

## **Note on the proceedings**

Tripartite Meeting of Experts on the  
ILO Multilateral Framework on Labour Migration

Geneva, 31 October-2 November 2005



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## Contents

	<i>Page</i>
Introduction .....	1
Part 1. Consideration of the agenda item.....	3
Report of the discussion .....	5
Opening speeches and presentation of the report.....	5
General discussion .....	6
Discussion of specific principles and guidelines in the draft ILO Multilateral Framework on Labour Migration.....	11
Principle 1 .....	11
Principle 2 .....	12
Principle 3 .....	14
Principle 4 .....	15
Principle 5 .....	15
Principle 6 .....	16
Principle 7 .....	16
Principle 8 .....	16
Principle 9 .....	17
Principle 9(a).....	17
Principle 9(b).....	18
Principle 9(c).....	19
Principle 10 .....	20
Principle 11 .....	22
Principle 12 .....	23
Principle 13 .....	25
Principle 14 .....	25
Principle 15 .....	27
Discussion of follow-up .....	28
The Preamble and the Introduction.....	29
Part 2. Adoption of the Multilateral Framework .....	31
Closing session.....	33
Appendix .....	35
List of participants.....	39

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## Introduction

The Tripartite Meeting of Experts on the ILO Multilateral Framework on Labour Migration was held at the International Labour Office in Geneva from 31 October to 2 November 2005. The Office had previously issued a draft Framework document to serve as a basis for the Meeting's discussions. The draft Framework underlined the importance of international cooperation in dealing with labour migration and covered four broad themes: decent work for all, management and governance of migration, promotion and protection of migrant rights, and migration and development. It contained 15 broad principles, each with corresponding guidelines, as well as a follow-up mechanism. Annexes I and II of the Framework document contained, respectively, a list of international instruments cited in the draft Framework and a compilation of examples of international best practices in labour migration policies and programmes.

Mr. Arnau Navarro of the Government of Spain was elected as Chairperson of the Meeting, as suggested by the Government expert from France and seconded by the Government expert from the Philippines. The Vice-Chairpersons elected by the Meeting were Mr. Esselaar, Employer expert from South Africa, and Ms. Burrow, the Worker expert from Australia.

The Governing Body decision provided for the attendance of 20 Government experts. Nineteen attended from the following countries: Argentina, Armenia, Australia, Canada, Ecuador, France, Japan, Kenya, Republic of Korea, Mexico, Nigeria, Philippines, Russian Federation, Senegal, South Africa, Spain, Trinidad and Tobago, Tunisia and the United Kingdom. Although invited to the Meeting, the Government of India did not send an expert. Representatives of the following States attended as observers: Austria, Dominican Republic, Egypt, El Salvador, Germany, Honduras, Peru, Thailand and the United States.

Ten Employer and ten Worker experts had been nominated after consultation with their respective groups of the Governing Body.

Representatives from the following international organizations attended as observers: the African Union, the Council of Europe (COE), the European Commission, the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Human Rights.

Representatives from the following non-governmental international organizations also attended as observers: the International Confederation of Free Trade Unions (ICFTU), the International Organisation of Employers (IOE), the International Federation of Building and Wood Workers (IFBWW), the International Union of Food Workers' Associations (IUF), the World Federation of Trade Unions, the Migrant Forum in Asia and Public Services International (PSI).

The Secretary-General of the Meeting was Mr. Awad, Director, International Migration Programme, Social Protection Sector. The Deputy Secretary-Generals were Mr. Wickramasekara and Mr. Taran, Senior Migration Specialists of the International Migration Programme. The Executive Secretary of the Meeting was Ms. Moreno-Fontes Chammartin, International Migration Programme. Mr. Escobar of the Relations, Meetings and Document Services Department acted as the Coordinator of the Meeting. The experts were Mr. Abella (Consultant), Ms. Landuyt, International Labour Standards Department and Ms. O'Rourke, International Migration Programme.

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Part 1

**Consideration of the agenda item**

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## Report of the discussion

1. The Meeting met to examine the item on the agenda on the basis of the Office document, “Draft ILO Multilateral Framework on Labour Migration” (TMMFLM/2005).
2. The spokesperson for the Employers’ group was Mr. Remi Esselaar and the spokesperson for the Workers’ group was Ms. Burrow.
3. The Meeting held five plenary sittings devoted to the discussion of the agenda item.

## Opening speeches and presentation of the report

4. Mr. Diop, Executive Director, Social Protection Sector, welcomed the participants on behalf of Mr. Somavia, the ILO Director-General. He highlighted that the international community needed to construct a migration regime with two inseparable objectives – making the cross-border movement of people more orderly, and eliminating the exploitation of migrants. He stated that the ILO had pioneered international instruments for protection of migrant workers. The latest initiative was the resolution adopted by the International Labour Conference of 2004 that called for a comprehensive plan of action on migrant workers. He hoped that the tripartite experts would be able to produce an ILO Multilateral Framework on Labour Migration, which would serve as the centrepiece of the ILO plan of action on migrant workers.
5. Mr. Arnau Navarro, the Chairperson of the Meeting, stressed the unique and timely opportunity for the experts to give concrete form to the vision of the framers of the International Labour Conference resolution for a more just, beneficial and thus sustainable migration order. The guidelines for realizing this vision were to be based on three pillars: the body of principles for the treatment of migrant workers as set out in international Conventions, multilateral action and international best practices. The Chairperson outlined the experience of Spain in managing migration including the role of social partners, the recent regularization programme and harmonization of policies with the European Union. Experience had shown that unilateral action on migration policies had limitations, and inter-country cooperation could help the capacity of States to manage migration. He hoped that the ILO Multilateral Framework on Labour Migration would become a standard reference for policy-makers in destination, as well as origin, countries in every part of the world.
6. Mr. Awad, Secretary-General of the Meeting, introduced the draft ILO Multilateral Framework on Labour Migration (Meeting document TMMFLM/2005). He stressed that labour migration currently affected most countries in the global economy. The draft Framework was developed within the ILO’s overarching framework of the Decent Work Agenda. It only dealt with labour migration policy and treatment of migrant workers, not migration policies in general, and addressed the concerns of both origin and destination countries and of migrant workers themselves. It took a positive perspective on labour migration, emphasizing its contribution to economic growth and development in countries of origin and destination and to the welfare of migrant workers themselves, when properly organized. The draft Framework brought out the benefits of international cooperation in the organization of labour migration. Because of the special vulnerability of migrant workers, it was particularly concerned with ensuring respect for their human and labour rights.
7. The draft strictly adhered to the ILO’s mandate in the world of work focusing on issues of employment, labour and human rights, social protection and social dialogue, as related to

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labour migration. Paragraph 24 of the conclusions, adopted by the resolution, identified 20 areas that the guidelines should focus on. The nine major themes of the framework dealt with decent work, international cooperation, a global knowledge base, effective management of labour migration, protection of migrant workers, prevention and protection against abusive migration practices, migration process, social integration and inclusion, and labour migration and development. The draft also included a follow-up mechanism.

8. The Secretary-General further stated that the Office had circulated the draft to all member States for comments. The comments indicated overwhelming support for the Framework. Some called for more emphasis on regulating labour migration processes and migrant workers' rights, while a few stressed the sovereignty of States in the formulation and implementation of policies. The Secretary-General said he was confident that the Meeting deliberations would further strengthen the foundations of a sustainable labour migration order.

## General discussion

9. The Worker spokesperson, Ms. Burrow, proposed that the discussion first take up the Framework's principles and then take up the guidelines. The Employer spokesperson, Mr. Esselaar, agreed to this proposal.
10. The Employer spokesperson made a statement, first highlighting that if one went back deep in history to the evolution of the human species, every person in the world living today is in some sense a migrant. But humans later began erecting barriers to people's movement. With globalization, we have to rethink this strategy. The Employers would like to use certain principles in their evaluation of the Framework. First countries have to facilitate the movement of skilled persons, because it contributes to boosting the competitiveness of economies, and helps increase employment in receiving countries. Second, States have to permit moderate movements of low-skilled persons when there is demand in the labour market. Third, it is important to devise transparent policies based on rule of law. Fourth, it is important to develop an ethos of freedom and openness, recognizing the need for moral principles and poverty alleviation. The Employer spokesperson also spoke about temporary and circular migration. The regularization of workers in irregular status should be considered, despite the possible risks of inducing more irregular migration. Lastly, the Employers believed in the need for ethical business models, based on the principles of good corporate governance to recognize the socio-economic rights of foreign workers and support services for them. Apart from these principles, the Employer spokesperson called for clearer definitions of decent work and the rights-based approach mentioned in the Multilateral Framework.
11. The Worker spokesperson responded by concurring with many of the points that the Employer spokesperson had made. The 2004 International Labour Conference general discussion recognized that the social partners have a serious stake in migration debates at national and international levels. Trade unions can help reduce the fears of adverse consequences of migration and forge a consensus. The 2004 conclusions were adopted by consensus, a testament to the commitment of the parties to the issues and the balanced nature of the outcome. The development of the Multilateral Framework was a central component of the Workers' group submissions throughout the 2004 discussions. The central message of the Multilateral Framework was that better management of migration can yield benefits to all – for labour-sending countries and receiving countries, as well as migrant workers themselves. Currently, these economic benefits are not maximized due to the absence of a Multilateral Framework. The World Commission on the Social Dimension of Globalization highlighted the collateral problems arising from the absence of a Multilateral Framework to govern cross-border movement of workers. A major concern for the trade union movement is that when temporary migration issues are discussed by trade

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negotiators, they tend to completely ignore the working conditions that should apply to workers moving across borders.

12. Although 75 countries are currently party to at least one of the migrant worker Conventions, much remains to be done to prevent exploitation, and protect migrant workers. The Workers' group believed that the draft Multilateral Framework was a balanced draft reflecting the instructions given by the 2004 Conference. Nevertheless, it planned to offer some relatively minor amendments that would not reopen the previous debate. The Workers' group firmly believed that developing this Framework was one more step on the path to greater cooperation on labour migration for all member States.
13. The ILO's contribution of a Multilateral Framework on Labour Migration should not be seen as the final aim, because the ILO was not the only institution working on this topic. The Worker spokesperson highlighted recent initiatives of other institutions and bodies, such as the World Bank, the Hague Process, the Berne Initiative, the Council of Europe and the EU Green Paper. The Global Commission on International Migration (GCIM) had proposed the establishment of a Global Migration Facility to bring together all the relevant United Nations institutions with a mandate on migration, plus the IOM. Such a facility would ensure a more coherent and effective institutional response to the challenges of migration. In her view, the ILO should play a central role in labour migration and use the proposed facility to promote a coherent international approach. From an ILO perspective, it would involve ensuring that all international institutions dealing with migration promote ILO standards on labour migration and decent work for migrant workers. She underlined that a win-win situation will be achieved through multilateral cooperation, political commitment and the involvement of all actors in the development and implementation of policies.
14. The Chairperson confirmed that the ILO has an important role as the only tripartite organization in the labour migration arena worldwide. He then invited Government representatives to take the floor, asking that they limit their interventions to five minutes.
15. The Government expert from Mexico made four observations. First, the Multilateral Framework provided an extremely useful starting point for discussion, especially because it neatly encapsulated a major principle of our time, that of shared responsibility in migration. Second, migration flows should be made orderly and safe, based on relevant instruments such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Third, there is a need to transcend the traditional split between "skilled" and "unskilled" workers, since every worker has some sort of skill or talent, as highlighted in the GCIM report. Fourth, rules for mobility of workers are important, as they would create a balance between the issue of circularity and that of "traditional" migration.
16. The Government expert from the Philippines recalled that the Meeting participants were serving in their capacity as migration experts, and not as Government representatives. He hoped for an early consensus on the Framework, given the continuing addition of migrants to the global workforce and their need for protection. He stressed that the adoption of the Framework was not the end of the debate.
17. The Government expert from Japan raised some reservations regarding the draft Framework, stating that the sovereign rights of States to develop their own migration policy should be respected. Although the draft was "non-binding", she believed it contained some contradictions. The proposed follow-up mechanism seemed to impose a new obligation on member States. Measures to prevent irregular labour migration needed more emphasis, as this was often the cause of exploitation and abusive conditions. She added that creating decent work in sending countries was the ultimate solution to this problem. The Framework should also focus on examples of best practices.

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- 18.** The Government adviser from Spain agreed that international cooperation on managed migration was essential. In moving certain responsibilities for labour migration from the Ministry of the Interior to the Ministry of Labour, the new Spanish Government had wished to make it clear that labour migration was not an issue simply of border control. The ILO has a major responsibility in this area due to its universality: other migration-related initiatives often have a regional focus only, as exemplified by work at the level of the European Union (EU). But particular responsibility also stems from the ILO's tripartite nature. A follow-up mechanism should be seriously considered; this would not have to be a control mechanism but there should be some follow-up to be able to evaluate implementation.
  - 19.** The Government expert from Nigeria commended the Framework document. She urged the experts not to again raise issues on which consensus had been found in 2004. For Nigeria, the proposed Framework would be very useful. The Meeting would enhance an already very good document and help develop action and frameworks at the national level.
  - 20.** The Government expert from Canada highlighted the importance of the consensus reached during the 2004 International Labour Conference. The essential points that were agreed upon in 2004 were the following: the importance of managed migration and the sovereign rights of States; importance of social dialogue on migration matters and on the Framework in particular; increased capacity building and improving the knowledge base on labour migration issues; and the identification of relevant action to be taken for a wider application of international labour standards. The Worker spokesperson had alluded to progress concerning additional ratifications, which could only be welcomed. A flexible tool kit was the intention. The Government expert from Canada, however, urged caution in moving beyond agreed-upon language, especially with regard to paragraphs 24-26 of the adopted resolution and conclusions. He stated that the current draft goes beyond that agreed-upon language in some places, entering into areas of immigration policy, public health policy and development policy which are problematic. As the Employer experts had emphasized, certain terms such as "coherence" would need to be defined clearly.
  - 21.** The Government expert from Senegal thanked the Office for providing very clear guidelines, but stated that information on mechanisms for implementation was needed. It is the role of all tripartite partners to promote this new migration regime. In the follow-up section, a great deal was expected of the tripartite constituents/Governments, but means of implementation still remained unclear. Senegal had made considerable headway, especially in relation to mechanisms of successful tripartite social dialogue, but other countries might face more challenges.
  - 22.** The Government expert from the Republic of Korea viewed social protection as an important issue and recognized ILO and IOM activities on labour migration. He considered that the non-binding nature of this Framework was very appropriate as each country had its own unique circumstances and needs.
  - 23.** The Government observer from the United States stated that she had a number of serious concerns on the draft Framework. She believed that the guidelines went beyond both the scope of paragraph 24 of the International Labour Conference resolution, and the ILO's mandate. For instance, the ILO has no mandate on development. The guidelines were overly prescriptive and broad. In her view, the draft Framework should focus on labour rights of migrants, and there should be greater clarity between legal and illegal migrants, and between temporary and permanent migrants. She thought that it was inappropriate to have a follow-up mechanism in a non-binding document.
  - 24.** The Government observer from Egypt congratulated the ILO on the draft Framework document. She noted that, although it was non-binding with no legal obligation, it

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contained principles that were useful for policy-making. She also hoped that there would be greater coordination and agreement between destination and origin countries.

- 25.** The representative from the Office of the United Nations High Commissioner on Human Rights (OHCHR) commended the human rights approach in the draft Framework. She noted that in an age where security concerns often overrode migration policies, it was critical that human rights remained embedded within policies. She stated that the High Commissioner will continue to remind States of their obligations under human rights law. The ILO and the OHCHR share a common concern for the rights of migrant workers. She noted that the ILO has a special advisory role in the Committee on Migrant Workers. ILO Conventions and the 1990 International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families formed the basis for protection of migrant workers worldwide. Thirty-four countries have now ratified the latter instrument. She reiterated that the OHCHR welcomed the reference to core human rights instruments and applauded the emphasis on categories of special vulnerability, such as domestic workers, as well as Principle 13 on the licensing and supervision of recruitment agencies.
- 26.** The representative of the IOM valued ongoing collaboration with the ILO on the Framework and within the Geneva Migration Group. He welcomed the Framework's emphasis on international cooperation, but believed that the document is limited by proposing the ILO Framework as the only Framework. He felt that it should be inclusive of other frameworks such as the International Agenda on Migration Management developed under the Berne Initiative and other standards, notably the 1990 International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families. He agreed with the Government expert from Senegal that implementation mechanisms were unclear. He stated that the section on "Best practices" needed broader consultations, and reiterated the IOM's willingness to share its experience for drawing on further best practices.
- 27.** Two representatives of the European Commission (DG Employment and Social Affairs and DG Justice, Freedom and Security) took the floor. They welcomed further collaboration with the ILO following the 2004 International Labour Conference, and agreed that the draft Framework provided a good basis for the discussion. In the view of the EC, labour migration forms part of the social dimension of globalization which required a comprehensive approach recognizing productive employment, decent work and development as important factors in global stability. They noted that current treaties in the EU promoted social dialogue, which the ILO Framework also emphasized. The EU has two migration policy regimes: one for EU citizens and the other for third-country nationals. The EU has a rights-based framework on migration for EU citizens, which is binding, and is not voluntary. They noted that the Commission's approach to long-term legal residents could be an inspiration to this Meeting in that it provided equal treatment with EU nationals, particularly in areas such as access to employment and working conditions. They noted that paragraph 12 in Annex II did not adequately reflect EU policy on legal and illegal migration. They saw the need for better clarifications of categories of migrant workers, such as those in "regular" and "irregular" status, and temporary and permanent migrant workers. These distinctions also carried different implications for rights accorded to migrants within the EU.
- 28.** The representative of the COE welcomed the draft text of the Framework because it focused on a human rights and rights-based approach to labour migration – approaches that the COE shared. He suggested that other key international instruments be referenced in the Framework. For the COE, this would be the European Convention on Human Rights and the revised European Social Charter, but other COE Conventions and mechanisms also deserve mention (in particular, the European Convention on the Legal Status of Migrant Workers) in addition to case law. The COE also wished to stress the importance of social cohesion and social inclusion, and added that there was a need for emphasis on the

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effective implementation of the Framework (as highlighted by the expert from Senegal), co-development and social inclusion.

- 29.** The representative of PSI maintained that migration has both a consequential and direct link to the quality of public services. On the one hand, a degraded public sector deprived citizens of essential services and exacerbated poverty, which is a known root cause of migration. On the other hand, structural adjustments, privatization and the downsizing of public services resulted in the direct loss of jobs. Public services, such as health, social service and education, were losing large numbers of skilled workers to migration. While PSI supported the rights of individuals to migrate, it had concerns on the unethical recruitment of health workers, who are mainly comprised of women. PSI would like this Framework to be gender-sensitive, transparent and rights-based.
- 30.** The representative of Migrant Forum in Asia (MFA), a regional network of organizations working on migration issues, made a joint statement with Migrant Rights International (MRI). They thanked the Office for the opportunity to participate, and interpreted it as a proactive sign of recognition of the role of civil society organizations in this particular Meeting as well as ILO work on migrant workers in general. They commended the content of the Framework and only had some minor amendments to suggest, which they hoped to convey through social partners. They also appreciated that the Framework called on governments and social partners to consult with migrant workers' organizations and NGOs, and looked forward to working together with the ILO and its constituents.
- 31.** A representative of the World Federation of Trade Unions (WFTU) highlighted trends in Latin America. In his view, it was important not to distinguish between legal and illegal migrant workers. The universal concept of "workers" does not make a distinction between migrant workers in legal or illegal status. Human rights considerations and ILO Conventions on worker protection lent support to this view.
- 32.** Responding to the general discussion, the Employer spokesperson expressed the view that some of the comments presented by Government experts were helpful, but the short duration of the Meeting would not permit discussion of all issues raised. It was essential to take up the core issues of the Meeting early.
- 33.** The Worker spokesperson stated that the Workers' group had listened carefully to the discussion, especially on the follow-up mechanism. She agreed that the existing text on this issue might be improved. For example, in its opening submission, the Workers' group made it clear that the Framework under discussion should subsequently be considered by a wider group of international institutions. However, the Workers' group rejected the suggestion made by some Government experts that it was inconsistent to have a follow-up mechanism in a non-binding Framework. For instance, the ILC conclusions were not "binding" on governments; yet the International Labour Conference saw it as appropriate to propose a follow-up mechanism on the entire conclusions and plan of action. She also pointed out that Annex II was not perceived by the Workers' group as a final document.
- 34.** The Worker spokesperson expressed surprise that one Government observer considered development not within the ILO's mandate. Although the ILO was not the only international organization that dealt with questions of development, its mandate was clearly development-related; from the very beginning the ILO has been addressing problems of how to create jobs and alleviate poverty. The Worker spokesperson stressed that the ILO, as well as other bodies, had ruled that human rights were indivisible. While her group acknowledged the worth of ongoing regional work, it was aiming for a global framework.

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## Discussion of specific principles and guidelines in the draft ILO Multilateral Framework on Labour Migration

35. The Meeting proceeded to discuss the draft Multilateral Framework principle by principle.
36. At the suggestion of the Worker spokesperson, the experts agreed to appoint a tripartite Working Group to work on difficult issues and, particularly, to try to reach agreement on the guidelines under each principle. This strategy was proposed because it would be more efficient due to time constraints and the large number of principles and guidelines needing review. The Working Group consisted of the Chairperson, the Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government expert from the Philippines.
37. To achieve greater consensus on this procedure, the Meeting agreed to replace the existing text before the set of each guideline which read: “In order to give effect to the above principle, the following guidelines should be given due consideration”, with the following text: “The following guidelines may prove valuable in giving practical effect to the above principles”. The Government experts convened two group meetings to discuss the guidelines and clarify their position to the Government expert nominated to the Working Group.
38. The Working Group met in two extended sessions on Tuesday and Wednesday, and discussed those principles and guidelines on which experts desired to make amendments. The Government expert from the Philippines was assisted by the Government expert from Canada in the Working Group sessions. The amendments that resulted from the Working Group discussions were presented to the final session of the Meeting.
39. This report summarizes the plenary discussions on each principle, and those guidelines that were discussed in the plenary. The report notes the amendments made to principles and guidelines, including those that were discussed in Working Group meetings. The appendix lists the original text and the final adopted text for each principle.

### Principle 1

40. The debate on this principle centred on the appropriateness of two terms: “productive” and “at home and abroad”.
41. The Worker spokesperson argued that the term “decent work” had a clearly understood definition in the ILO, but the word “productive” was not part of the language of the House. She suggested deleting the words “and productive”. The Worker spokesperson thought the use of the term “productive” could work against the interests of migrant workers leaving the possibility that employers could refuse to pay a worker if the work was considered “not productive”. She cited the ILO Employment Policy Convention, 1964 (No. 122), which refers to “full, productive and freely chosen employment”. If this Convention was being referenced in the guidelines, it would be acceptable. In the context of decent work, however, this term was not defined and “decent work” should stand alone. It may make sense in the guidelines, but not as part of the principle.
42. A number of Government experts, including those from Argentina, Canada, Ecuador, Mexico, Nigeria, Senegal and South Africa, supported the position of Worker experts. The Government expert from Nigeria referred to the June 2005 general discussion on youth employment, where there was a consensus to delete the term “productive”, as it was difficult to measure productivity. She appealed to the Employer experts to follow the same practice.

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43. The Secretary-General clarified that decent work was an organizing concept for the ILO. It is a goal as well as a process for ILO constituents. By “decent and productive work at home or abroad”, the draft Framework meant that migrant workers should have decent work. But such work should also be productive, which is also beneficial to countries of destination.
44. The Employer spokesperson did not agree to the deletion of the term “and productive”. He noted that decent work needs security, and there is no security if there is no productivity. The two go together. The Employer spokesperson mentioned that they would try to find appropriate wording with the Workers’ group later.
45. The Government expert from Australia questioned the appropriateness of the term “at home or abroad”. He noted that Australia, as a migrant-receiving country, would promote decent work, but would not promote overseas work for its own citizens at a time when there is an overriding desire to bring Australian citizens abroad back home to work. This view was shared by the Government expert from Canada, who also confirmed that his country did not wish to promote the employment of citizens abroad. The Government expert from France argued that the phrase “decent work at home or abroad” did not imply a policy of promoting the migration of a country’s own citizens for employment abroad. Instead, it made it clear that the responsibility to provide jobs and decent work at home to their own citizens rested on both sending and receiving countries.
46. In the debate, several Government experts took different views with some arguing for retaining the term and others insisting on its deletion. In the spirit of consensus, the Worker spokesperson agreed to delete “at home and abroad” if the experts agreed to insert the words “including migrant workers” after “working age”, because the sentence would not make sense without the words “migrant workers”.
47. In the final session, the Employer spokesperson indicated that agreement had been reached with the Workers on Principle 1. It was also agreed that there would now be two sub-principles under Principle 1 in “Decent work”. The original Principle 1 was renumbered as 1(a), and was amended by inserting “, including migrant workers” after “age” and by deleting “at home and abroad”. The new Sub-principle 1(b) would read as follows:

The ILO Decent Work Agenda promotes access for all to freely chosen employment, the recognition of fundamental rights at work, and income to enable people to meet their basic economic, social and family needs and responsibilities, and an adequate level of social protection for the worker and family members.

48. With regard to Guideline 1.1, the experts agreed to delete all the text after “decent” and replace it with “and productive work in accordance with Principles 1(a) and 1(b) of this Framework”.
49. Principles 1(a) and 1(b) and Guidelines 1.1 to 1.2, as amended, were adopted by the Meeting.

## **Principle 2**

50. The discussion on Principle 2 revolved around several issues. First, there was a debate on the need to promote “coherence of migration policies” mentioned in the second sentence. This ranged from suggestions to reformulate or to delete the second sentence. There was also a suggestion to add the term “regional” to the second sentence.
51. The Employer spokesperson pointed out that the term “coherence” had not been explained. It was not possible for a group of countries to assure coherence. But the Employers would

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endorse a reformulation to the effect: “to promote coherence of migration policies at the international level as set out in the guidelines below”.

52. The Government expert from Senegal argued that promoting coherence was the responsibility of governments and not that of workers’ and employers’ organizations. Therefore, the phrase should rather be “the governments working in cooperation with workers’ and employers’ organizations”.
53. The Government expert from Canada acknowledged that he was comfortable with the first sentence of Principle 2, as the term “cooperation” was defined at the 2004 Conference. In his opinion, the second sentence went beyond this definition, and he was concerned about policies at the international level. His suggestion was to retain the first sentence as it was and to delete the second sentence. This position was shared by the Government expert from South Africa and the Government observer from the United States.
54. The Government experts from Kenya and Mexico pointed out that the principle involved three different points: cooperation, promoting coherence and dialogue. Therefore, the second sentence could be broken into two sentences. Some reformulations were suggested in this respect.
55. There was a request from the floor to clarify the terms relating to cooperation and coherence. The Secretary-General said that the word “cooperation” referred to exchange of information and experiences on policies beneficial to countries of both destination and origin. “Coherence” referred to ensuring that immigration policy is consistent with economic policies where the latter cause an increase in the demand for migrant workers. The observer from the IOM outlined the notion of policy coherence adopted by the IOM at three levels: national level, international and inter-State. She also proposed that the word “labour” be inserted before “migration policies”, reflecting the ILO’s mandate. The Government expert from Argentina highlighted that the words “international cooperation” indicated a change from unilateral policies being used in the past. The Government expert from the Philippines argued that, while the usual approach to international cooperation is at a regional level, this is not reflected in the present wording. He proposed that the word “regional” be included.
56. The Employer experts pointed out that the term “concerted approach” in the second sentence was not clear. The Worker spokesperson suggested changing it to “coordinated approach”.
57. The Worker spokesperson asked that, in the phrase “Governments and employers’ and workers’ organizations should work with the Office”, the words “the Office” should be replaced by “the International Labour Organization”.
58. The Worker spokesperson reminded the participants that in a meeting of experts, it was the practice to work on the majority viewpoint. With respect to the three separate ideas proposed, there was agreement on the first change and on the second (to “work with the ILO”) there was already a clear mandate from paragraph 26 of the International Labour Conference conclusions. With respect to the third proposal, the Employers and the Workers agreed to replace “concerted” with “coordinated”. She added that several organizations shared concerns over labour migration. She noted that the IOM is working to develop the principle of coherence. She agreed to the insertion of “and regional levels”. Finally, she urged participants not to go back on the majority view and cautioned that such a way of working was, in fact, alien to the Organization.
59. The Government expert from Canada thought that the above change went beyond paragraph 24 of the Conference resolution. The fact remained that many countries were still not ready to pursue policy coherence. The Worker spokesperson called for a point of

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order drawing attention to the fact that paragraph 18 already recognized the sovereignty of States. The present section being called into question takes into account paragraphs 23, 24, 25 and 26 of the International Labour Conference resolution. The last line of paragraph 26 states that “an ILO forum may be established in partnership with other relevant international organizations to provide a platform for increased tripartite dialogue on labour migration and increased policy coherence on this subject”. She again drew attention to the fact that the Multilateral Framework was non-binding. The 2004 mandate said that the present group of experts should operationalize the tasks it has endorsed. The Government experts from Kenya and Nigeria also supported the inclusion of “policy coherence”.

**60.** The Employer spokesperson noted his general agreement with the proposal of the Workers’ group, in particular if the notion of coherence was defined in accordance with the subsequent guidelines.

**61.** The Worker spokesperson then read the proposed wording for Principle 2:

Governments, in consultation with employers’ and workers’ organizations, should engage in international cooperation to promote managed migration for employment purposes.<sup>1</sup> Governments and employers’ and workers’ organizations should work with the ILO to promote coherence of labour migration policies at the international and regional levels based on the guidelines set out below. The ILO should promote dialogue with other relevant international organizations with a view to developing a coordinated approach on labour migration based on the non-binding ILO Multilateral Framework on Labour Migration.

**62.** The Meeting adopted Principle 2 without change. The Government expert from Canada reiterated his concerns on the issue of promoting coherence and asked that his reservations regarding the matter be noted for the record.

**63.** The experts amended Guideline 2.3 by inserting “, where appropriate,” after “promoting” and Guideline 2.6 by inserting “and multilateral” after “bilateral”. The experts adopted the original text of Guidelines 2.1, 2.2, 2.4, 2.5 and 2.7 as drafted by the Office.

**64.** The Meeting adopted Principle 2 and Guidelines 2.1 to 2.7 as amended.

### **Principle 3**

**65.** The experts agreed to Principle 3 as drafted by the Office.

**66.** With regard to Guideline 3.1, the experts agreed to replace “the national” with “government” and to replace “sex-disaggregated labour migration data” with “labour migration data, including sex-disaggregated and other data.”. The experts amended Guideline 3.3 by inserting after “issues” the following: “, including the impact of emigration on countries of origin, as well as the contribution of immigration to countries of destination.”. The experts adopted the original text of Guidelines 3.2, 3.4 and 3.5 as drafted by the Office.

**67.** Principle 3 and Guidelines 3.1 to 3.5, as amended, were adopted by the Meeting.

<sup>1</sup> Convention No. 97 (Article 10) and Recommendation No. 86.

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## Principle 4

68. Issues raised during the discussion on Principle 4 related to style, intent of the principle, and whether reference to international labour standards should be qualified by the word “relevant”.
69. The Employer spokesperson argued that the meaning of Principle 4 could be streamlined by slightly changing the positioning of “as appropriate”. He suggested the following wording:

While all States have the sovereign right to develop their own policies to manage labour migration, relevant international labour standards, multilateral rules and guidelines, as appropriate, should play an important role to make these policies coherent, effective and fair.

70. The Worker spokesperson concurred with this proposal and proposed deleting the word “relevant” when referring to international labour standards. She preferred the term “other international instruments” in place of “multilateral rules”.
71. The Government expert from Senegal invited delegates to consider a further amendment, but the Chairperson and the Worker spokesperson cautioned against introducing amendments that would change the meaning of Principle 4. The Employer spokesperson also disagreed with the proposed amendment.
72. The experts agreed to amend Principle 4 by deleting “while” and dividing the principle into two sentences after the word “migration”. They also deleted “relevant” and replaced “, multilateral rules and, as appropriate, guidelines” with “and other international instruments, as well as guidelines, as appropriate”. The finally adopted text was as follows:

All States have the sovereign right to develop their own policies to manage labour migration. International labour standards and other international instruments, as well as guidelines, as appropriate, should play an important role to make these policies coherent, effective and fair.

73. The experts amended Guideline 4.1 by replacing the phrase “both women and men migrant workers” with “all migrant workers and members of their families”. With regard to Guideline 4.2, the experts inserted “decent work for all and” after “promote”. The experts amended Guideline 4.3 by inserting “and, where appropriate,” after “national” and inserting “all” after “policies”. With regard to Guideline 4.4, the experts agreed to replace the phrase “ensuring that policies address” with “implementing policies that ensure that” and adding “, are addressed” after “situation”. The experts amended Guideline 4.9 by inserting “and other” after “financial”. The experts agreed to insert in Guideline 4.10 “and their views taken into account” after “issues”. The experts adopted the original text of Guidelines 4.5, 4.6, 4.7 and 4.8 as drafted by the Office.
74. The Meeting adopted Principle 4 and Guidelines 4.1 to 4.10, as amended.

## Principle 5

75. While some Government experts asked for clarifications, the Chairperson pointed out that Principle 5 reproduced the exact text from paragraph 24 of the 2004 International Labour Conference resolution, and therefore, the existing text should be accepted.
76. The Government expert from France proposed deleting the reference to “temporary work” in Guideline 5.5 since in French there is an ambiguity between temporary work and part-

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time work. This linguistic ambiguity could lead to misunderstandings. The proposal was not accepted.

77. The experts amended Guideline 5.1.1 by inserting “, and relevant issues of labour supply” after “causes”. With regard to Guideline 5.1.2, the experts agreed to replace “particularly” with “including”. The experts amended Guideline 5.1.3 by inserting “and population growth” after “ageing”. The experts agreed to amend Guideline 5.3 by inserting “where appropriate,” before “establishing”. Guideline 5.5 was replaced by the following text, “ensuring that temporary work schemes respond to established labour market needs, and that these schemes respect the principle of equal treatment between migrant and national workers, and that workers in temporary schemes enjoy the rights referred to in Principles 8 and 9 of this Framework”. The experts adopted the original text of Guidelines 5.2 and 5.4 as drafted by the Office.

78. Principle 5 and Guidelines 5.1 to 5.5, as amended, were adopted by the Meeting.

## **Principle 6**

79. There was consensus on this principle and the original wording was retained.

80. Guideline 6.3 was amended by inserting “opportunities and” after “practical”. The experts amended Guideline 6.5 by replacing the text with the following language, “involving both men and women migrant workers in dialogue and consultation”. The experts adopted the original text of Guidelines 6.1, 6.2 and 6.4 as drafted by the Office.

81. Principle 6 and Guidelines 6.1 to 6.5, as amended, were adopted by the Meeting.

## **Principle 7**

82. There was broad consensus on this principle and the original wording was retained.

83. Guideline 7.1 was amended by the insertion of “with the social partners,” before “identifying”. The experts adopted the original text of Guideline 7.2 as drafted by the Office.

84. Principle 7 and Guidelines 7.1 to 7.2 were adopted by the Meeting.

## **Principle 8**

85. The only issue raised about Principle 8 was whether the right to freedom of association applied equally to migrant workers in irregular status.

86. While agreeing with the text, the Employer spokesperson sought clarification of the right to join unions by workers in irregular status in view of their unlawful presence in a country. The Worker spokesperson referred to Article 2 of ILO Convention No. 87 which clearly recognized freedom of association as a right for all workers without distinction whatsoever and pointed out that it was also a core right recognized in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up applicable to all workers. Moreover, Principle 8 was based on the 2004 International Labour Conference resolution.

87. The Government experts from Argentina, Canada and Nigeria noted their agreement with the text of Principle 8. But the Government expert from Nigeria suggested replacing the word “respected” with “protected” in the first sentence of Principle 8. This was accepted.

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- 88.** In the final session, the Government expert from France pointed out that in French the word “statut” lacked clarity since legally speaking a person in an irregular situation had no legal “status”. She suggested replacing the word “status” with the word “situation” in the English text. The Chairperson and the Secretary-General took note of the suggestion.
- 89.** The experts amended Guideline 8.1 by replacing “ensuring” with “governments should ensure” and inserting “and that they are respected by all concerned” after “workers”. Guideline 8.2 was amended by inserting “and obligations” after “human rights”.
- 90.** On Guideline 8.3 the Government expert from South Africa commented that, since the protection of human rights of migrant workers is not the sole responsibility of governments, the need for effective mechanisms should apply to both the public and the private sectors. The Employer spokesperson explained that most obligations in these guidelines referred to governments, since employers and workers cannot provide for enforcement mechanisms to protect human rights or to provide training of government officials involved in migration. He agreed that human rights also applied to the private sector, but ensuring their protection was a specific government obligation. The experts amended Guideline 8.3 by replacing the first instance of the word “providing” with “governments should provide” and replacing the second instance of the word “providing” with “provide”.
- 91.** The experts amended Guideline 8.4.1 by replacing “form and join trade unions and hold office in those organizations” with “freedom of association, in accordance with Convention No. 87, and when they join trade unions the right to hold office in those organizations”, and insert “, in accordance with Convention No. 98,” after “activities”. The Government expert from Argentina stated that she could not recall that the words “freedom of association” in Guideline 8.4.1 were agreed upon in the previous day’s discussion. She believed that reference was to the “right of migrants to join trade unions” and not to “freedom of association”. She wanted her reservation to be put on record since the distinction is important. Guideline 8.4.3 was amended by inserting “, in accordance with Convention No. 138,” after “employment” and inserting “, in accordance with Convention No. 182” after “workers”. The experts adopted the original text of Guidelines 8.4.2 and 8.4.4 as drafted by the Office.
- 92.** Principle 8 and Guidelines 8.1 to 8.4, as amended, were adopted by the Meeting.

## **Principle 9**

- 93.** This principle had three sub-principles: 9(a), 9(b) and 9(c). The Secretary-General explained that Principle 9 was based on the 2004 International Labour Conference resolution. Sub-principle 9(a) is based on bullet point 8, paragraph 24, Sub-principle 9(b), on paragraph 11, and Sub-principle 9(c) is based on paragraph 12. He added the subject areas (bulleted points) listed in paragraph 24 of the conclusions and paragraphs 10-19 (Policy approaches) of the 2004 International Labour Conference resolution were subsequently translated into principles and guidelines in the Framework text. He added that paragraph 27 of the resolution also referred to the ILO and other instruments.

### **Principle 9(a)**

- 94.** The Employer spokesperson noted his group’s satisfaction and acceptance of Principle 9(a).
- 95.** The Government expert from Argentina proposed that a reference to regional instruments be included in the second sentence of Principle 9(a) because many regions were drawing

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up their own instruments, which were becoming more important. The proposal was accepted. Thus, “and regional instruments” was inserted at the end of the second sentence. The experts also agreed to insert “relevant” in the second sentence after “guided by”.

## **Principle 9(b)**

- 96.** The discussion on this principle focused on three issues: the appropriateness of the phrase “base their national law and policies”, reference to specific migrant worker instruments, and the usefulness of the last sentence of the principle.
- 97.** In the first sentence of Principle 9(b), the Employer spokesperson argued that national law could not be “based” on Conventions that member States had not ratified or did not want to ratify and proposed replacing the term “base” with “guided by”. This was also consistent with the wording used in paragraph 11 of the conclusions. This found general support among Government experts.
- 98.** The Worker spokesperson suggested a compromise by adding some of the text contained in paragraph 11 of the conclusions to the beginning of Principle 9(b) as a new first sentence: “The protection of migrant workers requires a sound legal foundation based on the rule of national and international law.” She agreed to replace “base” with “guided by”. The Employer spokesperson found this acceptable.
- 99.** The Government expert from Canada also agreed with “guided by” and proposed to use the exact wording found in the first sentence of paragraph 11 of the conclusions, instead of using abridged wording. The Government experts from Nigeria and Argentina also agreed.
- 100.** The Government expert from Canada said that listing migrant worker Conventions by name in Principle 9(b) was not appropriate. He would accept reference to the two ILO Conventions however, if it could be reworded to mean that they offered guidance to governments. But he argued against including a reference to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families saying that there was no consensus in 2004 that this instrument should guide national law.
- 101.** The Worker spokesperson responded that the Conventions listed in Principle 9(b) were taken as a specific set and extensively debated during the 2004 International Labour Conference. The concerns of the Government expert from Canada had been well taken care of, and a reference to underlying principles had been added. She requested that experts not refer to Conventions as being unpopular, especially as it was agreed last year to promote them. She pointed out that 75 governments had ratified at least one of the three Conventions mentioned in Principle 9(b).
- 102.** The Government expert from Mexico suggested that the last sentence of Principle 9(b), which applied to governments who ratified the Convention be deleted. But other experts did not agree. The Employer spokesperson said that the term “respected” was not very meaningful. The Worker spokesperson suggested replacing it with the word “implemented”. This was accepted.
- 103.** Principle 9(b) was thus amended by inserting as the first sentence: “The protection of migrant workers requires a sound legal foundation based on international law.” The next sentence was amended by replacing, “Governments should base their national law and policies concerning the protection of migrant workers on” with “In formulating national law and policies concerning the protection of migrant workers, governments should be guided by”. The last sentence was amended by replacing “respected” with “implemented”.

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## Principle 9(c)

104. The discussion on Principle 9(c) related to its relevance, and the need for singling out certain industries and sectors.
105. The Employer spokesperson stated that although Employer experts would prefer to see Principle 9(c) deleted, they could accept it. It had not been articulated in paragraph 24 of the conclusions. They did not see any reason to single out certain sectors of industry. The Government expert from Canada remarked that Principle 9(c) appeared somewhat redundant.
106. The Worker spokesperson defended the retention of Principle 9(c) pointing out that it closely adhered to the original texts of paragraphs 11 and 12, as agreed in the International Labour Conference conclusions. In those discussions and in view of the evidence that had been gathered, the sectors mentioned in Principle 9(c) were those most in need of offering protection to migrant workers. The Worker expert appreciated the Employer concerns, since employers could be questioned and sanctioned for hiring workers without a legal status. However, it was in the best interest of both workers and employers to have these rights respected. The texts should be viewed as a total package and evaluated against the original 2004 International Labour Conference conclusions text. The Meeting decided to retain Principle 9(c) as originally written, with some additions to its footnote 6.
107. With regard to footnote 6 in Principle 9(c), the Worker spokesperson pointed out that it needed to reflect all Conventions found in the Office report, *A fair deal for migrant workers in a global economy*, tabled at the 2004 International Labour Conference. Thus footnote 6 in Principle 9(c) was amended to insert the following Conventions in the list of Conventions: “Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), Labour Inspection Convention, 1947 (No. 81), Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Plantations Convention, 1958 (No. 110), Employment Policy Convention, 1964 (No. 122), Labour Inspection (Agriculture) Convention, 1969 (No. 129), Minimum Wage Fixing Convention, 1970 (No. 131), Nursing Personnel Convention, 1977 (No. 149), Occupational Health Services Convention, 1985 (No. 161), Safety and Health in Agriculture Convention, 2001 (No. 184)”.
108. Guideline 9.3 was amended by replacing “guarantees” with “aims to ensure” and inserting “in accordance with Convention No. 97” after “protections”. The experts amended Guideline 9.4 by inserting “in accordance with Convention No. 143 and its Recommendation No. 151” after “work”. Guideline 9.5 was amended by deleting “, including those in an irregular situation,” and inserting “as applicable” before “are”.
109. The Government expert from Nigeria suggested that the distinction in Guideline 9.9 between regular and irregular migrant workers be removed by deleting both “regular” and “and, as appropriate, to migrant workers in an irregular situation.” The Worker spokesperson agreed, noting that the guideline would cover all migrant workers. The Employer spokesperson objected to the proposed amendment, stressing that the inclusion of the words “as appropriate” already took care of the concern expressed by the Government expert from Nigeria. It was agreed that the guideline would remain as drafted.
110. In Guideline 9.10, “accompanying” was inserted in two places, just before “members”. Guideline 9.11 was amended by replacing “guaranteed the payment of” with “paid” and by deleting “of their contracts”. The experts amended Guideline 9.12 by deleting “and in the informal economy,” and by inserting “and, where applicable, promoting opportunities in the workplace” after “women”.
111. The following new guideline was inserted between Guidelines 9.12 and the original 9.13; it is numbered 9.13 and the original 9.13 was renumbered as 9.14: “... adopting measures to

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transform informal economy activities into formal activities and to ensure that migrant workers in these activities benefit from the rights referred to in Principles 8 and 9 of this Framework;”.

112. The experts replaced the renumbered 9.14 with the following: “... employers’ and workers’ organizations should integrate the specific concerns of men and women migrant workers in collective bargaining processes and social dialogue”.
113. The experts adopted the original text of Guidelines 9.1, 9.6, 9.8 and 9.9 as drafted by the Office.
114. Principles 9(a), 9(b) and 9(c) and Guidelines 9.1 to 9.14, as amended, were adopted by the Meeting. The Canadian Government expert noted that he did not support Principle 9(b) and asked that his concerns be noted for the record.

## Principle 10

115. The debate on Principle 10 covered the following issues: the intent of the principle, the scope of rights covered in it, adding a reference to regional instruments, and suitability of the word “guaranteed”.
116. The Government expert from Canada requested clarification from the secretariat regarding the intent of this principle and whether it was limiting its premise to national laws and regulations. The Employer spokesperson also sought clarification on what “rights” were being referred to. He believed that Principle 8 referred to human rights and Principle 9 mostly to labour rights, but wondered whether Principle 10 was encompassing all rights. This would be inappropriate if it implied that labour inspection could cover all rights in the effective application and enforcement of laws and regulations.
117. The Secretary-General explained that Principle 10 referred to enforcement of rights covered in Principles 8 and 9. Acknowledging that there could be ambiguity, he suggested that a reference to these two principles be added. The Government expert from Canada suggested that it was preferable to use the wording “human and labour rights of all migrant workers” in lieu of inserting a reference to the preceding Principles. The Government experts from Nigeria and the United Kingdom and the Government observer from the United States agreed with this suggestion.
118. The Worker spokesperson said that, while Worker experts supported the inclusion of the wording “human and labour rights”, the reference to Principles 8 and 9 needed to be retained. The Employer spokesperson also agreed with the Government expert from Canada but said they would like to keep the terms “as expressed in Principles 8 and 9”. A differentiation between the fundamental and the labour Conventions was necessary.
119. The Worker spokesperson proposed a formulation of the Principle along the lines of “the rights of migrant workers which are elaborated in Principles 8 and 9, including their human and labour rights should be protected by the effective application and enforcement of national laws and regulations”. She agreed that non-discrimination in application of human and labour rights was important. The Government expert from Canada said that to reach consensus they could accept the reference to Principles 8 and 9. However, the new text suggested that they were talking about a broader set of rights, which included human and labour rights. He suggested that the word “including” be deleted. The Government observer from the United States supported this.
120. However, the Worker spokesperson pointed out that this would have the effect of denying a reference to the United Nations Convention and thereby, related rights of migrant

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workers. She urged the Government experts to stick with the consensus between the Employers and the Workers, and not delete the word “including”. The Government expert from Canada pointed out that the consensus was on “human and labour rights” and asked that the paragraph be drafted to reflect that consensus. Explaining that not every right of migrant workers in international law meant that it would be guaranteed in national law, the Employer spokesperson argued that there was a need to identify the basic rights they were talking about in order to reach consensus. He supported identifying those rights as the basic and fundamental human and social rights.

- 121.** The Government expert from Argentina pointed out that not all countries had legislation that currently ensured those benefits and services for migrant workers, and national legislation might not be sufficient to provide those guarantees. She suggested adding a paragraph establishing the need for those countries that did not have those principles in their national law to incorporate them.
- 122.** The Government expert from the Philippines referred to the recognition given to regional instruments in the previous discussion on Principles 8 and 9. He therefore proposed adding a phrase “and where applicable regional instruments” to Principle 10. The Government experts from Argentina, Nigeria and South Africa, and the observer from the European Commission supported this addition. The Employer spokesperson questioned whether the addition was appropriate because countries did not administer the regional protocols and instruments. The amendment was nevertheless accepted by consensus.
- 123.** The Employer spokesperson stressed that the word “guaranteed” was too strong, and the Government expert from Canada agreed. In response to the concerns of the Employers, the Worker spokesperson suggested the replacement of “guaranteed” with “secured”, which could be more acceptable. Following further discussion, the word ‘protected’ was agreed upon.
- 124.** The Worker spokesperson observed that a consensus had emerged, and proposed that the Working Group come up with a final formulation. The experts later agreed to amend Principle 10 as follows: “The rights of all migrant workers which are elaborated in Principles 8 and 9 of this Framework should be protected by the effective application and enforcement of national laws and regulations in accordance with international labour standards and applicable regional instruments.”
- 125.** With regard to the guidelines, the experts deleted the phrase “and living” in Guideline 10.1. The experts amended Guideline 10.2 by replacing “has the necessary human and financial” with “or relevant competent authorities have the necessary”.
- 126.** With regard to Guideline 10.3, the Government expert from Argentina preferred that the guideline be confined to calling for the registration of employment contracts, irrespective of their form, rather than promoting written employment contracts. In some countries, the requirement of written contracts could be an obstacle to the integration of migrant workers. She suggested that the guideline be amended by inserting “as appropriate” after “written employment contracts”. The Worker spokesperson accepted that not all countries require written contracts of employment. She stressed, however, in many other countries migrant workers could rely only on their written contracts to protect their rights. Promoting written employment contracts would enable migrant workers to seek redress for breaches of their contracts. She was supported by the Government expert from Nigeria. The experts replaced Guideline 10.3 with the following: “promoting the establishment of written employment contracts to serve as the basis for determining obligations and responsibilities and a mechanism for the registration of such contracts where this is necessary for the protection of migrant workers;”. The Government expert from Argentina wished her reservation on written employment contracts to be noted for the record.

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- 127.** The Worker spokesperson proposed a new guideline to be inserted between Guidelines 10.3 and previous 10.4, and subsequent guidelines were renumbered, regarding the ILO discussing the Framework with other international organizations to ensure that Principles 8 and 9 are not undermined in their policies and programmes. The Government expert from Canada argued that it would require consultation with other government departments, including those responsible for trade, investment and multilateral assistance. To endorse it without prior consultation with these agencies would undermine support for the Framework. The Government observer from the United States supported his views. The Worker spokesperson responded that the principle of equal treatment was already reflected in other parts of the text. She argued that to omit a reference to equal treatment of migrant workers by international organizations would put the Framework at risk and undermines the coherence of international-level activities.
- 128.** The Government expert from Trinidad and Tobago suggested a compromise formulation to reword the guideline to the effect that the ILO would be responsible for ensuring that other international organizations respect the equal treatment principle. The Worker spokesperson accepted it. The Employer spokesperson agreed, but added that they would like to add “as far as possible”. The Worker spokesperson did not agree since it would change the meaning. The following Guideline 10.4 was agreed upon as amended. “... promoting and discussing of the Multilateral Framework by the ILO with international organizations to ensure that when formulating policies and programmes the principle of equal treatment of migrant workers and the implementation of rights as referred to in Principles 8 and 9 of this Framework are not undermined;”.
- 129.** The previous Guideline 10.4 (now renumbered 10.5) was amended by inserting “all” before the first time the word “migrant” appears; deleting “, regardless of their migration status”; deleting “or”; and inserting “or retaliation” after “intimidation”. The experts adopted the original text of guidelines formerly numbered 10.5 through 10.10 as drafted by the Office.
- 130.** Principle 10 and Guidelines 10.1 to 10.11, as amended, were adopted by the Meeting.

## **Principle 11**

- 131.** The discussion relating to Principle 11 was mostly on the role of social partners in formulating and implementing measures against abusive practices and the reference to irregular labour migration.
- 132.** The Employer spokesperson stated that although he was happy with Principle 11, he would like the wording to be changed to “Governments in consultation with the social partners ...” since it is governments which formulate policies. A number of Government experts (Ecuador, Mexico, Nigeria and the United Kingdom) supported this position as did the Worker spokesperson.
- 133.** The Government expert from Ecuador suggested that the correct term was “after consultation” and not “in consultation”, supported by the Government expert from Argentina. The Worker spokesperson suggested that “in consultation” would be better than “after consultation”, since the tripartite partners should formulate policy together. The Employer spokesperson also stated that the word “in” made sense, since it implied a continuing process of consultation, and the Government expert from Mexico agreed. Following a discussion of differences between the two terms, the experts agreed on the term “in consultation”.
- 134.** The Government expert from the United Kingdom suggested that wording from paragraph 24, bullet point 6, of the resolution should be used, specifically to insert

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“abusive practices, migrant smuggling and trafficking in persons”. This was widely supported, including by Employer and Worker experts.

- 135.** The Government expert from France, however, observed that this would leave out a reference to the elimination of irregular migration, which she believed to be a significant omission. The Chairperson suggested that text on eliminating irregular migration could be put in the guidelines instead. The Worker spokesperson believed that concerns about irregular labour migration could be picked up elsewhere in the text. The Government expert from France emphasized that wording on irregular migration should be mentioned in the principles and not just in the guidelines.
- 136.** The Government expert from Mexico spoke on the need to distinguish between irregular migration and abusive conditions, and the Employer spokesperson agreed. He emphasized however, that the wording in paragraph 11.1 of the guideline mentioned “clandestine movement” of workers. He pointed out that irregular migration may or may not include abuse of workers, and that the two should not be put together because it would weaken the definition of abusive migration.
- 137.** The Government expert from Nigeria pointed out that text on eliminating irregular migration could still be included because paragraph 24, bullet point 10 of the International Labour Conference conclusions contained the words “preventing and combating irregular labour migration”, and suggested they be included in the text, a suggestion accepted by the Government expert from the Philippines and the Worker spokesperson.
- 138.** The Government expert from Mexico suggested that “combating” be replaced by a word with less “militaristic” connotations. The Government expert from Ecuador supported this and proposed the use of the word “preventing” instead of “combating”. The Secretary-General informed that a solution had been found in the Working Group. The experts agreed to replace the text of Principle 11 with the following: “Governments should formulate and implement, in consultation with the social partners, measures to prevent abusive practices, migrant smuggling and trafficking in persons; they should also work towards preventing irregular labour migration.”
- 139.** The experts amended Guideline 11.1 by replacing the text after “prevent” with “irregular labour migration and eliminate abusive migration conditions, including the trafficking of men and women migrant workers”. Guidelines 11.4 and 11.6 were combined into one guideline to make the following new guideline, now numbered 11.5: “... adopting measures to encourage migrant workers and trafficking victims to denounce abuse, exploitation and violation of their rights, taking account of the special circumstances of women and children and to this effect establishing mechanisms for migrant workers to lodge complaints and seek remedies without intimidation or retaliation;”.

Due to the above change, the previous Guideline 11.5 was renumbered as 11.4, and former Guidelines 11.7 through 11.12 were renumbered as 11.6 through 11.11, respectively. The former Guideline 11.12 (now renumbered 11.11) was amended by replacing “adopting mechanisms to prevent and eliminate the dissemination” with “encouraging the elimination”. The experts adopted the original text of Guidelines 11.2 and 11.3 and guidelines formerly numbered 11.5 and 11.7 through 11.11 as drafted by the Office.

- 140.** Principle 11 and Guidelines 11.1 to 11.11, as amended, were adopted by the Meeting.

## **Principle 12**

- 141.** The debate on Principle 12 centred mainly on whether it was necessary to specify the stages of migration and the interpretation of the phrase “orderly and equitable process”.

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- 142.** The Employer and Worker experts accepted the original text of Principle 12.
- 143.** The Government expert from the United Kingdom made two suggestions. First, she proposed ending the first sentence after “all stages of migration”, because there was no need to go into specific stages of migration. Most of those were already in the guidelines. Second, she suggested that the sentence should start with “Consideration should be given to”. The Government observer from the United States suggested a slight change for it to read as “Consideration can be given to promoting”. The Government experts from Canada and Japan also supported this proposal. The Government expert from Canada believed that the deletion of “all stages of migration” would be constructive because it is very difficult to create a one-size-fits-all approach to such programmes.
- 144.** The Government expert from South Africa did not see the need for a change because guidance needs of migrant workers differed depending on the specific stage of migration. The Government expert from Nigeria also wanted to retain the text, because there were migrant workers who were in that situation because of displacement by political conflicts and not by choice. The Government experts from Kenya and Nigeria cited bullet points 2 and 15 in paragraph 24 of the conclusions, which referred to reintegration and return migration.
- 145.** The Worker Vice-Chairperson queried why some Government experts were opposed to the ILO promoting that practice. Although Canada was not a country of origin, like Australia, it had citizens residing abroad. The promotion of organized and equitable migration should be included as a best practice, especially as part of non-binding guidelines. The ILO has a useful role here. She asked the Government experts to agree with it, as it had majority support.
- 146.** The Government expert from Trinidad and Tobago asked what “orderly and equitable process” meant. The Secretary-General explained that orderly and equitable meant that the migration process should be organized in accordance with laws of the origin and destination countries, and that the different stages of the migration process should be regulated to protect migrant workers. He said that “equitable” meant that benefits accrued not only to one but to all parties – the migrant workers themselves and the origin and destination countries. The Government expert from South Africa added that an orderly process also implied that due process was followed during the various stages of migration, especially as related to interaction with the Government. It was decided to retain Principle 12 as originally drafted by the Office.
- 147.** The experts amended Guideline 12.2 by inserting “wherever possible,” at the beginning of the guideline. In Guideline 12.4, “interested parties” was replaced with “relevant non-governmental organizations”. Guideline 12.6 was amended by deleting “as soon as possible”. In Guideline 12.8, “, where possible,” was inserted after “with”. In Guideline 12.10, “establishing” was replaced by “considering the establishment of”.
- 148.** In the final session, the Government expert from Canada drew attention to Guideline 12.11, and mentioned that it had been a particularly sensitive and difficult one. He suggested removing the reference to the ILO code of practice on HIV/AIDS and other appropriate instruments since the experts had no time to examine these documents. The sentence should end with the phrase “medical examinations”. The Worker spokesperson agreed to this suggestion, and Guideline 12.11 was replaced with the following text: “ensuring that migrant workers are not required to undergo discriminatory medical examinations”.
- 149.** The experts adopted the original text of Guidelines 12.1, 12.3, 12.5, 12.7 and 12.9 as drafted by the Office.

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**150.** Principle 12 and Guidelines 12.1 to 12.11 as amended were adopted by the Meeting.

### **Principle 13**

**151.** The discussion on Principle 13 focused on the various forms of placement services existing in different countries and their implications.

**152.** The Employer spokesperson stated that he and the Worker spokesperson believed that Principle 13 needed some revision. This was because a number of countries did not have employment agency rules and regulations and might not want them. He proposed “Governments in both origin and destination countries should give due consideration to”. The Worker spokesperson agreed.

**153.** The Chairperson noted that the principle reflected exactly what was agreed in the International Labour Conference resolution of 2004.

**154.** The Government expert from Australia supported the position of the Employers because there were alternative methods to licensing and supervising recruitment services. He explained Australia excluded recruitment agencies from the migration process, and required that the employers be involved in the process. This had worked well. The Government experts from the Philippines and Senegal also supported the proposal by the Employers.

**155.** The Government expert from Ecuador proposed a rephrasing to “governments of origin and destination countries should facilitate and supervise recruitment and placement services for migrant workers”. While this was supported by the Government expert from Tunisia, it did not find general acceptance.

**156.** While agreeing to the Employer experts’ proposal, the Worker spokesperson drew attention to the different forms of placement services observed. She expressed serious concern about private employment agencies operating with no legal status in the country of origin, particularly sending women workers to countries where many experienced slave-like working conditions, including confiscation of their travel documents.

**157.** The experts decided to amend Principle 13 by replacing “license and supervise” with “give due consideration to licensing and supervising”.

**158.** The experts amended Guideline 13.1 by replacing “ensuring” with “providing” and replacing “are operated” with “operate”. In Guideline 13.4, “ensuring” was replaced with “providing arrangements to ensure”. Guideline 13.5 was amended by replacing “implementing” with “working to implement”. Guideline 13.6 was amended by inserting “consider” before “establishing”. In Guideline 13.7, “ensuring” was replaced by “providing” and all language after “migrant workers” was deleted. The experts adopted the original text of Guidelines 13.2, 13.3 and 13.8 as drafted by the Office.

**159.** Principle 13 and Guidelines 13.1 to 13.8, as amended, were adopted by the Meeting.

### **Principle 14**

**160.** The discussion on Principle 14 revolved around the role of the social partners in integration, inclusion of all migrant workers and respect for cultural diversity.

**161.** In response to a request by the Chairperson, the Secretary-General stated that the current text broadened bullet point 18 of paragraph 24 of the conclusions to include economic and

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cultural inclusion. The text on policy approaches in paragraph 13 of the conclusions was also relevant to this principle.

- 162.** The Employer spokesperson proposed two amendments. Since governments needed to play the key role in integration, and also had the resources for it, the words “in consultation with” should be inserted before “social partners”. He also proposed that the term “regular” should be added before “migrant workers”, since migrant workers in an irregular situation could, in principle, not be integrated in the same way as those in a regular situation.
- 163.** The Worker spokesperson suggested that “in consultation’ should be added after “social partners” to highlight the joint responsibility of workers and employers, as well as governments. She recalled that many trade unions and employers’ organizations had joined forces in combating xenophobia and welcomed the introduction of the concept of consultation.
- 164.** There was some debate on the Employers’ proposal to distinguish between migrant workers in regular and irregular status. The Worker spokesperson did not agree and referred to the Universal Declaration of Human Rights. She pointed out that human rights were indivisible; it was, therefore, unacceptable to discriminate between migrants based on the legality of their status. All migrants were economically integrated and were taking part in society. There was wide support for the Worker spokesperson’s position. A number of Government experts (Argentina, Ecuador, Mexico, Nigeria, Philippines and South Africa) also argued that this distinction should not be made. The Government expert from Canada suggested that the language in bullet point 18 of paragraph 24 of the conclusions which referred to “migrant workers” only should be used. Only the Government expert from France supported the inclusion of “regular”.
- 165.** The Worker spokesperson proposed adding “while respecting cultural diversity” to the end of Principle 14 based on the understanding that different approaches to integration existed. While some countries understood this to translate into respect for cultural diversity, others pursued assimilation. Since the Workers’ group strongly supported a multicultural approach, these words seemed necessary. The representative of the Government of South Africa wholeheartedly supported the inclusion of the reference to respect for cultural diversity. This issue was of great importance to his country, which had had the privilege of hosting the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
- 166.** The Government expert from Mexico proposed that “reducing discrimination” be replaced by “preventing discrimination” since the latter may imply that some forms of discrimination were acceptable. This was accepted.
- 167.** The experts agreed to replace the original text of Principle 14 with the following: “Governments and social partners, in consultation, should promote social integration and inclusion, while respecting cultural diversity, preventing discrimination against migrant workers and taking measures to combat racism and xenophobia.”
- 168.** The Meeting took up Guideline 14.4. The Working Group had produced two options for this guideline which the Chairperson read out:
- Option 1: “policies and mechanisms to allow migrant workers to improve their legal status”,
- Option 2: “given the particular problems faced by irregular migrant workers or other vulnerable migrant workers as a result of their status, considering the implementation of policy options referred to in Convention No. 143, Article 9(1)(4)”.
- 169.** The Worker spokesperson felt that option 2 was more general and that it covered not only migrant workers in an irregular situation, but also seasonal workers, holiday workers and

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so on, and proposed that it be adopted, adding a reference to Recommendation No. 151. The Employer spokesperson said that irregular workers had no status. The Government expert from South Africa said that he found option 2 too broad for the guidelines. The Meeting adopted option 2 as stated above, but replaced Article 9(1)(4) with “and its accompanying Recommendation No. 151;”.

**170.** Guideline 14.6 was amended by replacing “facilitating the establishment of” with “working with the social partners and”. The experts amended Guideline 14.7 by inserting “relating to countries of origin and destination” after “courses”. Guideline 14.11 was amended by inserting “working towards” before “ensuring” and inserting “in order to prevent them from becoming stateless in accordance with the United Nations Convention on the Rights of the Child (1989)” after “nationality”. With regard to Guideline 14.13, the experts deleted “considering”. The experts adopted the original text of Guidelines 14.1, 14.2, 14.3, 14.5, 14.8, 14.9, 14.10 and 14.12 as drafted by the Office.

**171.** Principle 14 and Guidelines 14.1 to 14.13, as amended, were adopted by the Meeting.

## **Principle 15**

**172.** Principle 15 was well received except for a short discussion centred on adding a reference to the alleviation of poverty.

**173.** The Secretary-General referred to paragraph 17 of the 2004 International Labour Conference conclusions that provides the basis for Principle 15 on the promotion of policies that contribute to migration and development. He also drew attention to paragraph 24 (bullet points 12, 13, 15 and 16) of the Conclusions that indicated the need for guidelines on best practices relating to the reduction of the cost of remittances, and encouragement of return migration.

**174.** The Employer and Worker spokespersons expressed their agreement with the text of Principle 15 as drafted by the Office.

**175.** The Government expert from South Africa affirmed that the issue of migration and development is of great concern to his country and, indeed, the continent as a whole, where economic circumstances imposed the need to migrate. He therefore proposed the addition of “the alleviation of poverty” after the word “development” under Principle 15. The amendment was supported by the Government experts from Argentina, Canada, Kenya and Mexico. The Government expert from Kenya appreciated the link with the ILO goal of “working out of poverty”. The Employer and Worker spokespersons agreed to this amendment, and the Meeting amended Principle 15 by inserting “the alleviation of poverty”.

**176.** The experts amended Guideline 15.5 by inserting “in countries of origin” after “remittances”. Guideline 15.6 was amended by replacing the language after “by” with “facilitating accessible financial services, reducing transaction fees, providing tax incentives and promoting greater competition between financial institutions”. The experts adopted the original text of Guidelines 15.1 through 15.4 and 15.7 through 15.10 as drafted by the Office.

**177.** Principle 15 and Guidelines 15.1 to 15.10, as amended, were adopted by the Meeting.

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## Discussion of follow-up

- 178.** The Worker spokesperson stated that the Worker experts substantially modified the original follow-up to the Multilateral Framework. The modified text was distributed in a new document (document TMMFLM/2005/D.7). The revised document had two aims: first, a broader mandate on the follow-up; and, second, to change what appeared to be a mandatory supervisory mechanism. In the first paragraph the phrase “governments will prepare reports” was changed to “governments will be encouraged to provide information to the Office” to make this activity voluntary. The second paragraph added “based on information received and from research and other activities” to reduce the burden on the governments. Paragraphs 3 to 6 were not modified. The three new paragraphs at the end recognized the work of other agencies.
- 179.** The Employer spokesperson stated that an overly bureaucratic process should be avoided and the process had to be simplified. They had no objections to the proposed follow-up by the Workers, but wanted to hear views of Government experts on the subject.
- 180.** The Government expert from Australia found the modified version to be a considerable improvement. However, he was concerned about the workload implied for the governments, and questioned the nature of the expected outcome. He believed a more acceptable option was periodic surveys by the Office rather than a government initiative on information provision. Regarding paragraph 5, he emphasized that updating the best practice profiles to assist the governments was important. In his view, this proposed follow-up by the Workers pointed to a very large operation with no matching resources.
- 181.** The Government expert from Mexico stated that the follow-up had implications that went outside the boundaries of the principles and guidelines. He signalled a degree of inconsistency in there being non-binding principles and guidelines with a follow-up. Regarding paragraph 1, he proposed that the phrase “on the usefulness of the Multilateral Framework” should replace “on the effects given to the Multilateral Framework”. He voiced his reservation on the timelines indicated. The Government expert from Argentina agreed.
- 182.** The Government expert from Japan expressed her reservations on the proposed follow-up procedure. It imposed an extra obligation on member States to periodically submit a report that in her opinion was contradictory to the spirit of a non-binding Framework. She also doubted whether the Meeting of Experts had the mandate to debate a follow-up of this nature or whether it should be left to the Governing Body. She thought that resources would be better allocated to technical assistance.
- 183.** The Government experts from Canada and the Republic of Korea, and the United States Government observer supported the views of the Government expert from Japan. They agreed that the Follow-up appeared to be binding actions within a non-binding Framework and guidelines and, as such, was inappropriate, resource-intensive and beyond the scope of the present Meeting of Experts. A more appropriate set of actions would be the updating of best practices. Resources would be involved in the follow-up that might not be available. Priorities for the Governing Body would be technical assistance under the plan of action rather than a cumbersome reporting mechanism.
- 184.** Several other Government experts expressed their support for a follow up mechanism. The Government expert from Trinidad and Tobago stated that she was not happy about passing the decision to the Governing Body. She urged the experts to realize that they are responsible for proposing some monitoring of the Framework to assess its impact. The Government adviser from Nigeria noted the considerable time taken to come up with this Multilateral Framework. Therefore they also had an obligation as responsible experts to measure the effectiveness of what was proposed. He drew attention to the problem of

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migration data collection in his region where the suggested follow-up could certainly help. Considering the growth of labour migration in recent years, the Government expert from the Philippines also had no doubt on the need for the follow-up mechanism.

- 185.** The Government expert from South Africa stressed that the experts were not simply discussing the text, but also “people”. He highlighted the need to recognize the substantive contributions made by migrant workers to the economy of host nations (such as enhanced productivity, growth, improved quality of life for citizens in host countries). He therefore did not understand why it was so contentious to have a follow-up mechanism, given that the text was “non-binding”. In his view, it was, indeed, important to have feedback on the implementation. The Government expert from Mexico clarified that he supported the latest follow-up proposal.
- 186.** The Worker spokesperson maintained that it was misplaced to argue that there was no basis for making suggestions for a follow-up to the Framework. On the contrary, she urged delegates to accept the mandate given for a follow-up mechanism by reference to paragraphs 34 and 35 of the International Labour Conference conclusions. In the interest of finding a solution and promoting greater coherence, she suggested finding acceptable wording – similar to the one provided in paragraphs 34 and 35. She proposed that the Chairperson and the two Vice-Chairpersons agree on the exact wording that should include small changes to the original text of the conclusions. The Chairperson announced that an agreement had been reached which reflected the conclusions of the 2004 International Labour Conference. It would read as follows:
1. With reference to paragraph 35 of the conclusions of the general discussion on migrant workers at the 92nd Session of the International Labour Conference in 2004, the Governing Body should be urged to periodically review the progress made in the implementation of the Multilateral Framework as part of the plan of action.
  2. The ILO’s participation in relevant international forums should be used to promote this Multilateral Framework as a basis for partnership to achieve coherence.
- 187.** The Worker spokesperson stated that Employer experts agreed with the shorter text of this revised follow-up section and, therefore, it had consensus. The Government expert from Canada stated that it was not appropriate to refer to the implementation of the Framework since it simply provided information to governments to assist them to develop more effective labour migration policies. If the Framework was to contain a follow-up, it would be more appropriate for that follow-up to focus on ensuring that the information provided by the Framework was kept up to date, and to review the extent to which the Framework was achieving its stated purpose of assisting governments.
- 188.** The follow-up text, as amended, was adopted by the Meeting.

## **The Preamble and the Introduction**

- 189.** The Worker spokesperson fully supported the Preamble text. The content captured the history and aspirations behind the Multilateral Framework very well. She did not think it was necessary to go through it paragraph by paragraph. The Chairperson agreed and asked the floor to discuss the text as a whole.
- 190.** The Government observer from the United States thought that it was not appropriate to have a Preamble in the Framework document. She observed that the text was too long, and suggested looking at an alternative proposal which the Government expert from Canada had submitted.

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- 191.** The Chairperson asked the ILO Deputy Legal Adviser to clarify the issue. The Deputy Legal Adviser pointed out that the Meeting was expected to give the complete document, including the Preamble to the Governing Body. He also clarified that the Meeting of Experts had the mandate to deal with the Preamble. The deliberations on the ILO Declaration on Fundamental Principles and Rights at Work provided a precedent for this.
- 192.** The Government expert from Australia wondered whether one should not simply take the Preamble and Introduction together and label the whole text “Introduction”.
- 193.** The Worker spokesperson made a point of order. She noted that if there were comments on or proposed amendments to the Preamble or the Introduction, these should be inserted into the paragraph text of the Framework document and made available to all the experts in accordance with the working method that the Meeting had adopted during the last two days. It was agreed that the proposal submitted by the Government expert from Canada could not be considered since it was not integrated into the format of the Framework document, and was available only in English.
- 194.** The Government expert from Canada hoped that at least two minor amendments to the Preamble text, as formulated in document D.6, would be agreed upon. First, in the paragraph starting with “Considering that the plan of action proposed by the International Labour Conference includes the development of a non-binding multilateral framework”, a reference to the sovereign rights of all nations to determine their own migration policies should be added. Second, the last phrase in the last paragraph of the Preamble, “and to observe the principles and guidelines embodied therein” should be deleted. This deletion would remove language that did not fit into a document of a non-binding nature.
- 195.** The Worker spokesperson agreed with the insertion about the sovereign rights of States; the Workers had traditionally accepted the insertion of this kind of statement. She requested that the entire paragraph be read out again.
- 196.** The paragraph would now read: “Considering that the plan of action proposed by the International Labour Conference includes the development of a non-binding multilateral framework for a rights-based approach to labour migration, which takes account of labour market needs, the sovereign rights of all nations to determine their own migration policies, and relevant action for a wider application of international labour standards and other instruments relevant to migrant workers.”
- 197.** The Worker spokesperson accepted this wording. She also agreed to the proposed deletion in the very last paragraph of the Preamble, subject to the insertion of the words “and respect”. The last paragraph would then read: “Hereby approves the following Framework, which may be cited as .... , and invites governments of States Members of the ILO, employers’ and workers’ organizations, as well as relevant international organizations, to promote and respect its contents.” The Employer spokesperson accepted the change. He said that the Employers were happy overall with the Preamble and the Introduction as they stood. The exception was paragraph 4, in the first line, which read, “The non-binding Framework comprises principles and guidelines”, which should be changed to read “The Framework comprises non-binding principles and guidelines”. This was agreed.
- 198.** Responding to a comment from the floor, the Worker spokesperson clarified that the Framework now had a title and a subtitle which read as: “ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration”.

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Part 2

## **Adoption of the Multilateral Framework**

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- 199.** The Chairperson asked that the full text of the amended document on the ILO Multilateral Framework on Labour Migration be approved and adopted. The Meeting of Experts formally approved and adopted the ILO Multilateral Framework on Labour Migration, by consensus, for submission to the Governing Body.
- 200.** The Government expert from Canada sought a clarification. According to his understanding, consensus might be reached by silent consent, but where objections were voiced, the decision to adopt the document would be based upon majority support rather than on consensus. The Deputy Legal Adviser explained that in the absence of formal rules for the meetings of experts, the Chairperson could, in the presence of a clear majority, invite the meeting to adopt the relevant text by consensus. Particular concerns of given experts, like that from the Government expert from Canada, could be reflected in subsequent comments, in view of the consideration of the document by the Governing Body, because consensus does not mean unanimity, but just lack of opposition, and those concerns were clearly expressed during the Meeting.
- 201.** A few Government experts (Canada, France and the United Kingdom) wished to go on record that they would submit written observations to the Governing Body on the Principles and Guidelines adopted by the Meeting.

## **Closing session**

- 202.** The closing session was very brief.
- 203.** The Government expert from Nigeria stated on behalf of his Government that he appreciated the efforts of the House over the past three days to develop the Multilateral Framework on Labour Migration and that his Government would do everything possible to see that it comes to fruition.
- 204.** The Government expert from Canada mentioned that considerable progress had been made on the Framework to put it into shape and it enjoyed majority support. The expert added that he was not part of that majority because of some ongoing concerns, which he hoped could be resolved prior to any decision by the Governing Body with respect to the outcome of this Meeting.
- 205.** The Government expert from Ecuador registered his thanks to the ILO for the opportunity to participate in the Meeting. The Government observer from the United States thanked the Chairperson.
- 206.** The Chairperson made a few closing remarks. He stated that it was very important to ensure that people leave their home countries by choice, and not by necessity. All concerned should help migrants find decent work. He thanked the experts, the observers, the secretariat and the interpreters for their contributions and support to the Meeting.
- 207.** The Secretary-General thanked the Employer and Worker experts, and Government experts and observers from governments and other organizations. He was happy that the final document represented a major improvement on the original draft the Meeting started with. He also thanked the interpreters and the secretariat and colleagues from the International Labour Standards Department and other ILO units who had jointly contributed to the Meeting efforts.
- 208.** The Worker spokesperson reiterated her group's commitment to decent work for migrant workers everywhere, and thanked the Chairperson, the Employer and Government experts and the secretariat.

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- 209.** The Employer spokesperson thanked all participants for handling well what was essentially a difficult job. The process was difficult but they had no alternative but to advance the process. He thanked the Chairperson, Worker experts, Government experts and the secretariat for all their help.
- 210.** The Executive Director of the Social Protection Sector delivered the closing speech. On behalf of the Director-General of ILO, he thanked the Chairperson, all the Employer and Worker experts, Government experts and other participants for their constructive spirit, cooperation and commitment to international labour migration. He assured the Meeting that the Office would do everything in its capacity to disseminate and implement the Multilateral Framework on Labour Migration once it is approved by the Governing Body.

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## Appendix

### List of principles in the draft Multilateral Framework on Labour Migration

Original text	Adopted text
<b>I. Decent work</b>	<b>I. Decent work</b>
1. Opportunities for all men and women of working age to obtain decent and productive work at home or abroad in conditions of freedom, equity, security and human dignity should be promoted.	1(a) Opportunities for all men and women of working age, including migrant workers, to obtain decent and productive work in conditions of freedom, equity, security and human dignity should be promoted.  1(b) The ILO Decent Work Agenda promotes access for all to freely chosen employment, the recognition of fundamental rights at work, an income to enable people to meet their basic economic, social and family needs and responsibilities and an adequate level of social protection for the worker and family members.
<b>II. Means for international cooperation on labour migration</b>	<b>II. Means for international cooperation on labour migration</b>
2. Governments, as well as employers' and workers' organizations, should engage in international cooperation to promote managed migration for employment purposes. Governments and employers' and workers' organizations should work with the Office to promote coherence of migration policies at the international level and should promote dialogue with other relevant international organizations with a view to developing a concerted approach on labour migration based on the non-binding ILO Multilateral Framework on Labour Migration.	2. Governments, in consultation with employers' and workers' organizations, should engage in international cooperation to promote managed migration for employment purposes. Governments and employers' and workers' organizations should work with the ILO to promote coherence of migration policies at the international level and regional levels based on the guidelines set out below. The ILO should promote dialogue with other relevant international organizations with a view to developing a coordinated approach on labour migration based on the non-binding ILO Multilateral Framework on Labour Migration.
<b>III. Global knowledge base</b>	<b>III. Global knowledge base</b>
3. Knowledge and information are critical to formulate, implement and evaluate labour migration policy and practice, and therefore its collection and application should be given priority.	3. Unchanged.
<b>IV. Effective management of labour migration</b>	<b>IV. Effective management of labour migration</b>
4. While all States have the sovereign right to develop their own policies to manage labour migration, relevant international labour standards, multilateral rules, and, as appropriate, guidelines, should play an important role to make these policies coherent, effective and fair.	4. All States have the sovereign right to develop their own policies to manage labour migration. International labour standards and other international instruments, as well as guidelines, as appropriate, should play an important role to make these policies coherent, effective and fair.
5. Expanding avenues for regular labour migration should be considered, taking into account labour market needs and demographic trends.	5. Unchanged.
6. Social dialogue is essential to the development of sound labour migration policy and should be promoted and implemented.	6. Unchanged.

Original text	Adopted text
7. Governments and social partners should consult with civil society and migrant associations on labour migration policy.	7. Unchanged.
<b>V. Protection of migrant workers</b>	<b>V. Protection of migrant workers</b>
8. The human rights of all migrant workers, regardless of their status, should be promoted and respected. In particular, all migrant workers should benefit from the principles and rights in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which are reflected in the eight fundamental ILO Conventions, and from the relevant United Nations human rights Conventions.	8. The human rights of all migrant workers, regardless of their status, should be promoted and protected. In particular, all migrant workers should benefit from the principles and rights in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which are reflected in the eight fundamental ILO Conventions, and from the relevant United Nations human rights Conventions.
9(a) All international labour standards apply to migrant workers, unless otherwise stated. National laws and regulations concerning labour migration and the protection of migrant workers should be guided by international labour standards and other relevant international instruments.	9(a) All international labour standards apply to migrant workers, unless otherwise stated. National laws and regulations concerning labour migration and the protection of migrant workers should be guided by relevant international labour standards and other relevant international and regional instruments.
9(b) Governments should base their national law and policies concerning the protection of migrant workers on the underlying principles of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and their accompanying Recommendations Nos. 86 and 151, particularly those concerning equality of treatment between nationals and migrant workers in a regular situation and minimum standards of protection for all migrant workers. The principles contained in the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should also be taken into account. If these Conventions have been ratified, they should be fully respected.	9(b) The protection of migrant workers requires a sound legal foundation based on international law. In formulating national law and policies concerning the protection of migrant workers, governments should be guided by the underlying principles of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and their accompanying Recommendations Nos. 86 and 151, particularly those concerning equality of treatment between nationals and migrant workers in a regular situation and minimum standards of protection for all migrant workers. The principles contained in the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should also be taken into account. If these Conventions have been ratified, they should be fully implemented.
9(c) National law and policies should also be guided by other relevant ILO standards in the areas of employment, labour inspection, social security, maternity protection, protection of wages, occupational safety and health, as well as in such sectors as agriculture, construction and hotels and restaurants.	9(c) Unchanged.
10. Protection of the rights of all migrant workers should be guaranteed by the effective application and enforcement of national laws and regulations.	10. The rights of all migrant workers which are elaborated in Principles 8 and 9 of this Framework should be protected by the effective application and enforcement of national laws and regulations in accordance with international labour standards and applicable regional instruments.
<b>VI. Prevention of and protection against abusive migration practices</b>	<b>VI. Prevention of and protection against abusive migration practices</b>
11. Governments and the social partners should formulate and implement measures to prevent and eliminate abusive migration conditions, including irregular labour migration, smuggling and trafficking in persons and other abusive practices.	11. Governments should formulate and implement, in consultation with the social partners, measures to prevent abusive practices, migrant smuggling and trafficking in persons; they should also work towards preventing irregular labour migration.

Original text	Adopted text
<b>VII. Migration process</b>	<b>VII. Migration process</b>
12. An orderly and equitable process of labour migration should be promoted in both origin and destination countries to guide men and women migrant workers through all stages of migration, in particular, planning and preparing for labour migration, transit, arrival and reception, return and reintegration.	12. Unchanged.
13. Governments in both origin and destination countries should license and supervise recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188).	13. Governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188).
<b>VIII. Social integration and inclusion</b>	<b>VIII. Social integration and inclusion</b>
14. Governments and social partners should promote the economic, social and cultural integration and inclusion of migrant workers and their families.	14. Governments and social partners, in consultation, should promote social integration and inclusion, while respecting cultural diversity, preventing discrimination against migrant workers and taking measures to combat racism and xenophobia.
<b>IX. Migration and development</b>	<b>IX. Migration and development</b>
15. The contribution of labour migration to employment, economic growth and development should be recognized and maximized for the benefit of both origin and destination countries.	15. The contribution of labour migration to employment, economic growth, development and the alleviation of poverty should be recognized and maximized for the benefit of both origin and destination countries.

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**List of participants**  
**Liste des participants**  
**Lista de participantes**

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