

¹ UN General Assembly, *New York Declaration for Refugees and Migrants*, A/RES/71/1, 3 October 2016.

² UN General Assembly, *Modalities for the intergovernmental negotiations of the global compact for safe, orderly and regular migration*, A/RES/71/280, 6 April 2017: 1.

³ Including at United Nations Office at Geneva, United Nations Headquarters in New York and United Nations Headquarters in Vienna.

⁴ Regional consultations will be held for the MENA region in Beirut (26-27 September), for the Africa region in Addis Ababa (18-20 October) and for the Asia and the Pacific region in Bangkok (6-8 November). These regional meetings will be led by the respective UN Regional Commissions, i.e. ESCAP, ESCWA and ECA, and organized in collaboration with other UN agencies and member States.

⁵ ILO and UN Women have been assigned as co-leads to prepare inputs to the UN Secretary-General's inter-agency issue brief that will inform this consultation.

Interregional context

The Middle East is one of the main destination regions globally of migrant workers.⁶ The countries of the Gulf Cooperation Council (GCC)⁷ alone hosted over 25 million international migrants in 2015, a substantial increase on the 20.5 million they hosted in 2010⁸. Migrants in the GCC countries accounted for over 10 per cent of all migrants globally⁹ (and nearly 12 per cent of the global population of migrant workers¹⁰). The numbers are not only high in absolute terms, but also as a proportion of the total population: 45 per cent of the population of GCC countries on average is made up of migrants; migrants constitute over 50 per cent of the population in Bahrain and Kuwait, and more than 80 per cent of the population in Qatar and the United Arab Emirates (UAE), and these percentages are even higher in the private sector labour force. Meanwhile, the Mashreq countries of Jordan and Lebanon hosted both migrants and refugees, with the refugee population having grown exponentially due to the conflict in Syria.

Migrant workers in the Middle East are employed in a variety of sectors, including the oil and gas industry, transportation and hospitality. By far the largest number of migrant workers however, particularly in the Gulf States, are to be found in construction (and these are mostly men), with sizeable numbers also in domestic work (mostly women in terms of household related and care work; mostly men as drivers and guards). Countries in the Mashreq also receive significant numbers of seasonal workers in agriculture (both female and male).

The majority of migrants to the Middle East come from Asia (with India, Bangladesh and Pakistan offering the biggest stock of migrants in the Middle East), while numbers from a diverse range of countries in Africa are on the rise (with particularly high numbers coming from, amongst others, Egypt, Sudan, Somalia, Ethiopia and Kenya¹¹) and are expected to rise further given population forecasts and a rapidly growing labour force.¹² Many of these countries of origin have engaged with countries in the Middle East through bilateral agreements governing labour migration, while a number have set up, amongst others, pre-departure training programmes and consular affairs units to assist their nationals abroad, while some have initiated bans on women's migration or bans on domestic work.

In offering the opportunity to acquire additional skills and escape poverty in the home country while helping to solve the large labour shortages in GCC States, and cater for the need for care work in households in the Mashreq, labour migration is generally welcomed by both origin and destination countries. Migration to the GCC, and, to a lesser extent the Mashreq, has provided countless jobs and generated billions of dollars in remittances for migrant workers and their families. Migrant workers in the Middle East remitted USD 109 billion in 2015, and the outflow of remittances from the six Gulf States combined comprises 17.7 per cent of global remittance

⁶ The term 'migrant worker' is used throughout this concept note in accordance with international norms, in particular, Article 2 of the International Convention on the Protection of all Migrant Workers and Members of their Families (1990), which defines a 'migrant worker' as a "person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national". Similar definitions are found in the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). It is important to note that many governments in the Middle East view most labour migration as temporary and tend to prefer to use the term 'temporary foreign contract workers' or 'temporary expatriate workers'.

⁷ The GCC countries of Bahrain, Kuwait, Oman, Saudi Arabia, Qatar and UAE are resource rich destination countries.

⁸ UNDESA (2015), *Trends in international migration stock: the 2015 revision* at <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates15.html>.

⁹ Idem.

¹⁰ ILO (2015), *ILO global estimates on migrant workers* at http://ilo.org/global/topics/labour-migration/publications/WCMS_436343/lang--en/index.htm.

¹¹ UNDESA (2015), *Trends in international migration stock: the 2015 revision*, op cit., and Malit, F. and Al Youha, A. (2016), 'Kenyan migration to the Gulf countries: Balancing economic interests and worker protection' at <http://www.migrationpolicy.org/print/15632#.WOtDGK103cs>.

¹² The population of Africa is forecast to increase from about 1.1 billion in 2015 to 4.4 billion by the end of the century (see UNDESA (2015), *The World population prospects: The 2015 revision* at: https://esa.un.org/unpd/wpp/publications/files/key_findings_wpp_2015.pdf).

flows.¹³

Migrant workers in construction, domestic and agricultural work are mostly low-skilled and prone to abuses in the recruitment and migration process that precedes their employment and a variety of decent work deficits, while migrant workers in the oil and gas industry, transportation and hospitality tend to be higher skilled and tend to experience better treatment.

Attempts to regulate the complex array of interregional flows have increased over the past two decades and rely primarily on national legislation and mechanisms, while governments have tended to struggle to develop coherent migration regimes across ministries within countries and among regions¹⁴. In addition, there are bilateral agreements that generally however are limited in the Asia/Africa to Middle East migration corridors to non-binding memoranda of understanding (MoUs). Challenges remain, however, in establishing a system that more equitably shares migration benefits among governments, employers, labour recruiters and workers, and which protects migrants from decent work deficits and poor living conditions.

In recent times, hopeful signs have appeared including at the **ILO Asia-Pacific** Regional meeting, where GCC countries, Jordan and Lebanon, along with Asian countries adopted the Bali Declaration (in December 2016) which includes agreement to:

enhance labour migration policies, based on relevant international labour standards that:

- a) recognize the labour market needs of all;
- b) are based on the General principles and operational guidelines for fair recruitment (2016), including no charging of recruitment fees or related costs to workers; and the entitlement of workers to keep in their possession travel and identity documents;
- c) provide adequate protection to all migrant workers, including through better portability of skills and social security benefits;
- d) take into account the ILO Multilateral Framework on Labour Migration (2006);
- e) redress employer-worker relationships that impede workers' freedom of movement, their right to terminate employment or change employers, taking into account any contractual obligations that may apply, and their right to return freely to their countries of origin.

In Africa, the Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP) was developed by the African Union Commission (AUC) together with the ILO, the International Organization for Migration (IOM), and the UN Economic Commission for Africa (UNECA), and adopted by AU Heads of State and Government in January 2015 as a comprehensive programme on labour migration governance for the region. It supports the implementation of the labour migration component of the AU's Migration Policy Framework for Africa (2006) and the AU Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development as well as the AU Agenda 2063. ILO constituents in Africa adopted the Addis Ababa Declaration at the 13th African Regional Meeting in December 2015, which includes agreement to: (a) continent-wide policy priorities on enhancing labour migration governance at national, subregional, regional and international levels, and developing policies that take into account labour market needs, based on relevant ILO standards and in accordance with the ILO Multilateral Framework on Labour Migration; and (b) facilitate the implementation of the JLMP.

Connecting the regions, ILO furthermore hosted an interregional knowledge sharing forum on realizing a fair

¹³ World Bank (2015) 'Migration and Remittances Data' at

<http://www.worldbank.org/en/topic/migrationremittancesdiasporaisues/brief/migration-remittances-data>.

¹⁴ See in particular, ILO, *Addressing governance challenges in a changing labour migration landscape*, International Labour Conference, 106th Session, International Labour Office, Geneva, 2017, especially chapter 4.

migration agenda for migrant domestic workers in Africa, the Arab States and Asia in Madagascar in May 2016, which identified a number of concrete measures to be taken.¹⁵ These developments offer opportunities to craft potential actionable ways forward towards fairer labour migration in the interrelated Asia and the Middle East, and Africa and the Middle East migration corridors.

2. INTERREGIONAL CONSULTATION ON DECENT WORK, LABOUR MIGRATION AND MOBILITY IN ASIA/AFRICA TO MIDDLE EAST

Objectives of the meeting

The purpose of the interregional consultation is for leading experts in the interrelated migration corridors to make a technical assessment of key challenges and proposed ways forward to realize fair migration, including fair recruitment. The meeting will facilitate a collaborative discussion between experts and practitioners from governments, employers and workers, civil society, academia, UN agencies and development partners to explore (a) how decent work for migrant workers can be achieved, (b) how the prosperity that migrant workers help to generate can be shared more equitably, and (c) how migrant workers can contribute more optimally to development. It is important to note that the meeting will not deal with the situation of refugees, nor other forcibly displaced persons. Whilst this is recognized to be an important issue in the three regions covered by the meeting, the response of the international community to refugees is being addressed by the global compact on refugees, led by the UN High Commissioner for Refugees (UNHCR). Given however that decent work is an important linking feature between the two compacts, the impact of large populations of refugees on national and migrant workers in the labour markets of some countries in the region cannot be ignored.

The objectives of the meeting are to:

- ✓ take stock of promising practices and challenges in protecting migrant workers' rights, taking into account the different challenges faced by women and men, and sharing the benefits of migration more equitably in the Asia/Africa to Middle East corridors, and
- ✓ provide (inter)regional policy perspectives and possible actionable ways forward - underpinned by agreed principles - for achieving fair migration, including fair recruitment, in the Asia/Africa to Middle East corridors, and points of common interest and convergence, for consideration in the global and regional thematic consultations feeding into the GCM.

Core themes

In line with the GCM theme of 'Irregular migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications, and other relevant measures' and the International Labour Conference general discussion on labour migration in June 2017, which focused on effective labour migration governance at the national, bilateral, regional and interregional levels, the interregional consultation will explore issues and proposals around four key areas as follows:

¹⁵ The interregional knowledge sharing forum on realizing the fair migration agenda for migrant domestic workers in Africa, the Arab States and Asia agreed amongst others on the need to: (i) place Domestic Workers on the agenda of existing regional and interregional dialogues and extend participation to Africa; (ii) establish a common interregional network to share experience and build a common position across regions on domestic workers including migrants; (iii) increase transparency of recruitment practices and accountability of recruitment agencies and employers through concrete measures; (iv) advocate for inclusion of domestic workers on equal footing with other workers covered by labour laws and enhanced enforcement capacities in countries of origin and destination; (v) ensure the transparency and effective implementation of bilateral agreements on labour migration (BLAs) through social dialogue and the participation of social partners in the design, monitoring and evaluation of BLAs, assuring that they are in line with international labour standards; (vi) work towards agreeing on a common position among countries of origin on a minimum rights and protection at work for migrant domestic workers; and (vii) identify and implement occupational mobility mechanisms for domestic worker at source and destination, including skills development and certification. See http://www.ilo.org/global/topics/labour-migration/events-training/WCMS_454724/lang-en/index.htm.

- ✓ *Ways forward to achieve fair recruitment*
This discussion may include impediments to fair recruitment and how they can be overcome; how overall recruitment costs can be reduced, and paid for by employers rather than migrant workers; what can be done to eliminate the conditions that may lead to bondage and forced labour in the recruitment process; and how can recruitment result in better skills matching of both migrant women and men.¹⁶
- ✓ *Ways forward to achieve decent work for migrant workers*
This discussion may include wage setting and wage protection, social protection, internal labour market mobility; national legislation and sectoral coverage, including domestic work, effective labour inspection, and dispute prevention and resolution).
- ✓ *Ways forward to address irregularity*
This discussion may include reflections on how migrant workers end up in irregular situations; possible consequences of bans against certain groups of migrant workers; effective prevention of and action to address irregularity; and mechanisms to protect the rights of migrant workers in an irregular situation more effectively.
- ✓ *Governance of labour migration*
This discussion may include how to improve coordination and cooperation between ministries of labour and other relevant government entities dealing with migration,¹⁷ both nationally, across migration corridors and regions (including through bilateral agreements and interregional platforms), and at the global level, as well as how to better align migration policies with national employment policies.

Modalities of the interregional consultation

The interregional consultation will be held at the senior technical level, and will be an opportunity for all participants to share promising practices, examine the potential for reform and discuss ways forward for achieving a fair migration agenda in the interrelated regions, in a setting governed by 'Chatham House Rules'. Efforts will also be made to further cross-share and interlink among regions, where possible building on the earlier mentioned interregional meeting (among constituents in Africa, Asia and the Middle East) on migrant domestic workers hosted in Madagascar in 2016.

The consultation will benefit from contributions of selected experts and practitioners, including Government officials, as well as members of employers' and workers' organizations, civil society organizations, scholars and relevant staff of international organizations that have demonstrated a critical grasp of the technical subjects of the meeting.

The meeting will be informed by a background paper covering latest developments in the regions, including outstanding concerns and promising and innovative practices that are applicable to the context of the interrelated regions.

The interregional consultation will be conducted in English and Arabic, with simultaneous translation. Documentation will be provided in both languages.

¹⁶ The ILO hosted an interregional expert forum on skills and migration in the South Asia – Middle East corridor in New Delhi in July 2017.

¹⁷ For example, ministries of the interior, foreign affairs, women's affairs, finance and development planning, and education, in close collaboration with social partners.

A rights-based approach - as enshrined in international labour standards and the ILO Multilateral Framework on Labour Migration - the role of social dialogue, and attention to gender issues will cut across the thematic sessions.

Expected output

The expected output of the interregional consultation will be a set of suggested policy directions and possible actionable ways forward per theme - underpinned by agreed principles - that are appropriate to the specific interregional context, to be used in the interrelated regions of Asia/Africa and the Middle East. These are envisaged to feed into deliberations on the GCM, in particular the global thematic consultation on 'irregular migration and regular pathways, including decent work, labour mobility, recognition of skills and qualifications, and other relevant measures'.

Synergies with other processes and consultations

The meeting will draw learning from the general discussion on labour migration during the June 2017 International Labour Conference and its outcome¹⁸, and will be informed by other available outcomes and guidance such as from the aforementioned Bali Declaration, the ILO Principles and Guidelines for Fair Recruitment, and relevant international labour standards. The consultation will further draw from the outcome of the interregional forum on realizing a fair migration agenda for migrant domestic workers in Africa, the Arab States and Asia, held in Madagascar in May 2016). Guidance will also be drawn from an ILO interregional forum on skills and migration in the South Asia-Middle East corridor, held in New Delhi, in July 2017, and an interregional trade union meeting on migration in Beirut in April 2017.

The interregional ILO meeting will benefit from ILO's role as a neutral and independent convener, and revolve around advancing the fair migration agenda in the Asia-Middle East, and Africa-Middle East corridors. To ensure mutual reinforcement with the Abu Dhabi Dialogue, preparations for the interregional consultation meeting will be undertaken in consultation with the quartet¹⁹ of the Abu Dhabi Dialogue.

3. PROPOSED PARTICIPANTS

The total number of participants is expected to be over 80, from eight countries of destination in the Middle East (Lebanon, Bahrain, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, UAE), seven countries of origin in Asia (Bangladesh, India, Indonesia, Nepal, Pakistan, Philippines and Sri Lanka) and seven countries of origin in Africa (Egypt, Ethiopia, Kenya, Morocco, Madagascar, Sudan and Uganda). Participants with sound knowledge of labour migration will include:

- Government officials and policymakers
- Representatives of employers' organizations
- Representatives of workers' organizations
- Resource persons from civil society, academia, regional commissions/processes
- Staff from UN agencies and development partners, including the Office of the Special Representative of the Secretary-General on International Migration (OSRSG), the Office of the UN High Commissioner for Human Rights (OHCHR), UNHCR, UN Women, UN Economic and Social Commission for Asia and the Pacific (ESCAP), UN Economic and Social Commission for Western Asia (ESCWA), UN Economic Commission for Africa (ECA), IOM, the United Kingdom Department for International Development (DFID), the European Union (EU), and the Swiss Agency for Development and Cooperation (SDC)
- ILO staff working on labour migration

¹⁸ *Resolution and Conclusions concerning fair and effective labour migration governance*, International Labour Conference, 106th Session, Geneva, 2017, http://www.ilo.org/ilc/ILCSessions/106/reports/texts-adopted/WCMS_561871/lang-en/index.htm.

¹⁹ The quartet is composed of Kuwait, Philippines, Sri Lanka and UAE.