



International
Labour
Organization

Executive summary

- ▶ Mapping and analysis of bilateral agreements to regulate regional and extra-regional labour migration in the Americas





Introduction

Changes in migratory trends and national commitments to achieve safe, orderly and regular migration are driving the creation of protection mechanisms for migrant workers, such as Bilateral Labour Migration Agreements (BLMAs), which are useful tools for preventing and correcting situations of vulnerability and exclusion in accordance with national legislation and international labour standards.

Through collaborative instruments such as the BLMAs, the aim is to respond to the needs of labour markets and countries' economies by ensuring the human and labour rights of the migrant population. This has led to a number of good practices, innovations and lessons learned that contribute to strengthening labour migration governance in the Americas.

In order to identify the principles that govern some of the BLMAs in force in the region and to generate recommendations for the construction of agreements that adhere to the respect for human rights and the principles of fair recruitment promoted by the ILO, **this study analyses 20 BLMAs classified into two groups.**



Group 1

12

BLMAs between Central America and Mexico and countries receiving migrant workers, such as Canada, the United States and Spain

1. Agreement on the coordination mechanism for migratory flows for employment and occupation purposes between Costa Rica and El Salvador (2023)
2. Agreement on the coordination mechanism for migratory flows for employment and occupation purposes between Costa Rica and Guatemala (2023)
3. Memorandum of Understanding between Mexico and the United States regarding labour mobility and the protection of participants in temporary foreign worker programmes (2023)
4. Agreement between Spain and Guatemala on the regulation and organisation of migratory labour flows (2023)
5. Binational agreement to regulate the temporary hiring of Nicaraguan workers in Costa Rica (2022)
6. Agreement between Spain and Honduras on the regulation and management of labour migration flows (2021)
7. Labour cooperation agreement between Guatemala and the United States (2020)
8. Agreement between the United States and Honduras on temporary agricultural and non-agricultural worker programmes (2019)
9. Guatemala-Mexico Labour Cooperation Agreement (2018)
10. Agreement on the coordination mechanism for migratory flows for employment and occupation purposes between Costa Rica and Panama (2015)
11. Agreement between Guatemala and Belize on a programme for seasonal workers (2014)
12. Memorandum of Understanding between Mexico and Canada concerning the Mexican Seasonal Agricultural Workers Programme (1955)

Group 2

8

BLMAs between countries in the rest of the continent, including two multilateral regional agreements

1. Mercosur Socio-Labour Declaration (2015)
2. Framework Agreement on Migration Assistance and Cooperation between Colombia and Peru (2012)
3. Andean Labour Migration Instrument (2003)
4. Agreement between Spain and the Dominican Republic for the regulation and management of labour migration flows (2001)
5. Agreement between Spain and Ecuador on the regulation and organisation of labour migration flows (2001)
6. Agreement between Spain and Colombia on the regulation and management of labour migration flows (2001)
7. Declaration between the Dominican Republic and Haiti on the conditions of employment of their nationals (2000)
8. Labour Agreement between Argentina and Chile (1971)

The content of each of the agreements analysed has been specifically **contrasted with the 11 general principles of human and labour rights postulated in the United Nations Network's BLMAs Guidance (2022)**, with the objective of identifying consistency between existing agreements and international guidelines on migration and decent work.

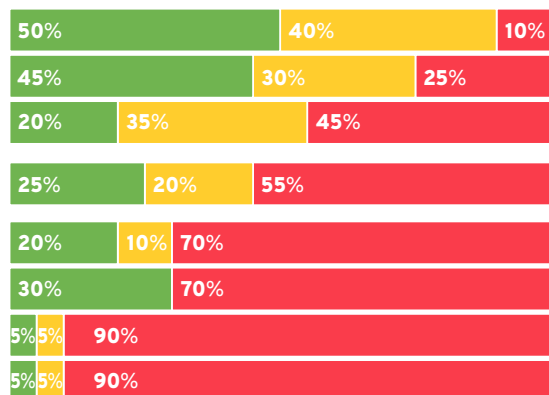


Percentage of the analysed agreements that reflect - to a lesser or greater extent - the 11 UN guiding principles for the implementation of BLMAs:

● Apply ● Partially apply ● Do not apply

A. Human rights, including labour rights

- A.1 Human rights and international labour standards
- A.2 Equality of treatment and non-discrimination
- A.3 Access to justice and protection
- A.4 Prevention and elimination of violence and abuse, including gender-based
- A.5 Freedom of movement
- A.6 Admission of family members and family reunification
- A.7 Protection in case of loss or change of employment
- A.8 Protection in case of emergency situations



B. Recruitment



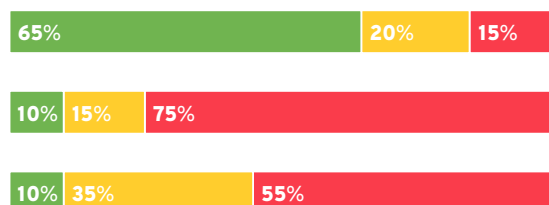
C. Access to information

- C.1 Information sharing
- C.2 Understandable and free information



D. Migration status

- D.1 Clear guidelines on processes documenting the situation of migrants in the destination country
- D.2 Transparent procedures for the renewal and extension of work and stay permits
- D.3 Respect for the human and labour rights of migrants in irregular situations



E. Occupational safety and health



F. Social protection



G. Employment contract and wage protection



H. Governance structure



I. Qualifications and skills



J. Savings and remittances



K. Return and labour market reintegration



Main findings in Group 1

1.

More than half of the BLMAs have been signed in the last four years, indicating a significant momentum and commitment by governments in the region to improve labour migration governance.

2.

Most of the BLMAs have resulted in temporary labour programmes in operation or are considering their further development.

3.

Wage protection provisions are a growing concern in some of the more recent BLMAs, particularly in relation to mutual obligations among signatory countries to collaborate in developing mechanisms to report, investigate, resolve and redress - free of charge, expeditiously and anonymously - the recovery of owed wages or unauthorised deductions on behalf of workers participating in temporary employment programmes.

4.

Underdevelopment on some key issues such as: gender; financial inclusion, remittances and savings; occupational safety and health; and development and recognition of competencies and skills.

In addition, aspects such as family reunification and protection in case of loss of employment and in emergency situations are practically absent in all BLMAs.



Main findings in Group 2

1.

Of the eight BLMAs analysed, **six have been signed more than two decades ago**, which means that most of them predate the development and adoption of international migration governance instruments, which is reflected in the absence of relevant aspects such as the prohibition of recruitment fees and the regulation of recruitment agencies and private intermediaries in the recruitment process.

2.

In contrast to the BLMAs analysed in Group 1 - characterised in practically all cases as unidirectional, with one country of origin and one country of destination - in Group 2, **a significant number of BLMAs propose reciprocity or bidirectionality**.

3.

Relevant principles not often included in the most recent BLMAs of Group 1 stand out, for example, those **related to the right to organise and collective bargaining**.

4.

Emphasis is placed on the intention to make productive use of the experiences gained by migrant workers in order to foster greater productivity, integration and social returns through the recognition of skills and work experience, their certification and the promotion of migrant enterprises.



► Recommendations:



Consider the **social partners, and other key actors, as relevant sources** of consultation, opinion and accompaniment with regard to the BLMAs.



Incorporate the **ILO's general principles and guidelines for fair recruitment** to guide the responsibilities of intermediaries and employment agencies, employers and governments in recruitment and hiring.



Further promote clauses related to **gender perspective, financial inclusion, savings and remittances**, as well as **family reunification, skills development and recognition, and protection in case of loss of employment and in emergency situations**.



Review and update the contents of older BLMAs in line with the most recent regulatory framework in each country and international instruments.



Promote **greater dissemination of existing BLMAs** and their contents in terms of rights, duties and enforcement, both to migrant workers and to the social partners.



Document the level of implementation of the BLMAs and its results, and promote the exchange of good practices among the countries of the region.



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