FOURTH ITEM ON THE AGENDA

Matters arising out of the work of the 106th Session (2017) of the International Labour Conference

Follow-up to the resolution concerning fair and effective labour migration governance

Purpose of the document

The paper proposes the focus, objective and main elements of the plan of action (2018–22) to give effect to the conclusions of the general discussion on fair and effective labour migration governance, adopted by the International Labour Conference at its 106th Session, 2017.

The Governing Body is invited to provide guidance on the proposed follow-up plan (see the draft decision in paragraph 19).

Relevant strategic objective: All.

Main relevant outcome/cross-cutting policy driver: Outcome 9: Promoting fair and effective labour migration policies.

Policy implications: The plan of action will give effect to the conclusions of the general discussion on fair and effective labour migration governance and will influence the work of the Office concerning labour migration during the period 2018–22, to align with the timeframe agreed by ILO constituents on relevant priority areas of action. It will also contribute to the Organization’s wider role at the global level including in relation to ILO’s inputs to the development and implementation of the Global Compact for Safe, Regular and Orderly Migration and the 2030 Agenda for Sustainable Development.

Legal implications: None.

Financial implications: Implications for future programme and budget proposals beyond 2018–19. Extra-budgetary resource mobilization is required for the implementation of the plan of action and for the proposed tripartite meeting of experts on recruitment fees and costs.

Follow-up action required: The Office will take into consideration the guidance provided by the Governing Body in pursuing the action plan, and report on progress to the Governing Body.

Author unit: Conditions of Work and Equality Department (WORKQUALITY)/Labour Migration Branch (MIGRANT).
Related documents: Resolution and conclusions concerning fair and effective labour migration governance, 2017; Report IV, ILC, 106th Session, 2017; Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205); Report III (Part 1B), ILC, 105th Session, 2016; Report of the Director-General, Report I(B), ILC, 103rd Session, 2014; Resolution and conclusions concerning a fair deal for migrant workers in the global economy, ILC, 92nd Session, 2004; GB.326/POL/2; GB.329/INS/INF/2; GB.329/PFA/1; ILO Multilateral Framework on Labour Migration, 2006.
Introduction

1. At its 106th Session (June 2017), the International Labour Conference (ILC) conducted a general discussion on addressing the governance challenges for fair and effective labour migration, with particular reference to labour migration governance at the national, bilateral, regional and interregional levels, and to fair recruitment.

2. This discussion took place more than ten years after the previous general discussion on labour migration (2004) at an important moment for ILO to step up its leadership within global debates. Migration governance is a high priority for many member States, as demonstrated by its inclusion in the 2030 Agenda for Sustainable Development (2030 Agenda) and by the United Nations (UN) General Assembly’s adoption in September 2016 of the New York Declaration for Refugees and Migrants. The latter called for a Global Compact for Safe, Regular and Orderly Migration to be adopted by the General Assembly in 2018 addressing all aspects of international migration, including decent work and labour migration and mobility. This is being developed through intergovernmental consultations and negotiations.

3. The ILO general discussion aimed at providing guidance to strengthen the ILO’s work and impact in the field of labour migration, and to enhance the capacity of ministries of labour and employers’ and workers’ organizations to engage in dialogue and influence evidence-based policy formulation and implementation of fair migration governance.

4. The Conference discussed the benefits and risks inherent in labour migration and identified the key elements of fair and effective labour migration governance, the thematic areas that warrant special attention, as well as other priorities for ILO action. The Conference adopted a resolution and conclusions.

5. This paper proposes follow-up actions to give effect to these conclusions, taking into account, among others, the strategy for Outcome 9 “Fair and effective international labour migration and mobility” for the biennium 2018–19, and other relevant outcomes as detailed in the ILO programme and budget, approved by the 329th Session of the Governing Body in March 2017. The proposed timeframe for this plan of action is five years, 2018–22, to align with the timeframe agreed by ILO constituents on certain priority areas of action.

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Proposed plan of action: Main objective and key principles

6. The broader objective of this plan of action is to achieve sound and effective labour migration governance at all levels with a view to enhancing the benefits of labour migration, addressing labour market needs at all skill levels and protecting and promoting the rights of both migrant workers and nationals, in line with the Conference conclusions.

7. Governance of labour migration requires a comprehensive, integrated and “whole of government” approach nationally, and strong cooperation across migration corridors and regions. ILO action is needed to assist member States in designing and implementing relevant laws and policies, developing internationally comparable data collection systems, and building constituents’ capacity to participate in and create inter-institutional spaces for dialogue at all levels.

8. The plan of action is grounded in a number of key principles:

(a) **Context-specificity.** It recognizes the need for tailored, sector- and context-specific policy responses to the needs of governments, employers and workers in countries of origin, transit and destination.

(b) **Rights-based and grounded on social dialogue.** It is guided by international labour standards, in particular the fundamental principles and rights at work and the relevant ILO Conventions and Recommendations, such as the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and their accompanying Recommendations: the Migration for Employment Recommendation (Revised), 1949 (No. 86), and the Migrant Workers Recommendation, 1975 (No. 151), policy frameworks, including the *ILO Multilateral framework on labour migration*, and guidelines, such as the *General principles and operational guidelines for fair recruitment* and it is grounded on tripartism and social dialogue.

(c) **Adaptability.** It identifies different means of action for the ILO to deliver on priority areas and builds on lessons learned and previous relevant interventions.

(d) **Gender sensitivity and non-discrimination.** It seeks to integrate gender equality and non-discrimination throughout the migration process, with attention to migrant women, youth and those with disabilities, as well as other groups of migrant workers that may be exposed to situations of vulnerability, particularly in migrant-dominated sectors such as domestic work.

9. The plan of action’s scope is limited to the priorities identified in the Conference conclusions. They thus enhance the Outcome 9 strategy in the Programme and Budget for 2018–19, while also contributing to other relevant programme and budget outcomes and action plans, including, where relevant, follow-up actions for the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

10. The Conference conclusions identified a number of areas warranting special attention, identifying ten corresponding priorities for the short and mid-term:

(a) international labour standards;

(b) skills;

(c) fair recruitment;
(d) data and statistics;
(e) social protection;
(f) freedom of association;
(g) temporary labour migration;
(h) irregular labour migration;
(i) bilateral and multilateral agreements; and
(j) collaboration with relevant institutions that deal with labour migration.

11. The actions envisioned are organized along four broad means of action:
   (a) knowledge generation and dissemination/communication;
   (b) technical assistance for statistics, evidence-based law and policy reform;
   (c) capacity building and institutional strengthening for enhanced dialogue; and
   (d) collaboration and partnerships.

Knowledge generation and dissemination

12. The Office will strengthen and disseminate its knowledge in the following areas.
   
   (a) **Fair recruitment.** Migrant workers’ exposure to exploitation and abusive labour practices, including forced labour, very often begins at the recruitment stage, depending on how it is organized, regulated and monitored. There is a need to produce evidence on recruitment practices and costs to help constituents better implement ILO standards, principles and guidelines on fair recruitment. The ILO will build on its work with the World Bank Global Knowledge Partnership on Migration and Development (KNOMAD) to collect data on the full range of migration costs incurred by workers, including recruitment costs. Recognizing the need to develop a global definition of recruitment fees and costs, in particular with the view to contribute to measuring recruitment costs in line with Indicator 10.7.1 of the 2030 Agenda and processes of adoption and implementation of the Global Compact for Safe, Orderly and Regular Migration, the Office will conduct a global comparative study on the definition of recruitment fees and related costs, and prepare an ILO definition to be presented and discussed at a tripartite meeting of experts by the end of 2018 (see the appendix). As co-custodian of sustainable development goal (SDG) indicator 10.7.1, the Office will work with the World Bank to develop, validate and test a new methodology for measuring recruitment costs. Lessons learned on fair recruitment will be documented from pilot interventions in selected migration corridors. The ILO’s Fair Recruitment Initiative is expected to be implemented in at least 12 countries by 2020. Subject to the Governing Body decision, the impact and effectiveness of this work will be assessed through a high-level evaluation or other appropriate method by 2022.

7 Recruitment cost borne by the employee as a proportion of yearly income earned in the country of destination.
(b) **Statistics.** The Office will deepen work on the collection, compilation, management and dissemination of internationally comparable data on labour migration, disaggregated by sex and age, among others, and on migration’s effects on labour markets in countries of origin, transit and destination and on migrant workers. Updated regional and global estimates of migrant workers will be produced in 2018. New methodological guidelines/statistical standards for the collection of internationally comparable statistics on migrant workers will be developed for adoption by the International Conference of Labour Statisticians (ICLS) in 2018.

(c) **Social protection.** In order to benchmark and assess how to address the obstacles faced by specific groups of migrants in relevant corridors and Regional Economic Communities, an assessment of unilateral social protection schemes and unilateral measures extending social protection coverage will be carried out in pilot corridors. In addition, an online joint ILO–International Social Security Association (ISSA) database on legal provisions on social protection for migrant workers and existing social security agreements will be developed by 2019.

(d) **Freedom of association.** Recognizing that this right is fundamental and can help to ensure that migrant workers are better protected, and that its fulfilment can differ depending on the destination country’s labour protection and migration governance systems, the Office will work with ILO constituents to produce a report on key obstacles to, and good practices on, freedom of association and collective bargaining for migrant workers. This report will identify effective measures and strategies to address them by 2020, in line with the ILO’s work on SDG target 8.8.

(e) **Temporary labour migration.** Understanding that a lot of migration is now of a temporary nature and regulated by differing temporary and circular migration schemes and visa categories, the ILO will undertake a mapping in selected regions and corridors in 2018–19 of existing knowledge concerning the scope, use and effects of circular and temporary migration schemes, including employer sponsorship programmes and labour mobility programmes run by public employment services and authorized private employment agencies. The ILO will prepare a synthesis report containing a typology of these schemes, a comparative, gender-sensitive analysis regarding their impact on migrant and national workers and on national labour conditions and markets, and policy recommendations for good practice, which will be submitted to the Governing Body for its consideration in 2021.

(f) **Irregular labour migration.** Irregular labour migration increases migrant workers’ vulnerability to exploitation and, in some cases, can undercut established wages and working conditions. The Office will respond to ILO the constituents’ request for renewed commitment and innovative initiatives in this area by developing a compendium of good practices, such as law and policy frameworks on reducing irregular labour migration, including through pathways out of irregularity and informality, and protecting migrants in irregular situations by 2020. The ILO will use this compendium to guide its technical cooperation and to inform the implementation and follow-up activities of the Global Compact for Safe, Regular and Orderly Migration.

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8 “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.”
Technical assistance for statistics, evidence-based law and policy reform

13. The Office will scale-up technical assistance and cooperation in the following priority areas:

(a) **International labour standards.** The ILO has developed many international standards relevant to the protection of migrant workers and to promote their contribution to development, yet a number of legislative and practical obstacles may impede the wider application of the instruments in member States. The Committee of Experts on the Application of Conventions and Recommendations’ General Survey concerning the migrant workers instruments (2016) noted that the requirements of these instruments and their great flexibility were not always fully appreciated. As called for in the Conference conclusions, the Office will promote, as appropriate, the ratification and effective application of ILO Conventions and Recommendations, including legislative and policy frameworks relevant to the governance of labour migration in line with International Labour Standards. As provided in the Outcome 9 strategy indicators for 2018–19, technical assistance for labour migration laws and policies will be extended to at least 22 member States by 2019. Upon request, ILO constituents will benefit from advice on the ratification and application of relevant Conventions and Recommendations. A user-friendly awareness-raising guide and other materials such as information leaflets, guided among others by the comments of the ILO supervisory bodies, will be developed to defuse misconceptions and demonstrate the standards’ flexibility. The Office will also step-up its action aimed at addressing stereotypes and prejudices and eliminating discrimination against migrant workers and highlight their contribution to development, building on work initiated with constituents and global partners, including the UN Together Campaign.

(b) **Skills.** With the active participation of the social partners, and together with relevant national, regional and subregional organizations, the Office will provide technical assistance and training for developing and testing tools/mechanism for skills development, recognition and skills and job matching for both migrants and national workers, including for skills assessment in line with occupational safety and health (OSH) and other labour standards, and for improving national, bilateral and multilateral policies and arrangements on skills transfer to better meet labour market demands and to support economic innovation and development. A new ILO guide: *How to facilitate the recognition of skills of migrant workers: Guide for employment services providers*, will be piloted in several migration corridors and will help guide ILO technical services, including to regional and subregional institutions governing labour mobility. The ILO will support constituents’ efforts to advance migrant workers’ access to employment services, including counselling and job-search assistance.

(c) **Enterprise development and self-employment.** The Office will provide technical assistance in the revision of legal frameworks to promote a business environment conducive to small and medium enterprise development and decent work, and to strengthen the capacity of national partners to provide effective services allowing for self-employment and entrepreneurship of migrants and the national population, including entrepreneurship training, business development services, financial services and services to promote cooperatives.

(d) **Fair recruitment.** The Office will support and promote constituents’ efforts to implement the ILO *General principles and operational guidelines for fair recruitment* through improving laws and their enforcement, enhancing complaints mechanisms,

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creating monitoring mechanisms and testing pilot interventions, including in the areas of labour inspection and OSH and regarding government-to-government recruitment schemes and e-recruitment mechanisms, in selected migration corridors by 2020.

(e) **Statistics.** The Office will support and promote the collection, compilation, management and dissemination of internationally comparable statistics on labour migration, disaggregated by sex, age, citizenship, usual place of residence and country of birth.

(f) **Social protection.** By 2018 an evidence-based intervention model to extend social protection to specific groups of migrant workers not covered by social security agreements will be developed for particular labour migration corridors and Regional Economic Communities. Where requested, the Office will continue to technically assist with the inclusion of migrants in social security schemes, for example, via social security agreements and social security provisions in labour and other agreements.

### Capacity building and institutional strengthening for enhanced dialogue

14. Drawing upon research and national and subregional policy advisory services and training activities, the Office will develop interventions in the following areas:

(a) **Fair recruitment.** The ILO will organize an annual global training course on fair recruitment with the International Training Centre of the ILO in Turin (ITC–ILO). Capacity-building activities for public and private employment agencies, and tailored support to social partners in the implementation of fair recruitment practices will be provided in at least 12 countries. A set of modular online training packages will be developed together with training modules for journalists. A global online platform (Migrant Recruitment Monitor) will be established and piloted in at least six countries by 2020 to allow workers to assess their recruitment experience and report abuse.

(b) **Data collection and statistics.** The existing database in ILOSTAT on labour migration will be expanded in the Americas, Africa, Asia and Europe, based upon models developed in the Association of Southeast Asian Nations (ASEAN). The ILO will assist member States’ capacity to collect data in line with the ICLS guidance adopted in 2018 and for inclusion in the database in ILOSTAT and facilitate the sharing of good practices between countries and regions.

(c) **Social protection.** The Office will deepen efforts to build ILO’s constituents’ capacities to develop and implement bilateral and multilateral social security agreements and unilateral measures that countries of origin or destination can adopt to extend social protection to migrant workers, including through social protection floors. A “How-to” guide with good practices will be widely disseminated and enriched with relevant country experiences. In collaboration with ITC–ILO, from 2018 an annual global training course on extending social protection for migrant workers and their families will be organized, and an online course on migrant workers’ social protection, including health protection and occupational health services, will be developed by 2019. The Office will also carry out a tripartite subregional dialogue/exchange of practices on migrant workers’ social protection in at least one region by 2019.

(d) **Freedom of association.** With a view to addressing migrant workers’ barriers to freedom of organization and collective bargaining, and promoting constituents’ capacities in this area, the Office will support workers’ organizations’ capacity building to reach out and organize men and women migrant workers and improve migrant workers’ representation and access to services and to reliable information about their
rights. Similarly, the Office will support, through targeted tools and advisory services, employers’ organizations in developing supportive labour migration strategies and initiatives.

(e) Bilateral and multilateral agreements. The ILO will help build the capacity of regional and national institutions and ILO’s constituents to adopt fair and effective, gender-responsive bilateral and regional agreements which help to protect migrant workers, including their health and safety, address skills recognition and transfer needs, are grounded on ILO standards, and promote non-discrimination. A global training course “Negotiating bilateral and multilateral agreements” will be organized and tested by ITC–ILO from 2018.

(f) Tripartite platforms to support social dialogue. To strengthen social dialogue opportunities, the ILO will foster tripartite platforms that bring representatives of governments of countries of origin, transit and destination together with social partners, at various levels, to exchange good practices on labour migration, including on the design, content, negotiation, implementation, monitoring and evaluation of bilateral and multilateral agreements and their impact on migrant workers. The Office will promote a stronger role for the social partners in migration-related debates and organize trainings for ministries of labour and workers’ and employers’ organizations to enhance their capacities to engage in regional processes, including with ITC–ILO (the Labour Migration Academy). The ILO will strengthen its collaboration with other stakeholders, including international organizations and academic institutions. At least four subregional dialogues will be supported by 2020 to facilitate knowledge exchange and foster cooperation and one interregional dialogue on labour migration, in particular between Asia, Africa and the Arab States.

Collaboration and partnerships at all levels

15. As requested by the Conference conclusions, to step-up its leadership in global labour migration debates, the Office will closely collaborate with the Global Migration Group (GMG) agencies, particularly with the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Human Rights. The ILO will strengthen its leadership role on labour migration issues under the Global Compact for Safe, Regular and Orderly Migration, in coordination with the Special Representative of the Secretary-General (SRSG), and broaden understanding and utilization of ILO’s approaches, unique tripartite nature and normative framework within the GMG and in collaboration with the Global Forum on Migration and Development (GFMD), including the Business Mechanism.

16. The ILO will also deepen partnerships with the UN system, including the IOM, and other stakeholders, including academic institutions, to strengthen the delivery and impact of ILO approaches in the field. Work will include support for constituents’ implementation of the new mobility-related guidance of the United Nations Development Assistance Frameworks developed through the GMG. The Office will prioritize support for constituents’ implementation of the migration-related aspects of the 2030 Agenda, and in particular SDG indicators 8.8 and 10.7, and with the action group on migration in Alliance 8.7.

Implementation arrangements, monitoring, evaluation, and reviews of the plan of action

17. Continued efforts will be made to mobilize extra-budgetary resources to support the plan of action. However, additional regular budget allocations will be needed as initial capital and
in order to demonstrate to partners that the Office is committed to promoting fair and effective labour migration governance.

18. The plan of action requires cooperation and coordination across the Office, in headquarters and the field. Over the period of execution of this plan of action, the relevance of proposed activities will need to be reviewed and updated and implementation monitored in line with available resources and with the programming cycle of the Office’s results-based management process, including the programme and budget, outcome-based workplans and Decent Work Country Programmes.

Draft decision


   (a) requests the Director-General to take into account its guidance in pursuing the five-year plan of action giving effect to the conclusions concerning fair and effective labour migration governance and to draw on it in preparing future programme and budget proposals, and in developing resource mobilization initiatives; and

   (b) agrees to hold in the last quarter of 2018 a tripartite meeting of experts to discuss and agree on a definition of recruitment fees and related costs, which would report its conclusions to the Governing Body at its 335th Session (March 2019).
Appendix

Arrangements for a tripartite meeting of experts on defining recruitment fees and related costs
(Geneva, date TBC)

Background

1. The ILO Governing Body at its 326th Session agreed to convene in September 2016 a three-day “Tripartite Meeting of Experts to Develop Guidance on Fair Recruitment”, with the objective to adopt ILO guidelines on fair recruitment, encompassing both cross-border and national recruitment. The Meeting was seen as necessary to provide guidance which could assist in efforts to eliminate abusive and fraudulent recruitment practices. The Meeting adopted a comprehensive set of General principles and operational guidelines for fair recruitment, which refers to “recruitment fees or related costs” as “any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection”, and expressively prohibit the charging of such fees and related costs to workers. The Meeting recognized that there is no globally accepted “definition of fees and costs” but decided that the subject was something that future work by the ILO might make more precise.¹

2. The outcomes of this Experts meeting have informed the general discussion on labour migration at the International Labour Conference in June 2017, which in its “conclusions concerning fair and effective labour migration governance” recognized fair recruitment as an area warranting special attention. In particular the conclusions call on the Office to “pursue efforts in developing and testing a methodology to measure recruitment costs under target 10.7 of the 2030 Agenda for Sustainable Development and further work on the definition of recruitment fees and related costs”.

3. The international community has increasingly recognized that fair recruitment is critical to prevent forced labour, reduce labour migration costs and thus improve development outcomes for migrant workers and their families. This was recognized in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, an integral part of the 2030 Agenda.

4. The cost of recruitment is also an indicator for target 10.7 of the SDGs. The ILO, as co-custodian of SDG indicator 10.7.1 is working with the World Bank to develop, validate and test a new methodology for measuring recruitment costs. The development and agreement on a definition of recruitment fees and related costs, which would cover both cross-border and national recruitment, is also related with the ongoing discussion on the SDG indicator and will hence contribute not only to the progress in achieving SDG target 10.7, but also to the process of adoption and implementation of a Global Compact for Safe, Regular and Orderly Migration which will be adopted in 2018. The tripartite meeting of experts thus has added urgency.

5. This definitional work will bring a key contribution to the implementation of the ILO’s Fair Recruitment Initiative, which was launched in 2014.² It will also directly respond to the ILC conclusion call for the ILO to “deepen and scale-up its work on international labour migration in response to constituents’ needs and take a leadership role on decent work in labour migration”.


² ILO: Fair Recruitment Initiative.
6. The development a definition of recruitment fees and related costs is not only essential to monitor and evaluate progress toward the achievement of the SDGs, but also particularly timely given the ongoing global discussions on the subject and the call for the ILO to play a leadership role in this area. It is thus suggested to hold a three-day tripartite meeting of experts in the last quarter of 2018 on this subject.

**Composition**

7. It is proposed that this Meeting be attended by eight experts nominated after consultations with the Government group, eight experts nominated after consultations with the Employers’ group and eight experts nominated after consultations with the Workers’ group.

8. In order to obtain the government nominations, the Director-General intends, after consultation with the regional coordinators, to approach the governments of eight countries. A reserve list would also be established. As it is the practice for the meetings of experts, it is proposed that a knowledgeable independent chairperson be appointed.

**Agenda**

9. The Director-General proposes the following agenda for the Meeting:

- review, amend and adopt draft definitions on recruitment fees and related costs developed by the Office based on a global comparative study and thorough analysis by the Office of definitions of recruitment fees and costs; and

- recommend ways to disseminate and use the adopted definition at the international and national levels by constituents.

**Financial arrangements**

10. The summary of the estimated costs of the proposed Meeting, including interpretation in the three official languages of the Office, amounting to US$164,000 follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>US$</th>
</tr>
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<tbody>
<tr>
<td>Delegation travel</td>
<td>80,000</td>
</tr>
<tr>
<td>Translation and interpretation</td>
<td>84,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>164,000</strong></td>
</tr>
</tbody>
</table>

11. The Office would be able to prioritize staff resources to support preparations for such a meeting and to redeploy up to US$74,000 within its regular budget to contribute to the costs of the proposed Meeting. It has also identified a total of US$90,000 from extra-budgetary resources to contribute to the costs of the proposed Meeting and will continue to seek further extra-budgetary contributions to minimize the redeployment of regular budget resources.