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Resolution concerning fair and effective labour migration governance¹

The General Conference of the International Labour Organization, meeting at its 106th Session, 2017,

Having undertaken a general discussion on the basis of Report IV, *Addressing governance challenges in a changing labour migration landscape*,

1. Adopts the following conclusions;
2. Invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them; and
3. Requests the Director-General to:
 - (a) prepare a plan of action to give effect to the conclusions, for the consideration of the Governing Body;
 - (b) communicate the conclusions to the relevant global, regional and international organizations for their attention, and take them into account when providing the ILO's inputs to the Global Compact for Safe, Orderly and Regular Migration; and
 - (c) take account of the conclusions when preparing future programme and budget proposals and give effect to them and to the relevant aspects of the 2030 Agenda for Sustainable Development, to the extent possible, when implementing the Programme and Budget for 2018–19.

Conclusions concerning fair and effective labour migration governance

I. OPPORTUNITIES, CHALLENGES AND RISKS OF LABOUR MIGRATION

1. Labour migration is a feature of contemporary labour markets and of the future of work. National and international policy agendas increasingly prioritize labour migration. The 2030 Agenda for Sustainable Development and the Global Compact for Safe, Orderly and Regular Migration demonstrate the global significance of this issue, and offer an important opportunity for the International Labour Organization (ILO) to promote its Decent Work Agenda, including fundamental principles and rights at work.

2. Labour migration is growing more diverse and complex. Temporary labour migration is becoming more widespread. Many countries are now countries of origin, transit and destination at the same time. More women are joining the ranks of migrant workers and in some sectors, such as the care sector and domestic work, represent the majority of the migrant labour workforce. They can face discrimination, exploitation and abuse, including violence and harassment.

3. Well-governed labour migration can contribute to sustainable development for countries of origin, transit and destination, and can provide benefits and opportunities for migrant workers and their families. It can balance labour supply and demand, help develop and transfer skills at all levels, contribute to social protection systems, foster innovation and enrich communities both culturally and socially. Poorly governed labour migration can bring risks and challenges, including for sustainable development and decent work, in countries of origin, transit and destination, especially for low-wage workers. These risks can

¹ Adopted on 16 June 2017.

include insecurity and informality, brain drain, displacement, increased risk of child labour, debt bondage, forced labour, trafficking in persons, safety and health hazards and other decent work deficits. In some cases, some of these risks have lethal consequences. Racism, xenophobia and discrimination, misperceptions and misinformation add to the overall challenges of labour migration.

4. Maximizing the benefits of labour migration and minimizing the risks and social costs requires sound and effective labour migration governance. The ILO, as a unique tripartite organization with its rights-based approach, has an important role to play in this effort, and has already done a great deal of work which will also position it to take a leadership role on decent work in labour migration and make strong contributions to the Global Compact for Safe, Orderly and Regular Migration and to the implementation of the 2030 Agenda.

II. TOWARDS FAIR AND EFFECTIVE LABOUR MIGRATION GOVERNANCE

5. Recognizing that all States have the sovereign right to develop their own policies to manage labour migration and that opportunities and risks may vary nationally and within migration corridors, it is necessary to develop tailored and effective policy responses. These should be based on reliable data and evidence that address the unique challenges of different countries, regions and actors. Experience demonstrates that labour migration governance models that pursue decent work for all begin with a comprehensive policy framework guided by international labour standards and the fundamental principles and rights at work. Effective labour migration governance must also respond to the changing needs of business and workers, including addressing skills, education and training gaps, with particular attention to women and youth, and persons with disabilities and other vulnerable groups. Labour market institutions are recognized as vehicles for delivering inclusive, equitable and fair policies for all workers, including migrant workers.

6. Effective labour migration governance requires coordination among relevant government agencies to develop and achieve shared goals (a “whole-of-government” approach). Social dialogue, in all its different forms, lies at the heart of the ILO’s mandate and is central to achieving fair labour migration. There is solid evidence that participation of the ILO’s tripartite constituents in national and regional processes can strengthen the effectiveness and sustainability of labour migration policies, including those on fair recruitment, protection of migrant workers, skills development and recognition of qualifications, and improve public perception.

Areas warranting special attention

7. ***Protection of migrant workers and labour market integration.*** Inclusive and resilient labour markets in countries of origin, transit and destination are necessary to ensure decent work opportunities for both migrants and national populations. Measures that protect and ensure decent work contribute to social and economic integration and equality of treatment. It is necessary to have effective enforcement of migrant workers’ fundamental rights at work, and access to justice, irrespective of migrant status. Protection of migrant workers’ rights at work as set out in relevant ILO Conventions, such as the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and other standards, including the Private Employment Agencies Convention, 1997 (No. 181), and the Domestic Workers Convention, 2011 (No. 189), requires a coordinated approach from member States’ policy departments, institutions enforcing labour laws and regulations and social partners, according to national law and practice.

8. ***Skills recognition and development.*** Labour migration programmes, including temporary schemes, often lack effective skills and jobs matching

systems. However, they should be based on accurate assessments of skills needs and gaps, including offering possibilities for upskilling and retraining both migrant and national workers. The private sector, as well as employers' and workers' organizations, have important complementary roles to play in providing up-to-date information to policy-makers on labour market needs. Migrant workers, in particular when they are low-skilled, are frequently confronted with limited access to vocational training and skills recognition, especially when it comes to recognition of prior learning. Public employment services, and private employment agencies when properly regulated, can play an important role in providing effective skills and jobs matching for migrant workers. The ILO should provide active and effective support for skills development and recognition to constituents.

9. **Fair recruitment.** Fair recruitment is essential to reducing migrant workers' exposure to exploitation and abuse, gender-based violence, child and forced labour and trafficking in persons, and to improving skills and jobs matching both in origin and destination countries. This is becoming even more relevant as temporary migration grows and supply chains become more complex. Implementing and promoting the ILO Fair Recruitment Initiative, the General principles and operational guidelines for fair recruitment and the Protocol of 2014 to the Forced Labour Convention, 1930, and its accompanying Recommendation, can prevent and address abuses, including the imposition of recruitment fees and related costs to migrant workers, and ensure transparency and efficiency.

10. **Social protection.** Facilitating access to social protection for migrant workers and their families, in accordance with national laws and regulations and international obligations, ensures the fulfilment of their rights to social security, creates a level playing field between national and migrant workers, and supports fair labour migration. Countries may consider: (a) negotiating multilateral or bilateral social security agreements to ensure the portability of migrants' rights and benefits; (b) including social security provisions in labour migration arrangements; and (c) ensuring access of migrant workers and their families to national social protection systems, including social protection floors, which aim to ensure among other things, access to essential health care.

11. **Freedom of association.** Migrant workers can face obstacles, in law and in practice, to organize and collectively bargain. Freedom of association is a fundamental right and an enabling condition for the realization of decent work.

12. **Data and statistics.** Recalling the 2030 Agenda, up-to-date, reliable and comparable labour migration data, disaggregated by age and sex, among others, are key for evidence-based policy-making, the evaluation of the impact of labour migration schemes, and the protection of migrant workers' rights. Harmonization of concepts and definitions of labour migration is essential, as is the collection of data on specific economic sectors in which migrant workers are predominant. These should be part of national and regional data collection plans.

13. **Temporary labour migration.** Temporary labour migration can be positive for labour markets of countries of origin and destination and can fill genuine short-term labour and skills gaps in certain sectors. However, careful consideration needs to be given to effective governance of temporary labour migration to protect the rights of migrant workers and national workers, ensure decent work, afford equal treatment in accordance with national laws and regulations and international obligations, and respect the fundamental principles and rights at work.

14. **Irregular labour migration.** There is a growth in irregular labour migration, particularly of low-skilled workers. Irregular labour migration increases migrant workers' vulnerability to exploitation and human rights violations and, in some cases, can undercut established wages and working conditions. It can therefore present problems for migrant workers, local communities and governments themselves. It can undermine public confidence in the ability of governments to effectively manage labour migration and can lead to negative public perception.

15. **Bilateral agreements.** Bilateral agreements can be useful migration governance tools to facilitate safe, regular and orderly labour migration between countries, when addressing both labour market needs and the protection of migrant workers and can be more beneficial if they are based on social dialogue.

16. **Regional governance frameworks on labour migration.** Regional governance frameworks can be an important component of effective and fair labour migration policy. However, regional and national institutions can be weak and under-resourced. National laws and policies are often not aligned with regional frameworks. There is a need for more and better involvement of ILO constituents. Building the capacities for ministries of labour and workers' and employers' organizations to participate in regional debates and processes has started to show some dividends.

III. MOVING FORWARD: PRIORITIES FOR ILO ACTION

17. The ILO should deepen and scale up its work on international labour migration in response to constituents' needs and take a leadership role on decent work in labour migration. This document should guide the ILO's further work in this area, including its contribution to the development of the Global Compact for Safe, Orderly and Regular Migration. Priorities for action include:

- (a) *International labour standards.* Promote the ratification and effective application of ILO Conventions and Recommendations, as appropriate, and policy frameworks relevant to the governance of labour migration and the protection of migrant workers. Raise awareness of these standards and frameworks, demonstrate their flexibility, and defuse misconceptions about the meaning of certain provisions, through user-friendly materials.
- (b) *Skills.* Provide support for: (i) the development of skills and of mechanisms for recognition of skills, whether acquired formally or non-formally, including at the sectoral level; (ii) better assessment of skills needs at all levels; and (iii) the alignment of training to meet labour market demands, all with the active participation of the social partners.
- (c) *Fair recruitment.* Support and promote constituents' efforts to operationalize the ILO General principles and operational guidelines for fair recruitment, including through dissemination, capacity building and technical assistance, and capitalizing on synergies with other tools and initiatives aimed at promoting fair recruitment. Pursue efforts in developing and testing a methodology to measure recruitment costs under target 10.7 of the 2030 Agenda for Sustainable Development and further work on the definition of recruitment fees and related costs. Subject to a Governing Body decision, the International Labour Office should assess the impact and effectiveness of this work through a high-level evaluation or other appropriate method within five years for the Governing Body to determine whether further action is necessary.
- (d) *Data.* Collect and disseminate comparable data on labour migration, disaggregated by sex and age, among others, and on its effect on labour markets in countries of origin, transit and destination, and on migrant workers. Continue work towards the adoption of international standards on labour migration statistics by the International Conference of Labour Statisticians in 2018. Deliver technical assistance for improved data collection by member States and facilitate the sharing of good practices.
- (e) *Social protection.* Build constituents' capacities to develop and implement bilateral and multilateral social security agreements and extend social protection systems to migrant workers, including through social protection floors, as defined in national laws and regulations and subject to international obligations. Benchmark, assess and develop guidance on how to address the obstacles faced by specific groups of migrants in particular labour migration corridors and within regional economic communities.

- (f) *Freedom of association.* Work with the ILO constituents to identify obstacles to freedom of association for migrant workers and assess the most effective measures and strategies to address them.
- (g) *Temporary labour migration.* Conduct a comparative analysis of temporary and circular labour migration schemes, including employer sponsorship programmes, to examine their impact on migrant and national workers and on national labour conditions and markets, and put the outcomes before the Governing Body for its consideration.
- (h) *Irregular labour migration.* Encourage sharing of good practices on reducing irregular labour migration, including on pathways out of irregularity. Promote respect for human rights and fundamental principles and rights at work of migrant workers, irrespective of their migrant status. Carry out more work in terms of research and support countries to reduce irregular labour migration. Encourage governments to ensure that migrant workers in an irregular status can safely report abusive working conditions and have access to justice.
- (i) *Bilateral and multilateral agreements.* Foster tripartite platforms to bring representatives of governments of countries of origin, transit and destination together with social partners, at various levels, to exchange good practices on the design, content, negotiation, implementation, monitoring and evaluation of bilateral and multilateral agreements that are gender-sensitive, in accordance with ILO standards, based on social dialogue, and address the needs of labour markets in countries of origin and destination, as appropriate, and the protection of migrant workers.
- (j) *Collaboration with relevant institutions that deal with labour migration.* Deepen collaboration with the Global Migration Group, in particular the International Organization for Migration and the Office of the United Nations High Commissioner for Human Rights, including in the process leading to the adoption and implementation of the Global Compact for Safe, Orderly and Regular Migration. Make full use of the ILO's unique tripartite nature and normative framework.