Introduction

On the 23rd and 24th of April 2014, the ILO Special Action Programme to combat Forced Labour (SAP-FL), in collaboration with the ILO’s Labour Migration Branch (MIGRANT) and the International Training Centre in Turin, hosted a first consultative workshop on the ILO Fair Recruitment Initiative (FRI) under the auspices of the Global Migration Group (GMG), which is currently chaired by ILO. This workshop was the first of a series of expert meetings that will take place over the next four years in the framework of the FRI. The FRI is a global strategy which aims to address regulatory and enforcement gaps relating to the recruitment process; improve mechanisms of complaints and remedy; facilitate social dialogue on relevant recruitment topics; increase recruitment options; progressively eliminate recruitment costs for workers; and ultimately ensure the implementation of recruitment practices based on international standards. The FRI is based on a multi-stakeholder approach, involving ILO’s constituent members, the International Trade Union Confederation (ITUC); the International Organisation of Employers (IOE) and their affiliates, including the International Confederation of Private Employment Agencies (CIETT); and global and local partners from civil society organisations such as the Institute for Human Rights and Business, Verité, Migrant Forum Asia and others. The initiative is implemented in close coordination with GMG agencies, such as the International Organization on Migration (IOM), United Nations Office on Drugs and Crime (UNODC), and the Office of the High Commissioner for Human Rights (OHCHR), and other relevant international organisations.

The FRI is currently supported by the UK Department for International Development (DFID) through the Work in Freedom Programme, which is a five-year technical cooperation project with a strong focus on preventing abusive recruitment of low-skilled female workers within South Asia and from South Asia to the Middle East. Additional funding is provided by the US Department of Labor and the US State Department, aimed at enhancing the global knowledge base on international labour recruitment, and with the overall goal of developing effective solutions for combating abusive and fraudulent labour recruitment practices, in particular those that can be associated with human trafficking and forced labour.

The first consultation workshop was held with the following objectives in mind:

1. To review and discuss recent evidence on the nexus between recruitment, labour migration and human trafficking;
2. To discuss the overall framework and objectives of the “Fair Recruitment Initiative”;

3. To discuss benchmarks for Fair Recruitment based on international standards and the development of policy guidance.

The term used in this report to describe recruitment agents is *Private Employment Agencies* [henceforth agents or PrEAs], based on the definition contained in ILO’s Private Employment Agencies Convention, 1997 (No 181).

The first day of the workshop began with an introduction by the ILO to the FRI and its four pillars:

a. *To strengthen global knowledge on national and international recruitment practices*:

- Obtaining the perspective of government, workers, agents and employers through surveys to better understand the recruitment system (Series of reports available starting September 2014).
- Review of laws, policies and enforcement mechanisms to better understand the impact of regulatory systems on recruitment practices (Series of reports available starting August 2014).
- Publication of a global report (mid-2015).
- Third-party impact assessment to assess whether FRI led to a decrease of recruitment costs, passport retention, and other abusive recruitment practices in certain communities in South Asia (2018)

b. *To strengthen laws, policies and enforcement mechanisms in line with ILO Convention No. 181 and other standards*

- Promotion of the ratification of Convention No. 181 and other relevant international labour standards;
- National level workshops to review findings of the Law, policy and enforcement reports in Lebanon, Jordan, Nepal, India and Bangladesh; (September – October 2014)
- Regional consultation in collaboration with UNODC and other partners, to share experiences on statutory regulation and enforcement (November 2014)
- Programmes to enhance enforcement through labour inspection, police and prosecutors (2014-2015)
- Policy advisory services to requesting governments on regulation and enforcement mechanisms (on-going)

c. *To promote fair business standards and practices*

- Capacity building workshops with employers, recruitment agencies and their organizations in South Asia and the Middle East (On-going 2014-2015)
- Test pilot models for fair recruitment (internal and cross-border) in a number of countries (On-going 2014-2015);

d. *To foster social dialogue and partnerships and promote good practices within the industry and beyond*
Following this introduction, there was a brief presentation by ILO, in its capacity as Chair of the GMG, setting the FRI in the context of the global debates on migration and development, the ILO’s work on labour migration, and GMG activities:

- Reducing the costs of labour migration, including recruitment costs, is one of the eight action points of the United Nations (UN) Secretary-General identified in his report (A/68/190) to the UN General Assembly High-level Dialogue on International Migration and Development (HLD) in October 2013. The landmark consensus Declaration adopted by the General Assembly (A/RES/68/4) also reiterates, inter alia, “the need to respect and promote international labour standards as appropriate, and respect the rights of migrants in their workplaces” (para. 13).
- The holding of this workshop was in line with the recent Conclusions of ILO’s Tripartite Technical Meeting on Labour Migration, held in November 2013, in follow-up also to the HLD. These Conclusions called upon the ILO: “In collaboration with constituents and GMG members and other stakeholders, [to] develop guidance to promote recruitment practices that respect the principles enshrined in international labour standards, including the Private Employment Agencies Convention, 1997 (No 181), and identify, document, and promote the exchange of good practices on reducing the financial and human costs of migration” (para. 5(iii)).
- Fair and ethical recruitment is also an important aspect of GMG’s work, under the auspices of its Task Force on Migration and Decent Work, co-chaired by ILO and IOM.

On the first day of the Workshop, several participants presented on-going initiatives dealing with fair and ethical recruitment. On the second day of the Workshop, the participants were divided into three working groups to discuss topics of particular importance: 1) the reduction of recruitment costs; 2) the content and scope of contractual arrangements; and 3) grievance and dispute settlement mechanisms.

This report provides a brief summary of discussions over the two days of the workshop. It is important to note that the workshop was organised as a consultative meeting, hence no formal decisions were taken. The information and recommendations contained in this report will be used to further shape and focus the FRI.

**MULTI-STAKEHOLDER INITIATIVES**

The first two presentations pertained to the role of governments with regard to ensuring fair recruitment in both cross-border and internal recruitment. From the United Kingdom, the Gangmaster Licensing Act, leading to the establishment of the Gangmaster Licensing Authority (GLA) was presented. The GLA was adopted following the emergence, in 2002, of evidence of poor labour conditions and extreme worker abuses in the agricultural sector in the UK. Due to these reports, the Ethical Trading Initiative (ETI) – a multi-stakeholder initiative focused on improving working conditions throughout supply chains that includes 83 company members (well-known actors in the food, pharmaceutical, household, manufacturing and garment industries), trade unions that represent 160 million workers around the world, and important NGOs – encouraged its members to
focus on the exploitation of temporary workers, leading the way for statutory licensing and registration. The ETI also tested a voluntary code of conduct. The resulting GLA, adopted in 2004, establishes regulations and licensing procedures for labour providers (gangmasters) and subcontractors who supply workers in agriculture, forestry, horticulture, shellfish gathering and food processing and packaging. With the adoption of the Act, all agents in the UK are now required to have licenses to operate in the agricultural and related sectors. Since its adoption, 553 licenses have been issued, and 78 licenses revoked.

The example of India was then discussed. This presentation took stock of the realities and challenges faced by India and its 48 million-strong labour force, with an additional five million workers added annually, and of the vulnerability of domestic workers in particular. The main challenge presented was that most jobs are generated in the unorganized sector, which presents 94 per cent of the economy. Intra-state and inter-state migration within India is a big phenomenon, with huge number of men and women migrating alone or with families for work. Lack of an appropriate legislation to regulate placement agencies has led to mushrooming of fly-by-night agencies, which often engage in unethical practices. Adolescent girls and young women, seeking work as domestic workers, are enticed by their own relatives and acquaintances (old migrant turned sub-agents) and are passed on to unscrupulous agents. They migrate from states like Jharkhand, Chhattisgarh, Odisha, North Eastern States and West Bengal to destination cities, such as Delhi and Mumbai. During the process, many are sexually exploited while others are pushed into situations of forced labour. The placement agencies are usually not registered, and in case they are, it is under the Shops and Establishment Act, which does not offer sufficient legal protection. Some states like Chhattisgarh, Delhi and Jharkhand have started processes for an improved regulatory framework, especially for agencies placing domestic workers.

In the context of overseas migration, The Emigration Act, 1983 (Section 10) requires that those who wish to recruit Indian citizens for employment abroad shall register themselves with the registering authority i.e., the Protector General of Emigrants (PGE). The Indian Government issued Guidelines in 2003 on the operation of PrEAs, containing the following main provisions: PrEAs should be registered with the public authority; they should provide more or less regular jobs; they should take adequate care to ensure placement is not linked to illegal activities; they may be allowed to take reasonable service charges from the job seekers, which should not exceed 45 days of work of the job seeker and which may not amount to more than 20,000 RS; that recruiting agent cannot not charge the repatriation expenses from the emigrant and redress of grievances or disputes should be settled by State-designated authority. The complaints made by emigrants or intending emigrants against the registered recruiting agents are examined by the Protector General of Emigrants, if necessary in consultation with the Indian Mission abroad. Action is taken, as appropriate, in accordance with the provisions of the Emigration Act, 1983, and rules framed thereunder. Complaints against unauthorized/illegal recruiting agents are referred to the police authorities for investigation. Complaints against foreign employers are taken up with the Indian Missions abroad. A recalcitrant foreign employer is blacklisted (by placing him in the Prior Approval Category list) from future recruitment in consultation with the Indian Mission.

The Institute for Human Rights and Business presented the Dhaka Principles for Migration with Dignity. The Dhaka Principles are a set of human rights based principles to enhance respect for

---

1 http://www.dhaka-principles.org/
migrant workers at all stages of the migration cycle, from the moment of recruitment, through employment and on to further deployment or safe return to home countries. In particular the Dhaka Principles stress the importance of equal treatment for migrant workers and the need for proper employment relationships in destination countries. The Dhaka Principles have been specifically endorsed by both the International Trade Union Confederation (ITUC) and the Confederation of International Recruitment Agencies (CIETT). Increasingly they are being used and referenced by business, government and civil society as both a framework to understand the challenges facing migrant workers and those who recruit and employ them, and also as an awareness raising tool and catalyst for change.

**Verité** gave a presentation during which the concept of “labour supply chains” was explained as being not linear, but rather complex, and consisting of brands, MNEs, suppliers, agencies, sub-agents, and sub-contractors. Verité has responded to this by developing guidance tools based on international labour standards; by targeting the brands and suppliers; and by engaging more directly with the recruitment agencies themselves. They have developed a Fair Hiring Toolkit, which contains guidance for brands, MNEs, suppliers, governments, and other stakeholders. Moreover, Verité developed and launched the Ethical Framework for Recruitment, which is a series of specific measures that aim to improve the ability of responsible firms in different countries, at different stages of the recruitment pipeline, to recognize and selectively partner with one another in upholding ethical standards in cross-border movement of workers. It outlines a set of principles based on international labour standards, as well as operational benchmarks that would enable an agency to carry out the first stages of due diligence. Verité also calls for an overarching independent framework of monitoring.

The **International Organization for Migration** (IOM) presented the recently launched International Recruitment Integrity System (IRIS), which aims to operationalize and integrate guidelines and benchmarks on recruitment under a global accreditation framework. The aim is to create a tool that will increase cooperation between all stakeholders, including jobseekers, employers, agents, and create a system that will create incentives for agencies operating according to internationally recognized standards. There are three pillars to IRIS: 1) Guiding principles; 2) accreditation, oversight and compliance; and 3) A referral system in order to receive and deal with complaints. IOM referenced their Public Private Alliance for Fair and Ethical Recruitment (PPA), launched alongside IOE to help protect migrant workers and their employers from abusive practices and combat unscrupulous recruitment practices. During the discussion, the Workers group expressed their concern over the lack of tripartism of this initiative.

The **World Bank** presented the Global Knowledge Partnership on Migration and Development (KNOMAD), which is envisaged to be a global hub of knowledge and policy expertise on migration and development. KNOMAD draws on experts from all parts of the world to synthesize existing knowledge and generate new knowledge for use by policy makers in origin and destination countries. KNOMAD works in close coordination with the Global Forum on Migration and Development (GFMD) and the agencies belonging to the GMG, including ILO. The speaker highlighted the importance of migration costs, and how they relate to abusive recruitment practices. It was underlined that recruitment costs tend to be high, regressive and opaque; that migration cost reduction is possible through regulating and monitoring recruitment practices; and that lowering migration costs benefits migrants. The speaker underlined the responsibility of the origin, transit and destination countries. He also spoke of KNOMAD’s work, undertaken in collaboration with ILO, on
measuring migration costs: a database on migration costs (bilateral matrix) is being created through field surveys, thanks to which average costs per corridor will be established.

The ILO presented its most recent research-related work, in the framework of the FRI, which includes conducting global research on recruitment covering Brazil, Paraguay, Viet Nam, Malaysia, India, Bangladesh, Nepal, Lebanon and Jordan. The research objectives are to review regulations (national and regional); map out how PrEAs recruit job-seekers; map out the fees and commissions which are paid all the way through from initial recruitment to placement; and understand recruitment business models – levers and incentives. In some countries, there is a special focus on women domestic and garment workers.

The ILO also presented a draft paper with key principles of fair recruitment, based on ILO standards and the UN Guiding Principles on Business and Human Rights, including background information about relevant international law. The purpose of this document was to facilitate discussion and to build consensus towards the use of internationally accepted principles in fair recruitment initiatives. Feedback to the presentation of the principles as well as the Workshop more broadly is summarized in the latter part of this report.

**WORKING GROUPS**

**Working group 1: Cost of migration**

The discussion focused on the origins of migration costs, focusing specifically on recruitment fees, ways of dealing with them, and the role of stakeholders.

Some of the major challenges highlighted were: how to reduce the cost of migration; the need for a policy consensus on recruitment fees, with a heavy focus on the most vulnerable sectors; and the lack of oversight over sub-agents. Other issues discussed included the concept of the opportunity cost, i.e. the need to factor in the time spent abroad, the costs to families, and the burden that migrant workers have to carry. There was also a discussion on the need to look at the broader and hidden costs, and the necessity to promote transparency.

The Working group made several initial recommendations on how various stakeholders could contribute to the effective reduction of migration costs:

For Governments: to ensure political accountability and enforce a disclosure system; to implement a zero-tolerance policy within their own ranks (prosecution of corrupt officials) and build deterrence mechanisms; to adopt a licensing and accreditation system with an ongoing compliance process; to develop interest in the protection of migrant workers in the origin and destination countries; to facilitate joint liability clauses and bilateral agreements; to focus on, and prioritize, protection in sectors with mainly low-skilled labour; to provide free legal aid to workers through embassies; to strengthen monitoring and evaluation mechanisms for regulations and policies; and to simplify immigration procedures. It was also stated that the public procurement domain offered an opportunity for setting a high bar in practice and ensuring that governments directly/indirectly do not contribute to forced labour in their operations.

For trade unions: to ensure participation in tripartite policy dialogues on recruitment costs; to organize workers and take bargaining responsibility; to assume the role of watchdog in monitoring
recruitment costs and developing “dirty lists” of recruitment agencies and agents; to raise awareness among workers; to implement the solidarity principle and open their doors to undocumented migrants/ migrants in an irregular situation; to coordinate with civil society organizations; to participate in global dialogues on the subject of costs and fees; to provide access to remedies; and to sign collective agreements.

For employers: to undertake due diligence on their entire supply chains and request transparency from their suppliers, and subsequently take action on identified problems; to have their supply chains audited by third parties; to ensure the implementation of their codes of conduct; to grade recruitment agencies; to provide internal training and awareness-raising; to explore alternative options for recruitment (either direct recruitment or through reputable sources); to pay recruitment fees; and to engage governments with the aim of having regulations adopted to reduce costs.

For PrÉAs: to ensure transparency with regard to the cost of services, both at the outset in the country of origin and in the destination country; to ensure accountability; to ensure transparency within business partnerships and to truly get to know their sub-agents; to organize the industry and professionalize its members; to lobby for fees to be taken on by employers; to adopt a policy commitment not to charge fees to workers; and to commit to developing quality services for the fees charged.

Working group 2: Contractual arrangements
The second working group focused on the content of the diverse contracts signed in the context of migration for employment, their proper execution by employers, and challenges faced in this regard.

Several risk factors were underlined in relation to workers getting trapped in exploitative and abusive work conditions, such as forced and/or bonded labour and the lack of minimum standards of labour protection. These risk factors included low skills, illiteracy, poor language skills, lack of decent work and poor living conditions in the origin country, and informal employment.

The main challenges discussed with regard to contractual arrangements were as follows: the fact that contracts can differ at every level, i.e. by the sending agency, receiving agency, employer; there is no international “minimum standards” template for contracts; there are sectorial differences, i.e. different models for agriculture, construction, and domestic work, etc.; contracts should be in line with immigration laws; contracts should be written in a language understood by the worker (the style of the writing should also be simple); difficulties in monitoring and enforcement, especially across borders; the growth of informality; the lack of the right to organize in the destination country; the fact that labour legislation may not cover the rights of migrant workers; the lack of equal treatment between different groups of workers; and the lack of delineation of responsibility between agencies and employers.

This working group also put forth several recommendations for the various relevant actors.

For Governments: address the legal gaps in the protection of workers; arrange bilateral agreements between countries (source, transit, and destination), respect international labour standards; provide legal aid and/or pro bono legal advice for the workers; work on changing the general negative attitude towards migrant workers and raise awareness on their rights; issue regulations regarding the payment of workers, e.g. install a system of electronic payments; require the registration of contracts with the Ministry of Labour; implement a system of regulation, licensing, monitoring, i.e.
migration should only take place with licensed agencies at both ends; and implement a system of public procurement that ensures transparency and accountability.

For **employers and workers**: provide training and access to information through various means such as the internet; provide a cell phone to workers; to work alongside governments to adopt model/template contracts; link trade unions between origin and destination countries/areas; organize and empower migrant workers to better understand the importance of an employment contract and assist them in cases of contract substitution or abuse; and use the media to expose the “bad apples”, i.e. identify the agencies and sub-agents with poor track-records and use the media as a tool to shed light on their practices.

For **other stakeholders**: ensure the accountability of PrEAs; create a website in the source countries that rates employers and PrEAs; create incentives for businesses to comply with standards, brand-led or others; and involve a range of actors that could contribute to awareness-raising and transparency, e.g. media, civil society actors, etc. There was also the suggestion that law-abiding agencies should be publicly differentiated from those that do not respect standards and informal brokers.

Finally, to ensure liability, the recommendations included lifting the corporate veil and holding the individuals behind those companies liable; clearly establishing the responsibility of PrEAs and user enterprises (as provided for in Convention No. 181); and promoting extra-territorial jurisdiction.

**Working group 3: Grievance and dispute settlement mechanisms**

This working group tackled the challenges of implementing effective grievance and dispute settlement mechanisms. It was underlined that there are different levels and types of redress mechanisms that should not be confused: a) State based judicial system; b) State or non-state based mediation system; c) State administrative dispute settlement mechanism (at the Ministry levels); d) Operational grievance system within companies; and e) Operational grievance system within the PrEAs.

The weakness of the regulations concerning these mechanisms was highlighted. Thus the need for a dual track approach was recognized: reinforcing national regulations as well as strengthening existing mediation mechanisms and companies’ grievance mechanisms. Moreover, it was emphasized that it is for the national regulations to specify the role of PrEAs in resolving disputes. In this regard, it was recalled that the *OECD Guidelines for Multinational Enterprises* provide some guidance on the mediation/conciliation process.

It was acknowledged that there is a lack of information on redress mechanisms among workers; more specifically, the workers in the most vulnerable situations are not well informed and are vulnerable to retaliation. Therefore, they should be made aware of the different solutions that are available to them, and those solutions should be safe and ensure their protection. In this regard, civil society and trade unions are essential for supporting workers in the redress process.

Domestic workers and migrants in an irregular situation are often the most vulnerable and have most difficulties accessing redress. For example, migrants in an irregular situation should have access to national redress mechanisms; however, due to the fact that they can be considered as ‘criminals’ given their violation of residency/immigration laws, they face a great deal of challenges in securing
access to justice. The fear of deportation was mentioned as one of the top reasons preventing these workers from seeking redress.

The working group also formulated recommendations addressed to different actors. It was suggested that workers should be able to file a complaint to national federations of PrEAs, such as CIETT. Another suggestion was the creation of an Employer Ombudsman Office, through which complaints could be filed. In India, for example, a new law, once adopted, will require the creation of an independent ombudsperson office, which will put in place an audit system.

Trade unions can raise awareness on redress mechanisms. For example, in Lebanon, FENASOL-Fédération Nationale des Syndicats des Ouvriers et des Employés au Liban is providing some vocational training in a safe space and might in the future also advise on redress mechanisms.

The working group also indicated that governments should guarantee access to justice for migrant workers. It was indicated that the ILO should engage on this theme and advocate for fair access to redress mechanisms, specifically in the case of exploited migrant workers.

The working group also shared several good practice examples pertaining to redress mechanisms. These included the collective bargaining agreement signed in 2013 to improve the rights of migrant workers in the apparel qualifying industrial sector (QIZ) in Jordan. This agreement includes provisions on the equal treatment of all workers; the drafting of a unified contract; and grievance procedures (to resolve grievances as quickly as possible at the company level). Another example was that of the compensation schemes associated with a card system in India: red cards (most vulnerable) and green cards, on which compensation packages can be loaded. In terms of dispute settlement, the Indian Government has set up Interstate Committees in order for labour commissioners of each state to resolve issues more smoothly.

Feedback and conclusions

During the two-day Workshop, participants widely commented on the usefulness and importance of the FRI, and expressed a desire in seeing it move forward and to contribute to its success. The participants welcomed the ILO initiative and agreed that they had benefited from the wealth of information that had been shared by the various stakeholders on the subject. It was agreed that this multi-stakeholder consultation was a vital step in the right direction and that an important process had begun.

Workers

The ITUC indicated that there were two critical issues that needed urgent attention: 1) the role of recruitment agencies and intermediaries in preventing labour rights violations, i.e. forced labour in critical cases but also unequal treatment and discrimination, etc.; and 2) the need for more dialogue on corporate social responsibility (CSR) and codes of conduct, as their usefulness thus far could be questioned – with the exception of the UN Principles on Human Rights and Business and the Dhaka Principles, for which the ITUC reiterated its support.

The ITUC underlined that while there was a lot of emphasis on Convention No. 181, which is important, the issue was much broader than that of the particular application of this Convention. Any initiative or work done needed to be linked to broader international standards. In this regard, the ITUC expressed support for a discussion to take place in the framework of the ILO with the
following priorities: 1) Outreach towards migrant workers, i.e. integration of migrants in discussions with trade unions; 2) A more coherent approach to labour migration governance, e.g. the adoption of a Protocol to Convention No. 29 would be an important step forward; and 3) Enhanced monitoring of businesses, including PrEAs. The ITUC concluded that the FRI was a very important and ambitious initiative and affirmed its commitment to this initiative.

With regard to the draft background document on existing international standards, the workers provided the following comments:

While the background paper focuses on businesses, namely PrEAs, there are different aspects to recruitment such as the responsibility of governments. They pointed out that the FRI must always distinguish between the state duty and responsibility of PrEAs.

They underlined that the UN Guiding Principles should constitute a cornerstone of the FRI, and that benchmarks should be framed on the basis of these principles and, especially, the principle of human rights due diligence, which enjoys international consensus. In terms of CSR, often the core ILO conventions have become the only labour standards to be respected by businesses, but it should be much wider and touch upon all of the international labour standards.

They made several specific recommendations regarding fair recruitment principles and guidelines, such as the necessity of clearly separating the concepts of “equality of treatment” and “equality of remuneration”\(^3\), and the necessity of mentioning and explaining the concept of the “employment relationship” They also pointed out that the language used for the principles and guidelines was important and underlined several areas for improvement. For example, they underlined that the word “uphold” should be replaced by “respect”; and that the “grievance” and “complaint” mechanisms were two different concepts, not to be confused.

**Employers**

1. **IOE**

The employers recalled that many businesses respect the rule of law, and that there was a need for a coherent regulatory framework at all levels to allow for a clearer distinction between the various actors. In addition, they recalled that the real problem lay with the people who were acting in a criminal and informal way, not with the formal PrEAs, and that there was a need to reach out to illegal and informal brokers. From the business perspective, the employers expressed their commitment to the FRI and said that they wanted to see it taken forward.

---

\(^2\) The Protocol to the Forced Labour Convention, 1930, and the Recommendation on Supplementary Measures for the Effective Suppression of Forced Labour (No. 203), were both adopted at the 103\(^{rd}\) Session of the International Labour Conference in June 2014. They contain provisions on prevention and protection against abusive recruitment practices.

\(^3\) The concepts of “equality of treatment” and “equality of remuneration” are addressed in the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Convention No. 100 addresses equality specifically between men and women and concerns remuneration; Convention No. 111 addresses a wider range of grounds, and all aspects of employment and occupation, and concerns equality of opportunity and treatment. The objectives of Conventions Nos 100 and 111 are interlinked: the application to all workers of equal remuneration for men and women for work of equal value (Convention No. 100); the elimination of all discrimination, in respect of all aspects of employment and occupation, through the concrete development of equality of opportunity and treatment (Convention No. 111). See ILO, General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, Geneva, 2012, para. 651.
They also underlined the importance of promoting the ratification of Convention No. 181. They affirmed that the Government’s role must be understood and respected; the public employment agencies also have a responsibility in this regard. Moreover, governments needed to do more to help the smaller companies and PrEAS.

With regard to the draft background document on principles of fair recruitment, it was recalled that, while the focus has been on the terrible injustices done to millions of people, this was not the whole picture of migration. Migration was a good and important phenomenon, essential to the global economy, to development, and to the fulfilment of personal aspirations. However, it was observed that there were definitional issues that needed to be addressed, and that there were different kinds of migration and migration for employment, and that whether or not the practices were taking place in the formal or informal economy also needed to be considered.

The employers reiterated that international labour standards do not apply to private companies, but rather to governments. Companies, including PrEAs, need to respect the principles behind the conventions, but their first and foremost obligation is to obey national law. Therefore, the problem in some countries is the – sometimes very poor – implementation of those laws. Therefore, the employers agreed with the workers that it was important to clearly delineate the respective roles of governments, employers, and workers themselves, in the background document.

The need to be practical was also underlined. The stage of initial guidance to PrEAs has passed. There are already a lot of tools available, and many initiatives exist. The employers also agreed with the workers about paying special attention to the words used, i.e. to “uphold”, to “protect”, to “ensure”. These are all different and contain many legal issues.

On the subject of due diligence, the employers affirmed that, as the ITUC rightly pointed out, the UN principles have different parts; the first being the Government’s responsibility to protect; the second being the business’ responsibility to respect. The employers also agreed that the UN Guiding Principles should form the basis of the FRI’s principles.

2. CIETT

On the issue of the draft background paper, CIETT recalled that PrEAs play a positive role in the labour market by facilitating safe migration. The quality of the standards applied by these PrEAs must certainly be improved, and this is where the principles and guidelines can help. However, the background document should contain a preamble in order to provide some context. In addition, the language must be easy to understand.

CIETT also stressed that an enabling environment where agencies compete on the same terms as and not with informal agents was needed. Any regulation on PrEAs should ensure a balance between the protection of workers and freedom of the agency to operate. If overregulated, informal traders/brokers will be created and will expand. The enforcement of regulations was also pointed out as an essential part of the formula.

It was highlighted that PrEAs are not the only players concerned with fair recruitment. There is a need to better differentiate between situations in which the PrEA is the employer and when the PrEA is recruiting for a company.
Conclusions
In summary, it was recalled that, while migration can be a positive experience, today millions of migrants are trapped in forced labour situations; hence there is an urgency to act. The fact that there are serious issues in international migration for employment was widely recognised. In different presentations and the working group discussions, it was repeatedly acknowledged that recruitment is a key element that could lead to exploitative and forced labour practices.

There was a wide consensus that the implementation of proper regulations was the most difficult and pressing issue. The role of grievance mechanisms and dispute settlement was also emphasized as being crucial in this regard. Another broadly reported challenge was to determine the extent of the role and responsibility of PrEAs, especially in situations where the country in which they are situated, or in the destination country there are inadequate regulations for ensuring the protection of workers’ rights.

In this regard, it was emphasized that the solutions to these issues should be pragmatic and needed to be tested. It was largely agreed that the time for discussing abstract principles had passed, and that it was time to find practical, hands-on ways of addressing the various issues and challenges that were highlighted during the Workshop.

The ILO will now review and revise the background paper on the FRI in light of the discussions and recommendations made during the Workshop. Some of these include:

- The need to do further work on the introduction to the FRI benchmarks and better setting the context for these benchmarks;
- The need to delineate clearly the responsibility of Governments to regulate and that of the PrEAs to apply FRI benchmarks;
- The need to further link the FRI benchmarks in existing tools, in particular the UN Guiding Principles on Business and Human Rights;
- The need to pay attention to the language from a legal and a practical standpoint;
- The need to re-think the objectives and target audience of the document to be sure that it is really adding value and not duplicating previous tools. It needs to be practical for those who will be closely involved in operationalizing its benchmarks in a variety of settings.