



TRAINING MODULES ON LABOUR MIGRATION MANAGEMENT

Trainer's Manual



IOM International Organization for Migration



Organization for Security and
Co-operation in Europe



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Trainer's Manual

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was made possible with financial support of the
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Foreword

We are pleased to present the new *Training Modules on Labour Migration Management – Trainer’s Manual* produced by the International Organization for Migration (IOM) and the Organization for Security and Co-operation in Europe (OSCE) to guide trainers and migration experts on how to conduct comprehensive labour migration training. This Manual complements the OSCE-IOM-ILO Handbook on Establishing Effective Labour Migration Policies.

International migration has increased significantly in recent years. The total number of international migrants is estimated to reach 214 million in 2010, of which about half are thought to be migrant workers. Also, an increasing number of migrant workers are women, which gives rise to new challenges for policy-makers and practitioners. While the majority of migrants originate from developing countries and countries in transition, labour migration is not only a “South-North” and “East-West” phenomenon, but also a “North-North” and “South-South” phenomenon. Many countries today are simultaneously countries of origin, transit, and destination.

Labour migration is fueled by many “pull” and “push” factors. The “pull” factors include labour market needs and demographic trends like the aging of populations in countries of destination. The “push” factors include the widening gap of wage differences and unemployment in countries of origin. As long as these factors remain in a globalized world, labour migration will continue to increase. This is a transnational phenomenon that cannot be managed solely at the national level if States wish to realize effective, fair and sustainable labour migration solutions. It requires cooperation. The need to develop closer cooperation at bilateral, regional and global levels is being realized by a growing number of countries.

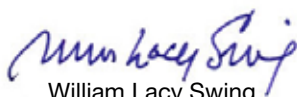
Likewise, the need for dialogue, cooperation, and exchange of experiences and good practices is increasingly reflected in international and regional fora established on international migration, such as the Global Forum on Migration and Development, regional consultative processes (RCPs) on migration supported by IOM, and the OSCE Economic and Environmental Forum, where its participating States initiated a dialogue in 2009 on “Migration management and its linkages with economic, social and environmental policies to the benefits of stability and security in the OSCE region”.

This Trainer's Manual responds to the global demand to provide trainers and migration experts with a comprehensive, interactive, practical, and flexible training tool for effective labour migration management in both countries of origin and of destination. The training is targeted at helping policy-makers and practitioners to design, revise and implement more effective labour migration policies and programmes.

To encourage interactive learning, the Trainer's Manual has been designed to contain a number of participatory group activities and case studies. Each module is also supported by a separate PowerPoint presentation. All the materials can be found on the CD-ROM enclosed in this Manual.

We are grateful for the financial support of the Greek Government and the IOM's 1035 Facility, which made the production of this Manual possible.

We hope that trainers and experts, in both OSCE participating States and IOM Member States, will find the Trainer's Manual helpful in their training activities aimed at developing new skills and knowledge on how to build more effective labour migration policies and programmes.



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Preparing for the training

Familiarization with the training materials

Trainers will need to be familiar with the materials for this training, including the detailed content of each training module and the specific activities, as well as the timing and involvement of participants. Key points to note include:

- **The training materials and supporting information:**

- Comprehensive Trainer's Manual (this manual).
- The content of the Trainer's Manual is based on the following publication:
 - o Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007.
- Handouts and worksheets for participants in the course.
- Other publications that complement the Trainer's Manual:
 - o IOM, *Glossary on Migration*, 2004.
 - o IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, 2008.
 - o OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009.

- **Aims and objectives of the training**

These are set on pages 4-5. Aims and learning outcomes for individual modules are shown on the relevant pages.

- **Training structure**

The training is structured into ten training modules, forming part of three different courses, which together should take five days to complete. The modules are composed of sessions of varying length and need to be adjusted to fit the particular timing agreed upon with the host government.

The training starts with an introduction to the training programme and to labour migration management (Module A).

The next two modules (Modules B and C) constitute Course 1, which provides the international legal and cooperation framework for the development of labour migration policies.

Course 2 is dedicated to labour migration policies in countries of origin. It includes *Module D, Protection of migrant workers: policy options for countries of origin*; *Module E, Developing labour market strategies, including addressing the challenges of highly-skilled migration*, and *Module F, Enhancing migrant workers' contribution to the development of countries of origin*.

Course 3 is dedicated to labour migration policies in countries of destination. It includes *Module G, Assessing the need for foreign labour*; *Module H, Designing labour admission policies*; *Module I, Protection of migrant workers and integration: policy options for countries of destination*; and *Module J, Measures to prevent or reduce irregular migration*.

- **Training agenda**

The Training Modules on Labour Migration Management are conceived for a one-week training. However, depending on the specific purpose of the considered training, the timing can be either reduced or extended. Indicative timings are shown for each training module; these are based on practical experience in running the training. The training will need to be run tightly in order to fit into the timeframe specified. Trainers will need to develop a tailored agenda reflecting the agreed start and end times for their particular training. An annotated version of the course agenda is set out on pp. 13-15.

- **Trainer directions**

Detailed trainer directions are set out for each training module. These show the steps that trainers should follow and provide important guidance on content and key messages for each module. Supporting information is provided to help trainers draw out key learning points and to ensure that the learning outcomes for each session are achieved. Details of specific activities (e.g. role play, case study discussion, etc.) are clearly described. Trainers will need to keep in mind whether these are run with the whole group, in pairs, or in small groups.

- **Training approach**

This is a participatory and interactive course, and activities are included in most training modules. Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

Adapting the content of the training modules to the local context

While the training modules have been designed as a basic “ready to go” training, it is important that the trainer adapt the content to the particular training.

In some cases, this might just mean adding relevant local examples and applying the information to the local context throughout the training.

In other situations, you might decide to create an entirely new training plan using the basic information included in the training modules.

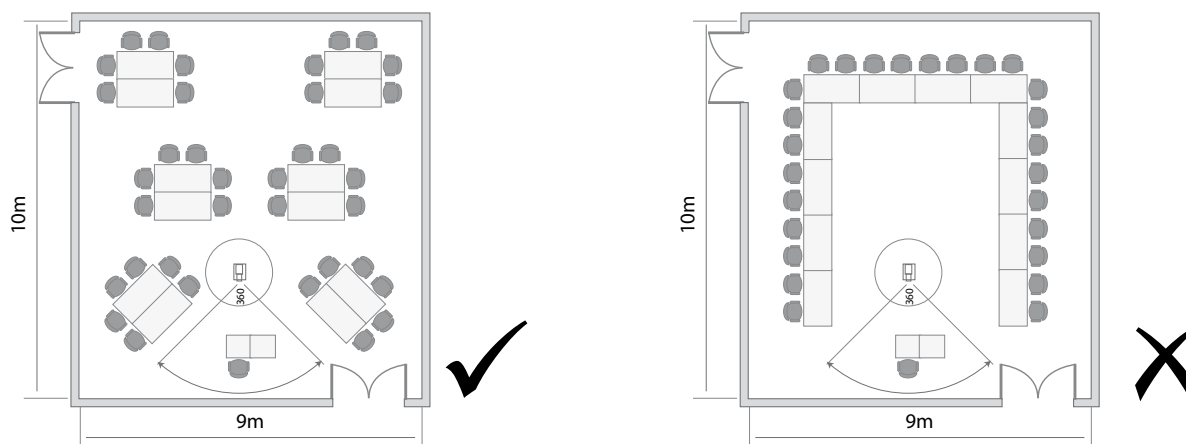
These decisions are left to the trainer.

Methodological and other issues for trainers

Below we set out some of the issues that you need to consider when organizing this training course. Many of these are just as important to ensuring the success of the day as checking that you know the content and the PowerPoint slides.

The room layout

The way in which the room is laid out and organized is crucial to the success of your course. We recommend that you organize the tables in ‘cabaret’ style, rather than in a “U-shape.”



This layout facilitates group work and discussion, which are central to each module throughout the duration of this training. Throughout each day, you will need to break the participants up into smaller groups; it is faster if the participants are already sitting in groups and do not have to move constantly for this purpose. Furthermore, this layout encourages the participants to see discussion and groupwork as the default way of working.

“U-shaped” arrangements tend to lead participants to give speeches or negotiate, rather than engage with others in the room.

You should communicate to the venue organisers in advance that you want the room organised in a cabaret style.

Go to the room either the day before the training or as early as possible on the first day in order to check the layout and move things yourself if necessary.

Deciding who sits where

On the first day, it is best to allow the participants to sit where they want to for the first session. Once they have introduced themselves, however, you may want to break up tables that are dominated by one group, country, or ministry and mix the participants so that all are open to different dynamics. Other issues you may want to consider in the group organization include:

- Language – if participants are working in different languages, try to arrange the tables so that they can work in a common language for the group work.
- Power dynamics – you may want to change the groups around if there are unhealthy power dynamics—e.g. arguments, tensions, or domination or non-involvement of certain individuals – operating at a particular table.
- Gender balance – try to ensure, given the other issues raised above, that there is a mix of men and women at each table.

Room comfort

On the first day, it is important to make sure that participants are comfortable in the room and that no conditions are inhibiting their concentration or participation. Important conditions can include the following factors:

Sufficient space. Make sure you have checked the day before that there is ample space in the room, so that participants will not be cramped. Move things around if you have to.

Comfortable room temperature. Check that the temperature is okay for all participants. Ask them during the first day if it is okay.

Proper lighting. Make sure that blinds are in place so that participants are not scorched by the sun. Ensure also that the lights are on and the blinds up so that the participants can actually see.

Quiet environment. Noisy neighbours, air conditioners, and road traffic can all prevent the participants from hearing you and each other. Seek to minimize this where possible. If the noise is really bad and cannot be reduced, consider asking for a room change.

Engaging the room / maintaining presence

In order to set a good example and encourage participation, it is important that your own lecture and facilitation style is open and inclusive. Here are some tips:

- Don't present merely from the front of the room, from behind a lectern or table. Walk around and engage the participants rather than merely talk "at" them.
- Seek to establish eye contact with all participants (not just the ones that you know are interested).
- Pose questions to the group during the presentations in order to recap what you are saying, or to ensure that they follow the discussion. This can be the general, "Any questions at this point?" – which will lead to few responses – or more specific questions either to start or conclude a discussion, such as, "What do we think the key components of such agreements are?"
- When writing key points made by the group on a flip chart, don't just write them down with your back to the group. Instead, keep turning around and reinforcing what was said positively, for example, "That was a good point, I shall write down 'ensure the rights of labour migrants are clearly communicated.' Does that capture what you said?"
- Make positive statements to the group, and make sure the answers seem to come from the group. For example, say, "That is a good point, but we could look at it this way", rather than "No, the correct point of view is-."
- Try to build issues that have been raised by the participants into subsequent sessions, particularly your presentations, so that they feel that you are listening to them and that they are shaping the way the agenda is going, for example, "This reflects the point that was made from this table yesterday."
- Don't be afraid to recap, to go back over matters that are not clear, and to ask questions to ensure that the group is following the substance and flow of the course.

Be on top of things / take responsibility / support your colleagues

You need to be sure of the timing, the lunch and coffee arrangements, the logistics, etc.

A good trainer knows where lunch will be taken, whether coffee will be available at a particular time, whether there are certificates, who is responsible for IT at the venue, etc. Even if your colleagues have done all of the set up for the event, you are the one standing in front of the room, and it is to you that the participants will look for answers to mundane things. Also, if you run over time and they are late for lunch, it is you that they will blame.

You must take some responsibility for everything in the room, from the lighting to the IT. This does not mean you have to set up the computer, but you need to make sure that someone has set up the computer and that someone is available to change the lighting or temperature. Similarly, standing up at the end of the last day and saying, “Who has the certificates and evaluation forms?” makes it look like things are not under control.

Even when not you but a colleague is presenting, you still have responsibility. For example, if there is a technical problem, go and find a technician while your colleague maintains the group’s attention. During group work, offer to check in on participants if you have language skills that your colleague does not. Don’t talk to others during your colleagues’ presentations, and be ready to answer questions or to assist if asked.

If you think you are going to run over your time, or an exercise is taking longer than you think, talk to your colleague who is running the next session and ask if they mind starting later. It is both sensible and polite!

Be prepared and prepared to use your discretion

Make sure you are well aware not just of how your presentations will work, but also – just as importantly – how the exercises will work. Make sure you are clear on how to introduce them and what materials the groups will need.

While a full dry run through of the material is unnecessary, a three-hour meeting of the team delivering this course is recommended before the first day of the course. Ensure you all know who is responsible for what.

The course may not go as planned; moreover, the participants may express a clear preference for concentrating more on one issue than another. Therefore, be prepared to make changes to the agenda or allotted times, but always do this in a way that is both agreed upon with your colleagues and transparent and clear to the participants. For example, it is better to agree to finish a session with an extra half-hour after lunch, rather than go to lunch half an hour late, but check that this is okay with the person who is speaking in the afternoon, and let the participants know what you are doing.

Some sessions may have more information than you need, or the participants may have already raised many of the points during the course of an exercise or discussion. If so, feel free to cut material and focus your attention on key issues.

Similarly, if you feel you have better case studies, or examples that are more relevant to the audience or region, use those.

Give clear instructions for group work, then repeat them.

One of the things that prevent group exercises from working as well as they should is participants’ uncertainty about what they are supposed to do, or where their materials are, or who is supposed to lead, etc. To avoid this, state the instructions very clearly, and don’t just rely on the fact that they are written down.

Then repeat the instructions.

Go to each group after a couple of minutes to ensure that they understand what they are doing.

Then go around halfway through the exercise to ensure they are on track and to take any questions.

Suggested agenda for the five-day training

Day 1

Course 1: International legal and cooperation framework for the development of labour migration policies

Module	Time	Duration	Session
Module A (2 h 15 min) Introduction	9.00	30 min	Session 1: Overview of the training
	9.30	25 min	Session 2: Labour migration terminology, trends and characteristics
	09.55	35 min	Session 3: Introduction to labour migration policies
	10.30	10 min	Break
	10.40	45 min	Session 4: Country-specific trends
Introducing Course 1	11.25	5 min	
Module B (2 h 05 min) International legal framework for the protection of migrant workers	11.30	30 min	Session 1: Introducing Module B
	12.00	30 min	Session 2: Universal and regional legal frameworks
	12.30	1 h 30 min	Lunch
	14.00	30 min	Session 3: Migrants' civil rights, employment related rights and other rights
	14.30	35 min	Session 4: Group activity and conclusion
Module C (2 h) International cooperation for the facilitation of labour migration	15.05	10 min	Session 1: Introducing Module C
	15.15	15 min	Session 2: Global level cooperation
	15.30	25 min	Session 3: Regional cooperation
	15.55	10 min	Break
	16.05	1 h 10 min	Session 4: Bilateral labour arrangements
	17.15	15 min	Summary of the day

Day 2

Course 2: Developing labour migration policies in countries of origin

Module	Time	Duration	Session
Introducing Course 2	9.00	5 min	
Module D (4 h 35 min) Protection of migrant workers: policy options for countries of origin	9.05	55 min	Session 1: Introducing Module D and Group activity
	10.00	40 min	Session 2: Management of the recruitment of migrant workers
	10.40	20 min	Break
	11.00	35 min	Session 3: Employment contracts and minimum employment standards
	11.35	55 min	Session 4: Information dissemination
	12.30	2h	Lunch
	14.30	1 h 05 min	Session 5: Protection activities in countries of destination – consular and diplomatic protection
	15.35	25 min	Session 6: Migrant welfare funds
	16.00	15 min	Summary of the day

Day 3

Course 2: Developing labour migration policies in countries of origin (cont.)

Course 3: Developing labour migration policies in countries of destination

Module	Time	Duration	Session
Module E (2 h 40 min) Developing labour market strategies, including addressing the challenges of highly-skilled migration	9.00	5 min	Session 1: Introducing Module E
	9.05	25 min	Session 2: Developing promotion strategies: the context
	9.30	40 min	Session 3: Group activity: Vasaria's new labour migration programme
	10.10	20 min	Break
	10.30	40 min	Session 4: The market development process
	11.10	50 min	Session 5: Addressing the challenges of highly-skilled migration
	12.00	1h 30 min	Lunch
Module F (2h) Enhancing migrant workers' contribution to the development of countries of origin	13.30	5 min	Session 1: Introducing Module F
	13.35	35 min	Session 2: Remittances
	14.10	45 min	Session 3: Circular Migration
	14.55	35 min	Session 4: The role of the diasporas
	15.30	10 min	Break
Introducing Course 3	15.40	5 min	
Module G (1hr 15 min) Assessing the need for foreign labour	15.45	5 min	Session 1: Introducing Module G
	15.50	1 h 10 min	Session 2: Group activity: Discussing quotas in Pontormo
	17.00	15 min	Summary of the day

Day 4

Course 3: Developing labour migration policies in countries of destination (cont.)

Module	Time	Duration	Session
Module G (45 min) Assessing the need for foreign labour (cont.)	09.30	15 min	Session 3: Assessing labour shortages
	09.45	5 min	Session 4: Policy options to labour shortages
	09.50	25 min	Session 5: Tools for the assessment and designation of levels of need
	10.15	15 min	Break
Module H (1 h 30 min) Designing labour admission policies	10.30	5 min	Session 1: Introducing Module H
	10.35	20 min	Session 2: Employment based immigration systems
	10.55	65 min	Session 3: Temporary labour migration systems (including possibilities of settlement)
	12.00	1h30 min	Lunch
Module I (3 h) Protection of migrant workers and integration: policy options for countries of destination	13.30	5 min	Session 1: Introducing Module I
	13.35	1 h 20 min	Session 2: Developing migration policies in Patinir and Bronzina
	14.55	35 min	Session 3: Protection in employment
	15.30	10 min	Break
	15.40	60 min	Session 4: Social welfare, integration, and social cohesion
	16.40	15 min	Summary of the day

Day 5

Course 3: Developing labour migration policies in countries of destination (cont.)

Module	Time	Duration	Session
Module J (1 h 35 min) Measures to prevent or reduce irregular migration	9.00	30 min	Session 1: Introducing Module J
	9.30	15 min	Session 2: Irregular migration : causes and measuring
	9.45	5 min	Session 3: Governing principles for addressing irregular labour migration
	09.50	45 min	Session 4: Developing best practice policies to prevent or reduce irregular migration
	10.35	15 min	Break
	10.50	50 min	Closing session
	11.40		End of training

Trainer's pre-training checklist

	Done?	Comments
Agenda reviewed and agreed upon		
Other trainers clear on agenda		
Materials reviewed and amended		
PowerPoint presentations and revised materials agreed upon with other trainers		
All PowerPoint slides approved and copied onto core laptop		
Spare copy of PowerPoint slides on a USB stick		
Participants' materials translated		
Participants' materials printed		
Packs sent to (and arrived) at venue		
Evaluation forms printed		
Certificates prepared		
Pre-meeting held with other trainers		
Room layout communicated to venue		
Participant list checked for potential difficulties and issues		
Presentations prepared		
Group exercises prepared		
Room layout physically checked (and changed if necessary)		
Lunch, coffee and other arrangements clarified		
IT and video equipment checked		

TRAINING MODULES ON
LABOUR MIGRATION MANAGEMENT
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Module A

Introduction

Module A: Introduction

Suggested total duration: 2 h 15 min	
Suggested duration	Session
30 min	Session 1: Overview of the training
25 min	Session 2: Labour migration terminology, trends and characteristics
35 min	Session 3: Introduction to labour migration policies
45 min	Session 4: Country-specific trends

Aims of Module A

- Provide an overview of the course.
- Allow participants to express their expectations for the course.
- Allow facilitator and attendees to understand the range of points of view likely to arise during the course.
- Provide an overview of relevant terminology.
- Provide an overview of the evolution of labour migration flows and driving forces.
- Present the basic guiding principles of labour migration policies that are common to countries of origin and countries of destination.
- Present country-specific labour migration trends.

Learning outcomes for Module A

- Agreement on shared expectations for the course outcomes, including a baseline understanding of what issues the training should cover and of what rules and norms the participants should follow.
- Understanding of background information on labour migration policies, including relevant terminology, labour migration trends and characteristics, and guiding principles for the development of labour migration policies.

Session 1: Overview of the training

Suggested duration	30 min total
	5 min Opening explanation
	20 min Icebreaker exercise
	5 min Summary of programme
Methodology	Presentation and Pair activity
You will need	Flip chart, pen, Module A slides
Participants will need	Copy of slides

Opening explanation (5 min)

- Introduce yourself and all fellow trainers.
- Thank the host organization and explain any logistical matters, including start and end times for sessions, location of meals and coffee, location of toilets, instructions for fire drills, etc.
- Stress that the key aim of the training course is to provide attendees the chance to participate in discussions, to ask questions and also to learn from each other (not just from the trainers).
- Explain various training methods that will be used: presentations, group work, individual exercises, videos, etc.

Icebreaker exercise (20 min)

- Separate the participants into pairs.
- Ask them to explain to each other the following:
 - Reasons for which they are attending this course.
 - Key issues that they want to cover during the course.
 - Materials that they do not want the course to cover.
 - Opinions on what rules are needed to ensure the course's success – e.g., a ban on mobile phone usage, respect for different points of view, etc.
- After ten minutes of discussion, bring everyone back into a group and ask each person to report what their partner said to them.
- Record the key points that each person raises on a flip chart, suggesting where possible how issues of concern will be addressed by the course content.
- Review the list, asking whether any issues should be added or removed.

Summary of programme (5 min)

- In light of the above discussion, briefly run through the programme for the entire training, explaining the key elements of the training course. Emphasise that, while it is important to keep to time, the programme can be altered to focus on some areas and deemphasise others, as the participants desire.
- Ask the group for any comments or questions about the programme or logistical issues.

Session 2: Labour migration terminology, trends and characteristics

Suggested duration	25 min total
	10 min Terminology
	15 min Labour migration trends and characteristics
Methodology	Presentation
You will need	Flip chart, pen, Module A slides
Participants will need	Copy of slides

Introduce the topic

This session aims to present a broad overview of the labour migration phenomenon, including the following two issues:

- Terminology and the difficulty of reaching a consensus on clear definitions of the main concepts.
- Evolution of labour migration flows during the past decades, including specific mention of the recent global economic crisis and the feminization of migration.

Terminology (10 min)

- The notion of international migration.
 - When we refer to “migration” throughout the training, we will be referring to international migration.
 - There is no internationally accepted definition of international migration.
 - The usual definition is the following:
 - Movement of persons who leave their country of usual residence to establish themselves, either permanently or temporarily, in another country.
 - An international frontier is therefore crossed.
- The notion of extraneity:
 - The concept of extraneity (foreign character) is central to the notion of international migration:
 - Migration policies deal mainly with the status, rights, obligations and advantages granted to foreigners.
 - Although central to migration policies, the notion of extraneity is too narrow to capture the full spectrum of migration policies, i.e.:
 - Migration policies should take into account the entire migration cycle: not only the situation of migrants abroad, but also the pre-departure and return phases of migration.
- The notion of labour migration:
 - This notion has both a broader and a more restrictive definition:
 - In the broadest sense, “labour migration” includes all foreigners who are currently in the labour force, including refugees and family members of migrants admitted for the purpose of employment.

- In a more restrictive sense, “labour migration” includes only those who entered a country for the explicit purpose of employment (regular or irregular migrants).
- The training will follow the second, more restrictive definition. Nevertheless, specific attention will be given to the status of family members.
- The notion of migrant worker:
 - As with the notions of international migration and labour migration, there is no generally accepted definition of “migrant worker.”
 - Nevertheless, the following definition can be found in the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (the UN Migrant Workers Convention):
 - “The term ‘migrant worker’ refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (Art. 2 (1).
 - During the training, mainly in the context of legal developments, the term “foreigner” or “foreign worker” will be sometimes be preferable to “migrant worker,” as both international and domestic law establish a summary division between nationals and foreigners.

Labour migration trends and characteristics (15 min)

- Outline the following data on the evolution of migration flows:
 - According to The United Nations Population Division's latest estimates, the total number of international migrants will reach 214 million in 2010.
 - Among those international migrants, around 47% are thought to be labour migrants.
 - By comparison, international migrants were estimated to be 75 million in 1960.
 - The pace of international migration's increase in the past decades well exceeds the global population growth rate over the same period.
 - International migration statistics lack precision due to a series of factors, including the lack of an internationally accepted definition of international migration (and thus diversity in national approaches), limited data collection systems in numerous states, and the difficulty of measuring irregular migration flows.

Current trends

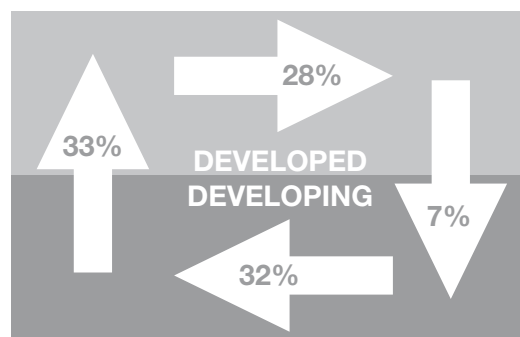
What is the impact of the global economic crisis on labour migration flows?

It is too early to have a clear view of the impact of the economic crisis on labour migration flows.

In most OECD countries, a decline in entry into the national territories will probably be visible over the course of 2009.

However, in the first countries to be affected by the economic crisis, such as the USA, Spain and Australia, there is already some indication of diminishing immigration flows.

- The great diversity of migration flows:
 - While the majority of migrants originate from developing countries, it not only a “South-North” or an “East-West“ phenomenon.
 - Today most countries are, to one extent or another, simultaneously countries of origin, of transit, and of destination.
 - As indicated by the United Nations Population Division graph below, migrants are rather equally distributed among three types (south-north; south-south and north-north):
 - 62 million migrants (33%) are from the South and live in the North.
 - 61 million migrants (32%) are from the South and live in the South.
 - 53 million migrants (28%) are from the North and live in the North.
 - Only 14 million migrants (7%) are from the North and live in the South.



United Nations Population Division, 2009

- Driving forces of labour migration:

The following three key factors fuel labour migration:

 - *Pull factors* include labour market needs in destination countries and demographical factors in high-income countries.
 - *Push factors* include unemployment and wage differentials in countries of origin.
 - Established inter-country *networks* are based on family, culture and history.

Current trends

Pull and push factors in the context of the global economic crisis

It is too early to have a clear view of the impact of the economic crisis on labour migration flows. The following can be said:

Past experience has shown that migrants are among those most affected by an economic downturn.

However, past experience also shows that the relationship between net migration and the business cycle is not straightforward.

A number of OECD countries have started to limit the admission of migrant workers into their territory.

However, the needs for foreign labour have not disappeared.

In countries of origin, emigration projects are likely to be temporarily put on hold.

In any case, migration is not a tap that can be turned on and off at will, and the deep causes of labour migration remain unchanged.

- Feminization of labour migration:
 - The term “feminization of migration” must not be misunderstood:
 - Women have always migrated.
 - Moreover, the proportion of women in global migration flows did not significantly fluctuate during the past decades (around 46.6% in 1960; 49% in 1990; 49.4% in 2000; and 49% in 2010). However, when examined on a country basis there are more significant differences.
 - What has changed is the share of women in labour migration flows. This share has increased since the 1970s.
 - This rise in autonomous female migration is referred to as the “feminization of migration.”
 - More women now have economic and career development motives similar to those of men.
 - There is a demand for foreign female labour in a variety of labour market sectors, including skilled occupations (frequently welfare and social professions, teachers, social workers, doctors and nurses) and less-skilled occupations (mainly as domestic and home care workers, entertainers, and garment workers, and, to a lesser extent, as agricultural workers).
 - There are gender differences in the labour migration experience:
 - Women migrants tend to be more vulnerable to discrimination, exploitation, abuse and trafficking, while in the process of moving (the transit phase), at arrival, at the work place and upon return.
 - In this respect they often suffer from double discrimination, as women and as migrants.
 - This situation also reduces the socio-economic contributions that female migrant workers can make to their societies.
 - Such gender differences must be taken into account when crafting and implementing labour migration policies.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM, ILO, 2007, pp. 11-25; p. 97

IOM, *Glossary on Migration*, 2004

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 1-20; p. 239

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 13-18

Awad, I., *The Global Economic Crisis and Migrant Workers: Impact and Response*, ILO, 2009

Available at: http://www.ilo.org/public/english/protection/migrant/download/global_crisis.pdf

ILO, *An Information Guide - Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers. Booklet 1 - Introduction: Why the Focus on Women Migrant Workers*, 2005

Available at: <http://www.ilo.org/public/english/employment/gems/advocacy/protect.htm>

OECD, “International Migration and the Economic Crisis: Understanding the Links and Shaping Policy Responses” in *International Migration Outlook – SOPEMI 2009*, 2009, pp. 11-76.

Session 3: Introduction to labour migration policies

Suggested duration	35 min total
	10 min Introduce the topic
	5 min Establishing the policy-making team
	10 min Crafting the policy
	10 min Data collection
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module A slides
Participants will need	Copy of slides

Introduce the topic (10 min)

- Highlight the importance of labour migration management and present a general definition:
 - Given the magnitude of labour migration, outlined in the previous session, its management is crucial.
 - Labour migration management refers to a planned and thoughtful approach to policy development. It includes the careful selection and implementation of appropriate policy responses to key questions facing individual states, as well as the international community as a whole.
- Recall the general objectives of the training:
 - To improve the knowledge of participants about labour migration policies in countries of origin and of destination, as well as about the relevant international legal and cooperation framework.
 - Assist policy-makers in designing or revising labour migration policies by providing guiding principles, international norms, and examples of good and effective practices at the national and international level.
- Underline that the structure of the training is based around the distinction between countries of origin and countries of destination:
 - Course 2 is dedicated to policies in countries of origin, while course 3 is dedicated to policies in countries of destination (Course 1 deals with the international legal and cooperation framework).
 - While there are vast differences among countries of origin as well as among countries of destination, the different countries of origin share similar concerns and interests, and so do the different countries of destination.
 - However, it is important to recall that in practice, most countries are, to one extent or another, at the same time both countries of origin and countries of destination.
- Indicate that the present session will introduce labour migration policies by presenting a series of guiding principles and fundamental elements for the following areas, which apply to both countries of origin and countries of destination:
 - Establishing the policy-making team;
 - Crafting the policy;
 - Collecting data.

Establishing the policy-making team (5 min)

- Highlight the fact that developing a successful labour migration management policy requires close cooperation and coordination between a number of administrations within the state.
- Outline the usual administrations concerned:
 - Ministry of Labour:
 - Naturally inclined to take the lead role as labour migration is primarily an employment issue.
 - Ministry of Foreign Affairs:
 - Responsible in large part for the protection of nationals abroad, delivery of visas and work / stay / residence permits, as well as for international cooperation.
 - Ministry of Interior and Ministry of Justice:
 - Responsible for the response to violations of migration legislation and other relevant laws and regulations.
 - Ministry of Education and Ministry of Health:
 - Traditionally not included among the vital stakeholders in migration.
 - Nevertheless, these ministries' involvement in the policies of countries of origin is justified by the growing and persistent demand for nurses, teachers, caregivers, etc.
 - In countries of destination their involvement is justified by the fundamental character of the right to health and education.
 - Central Bank:
 - Can be involved in activities related to safe and cost-effective transfer of remittances.
 - Social Security and other welfare services.
- Highlight the fact that in many countries, cooperation and coordination among administrations needs to be strengthened deliberately: this is not a natural process.
- Highlight the fact that consultation and cooperation not only among the different administrations, but also with other stakeholders, namely social partners (employers and trade unions) and civil society organizations, are crucial.

Crafting the policy (10 min)

- The following general objectives should guide the development of a labour migration policy:
 - Protecting migrant workers;
 - Optimizing the benefits of labour migration;
 - Mitigating adverse impact.
- In order to meet these broad objectives, a labour migration policy should possess a number of characteristics, including the following:
 - Consistency with the national development plan:
 - This is a natural consideration in countries of destination.
 - It is also crucial that countries of origin set their policies in the context of an overall labour and employment strategy with appropriate interfacing with other development policies, such as education, foreign affairs, trade and investment.

- Protection of migrant workers:
 - Protection of the rights and interests of migrant workers and their family members must be a central part of labour migration policies, in countries of destination as well as in countries of origin.
- Effectiveness and efficiency:
 - Policy on labour migration should also include solid mechanisms to enforce the measures introduced.
- Gender sensitivity:
 - Recall gender differences in the migration experience and the fact that women migrants tend to be more vulnerable to abuses.
 - Outline the following classification of policies with relation to gender:
 - Gender-biased policies:
Policies that discriminate (e.g., exclusion from recruitment programmes, wage discrimination, etc.)
 - Gender-blind policies:
Policies that fail to recognize gender as an important determinant.

Some policies may not appear on the surface to have a different impact on men and women (gender-neutral) while in practice their outcomes may be detrimental to female migrant workers.
 - Gender-sensitive policies:
Policies that consider factors rooted in the gender division of labour and power relations between men and women; they use sex-disaggregated data and take into account who benefits from policies and who does not. Such policies may contain specific measures targeting women.

Data collection (10 min)

- Highlight the fact that a successful labour migration policy is based on reliable data.
- Data to be collected:
 - Data on migration stocks and flows:
 - The level of international migration, including labour migration, is measured using two concepts: stocks and flows.
 - The “international migrant stock” is the total number of international migrants living in a country at a particular point in time.
 - Net international migration is the difference between the total number of migrants entering (in-migrants) and leaving (out-migrants) a country.
 - However, when developing a labour migration policy, states should collect data on more than just migration stocks and flows:
 - For instance, countries of origin that intend to develop promotion strategies need to collect data on the labour markets of countries of destination, as well as information on the legal status and protection of migrant workers in those countries.
 - Countries of origin may also need to measure the amount of remittances transferred into the country in order to develop appropriate policies.

- For countries of destination, one of the main concerns with regards to data collection lies in estimating and projecting their need for foreign workers.
- Data sources and their limits:
 - Household surveys: population censuses or labour force surveys:
 - A major drawback of census data is that collection usually occurs once every ten years, which makes the timeliness of data less useful.
 - Annual labour force surveys can ask questions on place of birth, citizenship, previous residence, reasons for moving, etc.
 - While conducted more frequently than censuses, such surveys suffer from relatively small sample sizes.
 - Another drawback to household surveys, particularly labour force surveys, is that they often do not collect information from collective housing or group quarters, which often house many recent migrant workers.
 - Administrative registers: population registers or registers of foreigners:
 - Registers can be used to measure the total stock of migrants, as well as in-flows and out-flows when people leave the country.
 - Some problems can occur when people leave a country and fail to de-register from the system.
 - Registers also miss many undocumented immigrants living in the country.
 - Moreover, different countries have different criteria for including foreigners in flow data, which can make comparability across countries a problem.
 - Other administrative sources: residence permits, work permits, or asylum applications:
 - Limits are similar to those mentioned for population registers or registers of foreigners.
 - Data derived from exit controls:
 - Result of procedures of emigration clearance, mainly developed in the labour-sending countries of South and South East Asia.
 - Border collection data (visa types, at entry or exit from a country):
 - Visa types allow migrants to be placed in categories (student, employment or family reunification) and are often used to measure labour migration flows.
 - Data obtained from diplomatic and consular posts:
 - A valuable source of data on problems faced by migrant workers in countries of destination.

Summary

- The development of a successful labour migration policy supposes a number of priorities that are common to countries of origin and countries of destination.
 - Cooperation and coordination between relevant national administrations as well as consultation and cooperation with other stakeholders, including social partners and civil society organizations.
 - A labour migration policy should present the following characteristics: consistency with the national development plan, protection of migrant workers, effectiveness and efficiency, and gender sensitivity.
 - Despite the constraints and limitations mentioned, policy should be based on the objective ground of data collected.

- Labour migration is by nature a transnational phenomenon and therefore cannot be managed or addressed solely at the national level. The development of effective, fair and durable labour migration policies and practices requires cooperation among all states involved in the process.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., Handbook on establishing effective labour migration policies in countries of origin and destination, OSCE, IOM, ILO, 2007, pp. 85-99

IOM, World Migration 2008. Managing Labour Mobility in the Evolving Global Economy, IOM, 2008, pp. 1-20; p. 237-256

OSCE, Guide on Gender-Sensitive Labour Migration Policies, 2009, pp. 13-26

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996, pp. 15-18

ILO, *An Information Guide - Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers. Booklet 1 - Introduction: Why the Focus on Women Migrant Workers*, 2005

Available at: <http://www.ilo.org/public/english/employment/gems/advocacy/protect.htm>

Session 4: Country-specific trends

Suggested duration	45 min total
	5 min Introduce the topic
	35 min Presentation or discussion
	5 min Summary
Methodology	Presentation or Group exercise
You will need	Flip chart, pen
Participants will need	Copy of slides

Instructions

Depending on whether an expert is available for presenting country-specific trends, there are two options available for this session.

Option A

A local expert – for example from the IOM local office or academia – attends to lead a discussion on local trends by way of presentation with questions and answers.

Option B

The participants are asked to break into groups of three to four and to spend ten minutes preparing brief presentations on what they see as the key trends on labour migration within the region, followed by discussion.

Power Point Module A: Introduction

SLIDE 1

OSCE

Module A: Introduction

[Insert here name of Training Seminar /
Workshop, Venue, and Date]
[Insert here name of Trainer]

SLIDE 2

OSCE

Session I Overview of the training

SLIDE 3


Session 1: Overview of the training

OSCE

Module Aim

Module A aims to:

- Provide an overview of the course
- Provide participants an opportunity to express their expectations for the course
- Allow facilitator and attendees to understand various points of view likely to arise during the course
- Provide an overview of relevant terminology
- Give an overview of the evolution of labour migration flows and driving forces
- Present the basic guiding principles of labour migration policies, common to countries of origin and countries of destination
- Present country-specific labour migration trends



SLIDE 4


Session 1: Overview of the training

OSCE


Outcomes of Module A

- Reach agreement on shared expectations for the course outcomes, a baseline of 'must-cover' issues, as well as rules and norms for conducting the training
- Understand some background information about labour migration policies:
 - Terminology
 - Labour migration trends and characteristics
 - Guiding principles for the development of labour migration policies

SLIDE 5


Session 1: Overview of the training 

Pair activity



- Why have you come on this training?
- What are the key issues you want to cover during the course?
- What you would not want the training to cover?
- What basic rules need to be in place to ensure that the training is successful?

SLIDE 6

Session 1: Overview of the training 

Summary of the training programme


To be filled according to the specific agenda of the training

SLIDE 7



Session II Labour migration terminology, trends and characteristics

SLIDE 8

Session 2: Terminology, trends and characteristics 

Terminology

- International migration
 - The movement of persons who leave their country of usual residence, to establish themselves either permanently or temporarily in another country
 - When the notion of migration is used throughout the training it will be in reference to the concept of international migration
- Extranity (foreign character)
 - The concept of extraneity is central within the notion of international migration
 - However, the notion of extraneity is too narrow to capture the full spectrum of migration policies

SLIDE 9

Session 2: Terminology, trends and characteristics

Terminology (cont.)

- Labour migration
 - In the broadest sense, labour migration includes all foreigners who are currently in the labour force, including refugees and family members of migrants admitted for the purpose of employment
 - In a more restrictive sense, labour migration includes only those who entered a country for the explicit purpose of employment (regular or irregular migrants)
- Migrant worker

UN Migrant Workers Convention definition:
 "The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (Art. 2 (1))

SLIDE 10

Session 2: Terminology, trends and characteristics

Labour migration trends and characteristics

Year	Stock (Millions)
1975	90
1980	100
1985	110
1990	150
1995	160
2000	170
2005	190
2010	210

United Nations Population Division, 2009

SLIDE 11

Session 2: Terminology, trends and characteristics

Labour migration trends and characteristics (cont.)

Direction	Percentage
Developing to Developed	33%
Developed to Developing	28%
Developed to Developing	7%

United Nations Population Division, 2009

SLIDE 12

Session 2: Terminology, trends and characteristics

Labour migration trends and characteristics (cont.)

Feminization of labour migration

- The term "feminization of labour migration" must not be misunderstood:
 - Women have always migrated
 - The proportion of women in global migration flows has not significantly fluctuated over the past 50 years (around 46.6% in 1960; 49% in 1990; and 49% in 2010)
 - This proportion differs depending on the region, sub-region or country
- What has changed is the share of women in labour migration flows; this share has increased since the 1970s
- Gender differences in the labour migration experience
 - Women migrant workers tend to be more vulnerable to discrimination and exploitation, both in the process of moving and at arrival

SLIDE 13

Session 3: Introduction to labour migration policies

Session III Introduction to labour migration policies

SLIDE 14

Session 3: Introduction to labour migration policies

Labour migration management

Labour migration management refers to a planned and thoughtful approach to policy development and to the careful selection and implementation of appropriate policy responses to key questions confronting states and, more generally, the international community as a whole

SLIDE 15

Session 3: Introduction to labour migration policies

Establishing the policy-making team

- A successful labour migration management policy requires close cooperation and coordination between a number of administrations within the state
 - Ministry of Labour
 - Ministry of Foreign Affairs
 - Ministry of Interior and Ministry of Justice
 - Ministry of Education and Ministry of Health
 - Central Bank
 - Social Security and other Welfare Services
- Consultation and cooperation with other stakeholders, namely social partners and civil society organizations, is also crucial



SLIDE 16

Session 3: Introduction to labour migration policies

Crafting the policy

- Two general objectives that should guide the development of a labour migration policy:
 - Protecting migrant workers
 - Optimizing the benefits of labour migration and mitigating adverse impact
- A labour migration policy should possess a number of characteristics, including the following:
 - Consistency with the national development plan
 - Protection of migrant workers
 - Effectiveness and efficiency (mechanisms of enforcement)
 - Gender sensitivity



SLIDE 17

Session 3: Introduction to labour migration policies  

Data collection

- A successful labour migration policy is based on reliable data on migration stocks and flows
- Data sources
 - Household surveys: population censuses or labour force surveys
 - Administrative registers: population registers or registers of foreigners
 - Other administrative sources: residence permits, work permits, or asylum applications
 - Data derived from exit controls
 - Data obtained from diplomatic and consular posts
 - Border collection data (visa types, at entry or exit from a country)



SLIDE 18

Session 3: Introduction to labour migration policies  

Conclusion

Labour migration is by nature a transnational phenomenon that cannot be managed or addressed solely at the national level: the development of effective, fair and durable labour migration policies and practices requires cooperation among all states involved in the process

SLIDE 19



 

Session IV

Country-specific trends

To be developed for the specific training considered

SLIDE 20

Thank you!

Course 1

International Migration Law
and cooperation framework
for the development of
labour migration policies

Introduction to Course 1: International Migration Law and cooperation framework for the development of labour migration policies

Suggested duration: 5 min

- National labour migration policies must be set in the International Migration Law and cooperation framework of labour migration.
 - First, national policies must respect the International Migration Law framework for the protection of migrant workers.
 - National legislation and practices must be in line with international legal norms and obligations; otherwise, the considered state abrogates its international responsibility.
 - International legal norms protecting migrant workers are set at the universal and regional levels.
 - Second, the transnational nature of labour migration implies that it cannot be managed solely at the national level: cooperation amongst states is crucial, at the global, regional, and bilateral levels.
- Following these assumptions, Course 1 is divided into two modules:
 - Module B: International Migration Law framework for the protection of migrant workers.
 - Module C: International cooperation for the facilitation of labour migration.
- Aims of Course 1:
 - To provide an overview of international and regional law for the protection of migrant workers, in the context of their fundamental human rights.
 - To provide an overview of the principal forms of inter-State cooperation in managing labour migration: multilateral, regional and bilateral; formal and less formal mechanisms.
 - To present and discuss in some detail the free movement of workers regime in the European Union (EU) and the regime of bilateral labour arrangements (BLAs).

Course 1

International Migration Law and cooperation framework for the development of labour migration policies

Module B

International Migration Law
framework for the protection
of migrant workers

Module B: International Migration

Law framework for the protection of migrant workers

Suggested total duration: 2 h 05 min	
Suggested duration	Session
30 min	Session 1: Introducing Module B
30 min	Session 2: Universal and regional legal frameworks
30 min	Session 3: Migrants' civil rights, employment-related rights and other rights
35 min	Session 4: Group activity and conclusion

Aim of Module B

Module B aims to provide an overview of international and regional law for the protection of migrant workers, in the context of their fundamental human rights.

Learning outcomes for Module B

By the end of this module, participants will:

- Understand the position of migrant workers under international human rights law.
- Be familiar with International Migration Law for the protection of migrant workers.
- Be able to broadly assess national practices with reference to existing international and regional standards.
- Be able to apply existing international and regional standards to a concrete national context.

Session 1: Introducing Module B

Suggested duration	30 min total
	5 min Introduction
	15 min Group activity
	10 min State's powers regarding admission and expulsion of foreigners Methods for estimating and projecting shortages
	Summary
Methodology	Presentation and Group activity
You will need	Flip chart, pen, Module B slides
Participants will need	Copy of slides

Introduce the topic (5 min)

Slides 1-4

- Explain aims and outcomes for Module B.
 - Module B aims to provide an overview of international and regional law for the protection of migrant workers, in the context of their fundamental human rights.
 - Learning outcomes:
 - To understand the position of migrant workers under human rights law.
 - To be familiar with International Migration Law for the protection of migrant workers.
 - To be able to broadly assess national practices with reference to existing international and regional standards.
 - To be able to apply existing international and regional standards to a concrete national context.
- Highlight the importance of Module B: the elements presented and discussed within the module will appear throughout the whole training.
- Highlight the fact that the present module is concerned with both foreign workers in a lawful and regular situation, as well as those who are in an irregular situation.

Group activity

Slide 5

Duration: 15 min

- Divide the participants into three groups. Designate one group a government of a country of origin, one group an NGO representing migrant workers and one group a trade union that predominantly represents workers who are nationals of the country of destination.
- Based on a country known to the participants, ask them to identify:
 - The key interests that they represent.
 - Legal regimes and rules that aid them in promoting their interests.
 - Legal regimes and rules that challenge their interests.
- Ask each group just to present just their findings and briefly explain the rationale behind them.
- Summarize the session, and indicate that the training will be exploring points raised, setting aside any issues the course will not be dealing with.

State's powers regarding admission and expulsion of foreigners (10 min)

Slide 6

Trainer note

The aim of the presentation is to explain to participants that while human rights impose important obligations to states regarding the treatment of foreigners, states possess broad powers with regards to the admission and expulsion of foreigners. Human rights norms mostly address the rights of migrants *after* they enter a state's territory.

- Introduce the presentation:
 - Before we consider the norms protecting migrants after their entry into a state's territory, we should recall that states possess broad sovereign powers with regards to the admission and residence of foreigners.

Admission

Outline the following elements:

- States possess very broad sovereign powers in terms of the admission of foreigners into their territory.
- Although the principle of freedom of movement is recognized by international law, its scope is relatively narrow:
 - Quote art. 12 of the International Covenant on Civil and Political Rights (ICCPR):
 - “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
 - 2. Everyone shall be free to leave any country, including his own.
 - [...]
 - 4. No one shall be arbitrarily deprived of the right to enter his own country”.
 - In other words, there is no general right of the individual to enter a state’s territory unless he is a national of the said state.
 - However, regarding Article 12(4) ICCPR, it is arguable that this right may also be applicable to long-term foreign residents of a country.
- Moreover, legitimate grounds for refusal of admission are very broad:
 - Most of these grounds are included in the notions of public order (e.g. grounds based on earlier criminal convictions, earlier violations of immigration legislation, risk of irregular immigration, economic grounds), national security and public health.

Expulsion

Outline the following elements:

- The right to expel can be seen as corollary to the rights of the state regarding admission.
- As with the non-admission of foreigners, the grounds used by states to justify expulsion are very broad.
- States have nevertheless fewer grounds available for expulsion than for the rejection of admission.
 - In other words, it is easier for a considered state to refuse admission than to expel a foreigner.

The state is subjected to International Migration Law

- Highlight the fact that while state’s powers are wide, these powers are nevertheless subject to the rules of International Migration Law.
- If the presence of international norms in matters related to the admission and the sojourn of foreigners is limited, it is nevertheless existent.
- We will see that refusals of admission and decisions of expulsion can be challenged through the “indirect” use of a number of human rights (such as the right to family life, the right not to be subjected to inhuman or degrading treatment, and, regarding refugees, the principle of non-refoulement).

Resources for facilitator preparation

See bibliography at the end of Module B

Session 2: International Migration Law

	30 min total
Suggested duration	15 min Universal instruments
	10 min Regional instruments
	5 min Summary
Methodology	Presentation
You will need	Flip chart, pen, Module B slides
Participants will need	Copy of slides, relevant legal instruments (to be distributed at the beginning of the session)

Universal instruments (15 min)

Trainer note

The aim of this session is to provide an overview of the International Migration Law framework for protecting migrant workers with reference to general international human rights law, international labour standards, and specific international instruments protecting migrant workers, such as ILO Conventions No. 97 and 143 and the UN Convention on Migrant Workers.

Make sure to pose questions to the group regularly, in order to ensure that they are following the material and in order to reinforce learning.

Remember that there is a lot of information to get through in a short period of time. Ensure that you keep a decent pace throughout.

Introduce the topic

Slides 7-8

The International Migration Law framework protecting migrant workers is found in essentially three places:

- International human rights law;
- The international labour standards of the ILO that apply to all persons regardless of nationality or legal status;
- Specific instruments protecting migrant workers:
 - o Specific ILO instruments concerned (Conventions No. 97 and 143).
 - o The International Convention on the Rights of All Migrant Workers and Members of Their Families (1990).

International human rights law

Slide 9

- Present the instruments using the following distinction:
 - On the one hand, those general instruments that constitute the International Bill of Rights, including the Universal Declaration of Human Rights (which, while non-binding, still contains provisions that constitute customary international law), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

- On the other hand, those conventions concerned with the protection of persons against specific forms of ill treatment, for example, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), or those conventions concerned with the protection of particular groups of persons (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Rights of the Child (CRC)).
- Summarize the philosophy of international human rights law:
 - The international human rights instruments identified above protect all human beings, regardless of their nationality.
 - Therefore, the starting point for a discussion on the application of human rights to migrant workers is that migrant workers, though non-nationals, are generally entitled to the same human rights as local citizens.
- Highlight the importance of the principle of non-discrimination regarding the application of human rights to foreigners.

Outline the following elements (*Depending on time/level/interest of participants, this part can be shortened, simplified*):

- The principle of non-discrimination is two-fold, meaning that it implies both an indirect and an autonomous right.
 - As an indirect right, it applies complementarily with the rights recognized by international instruments, reinforcing their effectiveness.
 - As an autonomous right, it takes into consideration national legislation and imposes on the state the duty of not adopting and implementing a discriminatory law. This duty is imposed by international law even when no other internationally recognized human right is concerned.
- The content of the principle of non-discrimination:
 - All discrimination is illegal, no matter what the ground (for instance, nationality).
 - This does not mean that every distinction of treatment imposed by a state on an individual or a group constitutes discrimination.
 - According to the Human Rights Committee, a distinction of treatment constitutes discrimination when it is not based on “reasonable and objective criteria.”
- The application to foreigners of the principle of non-discrimination:
 - The distinction of treatment between nationals and foreigners is strictly limited.
 - First, the permissibility of such a distinction will depend on the international instrument involved. Arguably, no distinction of treatment is acceptable under the ICERD, the CEDAW, the ICAT and the CRC.
 - Second, the distinction’s permissibility depends on *the rights protected*. No distinction of treatment is acceptable in the area of civil rights. Regarding economic, social and cultural rights, the question is more complex as the non-discrimination principle appears to operate more weakly than with regards to civil rights.
 - Third, the legality of a distinction of treatment may depend on the foreigner’s migration status – regular or irregular.
- Highlight the fact that at the national level, the applicability of anti-discrimination laws to distinctions on the grounds of nationality is often limited.

- Highlight that there are two principal ILO instruments concerned specifically with the labour rights and legal status of migrant workers:
 - The Migration for Employment Convention (Revised) No. 97 of 1949;
 - The Migrant Workers (Supplementary Provisions) Convention No. 143 of 1975;
 - Both conventions are accompanied by non-binding Recommendations (Nos. 86 and 151), which contain clarifications and further guidelines.
- Highlight the following elements regarding the first ILO instrument, Convention No. 97:
 - Concerns mainly state-organized labour migration, rather than spontaneous movements.
 - Contains no safeguards for irregular migrant workers.
 - Can serve as a reference for bilateral arrangements. Additionally, an Annex to the accompanying Recommendation No. 86 contains a model bilateral labour agreement.
 - Ratified by 49 states.
- Highlight the following elements regarding the second ILO instrument, Convention No. 143:
 - Covers broader personal and material scope than Convention No. 97.
 - Affords specific protection to irregular migrants, particularly with regard to the protection of their basic human rights (Article 1) and their rights arising out of past employment.
 - Ratified by 23 states.
 - Some of the more liberal provisions, particularly Article 14(a) concerned with access to the labour market, may be regarded by governments as obstacles to its ratification.
- Highlight the fact that in addition to the specific ILO standards safeguarding the rights of migrant workers, other important ILO instruments are applicable:
 - All of the Conventions and Recommendations adopted by the International Labour Conference to date cover nationals and non-nationals, unless otherwise specified in the instruments concerned.

- Highlight that the UN Convention on Migrant Workers, despite its low level of ratification by states (43 states parties as of 7 July 2010), is important for the following reasons:
 - It can serve as a comprehensive model for the laws of countries of destination by clearly identifying the rights and benefits to which migrants, vis-à-vis nationals, should be entitled.
 - It explicitly underlines that all migrant workers and their families should be protected, including irregular migrants.
 - Some differences in treatment may be acceptable and the Convention does draw a number of distinctions in this respect (Parts III and IV).
- The convention also recognizes the principle that lawfully resident migrant workers should be treated on equal terms with nationals in some key areas, such as conditions of employment and the provision of accommodation, including in social or public housing.

Regional legal frameworks (10 min)

Trainer note

The aim of this presentation is to mention several regional legal frameworks that protect migrant workers and to provide an overview of the European legal frameworks (European Union and Council of Europe).

Introduce the topic

Slide 12

- Outline the context for the adoption of regional legal frameworks:
 - o At the regional level, the adoption of human rights instruments and free movement schemes (discussed in *Module C International Cooperation for the facilitation of labour migration*) as well as the establishment of stronger enforcement mechanisms may be facilitated by political, historical, social and cultural similarities.
 - o Regional legal frameworks often offer broader and stronger protections than universal international law.
 - o Where regional instruments are more restrictive than the universal standards, however, they must not be considered as a replacement for international standards.
- Mention the existence of the following regional legal frameworks:
 - o Africa: African Charter on Human and Peoples' Rights (1981);
 - o Americas: American Convention on Human Rights (1969);
 - o Europe: Council of Europe standards and European Union law.
- Indicate that the following presentation will focus on European instruments.

Council of Europe standards

Slide 13

- The European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950):
 - Applies to all persons within the jurisdiction of states parties, including migrant workers, regardless of their legal status.
 - Contains no specific provisions on migrant workers in the ECHR.
 - Despite this, migrants have obtained remedies from the European Court of Human Rights in protection of their right to respect for family life and the non-discrimination principle (Arts. 8 and 14 respectively). The Court has ruled that very good reasons must be given to justify distinctions on the basis of nationality (*Gaygusuz v. Austria*, 1996; *Poirrez v. France*, 2003.)
- The European Social Charter (1961) along with its Additional Protocol (1988), and the Revised European Social Charter (1996):
 - Include a number of provisions related to migrant workers (Arts. 18 and 19):
 - o Right to engage in a gainful occupation in another state party's territory;
 - o Provision of information to migrant workers;
 - o Facilitation of the migration process;
 - o Equality of treatment of nationals and non-nationals in employment;

- Right to family reunification;
- Guarantees against expulsion.
- Apply, however, only to migrants who are nationals of the Council of Europe Member States.
- The European Convention on the Legal Status of Migrant Workers (1977):
 - Constitutes the only Council of Europe instrument specifically dedicated to the protection of migrant workers and their families.
 - Applies, however, only to lawfully resident migrant workers.
 - Provides equal treatment with nationals in defined areas (e.g. conditions of work, right to organize, access to housing, education and vocational training).
 - Has been ratified by 11 states parties: Albania, France, Italy, Moldova, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, and Ukraine.

European law regarding third country nationals

Slide 14

- Highlight the importance of the two following European directives:
 - Directive 2003/86 of 22 September 2003 on the right to family reunification;
 - Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents.
- Outline the content of the mentioned directives:
 - The family reunification Directive:
 - Under this directive, the eligible sponsor must be a third-country national residing lawfully in a Member State who has “reasonable prospects of obtaining the right of permanent residence.”
 - Member States may require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before family members may join the sponsor.
 - The eligible family members are the spouse and/or minor children of the sponsor.
 - Besides the right to a residence permit, family members have the right to access education, employment (under the same conditions as the sponsor) and self-employment, as well as vocational training.
 - The long-term residents Directive:
 - Third-country nationals are entitled to such status after residing legally and continuously for 5 years in the territory of the Member State concerned.
 - The eligible applicant will be granted a long-term resident’s EC residence permit valid for a minimum of five years and automatically renewable on expiry upon application.
 - The long-term residents Directive also gives the possibility for long-term residents to move to a second Member State.
- Mention the following other EU directives:
 - Directive 2004/114 of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil, exchange, unremunerated training or voluntary service.
 - Directive 2005/71 of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

- Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.
- Proposed Directives:
 - o Proposal for Directive on a Single Application Procedure for a Single Permit and a Common Set of Rights.
 - o Proposal for Directive for Admission of Seasonal Workers.

Summary (5 min)

- At the universal level, international human rights law is composed of:
 - General instruments:
 - o Universal Declaration of Human Rights.
 - o International Covenant on Civil and Political Rights (ICCPR).
 - o International Covenant on Economic, Social and Cultural Rights (ICESCR).
 - Specific instruments:
 - o Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
 - o Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
 - o International Convention on the Rights of the Child (CRC).
 - o The above instruments are by principle applicable to all persons, regardless of nationality (and, regarding foreigners, regardless of their legal status, regular or irregular).
 - o While distinctions of treatment may be acceptable regarding specific rights and specific instruments, the legality of such distinctions is strictly limited.
 - ILO standards:
 - o Two conventions are concerned specifically with the labour rights and legal status of migrant workers: Convention No. 97 and Convention No. 143.
 - o Unless otherwise specified, all ILO Conventions and Recommendations cover nationals and non-nationals.
 - UN Convention on Migrant Workers:
 - o Although not widely ratified, this convention can serve as a comprehensive model for the laws of countries of destination by clearly identifying the rights and benefits of migrants.
- At the European/Regional level:
 - With regard to the protection of migrants' rights, the most important instrument is the European Convention on Human Rights. Although it does not deal specifically with foreigners' rights, migrants have obtained important remedies from the European Court of Human Rights using articles from this document.
 - In the European Union legal framework, two fundamental directives have recognized important rights regarding the stabilization of the status of foreigners in EU Member States: the family reunification Directive and the long-term residents Directive.

Resources for facilitator preparation

See bibliography at the end of Module B

Session 3: Migrants' civil rights, employment-related rights and other rights

Suggested duration	30 min total
	10 min Civil rights
	15 min Employment and other economic and social rights
	5 min Summary
Methodology	Presentation
You will need	Flip chart, pen, Module B slides
Participants will need	Copy of slides, relevant legal instruments

Civil rights (10 min)

Slides 15-16

Trainer note

The objective of this presentation is to emphasize to participants that the difficulties and obstacles to the realization of an equitable status for foreign workers in some destination countries are sometimes connected with serious human rights violations. The presentation will also emphasize that the fundamental civil rights and the principle of non-discrimination, found in general international human rights law and elsewhere, apply equally to all migrant workers, regardless of their immigration status.

- Introduce the topic by highlighting the following elements:
 - When considering the treatment of foreign workers, and particularly their legal status in the country of employment, it is important to keep in mind a number of fundamental civil rights that are frequently violated with respect to such migrants.
 - These rights are found in the general international human rights instruments and are protected by most national constitutions.
 - Enjoyment of these rights does not depend on a state's ratification of the UN Convention on Migrant Workers or specific ILO instruments protecting migrant workers.
- What are the particular fundamental civil rights that are frequently violated with respect to migrant workers?
 - Indicate that that this is by no mean an exhaustive presentation of fundamental civil rights, but that it will simply discuss a selection of fundamental civil rights that are frequently violated with respect to migrant workers.

Freedom from slavery, forced labour, degrading or inhuman treatment

Outline the following elements:

- Slavery, forced labour, and degrading or inhuman treatment are often evident in the case of those migrant workers who have been:
 - trafficked or abused;
 - placed in situations of debt bondage;
 - victims of other forms of exploitation (e.g., extremely long hours of work without rest days).

- Slavery and forced or compulsory labour, with respect to migrant workers in particular, is prohibited by general international human rights law, by international labour law and by Article 11 of the UN Convention on Migrant Workers.
- The Anti-Trafficking Protocol to the 2000 UN Convention against Transnational Organised Crime provides a legal framework for the prosecution and punishment of traffickers and for the protection of trafficked victims.

Freedom from arbitrary arrest and detention

Outline the following elements:

- Many migrants, including those authorized to work, are often subject to harassment by border officials as well as the police in destination countries.
- ICCPR Art. 9 provides for the right of liberty and security of the person.
- Art. 16 of the UN Migrant Workers Convention restates provisions of ICCPR Art. 9, and Art. 16(4) specifically prohibits on arbitrary arrest or detention.
- The general principle of non-discrimination has important applications in the context of arbitrary arrest and detention.

Freedom of movement and the right to leave

Outline the following elements:

- The above-mentioned right to freedom of movement, although limited, can nevertheless protect migrant workers.
- It is common practice for employers or recruitment agents to confiscate the passports of migrant workers to ensure that they do not leave before the work is completed.
- Such a practice does not conform to general international human rights standards, which protect free movement within the territory of the country of destination for lawfully resident migrant workers and the right to leave a country.

Effective protection from violence, threats and intimidation, xenophobia and discrimination

Outline the following elements:

- While many countries have laws to protect against discrimination (including protection from violence, threats and intimidation, and xenophobia), in practice these laws may not be applied very well, especially with regard to foreign nationals.
- Moreover, some laws prohibit discrimination only on certain grounds, such as race or sex, while those laws that treat distinctions on the basis of nationality are often limited.
 - For example, in the UK, under the amended Race Relations Act 1976, protection against discrimination on the grounds of race or ethnic origin is stronger than that afforded against discrimination on the grounds of nationality.
- Because of this disparity, an important right for migrant workers is the right of access to courts (including the labour courts) (for example, as stated in ICCPR Art. 14 and UN Migrant Workers Convention Art. 18), so that migrant workers can enjoy the same access to courts as nationals, and thereby seek redress for abuses in the country of destination.

- This right should be facilitated and should also include some provision for free legal assistance, particularly if migrants do not possess the means to pay.

Employment and other economic and social rights (15 min)

Slides 17-20

Trainer note

Employment and social rights form the core of foreign workers' legal status in destination countries. This presentation highlights the distinction between access to employment (the right to work) and employment rights. It identifies some common difficulties that migrant workers face in this area and, by referencing to relevant international instruments, points to how these might be overcome.

- Introduce the topic by highlighting the distinction between access to employment (the right to work) and employment rights:
 - Recall previous developments on the principle of non-discrimination and legitimate distinctions of treatment (*Session 2*).
 - While international law allows some distinction of treatment (between nationals and foreigners; between foreigners in a regular situation and those in an irregular situation) regarding access to employment (the right to work), it prohibits distinctions of treatment with regards to employment rights.

Access to employment (Right to work)

- Outline the following elements about how the right to work applies to migrant workers:
 - The right to work is recognized by the International Covenant on Economic, Social and Cultural Rights, Art. 6.
 - The application of the right to work for foreigners is highly controversial.
 - It is very unlikely that international law, in its current state, recognizes foreigners' general right to employment in a destination country. Currently, states commonly restrict migrant workers' access to the labour market, notably through the requirement of a work permit.
 - Arguably, migrant workers' access to employment is an area where states have broad authority to distinguish between nationals and foreigners.
- Highlight the fact that ILO Convention No. 143 provides lawfully resident migrant workers with free access to the labour market after two years of employment, or after completion of the first work contract.
 - This is a liberal provision and appears to be one of the substantive reasons why this instrument has not received wide acceptance.

Employment rights

- Regarding employment rights, highlight the overriding principle found in general international human rights instruments (ICESCR Art. 7) and international labour standards:
 - All foreign workers should be treated on equal terms with nationals.
- Outline the following employment rights of migrant workers:
 - Equal remuneration for work of equal value.
 - Prohibition of unlawful deductions from workers' salaries (fundamental principle recognized in the widely ratified ILO Convention No. 95 of 1949 on the Protection of Wages).

- Protection from dismissal and vocational training:
 - o While it is inevitable that workers lose their jobs during downturns in the economy, there should be no discrimination between national and foreign workers in this respect without good reason.
 - o Similarly, vocational training should also be available to migrant workers.
 - o While this might be difficult to realize in practice, particularly for temporary migrant workers, opportunities for the development of skills are vital for several reasons, including integration in the labour market and prevention of social exclusion in the destination country. Furthermore, in cases where migrant workers return to their countries of origin, development of skills helps them contribute to those countries' economies.
- Trade union rights:
 - o Trade union rights are recognized universally in a number of international human rights instruments (ICCPR Art. 22) as well as in pertinent ILO Conventions (Conventions Nos. 87 and 98).
 - o Trade unions rights are not just employment rights but are also civil rights, and include the rights to freedom of association and collective bargaining.
 - o Outline the following components of trade union rights:
 - The right to join existing trade unions applies to all foreign workers, including irregular workers (this right can only be effective if national trade unions take a positive and inclusive approach to the situation of migrant workers).
 - The right also covers the formation of separate trade unions (although joining established unions may be preferable because of their stronger position) as well as migrant associations, which can play an important role in protecting migrant workers' rights.
- Highlight the fact that it is also necessary to ensure that labour protections apply to those employment sectors that contain a large or disproportionate number of migrant workers.
 - o For instance, domestic/household employment, care work, agriculture, construction.
- Equal treatment with nationals with regard to rights arising out of past employment:
 - o Highlight the fact that both ILO Convention No. 143 and the UN Migrant Workers Convention emphasize that the right to equal treatment with nationals should be protected with regards to all migrants, including irregular migrant workers (see Article 9(1) of ILO Convention No. 143 and Articles 25(3) and 27 of the UN Convention).
 - o In particular, equal treatment should apply to:
 - Remuneration (i.e., past wages). This is especially important for irregular migrant workers because employers often attempt to hide behind the unauthorized employment in order to avoid their obligations.
 - Social security. Equal treatment in the social security field with respect to past employment includes the possibility of reimbursement of social security contributions or the export of benefits to the migrants' country of origin.

Other economic and social rights of particular importance:

- Two social rights of importance to migrant workers are also traditional types of social security: access to medical care and entitlement to unemployment benefits.
 - Access to medical care:
 - The right to health is recognized by the International Covenant on Economic, Social and Cultural Rights (Art. 12).
 - Regarding the applicability to migrant workers of the right to health, the possibility of a distinction of treatment between nationals and non-nationals, regardless of their status, regular or irregular, appears to be significantly narrowed (See CESCR's General Comment No 14).
 - The UN Migrant Workers Convention distinguishes between emergency medical treatment, which should be available to all migrant workers and their families, including those in an irregular situation (Article 28), and access to health care facilities in the broader sense, which should also be accorded to lawfully resident migrant workers and members of their families (Articles 43(1)(e) and Article 45(1)(c)).
 - Access to unemployment benefits:
 - As this is a contributory benefit, it is a recognized principle in both the UN Convention and the ILO instruments (as well as the European Convention on the Legal Status of Migrant Workers) that unemployed migrant workers should be entitled to this benefit and to stay in the country for so long as the benefit is payable.
 - In other words, the loss of migrants' employment should not automatically result in the loss of their residence status.
 - In practice, access to unemployment benefits is problematic for migrant workers in a number of countries.
- Three other important social rights are: the right to access housing, the right to access education (particularly relevant to migrant children), and the right to family life.
 - Access to housing:
 - ICESCR Article 11(1) recognises the right to an adequate standard of living, including adequate housing.
 - Migrant housing/accommodation is a particular problem affecting labour migration in a number of regions, especially in large cities. The UN Migrant Workers Convention in Article 43(1)(d) emphasizes the principle of equal treatment between lawfully resident migrant workers and nationals with respect to access to housing, which includes social or public housing.
 - Access to education:
 - The right to education is recognised by ICESCR Art. 13. It requires the state to make primary, secondary and higher education available and accessible to all. As with the right to health, the possibility of a distinction of treatment between nationals and non-nationals, regardless of their status, regular or irregular, appears to be significantly narrowed.
 - The UN Migrant Workers Convention proclaims the right of the children of all migrants (including irregular migrants) to access education on the basis of equality of treatment with nationals (Article 30), and access to educational institutions and services on equal terms with nationals for lawfully resident migrant workers and their families (Articles 43(1)(a) and 45(1)(a)).
 - The right to family life / family reunification:
 - The right to family life is recognised by ICCPR, Arts. 17 and 23.

- It is particularly relevant with regards to admission and expulsion, both areas where state's powers are very broad.
- In case of potential expulsion, the right to family life requires balancing the state's interest in expelling the family member, with the interest of families in remaining together in the destination country.
- Although international instruments do not provide for an unequivocal right to family reunification, both ILO Convention No. 143 and the UN Convention stipulate that family reunification should be facilitated.

Summary (5 min)

- Civil rights (including freedom from slavery, forced labour, degrading or inhuman treatment, freedom from arbitrary arrest and detention, freedom of movement and the right to leave, and the right to a fair trial) are fundamental rights that must be granted to migrant workers on equal terms with nationals, regardless of their legal status – regular or irregular.
- Employment and social rights form the core of the foreign workers' legal status in destination countries.
 - Migrant workers' access to employment or to the labour market is an important entitlement, which can play a vital role in promoting migrants' integration in the destination country.
 - With regards to employment rights (right to equal remuneration, right to protection from dismissal and vocational training, trade union rights, and rights arising out of past employment), all migrant workers should be treated on equal terms with nationals.
- Other economic and social rights (such as the right to access medical care, access to unemployment benefits, access to housing, access to education, and family reunification) are of particular importance, particularly in the context of integration of migrant workers in the host society.
- A number of economic and social rights, such as the rights to family reunification and to access to social assistance (i.e., non-contributory benefits) are harder to satisfy in practice with respect to short-term or temporary foreign workers.

Resources for facilitator preparation

See bibliography at the end of Module B

Session 4: Group activity and conclusion

Suggested duration	35 min total
	30 min Group activity
	5 min Conclusion
Methodology	Presentation and Group activity
You will need	Flip chart, pen, Module B slides, Module B Session 4 worksheet (trainer version)
Participants will need	Copy of slides, relevant legal instruments, Module B Session 4 worksheet

Group activity

Slides 21-22

Duration: 35 min

- Introducing the activity
 - Introduce the activity by dividing participants into their groups.
 - Distribute worksheets to each participant.
 - Ask participants to examine the case study and to consider the following question within their groups:
 - Are any human rights being violated in the situations described? If so, which ones? Explain.
 - With reference to what we covered in Session 2 (Universal and Regional Frameworks), do you know in which instruments those rights are enshrined?
 - Tell the groups that they have 15 minutes to discuss.
 - Explain that each group will report back on one phase of the case study.
- Feedback from groups
 - Ask each group to present briefly their responses to one phase (5 min each), ensuring each scenario is covered.
 - Invite comments from other groups after each phase is presented.
- Complement the responses from the participants using *Answers and Trainer notes* accompanying the case study in the present Trainer Manual (5 min).

Conclusion: establishing an equitable legal status for migrant workers (5 min)

Slide 23

- Highlight the fact that establishing an equitable legal status for migrant workers serves the interests of countries of origin as well as countries of destination.
 - By ratifying these standards, countries of origin underline the importance of protecting their workers.
 - Moreover, ensuring equality between national workers and migrant workers with respect to employment, work conditions and trade union rights, protects both sets of workers.

Module B

- Exploitation of migrant workers can only result in worse working and employment conditions for national workers as well.
- Highlight the fact that establishing an equitable legal status for migrant workers enhances good relations between the countries concerned.
 - The mistreatment of workers in the destination country is hardly conducive to the maintenance of good relations with countries of origin.
- Highlight the fact that establishing an equitable legal status for migrant workers sends a clear message to employers and others who may wish to exploit migrant workers or indeed the whole of their workforce.

Resources for facilitator preparation

See bibliography at the end of Module B

Power Point Module B:

International Migration Law framework for the protection of migrant workers


SLIDE 1



Module B: International Migration Law framework for the protection of migrant workers


[Insert here name of Training Seminar / Workshop, Venue, and Date]
 [Insert here name of Trainer]

SLIDE 2




Session I Introduction

SLIDE 3


Session 1: introduction


Module Aim

Module B aims to provide an overview of International Migration Law for the protection of migrant workers, in the context of their fundamental human rights.



SLIDE 4

Session 1: introduction


By the end of this Module you will:

- Understand the position of migrant workers under human rights law.
- Be familiar with International Migration Law for the protection of migrant workers.
- Be able to broadly assess national practices with reference to existing international and regional standards.
- Be able to apply existing international and regional standards to a concrete national context.

SLIDE 5

Session 1: Introduction  

Group activity



Different visions on legal frameworks:

- Government of a country of origin
- NGO representing migrant workers
- Trade union

SLIDE 6

Session 1: Introduction  

State's sovereign powers regarding admission and expulsion of foreigners

- Absence of a right of foreigners to enter a state's territory
- Broad legitimate grounds for refusal of admission or expulsion
- But State's powers are subject to the rules of International Migration Law e.g. refugee law, human rights law

SLIDE 7

Session II

International Migration Law

SLIDE 8

Session 2: Universal and regional legal frameworks  

Universal instruments

- General international human rights law
- ILO international labour standards
- UN Convention on Migrant Workers (1990)

SLIDE 9

Session 2: Universal and regional legal frameworks 

General international human rights law

- International Bill of Human Rights
 - Universal Declaration of Human Rights
 - International Covenant on Civil and Political Rights (ICCPR)
 - International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Other human rights instruments
 - e.g. ICERD, CEDAW, CAT, CRC
- Universal principle of non-discrimination
 - An indirect right / an autonomous right
 - Content of the principle
 - Non-discrimination and distinction of treatment


SLIDE 10

Session 2: Universal and regional legal frameworks 

International labour standards specifically relating to migrant workers

<p>ILO Convention 97 (1949)</p> <ul style="list-style-type: none"> □ 48 State Parties □ Applicable only to lawfully resident migrant workers □ Equal treatment with nationals with respect to wages and working conditions, trade union rights, social security, accommodation, and access to courts □ Accompanied by Recommendation No. 86 (1949) which includes a model bilateral agreement 	<p>ILO Convention 143 (1975)</p> <ul style="list-style-type: none"> □ 23 State Parties □ Protects basic human rights of all migrant workers, including irregular migrants □ Specifically, the rights of irregular migrants arising from past employment are safeguarded □ Principle of equal treatment of regular migrants with nationals □ Accompanied by Recommendation No. 151 (1975)
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SLIDE 11

Session 2: Universal and regional legal frameworks 

UN Convention on Migrant Workers

- Comprehensive model for a national legal framework to regulate the legal status of migrant workers and their families
- Protects the basic rights of all migrant workers and their families (lawfully resident and irregular migrants) (Part III)
- Grants regular migrants a number of additional rights on the basis of equality with nationals (Part IV)

SLIDE 12

Session 2: Universal and regional legal frameworks 

Regional legal frameworks

- Africa
 - African Charter on Human and Peoples' Rights (1981)
- Americas
 - American Convention on Human Rights (1969)
- Europe
 - Council of Europe standards
 - European Union law

SLIDE 13

Session 2: Universal and regional legal frameworks

Council of Europe standards

- European Convention on Human Rights 1950
 - Article 8 – right to respect for family and private life
 - Article 14 – non-discrimination (including nationality)
- European Social Charter 1961/ Revised Charter 1996
 - Only applicable to migrants who are nationals of Council of Europe Member States
- European Convention on the Legal Status of Migrant Workers 1977
 - Only applicable to lawfully resident migrant workers from other Contracting parties
 - Equal treatment with nationals in defined areas
 - Ratified by 11 State parties

SLIDE 14

Session 2: Universal and regional legal frameworks

European Union law on third-country nationals

- Directive 2003/86 of 22 September 2003 on the right to family reunification
- Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents
- Directive 2004/114 of 13 December 2004 regarding students and Directive 2005/71 of 12 October 2005 regarding researchers
- Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

SLIDE 15

Session III

Migrants' civil rights, employment rights and other rights

SLIDE 16

Session 3: Migrants' rights

Civil rights

- Freedom from slavery, forced labour, degrading or inhuman treatment
 - Trafficking
 - Debt bondage
 - Other forms of exploitation
- Freedom from arbitrary arrest and detention
- Freedom of movement and the right to leave the country
 - No confiscation of passports / travel documents
- Effective protection from violence, threats and intimidation, xenophobia and discrimination
- Right to a fair trial


SLIDE 17

Session 3: Migrants' rights 

Access to employment (right to work)

- Absence of a general right of migrant workers to freely access labour markets
- ILO Convention No. 143 provides lawfully resident migrant workers with free access to the labour market after two years of employment or after completion of the first work contract


SLIDE 18

Session 3: Migrants' rights 

Employment rights

- Rights to equal work and employment conditions with nationals
 - Right to equal remuneration for work of equal value
 - Prohibition of unlawful deductions from salaries
 - ILO Convention No. 95 of 1949 on the Protection of Wages
- Protection from dismissal / access to vocational training

SLIDE 19

Session 3: Migrants' rights 

Employment rights

- Trade union rights (freedom of association and collective bargaining) ICESCR (Art. 8); ILO C87 and C98
 - to join existing trade unions
 - to form own trade unions and migrant associations
- Labour protections apply to sectors that employ mainly migrant workers
 - e.g. construction, agriculture, domestic work/ household employment
- Rights arising out of past employment
 - Remuneration (past wages)
 - Social security

SLIDE 20

Session 3: Migrants' rights 

Other economic and social rights

- Medical / health care (and social services)
- Unemployment benefit
- Access to housing
- Access to education
- Family reunification


SLIDE 21

Session IV
Small group activity and conclusions

SLIDE 22

Session 4: Small group activity and conclusions

Group activity



Georges Lokai migration story

Think about the application of international norms protecting migrant workers in a concrete situation

SLIDE 23

Session 4: Small group activity and conclusions

Conclusions

- Establishing an equitable legal status for migrant workers
 - Is in the interests of both countries of origin and destination
 - Protects both migrant and national workers
 - Enhances good relations between the countries concerned
 - Sends a clear message to employers who may wish/ be tempted to exploit their (migrant) workforce

SLIDE 24

Thank you!

Module B, Session 4: Group activity and conclusion

ANNEX

Participant worksheet for group activity and trainer notes

Case study: George Lokai's migration story

1) George Lokai, a national of Bahania, has been engaged to work in the tourism industry of Austrasia. He is informed by the Austrasian immigration authorities that he needs to apply for a stay permit and a work permit. The Austrasian immigration law and administrative practices request the applicant to provide the following documents in order to be granted a work and residence permit: a clean criminal record; a certificate of moral character; a proof of accommodation; a signed work contract; and a health certificate including a certificate of HIV negativity. Mr. Lokai fulfills these requirements. He obtains the permits, moves to Austrasia and starts to work.

2) After two years of residence in Austrasia, Mr. Lokai obtains family reunification with his wife and his two minor daughters. Mr. Lokai would have liked to be reunited with his son who is 25 years old and with his own mother but, according to the immigration law, family reunification is limited to the spouse and minor children. Moreover, the immigration law explicitly prohibits family members from accessing employment or pursuing classes at the public national university.

3) A few years later, while Mr. Lokai is still working in Austrasia, he is randomly tested for HIV within his firm. The result appears positive, and Mr. Lokai is fired. While he is covered by Austrasia's national social insurance scheme, he discovers that according to the Social Security Act, foreigners do not benefit from the same coverage as nationals. While nationals can benefit from antiretroviral treatment for free, foreigners cannot. Furthermore, the firm that was employing Mr. Lokai transmitted the information related to Mr. Lokai's HIV status to the administrative authorities, complying with a ministerial instruction that requires employers to report the HIV positivity of their foreign employees to the competent authorities. Mr. Lokai and his family are subsequently expelled, pursuant to an immigration law that prohibits the stay of foreigners living with HIV. Mr. Lokai would like to challenge the expulsion order in court, but he is informed that his irregular situation does not allow him to access the Austrasian courts/tribunals.

For each phase of Mr. Lokai's immigration story, assess the compliance of Austrasia's legal regime and practice with international law. Austrasia is party to all the major international instruments protecting migrant workers.

Try to specify the international conventions that have been breached, and also identify the practical and policy issues that would need to be considered in bringing national law into line with international conventions.

Answers and Trainer notes

1)

- Remind participants of the significant powers of the state with respect to the admission of foreigners into its territory, and of the absence of a right to be admitted. Most requirements of Austrasia are common conditions imposed by states regarding entry and stay on their territory that comply with international law.
- The requirement of a certificate of moral character is rather unusual, although a number of immigration laws require that the applicant does not intend to exercise any immoral activity in the considered country. This requirement falls under the wide and vague notion of public order.
- While the presentation of a medical certificate is a habitual requirement, the requirement of a certificate of HIV negativity is highly contestable.
 - States that impose HIV/AIDS-related entry and stay restrictions justify their practices primarily on the grounds of protection of public health and the public purse. These two grounds are classical and internationally accepted reasons for a state to refuse admission and stay of foreigners. However, it is generally argued that migration and travel of persons living with HIV/AIDS do not present, in themselves, a threat to public health. Such is the position of IOM, ILO, WHO and UNAIDS on the matter. As for the argument of health-related costs, this ground is clearly lacking in value when the foreigner does not intend to reside permanently within the national territory. Even when a migrant does intend to reside permanently, this justification for HIV/AIDS-related entry and stay restrictions is nonetheless contestable.
 - One can thus challenge the reasonableness of distinctions established by certain states regarding entry and stay of foreigners on the basis of their HIV/AIDS status. Therefore, the discriminatory nature of such practices should be discussed. This is an application of the principle of non discrimination invoked in an autonomous way (Art. 26, International Covenant on Civil and Political Rights).

2)

- Remember the absence of a recognized specific right to family reunification under general international law, despite the existence of a right to family life, which constitutes an incentive in this regard.
 - Remember also that the ILO Convention No. 143 and the UN Migrant Workers Convention stipulate that family reunification should be facilitated. See also Article 19(6) of the European Social Charter and Article 12 of the European Convention on the Legal Status of Migrant Workers, which are arguably stronger provisions.
 - The limitation of family reunification to the spouse and minor children is a common and internationally accepted practice of states.
- International Migration Law does not recognize foreigners' general right to employment. The practice of Austrasia regarding employment of family members does not seem to violate international law. It is nevertheless debatable whether it is a sound policy.
- Refusal of access to education is a violation of International Migration Law (Art. 13, International Covenant on Economic, Social and Cultural Rights; Art. 45, UN Migrant Workers Convention).

3)

- The specific provisions of the social security act violate the internationally recognized right to health (Art. 12, International Covenant on Economic, Social and Cultural Rights; Art. 43, UN Migrant Workers Convention).

Answers and Trainer notes (Continued)

- Regarding expulsion on the grounds of the HIV status of Mr. Lokai, the elements expressed previously with regards to admission and stay can be transposed. As states' powers are weaker with regard to expulsion, these elements will have a stronger legal weight. Moreover, the right to family life often plays an important role to challenge the legality of the expulsion. It is less relevant in this case, however, because Mr. Lokai's family can go back with him to the country of origin.
- Refusal of access to court is likely to constitute a violation of international law (Art. 14, International Covenant on Civil and Political Rights; Art. 18, UN Migrant Workers Convention).

Resources for facilitator preparation

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Course 1

International Migration Law and cooperation framework for the development of labour migration policies

Module C

International cooperation
for the facilitation of labour
migration

Module C: International cooperation for the facilitation of labour migration

Suggested total duration: 2 h	
Duration	Session
10 min	Session 1: Introducing Module C
15 min	Session 2: Global-level cooperation
25 min	Session 3: Regional cooperation
1 h 10 min	Session 4: Bilateral labour arrangements

Aim of Module C

Module C aims to:

- Provide an overview of the principal forms of inter-state cooperation in managing labour migration, including multilateral, regional and bilateral arrangements; formal and less formal mechanisms;
- Consider a specific regional framework for labour mobility, the free movement of workers regime in the European Union;
- Present and discuss in some detail the objectives, content and efficiency of bilateral labour arrangements.

Learning outcomes for Module C

- Understand the principal forms of cooperation between countries of origin and countries of destination in managing labour migration, and the importance of such cooperation in developing effective, successful, and equitable managed labour migration systems.
- Gain an understanding of a specific regional framework for facilitating labour mobility in the context of economic regional integration, the free movement of workers regime in the European Union.
- Acquire extensive knowledge of the different types of bilateral labour agreements, as well as of best practices in concluding and implementing such agreements.

Session 1: Introducing Module C

Suggested duration	10 min total
Methodology	Presentation and Question activity
You will need	Flip chart, pen, Module C slides
Participants will need	Copy of slides

Present aims and outcomes for Module C

Slides 1-4

- Aim of Module C:
 - To provide an overview of the principal forms of inter-state cooperation in managing labour migration, including multilateral, regional and bilateral; formal and less formal mechanisms.
 - To consider a specific regional framework for labour mobility: the free movement of workers regime in the European Union.
 - To present and discuss in some detail the objectives, content and efficiency of bilateral labour arrangements.
- Learning outcomes of Module C:
 - To understand the principal forms of cooperation between countries of origin and countries of destination in managing labour migration and the importance of such cooperation in developing effective, successful and equitable managed labour migration systems;
 - To gain an understanding of a specific regional framework for facilitating labour mobility in the context of economic regional integration: the free movement of workers regime in the European Union;
 - To acquire extensive knowledge of the different types of bilateral labour agreements, as well as of best practices in concluding and implementing such agreements.

Question activity

Duration: 5 min

- Aim of the activity:
 - To enable participants to reflect on why international cooperation in migration is needed.
- Ask select individuals to list some reasons why, in their opinion, international cooperation is important in the context of labour migration management.

International cooperation: the context

Slide 5

- In summing up, highlight the following factors explaining the need for international cooperation:
 - Migration is by nature a transnational process:
 - The migration process involves complex relationships between the migrant and a variety of public and private stakeholders in countries of origin, transit and destination.
 - Policies adopted by other countries may have an influence on the migration flows towards a considered country as well as on the effectiveness of its domestic policies.

- There is no comprehensive international migration regime:
 - o The admission of persons to states for the purpose of employment is regulated principally by national laws and policies.
 - o Recall the broad powers of the state regarding admission of foreigners on their territory (see *Module B International legal framework for protection of migrant workers*).
- The efficiency of unilateral approaches is limited:
 - o Dialogue and cooperation are needed in order to develop policies that benefit all – countries of origin, countries of destination and the migrants themselves.
 - o This need for international cooperation has been increasingly acknowledged within the international community.
- International intergovernmental cooperation can take a variety of forms:
 - Formal or less formal mechanisms:
 - o Formal mechanisms of international cooperation refer to the conclusion of legally binding agreements between states.
 - o Less formal mechanisms of international cooperation refer to non-binding arrangements and consultative mechanisms.
 - Cooperation at the global, regional and bilateral levels:
 - o Indicate that the present module will follow this tripartite structure – global, regional, and bilateral cooperation.
 - o Indicate that with regards to regional frameworks for labour mobility, the present module will examine, in some detail, the free movement of workers in the European Union.
- Point out that while the present module focuses on intergovernmental cooperation, attention must also be paid to other important forms of international cooperation on migration, particularly those involving trade unions and employer bodies.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM, ILO, 2007, pp. 187-213

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 355-392

Session 2: Global-level cooperation

Suggested duration	15 min total
	5 min Global-level instruments
	10 min Global, less formal mechanisms Summary
Methodology	Presentation
You will need	Flip chart, pen, Module C slides
Participants will need	Copy of slides

Trainer note

Because this session is quite presentation-heavy, make sure throughout the session to pose questions to participants in order to reinforce learning.

Global-level instruments (5 min)

Slides 6-8

Intergovernmental cooperation in international conventions

Slides 6-7

- ILO Conventions No. 97 and No. 143 and the UN Convention on Migrant Workers (IRCMW) include provisions related to intergovernmental cooperation.
- Outline the following elements regarding ILO instruments:
 - o The accompanying Recommendation (No. 86) of ILO Convention No. 97 contains in its annex a model bilateral labour migration agreement.
 - o Part I of Convention No. 143 imposes obligations upon States parties to cooperate with a view to preventing abuses in the migration process.
- Outline the following elements regarding IRCMW:
 - o Under Art. 64, States Parties are under a general obligation to consult and cooperate “with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families” and “[i]n this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.”
 - o Art. 67 deals more specifically with cooperation in the adoption of measures regarding the orderly return, resettlement and reintegration of migrant workers and members of their families to the state of origin.
- Recall the fact that these instruments have not received the type of wide-ranging acceptance that would allow for the development of a framework for multilateral cooperation.

General Agreement on Trade in Services (GATS)

Slide 8

- Present an overview of the GATS with regards to labour migration:
 - o The GATS operates under the auspices of the World Trade Organization (WTO).

- Mode IV of the Agreement contains rules concerning labour migration in the context of the trade in services.
- Mode IV offers a multilateral framework for negotiations, with a set of rules designed to facilitate the movement of service providers.
- Present the limits of GATS Mode IV:
 - The GATS does not create universal criteria for the admission of defined categories of service providers.
 - The aforementioned rules are limited in practice to a narrow category of migrants, primarily to those working for multinational companies, such as executives, managers and specialists, and intra-company transferees.
 - Moreover, this movement can only take place on a temporary basis. For example, business visitors are generally permitted to stay for up to 90 days. Permanent presence in the country is expressly excluded.
- Recall the difficulties encountered during the recent WTO trade negotiations:
 - Delegations from developing countries have sought greater access to labour markets in developed countries, particularly by broadening the categories of persons who can enter and by simplifying admission rules.
 - Multilateral trade negotiations stalled at Cancun in September 2003, and no significant progress was made since then.

Global, less formal mechanisms (10 min)

Slide 9

- Introduce the topic by presenting the purpose of such non-binding initiatives:
 - They aim to promote dialogue as well as the exchange and the development of efficient practices in managing labour migration.
 - Few initiatives focus on labour migration; most agendas cover migration in a broader way.
- Outline the following elements regarding a selection of global initiatives:
 - The Global Forum on Migration and Development (GFMD):
 - Initiated at the UN General Assembly's High-Level Dialogue on Migration and Development in September 2006, with annual meetings organized since then.
 - Is a state-driven process that operates outside the UN system, but keeps links with it through the UN Secretary General's Special Representative for Migration.
 - For a more comprehensive presentation of the GFMD, refer to the textbox below.
 - The IOM's International Dialogue on Migration (IDM) :
 - Aims to contribute to a better understanding of migration and to strengthen cooperative intergovernmental mechanisms.
 - The IDM's activities are composed of annual sessions and two or three inter-sessional workshops organized each year.
 - For a more comprehensive presentation of the IDM, refer to the textbox below.
 - The ILO Multilateral Framework on Labour Migration:

- Initiated at the 92nd session of the International Labour Conference (ILC) in 2004; formulated by a Tripartite Meeting of Experts in November 2005.
- Composed of a set of non-binding principles, guidelines and best practices on the development, improvement/strengthening, implementation. and evaluation of national and international labour migration policies.
- The Framework aims to foster cooperation in order to assist in the implementation of effective policies on labour migration.

Global Forum on Migration and Development

Conceived as an informal, multilateral and state-led process, the Global Forum on Migration and Development (GFMD) is intended to add value to the current debate on international migration and development by fostering international cooperation, enhancing inter-state dialogue and discussing and promoting new policy ideas in the field of migration and its interrelation with development.

The goals of the GFMD are threefold:

- to bring together governments', international organizations', and other stakeholders' expertise from all regions to enhance dialogue, cooperation and partnership in the areas of migration and development;
- to address, in a transparent manner, the multi-dimensional aspects, opportunities and challenges related to international migration and its inter-linkages with development;
- to foster practical and action-oriented outcomes at the national, regional and global levels.

Through a participative and sustained dialogue between developing and developed countries the Forum seeks to arrive at common and evidence-based understandings on those areas where migration policies have the greatest potential to contribute to development, and where development policies take greater account of migration and its potential benefits for development. The Forum is also intended to make explicit the growing recognition that international migration is a normal and crucial element in the development process.

So far the GFMD has met on three occasions:

- On July 9-11, 2007, the first meeting of the Global Forum on Migration and Development took place in Brussels. Common outcomes from this first forum included the need for capacity building, including the need for data collection on migration flows and impact analyses, policy coherence at all levels of governance and within a broad range of policy areas, and respect for human rights and gender equality. The forum also proposed a variety of pilot projects to be developed.
- The second GFMD took place in Manila from October 28-30, 2008. The theme of the Manila Forum was "Protecting and Empowering Migrants for Development," a theme which was chosen to reflect a growing understanding that the development benefits of migration are dependent on the extent to which migrants are protected and empowered, both by countries of origin and destination. The outcomes also included a series of pilot-project initiatives.
- The third GFMD took place in Athens on November 4-5, 2009. That forum's approach acknowledged that migration is a consequence rather than a cause of lack of development. The theme of the forum was to integrate migration into development policy planning.

International Dialogue on Migration (IDM)

The International Dialogue on Migration (IDM), hosted by the IOM, provides an opportunity for governments, inter-governmental and non-governmental organizations and other stakeholders to discuss migration policy issues, in order to explore and study policy issues of common interest and to cooperate in addressing them.

The IDM was launched at the 50th anniversary session of the IOM Council in 2001 and since then has provided a forum for migration dialogue, which takes place at the annual Council sessions and at the inter-sessional workshops.

The 2007 workshop took place under the overall theme of “Migration Management in the Evolving Global Economy” and had three main objectives:

- to bring together representatives of the various authorities involved in the management of labour migration, including policymakers and other stakeholders directly responsible for these issues;
- to share experiences relating to labour migration management from the perspectives of migrants themselves, public- and private-sector actors, and other non-governmental entities; and
- to identify effective tools for managing the movement of people in the context of a globalizing economy.

Summary

- ILO Convention No. 143 and the UN Convention on Migrant Workers contain provisions imposing cooperation on state parties.
 - o However, the efficacy of such provisions is limited by the sparse ratification of the conventions.
- GATS Mode IV offers a framework for cooperation, as well as rules regarding the mobility of service providers.
 - o Such rules are rather limited in practice; given the difficulties in negotiations, little progress has been made during the past years.
- Regarding less formal mechanisms, the GFMD and the IDM provide a framework for the promotion of dialogue and the exchange of information and expertise at the global level.
 - o The flexibility of such mechanisms facilitates participation, but the implementation of concrete objectives is left to the discretion of states.
- The ILO multilateral framework on labour migration is composed of a set of non-binding principles, guidelines and best practices that include incentives for international cooperation.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM, ILO, 2007, pp. 187-213

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Website of the Global Forum on Migration and Development, Athens' Meeting 2009

<http://www.gfmdathens2009.org>

Session 3: Regional cooperation

Suggested duration	25 min total
	5 min Introduce the topic
	10 min Regional integration: the European Union
	10 min Regional consultative processes (RCPs)
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module C slides
Participants will need	Copy of slides

Trainer note

This session is quite presentation-heavy, so make sure to pose questions to the participants throughout the session, in order to reinforce learning.

Introduce the topic (5 min)

Slides 10-11

- Many reasons (including political, historical, social and cultural similarities) already mentioned in *Module B International legal framework for the protection of migrant workers*, facilitate the conclusions of arrangements and the launching of initiatives at the regional level.
- As with the previous session, a distinction can be made between a) formal mechanisms of regional integration (including free movement schemes) and regional agreements (including obligations to cooperate in regional treaties) and b) less formal initiatives, like regional consultative processes and other informal arrangements.
- Outline the following elements regarding formal mechanisms of regional integration:
 - There is an important variety of such initiatives: the European Union (EU), the North American Free Trade Agreement (NAFTA), the Common Market for Eastern and Southern Africa (COMESA), the Economic Community Of West African States (ECOWAS), the Caribbean Community (CARICOM), etc.
 - Free movement schemes are generally more ambitious when they form part of the development of common markets than when they are shaped under the auspices of free trade agreement initiatives.
 - Free movement schemes are rarely implemented efficiently:
 - they are more likely to succeed when the process of economic integration is already well under way;
 - they are less likely to succeed when presented as a potential engine for progress towards regional integration.
 - The free movement of labour regime of the EU is the most comprehensive.
- Outline the following elements regarding less formal initiatives:
 - The variety of regional consultative processes (RCPs):

- Americas: Regional Conference on Migration (Puebla Process);
 - Africa: Migration Dialogue for West Africa (MIDWA), Migration Dialogue for Southern Africa (MIDSA);
 - Asia: Ministerial Consultations on Overseas Employment and Contractual Labour for Countries of Origin in Asia (Colombo Process).
- The following presentation will focus on RCPs in the OSCE and bordering regions.

Regional integration: the European Union (10 min)

Slides 12-13

- Introduce the topic with the following points:
 - The EU is the most extensive regional integration system as far as labour migration is concerned.
 - Free movement of workers in the EU covers all forms of employment:
 - Salaried or wage-earning employment (free movement of workers);
 - Self-employment (freedom of establishment);
 - Provision of services (freedom to provide services).
 - Free movement rights of EU nationals are enshrined in the EC Treaty (the Treaty Establishing the European Communities), have direct effect in Member State laws, and are supervised by the European Court of Justice, whose decisions are binding on all Member States.
- Free movement of EU nationals is accompanied by an extensive set of rights which are based on the principle of equal treatment with nationals:
 - The right to free movement means that every EU citizen is entitled to travel freely in the Member States of the European Union and to settle anywhere within the EU.
 - The areas covered by the right to free movement apply to the employment context and beyond:
 - Work and employment conditions (particularly those regarding remuneration and dismissal) and trade union rights;
 - Vocational training;
 - Social and tax advantages (includes welfare benefits);
 - Housing;
 - Education of children.
 - EU rules also provide for social security entitlements.
 - Family reunion provisions:
 - The worker's spouse and dependent children (under the age of 21) as well as dependant parents of the worker or spouse have the right to join the worker in the state of employment.
 - The spouse and children of EU workers have free access to employment.
 - Free movement rights are supported by safeguards against expulsion:
 - EU workers can be expelled only if they constitute a serious threat to the public policy, public security or public health of that State.
 - These criteria have been defined restrictively by the European Court of Justice.
- Outline the following elements regarding the position of third-country nationals with regards to free movement rights:

- The notion of third country nationals refers to any person who is not a national of an EU Member State.
- The EU rules on free movement of workers are concerned mainly with EU nationals, although non-EU or third-country nationals can also benefit from “derived rights” under EU law because of their connection with the EU worker or company:
 - o the non-EU spouse and children of EU workers benefit from all free movement rights, including free access to employment, in the Member State in which the EU worker is employed.
 - o the Court of Justice has also ruled that EU companies can move their non-EU workers to another EU Member State on a temporary basis in the context of the provision of services.
- EU rules on social security are extended to non-EU nationals residing in one Member State who move to another Member State to take up employment there.
- EU enlargement and labour migration:
 - Over the period 2004-2007, the EU has been transformed from a 15-country Union to one made up of 27 countries.
 - When new member states join the EU, the terms and conditions that apply to them are set out in accession treaties. The latest accession treaties have included special transitional provisions on the free movement of workers.
 - According to the transitional arrangements, the former 15 EU Member States can derogate from the principle of free movement of workers with respect to workers coming from the new EU Member States for a maximum period of seven years.
 - As of September 2009, transitional arrangements were still in force for Bulgarian and Romanian citizens in some select EU Member States. Free movement should apply within the whole of the European Union for all existing 27 European Member States by 2014.

Regional consultative processes (RCPs) (10 min)

Slide 14

- Present the notion of RCP and outline the following characteristics:
 - RCPs aim to discuss migration-related issues in a cooperative manner with a view to reaching a common understanding and effective solutions for regional migration management.
 - They provide structure for dialogue, exchange of information and expertise without requiring a government to enter into formal commitments.
 - RCPs can extend participation to non-state actors, such as intergovernmental organizations or NGOs.
- Present strengths and weaknesses of RCPs:
 - The informality and flexibility of RCPs fosters broader participation.
 - RCPs are particularly useful when progress in formal arrangements is lagging, as they allow continuation of dialogue.
 - RCPs can enhance bilateral cooperation.
 - The main weakness: the concretization of identified goals is left to the discretion of each country.
- If there is time, present the Colombo Process as an example of an RCP that focuses on labour migration.

The Colombo Process

Until recently, the Colombo Process was the only Regional Consultative Process in existence which focused exclusively on labour migration.

The aim of the Colombo process, which was created in 2003 with the support of IOM, is to provide a forum for Asian labour sending states to:

- share information, experiences and best practices on labour migration;
- enhance dialogue; and
- to review and monitor the implementation of recommendations agreed upon as part of the Ministerial consultations.

Members and Observers

The Colombo Process includes the following Members and Observers:

- 11 members: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, and Vietnam.
- Observers include the following destination countries: Bahrain, Italy, Kuwait, Malaysia, Qatar, the Republic of Korea, Saudi Arabia, and the United Arab Emirates (for the first time in September 2005, certain destination countries participated in the Ministerial Consultations).

Focus of the Colombo Process

The Colombo Process focuses on protection of migrant workers and provision of services to them. In particular, it focuses on protecting migrant workers from abusive practices in recruitment and employment, when providing appropriate services to migrants in terms of pre-departure information and orientation and regarding welfare provisions.

Secondly, the Colombo Process focuses on optimising the benefits of organized labour migration. This includes developing new employment markets abroad, increasing remittance flows through formal channels, and enhancing the development impact of remittances.

Thirdly, it focuses on capacity building, data collection, and inter-state cooperation. This includes the institutional capacity building and information exchange to meet labour migration challenges, increasing cooperation with destination countries in the protection of migrant workers and their access to labour markets, and enhancing cooperation among countries of origin.

Ministerial consultations

To date there have been three Ministerial Consultations within the framework of the Colombo Process:

- The First Labour Migration Ministerial Consultation for Countries of Origin, April 1-2, 2003 in Colombo, Sri Lanka;
- The Second Labour Migration Ministerial Consultation for Countries of Origin in Asia, September 23-24, 2004 in Manila, the Philippines;
- The Third Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin in Asia, September 20-21, 2005 in Bali, Indonesia.

A fourth Ministerial Consultation is planned to take place in Bangladesh in 2010.

Achievements

Participants share good practices, data and information through regular dialogue among countries of origin of overseas contract workers in Asia.

A comprehensive training curriculum for labour attachés and overseas administrators was developed and joint training courses were implemented in Kuwait (2004), Bangkok (2005), and Islamabad (2006).

A regional workshop for employment agencies in Asia on placing workers in Europe and an ethical recruitment workshop was held in Manila (2006).

A number of policy studies to support the efforts of member governments on a range of issues have been completed.

A feasibility study was conducted to establish an Overseas Workers Resource Centre (OWRC) in one of the labour-receiving countries in order to provide information and support services to labour migrants and governments.

Recommendations adopted at the Ministerial Consultations have been adopted at the national level.

Summary

- Formal mechanisms of regional integration:
 - Schemes for regional integration exist in almost all regions of the world.
 - Regional integration must be already well developed for free movement schemes to be efficient.
 - The specific situation of the EU:
 - o The EU has the most comprehensive and effective free movement scheme.
 - o Free movement of EU citizens is accompanied by an extensive set of rights based on equal treatment with nationals.
 - o EU rules of free movement apply indirectly to third-country nationals who are connected to an EU citizen (spouse and children) or an EU company.
- Regional consultative processes:
 - RCPs provide a structure for interstate dialogue (that can also include non-state actors).
 - They are flexible mechanisms that facilitate participation but leave the concretization of specific goals and activities to the discretion of the states.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM, ILO, 2007, pp. 187-213

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 355-392

European Union, Treaty establishing the European Community (consolidated text), Official Journal C 325 of 24 December 2002
Available at: <http://eur-lex.europa.eu/en/treaties/dat/12002E/htm/12002E.html>

Klein Solomon, M., *International Migration Management through Inter-State Consultation Mechanisms*, Report prepared for United Nations Expert Group Meeting on International Migration and Development (6 to 8 July 2005)
Available at: http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/microsites/rcps/expert_paper_rcp.pdf

Klekowski von Koppenfels, A., *Regional Consultative Processes as a Tool in Managing Migration*, IOM, 2001
Available at: http://www.iom.ch/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/mrs3.pdf

Nielsen, A-G., "Co-operation Mechanisms" in *International Migration Law: Developing Paradigms and Key Challenges*, Asser Press, The Hague, 2007, pp. 405-426

Webpage of the European Commission on free movement of EU nationals:
<http://ec.europa.eu/social/main.jsp?catId=458&langId=en>

Webpage of the European Commission on the Euro-Mediterranean Partnership
http://ec.europa.eu/external_relations/euromed/index_en.htm

Website of the Colombo Process
<http://www.colomboprocess.org/>

Session 4: Bilateral labour arrangements

Suggested duration	1 h 10 min total	
	5 min	Introduce the topic
	10 or 45 min	Objectives of countries of origin and countries of destination and impediments to the conclusion of BLAs
	10 or 45 min	The content of a comprehensive bilateral agreement for the recruitment of foreign labour
	5 min	Summary
	Presentation and Group activity	
You will need	Flip chart, pen, Module C slides, Module C Session 4 Participant worksheets	
Participants will need	Copy of slides, Module C: Session 4 participant worksheets, Chart “24 Basic Elements of a Bilateral Labour Agreement”	

Introduce the topic (5 min)

Slides 15-16

- Present the broad definition of bilateral labour arrangements (BLAs) proposed by OECD (2003):
 - “All forms of arrangements between States, regions and public institutions that provide for the recruitment and employment of foreign short- or long-term labour.”
 - This broad definition goes beyond classic, binding intergovernmental bilateral agreements and also includes:
 - Non-legal arrangements, such as Memoranda of Understanding (MoUs); and
 - “Non-governmental” agreements, for example, arrangements between national employment agencies.
- Summarize the rationale behind the conclusion of BLAs and inform the participants that this issue will be further developed through a group activity:
 - Economic reasons: to organize the match between offer and demand for labour;
 - Political reasons: to promote friendly relations among States by encouraging orderly movements of labour;
 - Development reasons: to prevent the “brain drain” phenomenon.
- Highlight the variety of BLAs by presenting the following, non-exhaustive examples:
 - BLAs as recruitment schemes:
 - The most common categories are:
 - Seasonal workers schemes;
 - Contract workers and project-tied workers’ agreements;
 - Trainee agreements;
 - Working holidays agreements, to promote cultural ties and international exchanges by giving young adults access to work while on holiday.
 - Bilateral agreements facilitating or addressing the consequences of mobility:

- Agreements designed to control/prevent irregular migration;
- Visa facilitation agreements;
- Mutual recognition agreements (recognition of diplomas, right to practice a profession, etc.);
- Social security and double taxation agreements.

These bilateral agreements are not necessarily BLAs *per se* but include elements related to labour migration issues. (For example, readmission agreements can be coupled with the opening of channels for legal labour migration.)

Objectives of countries of origin and countries of destination, and impediments to the conclusion of BLAs (10 min without exercise, 45 min with exercise)

Trainer note

You have the choice to use either this exercise (*Countries A, B and C negotiating BLAs*) or the exercise *Berninia and Crivellia negotiating a BLA* later in the session. The exercise *Countries A, B and C negotiating BLAs* focuses primarily on the implications of BLAs for countries of origin and countries of destination, while the second exercise, *Berninia and Crivellia negotiating a BLA*, is more focused on the actual content of a BLA.

Group activity: Countries A, B and C negotiating BLAs

Slide 17

Duration: 35 min

- Aims:
 - To discuss the implications of BLAs for countries of origin and countries of destination;
 - To reveal the difficulties of the negotiation process.
- Outline the activity:
 - Present the aim of the group activity.
 - Inform participants that they will act as representatives of two countries of destination and one country of origin entering into the process of negotiating a BLA.
 - Divide participants into three groups (two groups representing A and B, countries of destination; and one group representing C, country of origin);
 - Distribute the worksheets:
 - The worksheets contain the position of the each country in the negotiation.
 - Countries' respective positions should not be shared with all participants.
 - Inform participants that they have 15 minutes to prepare their arguments for the negotiation simulation.
- Full group meeting (15 min):
 - Participants have ten minutes to discuss, using the arguments they have prepared.
 - First, discussion between spokespersons of country A and C (5 min).
 - Second, discussion spokespersons of country B and C (5 min).
 - Full group discussion between on the outcomes of the group activity (5 min).

- Use the following elements to wrap up the group activity and present the key points that will be developed in the rest of the session (5 min):
 - Country A:
 - Some states refuse to conclude BLAs:
 - This can be a general principle to prefer a unilateral approach (such is implicitly the case in the exercise);

Other states do not want to conclude further BLAs.
 - Possible counterproposals:
 - An MoU? It must be emphasized that countries of origin generally prefer legally binding agreements that establish clear procedures, as they offer better protection.
 - Informal meetings? An example is the Joint Commissions on Labour (JCLs) held by Asian governments for achieving greater cooperation from governments of Arab states. JCLs provide a mechanism for informal consultations between administrative authorities of the countries of origin and destination on mutually agreed issues.
 - Country B:
 - The choice of seasonal workers and medical workers:
 - A classic choice, especially seasonal workers. In general BLAs target low/medium-skilled workers for a short- to medium-term rather than permanent migration.
 - Regarding medical workers, Country C may have some concerns on brain drain issues.
 - Readmission:
 - A major interest for countries of destination;
 - New bilateral agreements often combine readmission provisions and admission of workers, in order to find a balance between the interests of the country of origin and the country of destination.
 - Country C:
 - This group had to negotiate with the two other groups:
 - The idea is to show that in practice, countries of origin may lack the institutional capacity to conduct fruitful negotiations.
 - Guaranties claimed by Country C:
 - Countries of origin may be reluctant to accept a BLA – especially when readmission provisions are foreseen – when access of its nationals to the labour market of the country of destination is not guaranteed.
 - Some countries of origin are also reluctant because of the few mechanisms for redress that are often offered.
 - The unequal power relationship between countries of destination and countries of origin makes it difficult to negotiate BLAs that effectively protect migrant workers.

- Outline the following objectives of countries of destination:
 - To satisfy their labour market needs and to better manage the labour migration process;
 - To prevent or reduce irregular migration by affording regular migration opportunities;
 - To promote and support broader economic relations with countries of origin;
 - To preserve or strengthen ties between countries sharing historical and cultural links.
- Outline the following objectives of countries of origin in concluding BLAs:
 - To offer their workers wider, facilitated access to the international labour market and to prevent criminal activities involving the smuggling and trafficking of human beings;
 - To support the link between labour migration and development by:
 - Regulating outflows, including the reduction of brain drain;
 - Facilitating transfer of remittances and transfer of know-how and technology;
 - Building confidence between communities of origin and destination;
 - To promote and protect the welfare and rights of migrant workers;
- Highlight the fact that many destination countries have declined offers from countries of origin to negotiate such agreements.
- Outline the following factors explaining such difficulties:
 - A number of countries adopt a position of principle not to conclude BLAs.
 - Some countries favour a unilateral approach.
 - This can be explained by the refusal of some states to limit their sovereignty on such issues.
 - This can also be explained by the choice of a universal immigration policy:
The conclusion of BLAs may be regarded as discriminatory by privileging nationals of certain countries over others.
 - The conclusion of BLAs can also be seen as a source of political tension, as they are likely to create similar expectations from other countries.
 - Other countries have concluded BLAs but do not want to expand the number of such arrangements.
 - Countries of destination enter into bilateral labour agreements for two main reasons:
 - To normalize a pre-existing situation with a country of origin;
 - To encourage/facilitate new recruitment channels in sectors which are in high demand.
 - Countries of origin that are outside the scope of these interests experience difficulties in entering into bilateral cooperation.
 - The lack of institutional capacity can also be a source of difficulty in pursuing negotiations, mainly for countries of origin. (Negotiating a BLA is often a lengthy and time-consuming process.)
 - Countries of origin may also be reluctant to accept a bilateral arrangement requiring, in exchange for some limited market access, the return of nationals in an irregular situation in the destination country.

The content of a comprehensive bilateral agreement for the recruitment of foreign labour (15 min without exercise; 45 min with exercise)

Trainer note

You have the choice to use either this exercise (*Berninia and Crivellia negotiating BLA*) or the exercise *Countries A, B and C negotiating BLAs* provided earlier in the session. The exercise *Countries A, B and C negotiating BLAs* focuses primarily on the implications of BLAs for countries of origin and countries of destination, while the exercise *Berninia and Crivellia negotiating a BLA* is more focused on the actual content of a BLA.

Group activity: Berninia and Crivellia negotiating a BLA

Slide 19

Duration: 35 min

- Aims:
 - To discuss the content of a BLA;
 - To reveal the difficulties of the negotiation process.
- Outline the activity:
 - Inform participants that they will act as representatives of two countries, Berninia and Crivellia, entering into the negotiation process of a BLA that deals specifically with the recruitment of qualified nurses.
 - Inform participants that they will have to draft the main points of four articles of the BLA:
 - Article 1 (Recruitment and departure);
 - Article 2 (Terms of employment, protection and social benefits);
 - Article 3 (Return);
 - Article 4 (Administration and implementation).
 - Divide participants into two groups and distribute the worksheets.
 - Inform participants that each group has ten minutes to prepare the elements they want included in the BLA, as well as the corresponding arguments for the negotiation simulation.
- Negotiation simulation and full group discussion (20 min):
 - The spokespersons of each group have 15 minutes to discuss, using the arguments they have prepared.
 - Write down on a flip chart the items which the two parties have agreed upon, as well as the ones they have disagreed on.
 - Full group discussion on the outcomes of the group activity for 5 minutes.
- Complement the outcomes of the exercise by:
 - Recalling relevant elements of *The objectives of countries of origin and countries of destination and impediments to the conclusion of BLAs*, and
 - Presenting *The content of a comprehensive bilateral agreement for the recruitment of foreign labour* (presentation complementary to this exercise).

- Explain that this presentation is based on the 24 core elements identified by ILO to be part of BLAs. Distribute to participants the corresponding chart.

24 Basic Elements of a Bilateral Labour Agreement

- | | |
|---|--|
| 1. competent government authority; | 13. employment contract; |
| 2. exchange of information; | 14. employment conditions; |
| 3. migrants in an irregular situation; | 15. conflict resolution mechanism; |
| 4. notification of job opportunities; | 16. role of trade unions and collective bargaining rights; |
| 5. drawing up a list of candidates; | 17. social security; |
| 6. pre-selection of candidates; | 18. remittances; |
| 7. final selection of candidates; | 19. provision of housing; |
| 8. nomination of candidates by the employers (possibility for the employer to provide directly the name of a person to be hired); | 20. family reunification; |
| 9. medical examination; | 21. activities of social and religious organizations; |
| 10. entry documents; | 22. establishment of a joint commission (to monitor the agreement's implementation); |
| 11. residence and work permits; | 23. validity and renewal of the agreement; |
| 12. transportation; | 24. applicable jurisdiction. |

- These 24 core elements can be simplified as follows:
 - Admission;
 - Recruitment and departure;
 - The employment contract and other provisions concerning the migrant's legal status in the destination country;
 - Return to the country of origin;
 - Administration of the agreement and its implementation.
- Nationals of countries of origin may be provided preferential admission under BLAs in three different ways:
 - Special categories of workers:
 - Employment of certain categories of workers (especially the low – or semi-skilled) is organized through BLAs.
 - Preferential admission for employment:
 - Workers covered by a BLA can benefit from preferential admission or employment over other foreigners.
 - Preferential quota:
 - A special quota can be attributed to countries having signed a BLA.
- Recruitment and departure:
 - The responsibility for selection and recruitment of migrant workers under BLAs is of vital importance.

- Should recruitment be carried out solely or mainly by public recruitment agencies, or also by private ones?
- This issue, as well as other related ones, will be covered in *Module D: Protection of migrant workers: policy options for countries of origin*.
- BLAs should cover the departure stage and reception in the country of destination:
 - The agreement should stipulate who is responsible for organizing and paying for the migrant worker's travel arrangements, i.e. the employer or the worker?
 - The agreement may also stipulate the post-arrival services available to the migrant worker.
- Employment contract:
 - An employment contract is central to ensuring that migrant workers benefit from fair treatment.
 - BLAs should outline in some detail the principal provisions that such a contract should contain.
 - This issue will be covered in details in *Module D Protection of migrant workers: policy options for countries of origin*.
- Legal status:
 - Social security is usually regulated by additional bilateral agreements between the countries concerned.
 - If there are no such arrangements, BLAs should stipulate which country's social security system is applicable.
 - In practice, project-linked bilateral agreements normally provide that the company of the country of destination makes social security contributions to the system of the home country.
 - The agreement may contain a provision facilitating the transfer of remittances (the migrant worker's earnings or savings).
 - Trade union rights should be guaranteed in the agreement.
 - Family reunification may be regulated in the agreement.
 - The agreement may also include provisions concerning the cultural and religious welfare of migrant workers; for example, that the freedom of migrant workers to practice their own religion in the country of employment is recognized.
- Return:
 - The agreement should stipulate who is responsible for the cost of the migrant worker's return transportation (i.e., the employer or the worker).
 - The agreement may also contain clauses providing incentives for migrant workers to depart with a view to preventing illegal overstaying.
- Administration and implementation:
 - BLAs should contain provisions for their administration and implementation.
 - These provisions should not establish an overly bureaucratic system that would only hamper the agreement's effective implementation.
 - BLAs should specify the competent authority in each country (usually the labour ministries or offices) responsible for the implementation of the agreement and also outline a procedure for coordination of their respective tasks and activities.
 - The role of cooperative agencies should also be specified.

- For example, IOM acts as a cooperative agency under some agreements with a view to facilitating their implementation.
- With regard to the agreements between Spain and Ecuador, the IOM office in Quito conducts the pre-selection of migrant workers, generates a database of prospective migrant workers for Spanish employers, and helps migrants travel to Spain.
- BLAs may also set up special bilateral commissions to resolve problems and disputes.

Conclusion. BLAs: what efficiency? (5 min)

Slide 21

- Beyond the already-mentioned difficulties in entering into negotiations and concluding BLAs, the very efficiency of BLAs is questionable:
 - The effectiveness of BLAs is difficult to assess, due to the rarity of research on the issue.
 - Nevertheless, some 25% of BLAs in OECD countries are not implemented.
- The interests of entering into BLAs must still be highlighted:
 - In the absence of a global regime for international labour migration, BLAs are an important mechanism for inter-state cooperation in protecting migrant workers, matching labour demand and supply, managing irregular migration, and regulating recruitment.
 - Regarding more specifically the protection of migrant workers:
 - It can be argued that the provisions to be included in BLAs just repeat international human rights standards.
 - However, in the absence of wide-ranging acceptance of specific international standards relating to the legal status of migrant workers, bilateral agreements may fill an important gap in their protection.
- Outline the following reasons that seem to lead to a successful implementation of BLAs:
 - They target specific sectors with a severe labour shortage.
 - There is a quota or ceiling.
 - Recruitment is organized.
 - Institutional coordination is ensured and employers are engaged.
 - The implementation phase of the BLA is organized, with sufficient flexibility.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on establishing effective labour migration policies in countries of origin and destination*, OSCE, IOM, ILO, 2007, pp. 187-213

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 355-392

OSCE, *Migration for Employment: Bilateral Agreements at a Crossroads*, 2004

Power Point Module C:

International cooperation for the facilitation of labour migration

SLIDE 1

OSCE

Module C: International cooperation for the facilitation of labour migration

[Insert here name of Training Seminar / Workshop, Venue, and Date]
[Insert here name of Trainer]

SLIDE 2

OSCE


Session I Introduction

SLIDE 3

Session 1: introduction OSCE

Module Aim

- To provide an overview of the principal forms of inter-state cooperation in managing labour migration
- To consider a specific regional framework for labour mobility: the free movement of workers regime in the EU
- To present and discuss the objectives, content and efficacy of bilateral labour arrangement



SLIDE 4

Session 1: introduction OSCE

By the end of this Module you will:

- Understand the principal forms of cooperation and their importance in developing effective and equitable managed labour migration systems
- Gain an understanding of a specific regional framework: the free movement of workers regime in the European Union
- Acquire knowledge of the different types of bilateral labour agreements as well as best practices in concluding and implementing such agreements

SLIDE 5

Session 1: Introduction

International cooperation: the context

- The need for international cooperation
 - Migration is by nature a transnational process
 - There is no comprehensive international migration regime
 - The efficiency of unilateral approaches is limited
- The various forms of international cooperation
 - Formal and less formal mechanisms
 - Cooperation at the global, regional and bilateral levels
 - Intergovernmental cooperation and cooperation between private entities (trade unions and employer bodies)

SLIDE 6

Session II

Global level cooperation

SLIDE 7

Session 2: Global level cooperation

Intergovernmental cooperation in international conventions

- ILO instruments
 - Recommendation No. 86 includes a model bilateral labour migration agreement
 - Convention No. 143 imposes obligations upon States Parties to cooperate
- UN Convention on Migrant Workers
 - Art. 64: General duty for state parties to consult and cooperate
 - Art. 67: Cooperation regarding return of migrant workers

SLIDE 8

Session 2: Global level cooperation

General Agreement on Trade in Services (GATS)

- Operates under the auspices of the World Trade Organization (WTO)
- Mode IV of the Agreement contains rules facilitating the mobility of service providers
- Limits of GATS Mode IV
 - Limited practical impact of the rules
 - Difficulties in negotiations

SLIDE 9

Session 2: Global level cooperation

Global, less formal mechanisms

- Global Forum on Migration and Development (GFMD)
- IOM's International Dialogue on Migration (IDM)
- ILO Multilateral Framework on Labour Migration

SLIDE 10

Session III Regional cooperation

SLIDE 11

Session 3: Regional cooperation

Regional cooperation: generalities

- Rationale behind regional arrangements and initiatives
- Formal mechanisms of regional integration
 - Variety of regional initiatives: EU, NAFTA, COMESA, ECOWAS, CARICOM, etc.
 - Different levels of achievement
 - Free movement of workers regime in the EU
- Regional consultative processes (RCP)
 - Variety of RCPs: Puebla Process, MIDSA, Colombo Process, etc.
 - RCPs in the OSCE and bordering regions

SLIDE 12

Session 3: Regional cooperation

Free movement of labour in the EU

- Most extensive regional integration system
- Covers all forms of employment
 - Salaried employment
 - Self-employment
 - Service provision
- Free movement rights are enshrined in EC Treaty, have direct effect in Member State laws and are supervised by the European Court of Justice

SLIDE 13

Session 3: Regional cooperation

Free movement of labour in the EU

- Rights of EU nationals
 - Equal treatment with nationals
 - Work and employment conditions and trade union rights
 - Vocational training
 - Social and tax advantages
 - Housing
 - Education of children
 - Social security entitlements
 - Liberal family reunion provisions
 - Strong safeguards against expulsion
- Derived rights for non-EU nationals
- EU enlargement and labour migration (transitional arrangements)

SLIDE 14

Session 3: Regional cooperation

Regional consultative processes (RCPs)

- A structure for governments to discuss and exchange information and expertise without the obligation to enter into formal commitments
- Strength and weaknesses of RCPs
- The Colombo Process: a RCP focusing on labour migration

SLIDE 15

Session 4: Bilateral labour arrangements

Session IV Bilateral labour arrangements

SLIDE 16

Session 4: Bilateral labour arrangements


Bilateral labour arrangements (BLAs): generalities

- "All forms of arrangements between States, regions and public institutions that provide for the recruitment and employment of foreign short or long-term labour"
- Rationale behind the conclusion of BLAs
 - Economic reasons
 - Political reasons
 - Development reasons
- Variety of BLAs
 - Recruitment schemes
 - Facilitation of mobility

SLIDE 17

Session 4: Bilateral labour arrangements

Group activity



Countries A, B and C negotiating BLAs
Discuss the implications of BLAs for countries of origin and countries of destination

Trainer note: You have the choice to use either this exercise or the exercise Berninia and Crivellia negotiating BLA later in the session

SLIDE 18

Session 4: Bilateral labour arrangements


Objectives of countries of origin and countries of destination

- Objectives of countries of destination
 - Managing labour market needs
 - Controlling irregular migration
- Objectives of countries of origin
 - Access the international labour market
 - Support the contribution of labour migration to development
 - Protect migrant workers
- Impediments to the conclusion of BLAs

SLIDE 19

Session 4: Bilateral labour arrangements

Group activity



Berninia and Crivellia negotiating a BLA
Discuss the content of a BLA

Trainer note: You have the choice to use either this exercise or the exercise Countries A, B and C negotiating BLAs earlier in the session


SLIDE 20

Session 4: Bilateral labour arrangements

Content of a comprehensive BLA

- Preferential admission
- Recruitment and departure
- Employment contract
- Legal status
 - Social security
 - Transfer of remittances
 - Family reunification
 - Cultural and religious welfare of migrant workers
- Return
- Administration and implementation
 - Competent authorities / role of cooperative agencies
 - Resolution of problems and disputes

SLIDE 21

Session 4: Bilateral labour arrangements 

BLAs: What efficiency?

- Around 25% of BLAs in OECD countries are apparently not implemented
- Importance of BLAs in the absence of a global regime for international labour migration
- Factors for a successful implementation of BLAs
 - Targeting of specific sectors with a severe labour shortage
 - Provisions for a quota or ceiling
 - Organization of recruitment processes
 - Institutional coordination and employers' involvement
 - Organization of implementation phase, with allowance for sufficient flexibility

SLIDE 22



Thank you!

Module C, Session 4: Bilateral labour arrangements

ANNEX 1

Exercise 1: Group 1 worksheet

Countries A, B and C negotiating bilateral labour agreements

You are representatives of **Country A**, a country of destination.

Country C, a country of origin, has expressed the wish to conclude a bilateral labour agreement with your country.

At their request, a meeting with representatives of Country C is has been organized, in order to discuss the possibility of concluding a bilateral labour agreement between the two countries.

The principle position of your country is the following:

You do not wish to enter into bilateral labour agreements.

Background

Key amongst your reasons for not wanting to enter into an agreement are the following: you face political pressure in relation to the growing unemployment in your country; there are a large number of your nationals returning from overseas; you are facing an election in 6 months time; two nationals of Country C recently were convicted of trafficking workers into the country; and you are concerned about fulfilling social security obligations for workers from Country C. You do however have a skill shortage in some sectors which would benefit from recruiting known skilled workers in Country C.

Your task:

- Prepare relevant arguments in order to defend your position during the meeting with representatives of Country C;
- You may consider making a counterproposal to Country C. If such is the case, prepare relevant arguments to support it.

You have **15 min** to prepare your arguments for the negotiation simulation.

Negotiation with Country C will last **10 min**.

Module C, Session 4: Bilateral labour arrangements

ANNEX 2

Exercise 1: Group 2 worksheet

Countries A, B and C negotiating bilateral labour agreements

You are representatives of **Country B**, a country of destination.

Country C, a country of origin, has expressed the wish to conclude a bilateral labour agreement with your country.

At their request, a meeting with representatives of Country C is has been organized, in order to discuss the possibility of concluding a bilateral labour agreement between the two countries.

The principle position of Country B is the following:

Country B accepts the principle of concluding a bilateral labour agreement with Country C.

The priorities of Country B within the negotiation are the following:

- **You are interested in the recruitment of foreign seasonal workers and medical workers, and you are also keen to allow cheap construction labourers to enter the country for a temporary, defined period of time;**
- **You want to reach an agreement on the readmission of Country C's nationals residing irregularly on Country B's territory.**

Background

You have specific skill shortages and you are keen to regularize the situation with migration from Country C, which you know is difficult to control. You think there are around 200,000 irregular workers from Country C on your territory at any one time, and you are eager to get agreement from Country C to regulate this and to allow for return of workers.

Your task:

Prepare relevant arguments in order to defend your position during the meeting with representatives of Country C

You have **15 min** to prepare your arguments for the negotiation simulation.

Negotiation with Country C will last **10 min**.

Module C, Session 4: Bilateral labour arrangements

ANNEX 3

Exercise 1: Group 3 worksheet

Countries A, B and C negotiating bilateral labour agreements

You are representatives of **Country C**, a country of origin.

Your country has expressed the wish to conclude bilateral labour agreements with Country A and Country B.

Two successive meetings with representatives of Country A and Country B have been organized, in order to discuss the possibility of concluding bilateral labour agreements between the countries.

Your priorities within the negotiation are the following:

- **You want clear guarantees from Country A and Country B for the opening of legal channels for the labour migration of your nationals;**
- **You want clear guarantees from Country A and Country B regarding the protection of the rights of your national workers who reside in the territory of the two countries.**

Background

There have been a number of complaints by trade unions and other bodies that nationals from your country have been mistreated when they have gone to work in third-party countries. In particular, there have been allegations of poor wages, long hours, sexual harassment and a refusal to let workers join trade unions. In relation to Country A, you have heard of growing xenophobia and allegations that foreign workers are 'stealing' jobs.

Your task:

Prepare relevant arguments in order to defend your position during the successive meetings with representatives of Country A and Country B;

You have **15 min** to prepare your arguments for the negotiation simulation.

Negotiation with Country A will last **10 min**.

Negotiation with Country B will last **10 min**.

Module C, Session 4: Bilateral labour arrangements

ANNEX 3

Exercise 2 Participant worksheet

Bilateral labour agreement between the Berninia and Crivellia

The Government of Berninia and the Government of Crivellia, hereinafter referred to as the Parties, inspired by their shared desire to reaffirm their special cultural and regional bonds, to regulate the ongoing migration flows between the two countries on the basis of equality and mutual benefit, and wishing to enhance co-operation in the field of qualified health care workers, hereinafter referred to as “nurses,” have agreed as follows:

Article 1
(Recruitment and departure)

Article 2
(Terms of employment, protection and social benefits)

Article 3
(Return)

Article 4
(Administration and implementation)

This Agreement shall be valid for 3 years. It shall enter into force on the date of the later notification by the Parties indicating compliance with their respective internal legal requirements for its entry into force. This Agreement shall be automatically renewed for the same period unless one Party notifies the other in writing its wish to renounce 100 days prior to the expiration.

Signed in Berninia Ville this (date) in two equally valid copies in both originals in Berninian and Crivellian, both texts being equally authentic.

For Berninia,

(name of official and title)

For Crivellia

(name of official and title)

TRAINING MODULES
ON LABOUR MIGRATION
MANAGEMENT

Trainer's Manual

Course 2

Developing labour
migration policies in
countries of origin

Course 2

Introduction to Course 2: Developing labour migration policies in countries of origin

Suggested duration: 5 min

- The variety of countries of origin:
 - Countries of origin range from those that are experiencing a migration transition, characterized by both labour inflow and outflow; to established labour-sending countries; to those that are relative newcomers to organized labour migration.
 - Nevertheless, as countries of origin, they all face some common issues.
- Main challenges faced by countries of origin:
 - Challenges in protecting migrant workers from exploitative recruitment and employment practices and in providing appropriate assistance to migrant workers in terms of pre-departure, welfare and on-site services.
 - Challenges in optimizing benefits of organized labour migration, particularly in the opening of new legal channels for labour migration and in enhancing its development impact.
 - Building institutional capacity and inter-ministerial coordination to meet labour migration challenges.
 - Increasing cooperation with destination countries to facilitate the protection of migrant workers, improved access to labour markets, and prevention of irregular migration.
- Course 2 is composed of three Modules:
 - Module D: Protection of migrant workers: policy options for countries of origin.
 - Module E: Developing labour market strategies, including addressing the challenges of highly-skilled migration.
 - Module F: Enhancing migrant workers' contribution to the development of countries of origin.
- Aims of Course 2:
 - To present/discuss the policies and actions that can be adopted and undertaken by countries of origin in order to protect their nationals abroad.
 - To present the main goals and components of labour market strategies.
 - To present the nature and impact of highly-skilled migration on labour migration policy planning and human resource planning and to explore how to mitigate the negative effects of highly-skilled migration.
 - To provide an overview of the nexus between labour migration and development, including remittances, circular migration, return migration, and the potential role of diasporas.

Course 2

Developing labour migration policies in countries of origin

Module D

Protection of migrant
workers: policy options for
countries of origin

Module D: Protection of migrant workers: policy options for countries of origin

Suggested total duration: 4 h 35 min	
Duration	Session
55 min	Session 1: Introducing Module D and group activity
40 min	Session 2: Management of the recruitment of migrant workers
35 min	Session 3: Employment contracts and minimum employment standards
55 min	Session 4: Information dissemination
1 h 05 min	Session 5: Protection activities in countries of destination – consular and diplomatic protection
25 min	Session 6: Migrant welfare funds

Aim of Module D

Module D aims to present the policies and actions that countries of origin can adopt and undertake in order to protect their nationals abroad.

Learning outcomes for Module D

By the end of this module, participants will:

- Understand the need to take protection measures at an early stage of the migration process.
- Know the complexities and constraints of regulating recruitment agencies and implementing employment standards.
- Be familiar with the types of information to disseminate, through which channels, and to what social groups, in order to protect migrant workers.
- Be familiar with the mechanism of consular assistance and protection and the role of labour attachés.
- Be introduced to the mechanism of migrant welfare funds.

Session 1: Introducing Module D and group activity

Suggested duration	55 min total
	5 min Introducing Module D
	50 min Group activity
Methodology	Presentation and Group activity
You will need	Flip chart, pen, Module D slides
Participants will need	Copy of slides, Module D, Session 1 Participant worksheet

Introducing Module D (5 min)

Slides 1-6

Present Module D aims

Slide 3

Module D covers some of the fundamental policies that countries of origin can develop and implement with regards to labour migration. It will answer the following questions:

- What can countries of origin do in order to protect their nationals who go abroad for employment?
- More specifically, what can countries of origin do in order to prevent and end violations of their nationals' rights?

Present Module D learning outcomes

Slide 4

- Understand the need to take protection measures at an early stage of the migration process;
- Be familiar with the complexities and constraints of regulation of recruitment agencies and implementation of employment standards;
- Be able to identify the types of information to disseminate in order to protect migrant workers, the ways to convey such information, and the social groups to target;
- Be familiar with the mechanism of consular assistance and protection and the role of labour attachés;
- Be introduced to the mechanism of migrant welfare funds.

Contextualize Module D using the following points

Slide 5

- Migration may increase workers' opportunities and result in a better standard of living.
- It may also involve obstacles and risks.
- Migrants often face discrimination, and may be subject to hostility and exploitation, as we saw in an earlier session's overview of the violation of migrant workers' rights.
- Migrant workers are not equally vulnerable:
The most exposed to violation of their rights are the less-educated, the less-skilled, and often, women migrants.

Outline the following points regarding the means countries of origin have at their disposal in order to protect their nationals going abroad for employment

Slide 6

- It is often thought that countries of origin have at their disposal very few means of intervening in order to protect the rights and interests of migrant workers.
 - o This is not correct: a lot can be done.
 - o Although the authorities of destination countries are primarily responsible for preventing and ending violations of migrant workers' rights, countries of origin have a variety of means at their disposal.
 - o Nevertheless, we will see that the implementation of the measures planned and adopted by countries of origin is often arduous, due partly to the primacy of destination-country authorities in these matters.
- Detrimental practices towards migrant workers may start in the country of origin:
 - o It is the duty of the country of origin to intervene at this early stage of labour migration.
 - o More generally, a lot can be done in the country of origin in order to organize good conditions for labour migration.
- In the country of destination, the consular and diplomatic posts have several means of intervention in order to protect the rights and interests of migrant workers.
- Finally, cooperation between countries of origin and countries of destination is essential.

Group activity

Slides 7-8

Duration: 50 min

Aim of the exercise:

This exercise aims to allow participants to start thinking about the kinds of abuses and difficulties that migrant workers may face, not only in the destination country, but also up on return to their countries of origin, particularly in times of economic hardship.

Introduction (5 min)

- Explain to the participants that the aim of this session is to consider some of the problems which individual migrants may face.

Group exercise (20 min)

- Distribute the packet of press clippings to the participants.
- Tell the participants to read the press clippings and to analyse the information contained therein.
- Split the participants into groups of three to six people and ask them to do the following:
 - Identify the types of social and economic disadvantages and abuses that migrant workers are likely to face.
 - Prioritise the five abuses in most urgent need of attention.
 - Propose, to the migrants workers' countries of origin, actions that can be taken in order to reduce the severity of such abuses, or eradicate them completely.

Group activity (Continued)

- Identify the prerequisites that need to be in place to maximise the chances that such proposals will be successful.
- Tell the participants that these questions are at the end of the last press clipping.
- Participants should be encouraged to work together and the moderator should check in with each group regularly to ensure they are progressing appropriately and on time.

Feedback (20 min)

Ask the groups to report back on their five proposals. They should explain why they chose these issues and should outline the actions they will take and the basis for these actions. Encourage the other groups to constructively critique the proposals.

Conclusions (5 min)

Draw out conclusions from the presentations in a constructive and inclusive way, drawing out key lessons and possible policy solutions. Use suggestions from the group as much as possible, rather than your own materials.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

Abella, M. I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 63-91

Module D, Session 1: Introducing Module D and group activity

ANNEX

Participant worksheet

Read the following press reports.

In your groups, consider the questions asked and make the proposals called for at the end.

Construction workers in Mostorovia

Sonia Shu, Nasksk

12 September 2009

(Nasksk) - Migrant construction workers in Mostorovia face widespread abuse both in and outside of the workplace, The Global Worker Rights Forum said in a report released today. In a climate of rising hate-motivated violence against migrants, exacerbated by the global financial crisis, the Mostorovian government is failing to protect these workers from abusive employers, employment agencies, and the police.

The 130-page "Exploitation of Migrant Construction Workers in Mostorovia" documents widespread withholding of wages, failure to provide required contracts, and provision of unsafe working conditions by employers at construction sites across Mostorovia. It also details cases in which workers were unwittingly trafficked into forced labor by employment agencies that promised construction jobs in Mostorovia, but then delivered workers to employers who confiscated their passports and forced them to work without wages. In some cases, these workers were confined and beaten.

"Migrant construction workers come to Mostorovia for decent jobs and instead find violence and exploitation," said Jenny French, researcher at The Global Worker Rights Forum and author of the report. "Mostorovia should undertake rigorous reforms to protect migrant construction workers from these serious human rights abuses."

The Global Worker Rights Forum interviewed more than 140 migrant construction workers who worked in 49 Mostorovian cities and towns between 2006 and 2008.

More than 40 percent of Mostorovia's 4 million to 9 million migrant workers are employed in construction, which prior to the global economic crisis had been one of the major engines of Mostorovia's growth. Most migrant workers come from other countries in the region looking to escape poverty and unemployment. Citizens of most of those countries can enter Mostorovia without a visa.

The report documents exploitation and abuse at a time of Mostorovia's phenomenal economic growth. With the Mostorovian economy suffering the impacts of the global financial crisis, migrant workers face an increased risk of exploitation and violence, The Global Worker Rights Forum said.

"Without urgent action by the Mostorovian government, migrant construction workers will be doubly vulnerable to abuse, both by employers and by others looking to scapegoat migrants for the country's economic problems," French said.

The Global Worker Rights Forum said that almost none of the workers interviewed had been given contracts, as required by Mostorovian law. The lack of a contract makes workers vulnerable to wage and other abuses and limits their opportunities to seek assistance from official bodies in cases of abuse. Employers routinely withhold wages from workers, make unexpected and illegal deductions in wages, or refuse to pay wages altogether. Workers who refuse to work in protest over unpaid wages may face violence and threats by their employers.

"This kind of exploitation is so pervasive that workers often labor for months, waiting and hoping to be paid," said French. "They recognize that their chances for decent, reliable pay won't be much better with another employer."

Police regularly target ethnic minorities, including migrant workers, for petty extortion during spot document inspections on the street. Migrant workers told The Global Worker Rights Forum that sometimes, during these inspections, police also beat or humiliated them. In some egregious cases, police required migrant workers to perform forced labour at police stations or other locations.

Construction workers in Mostorovia (Continued)

"Sadly, violence seems to be a fact of life for many migrant workers in Mostorovia," said French. "Whether it's employers trying to intimidate their workers, police roughing them up during a shake-down, or hate-motivated attacks by regular citizens, Mostorovia's migrant workers are vulnerable at almost every turn."

Mostorovia has revised its migration laws in recent years to make it easier for workers who can enter Mostorovia without a visa to legalize their stay and employment. The steps, while positive, do not go far enough to protect migrant workers from abuse.

"Mostorovia has an obligation under international law to protect all victims of abuse, irrespective of the victim's migration status or contractual status," said French. "It's time for the government to stop acting as if migrant workers don't have rights and take decisive action against abusive employers and employment agencies."

The Global Worker Rights Forum called on the government to ensure rigorous labour inspections, prosecution of abusive employers, and effective regulation of employment agencies. It should also develop accessible complaint mechanisms for victims and timely and effective investigations into allegations of abuse.

The Global Worker Rights Forum also called on the home countries of migrant workers in Mostorovia to provide more help when their citizens face abuse in Mostorovia and to cooperate with Mostorovian authorities on investigations and prosecutions of abusive employers in Mostorovia.

Roseland Urged to Protect Migrant Workers from Pulma

By Bob Brains Repok

28 August 2009

A Roseland-based activist group says migrant workers from Pulma are significantly worse off than they were a year ago. The group is urging the government to extend legal protections and social safety nets to migrant workers.

The Migrant Aid Program, known as MAP, says the global economic downturn has hit migrants from Pulma particularly hard.

According to research released by MAP Friday at the Repok press club, 70 percent of workers from Pulma in two Roseland cities say they are having more difficulty finding work. And while the cost of living has gone up, 30 per cent say their wages were cut during the past year.

The report says factory workers have suffered the worst as exports have dropped with low foreign demand.

Lee Fung is one of the authors of the report. He says MAP is asking the Roseland government to fully integrate migrants into the social security system and to include them in economic recovery packages.

"We're also asking that they monitor and enforce relevant labor laws along the lines of working hours, minimum wage, and severance pay," he said. "The Roseland government should lift travel restrictions for migrants. If we allow migrants to move more freely, they can have an easier time of locating safe and secure employment, which is good for migrants. And it's good for the economy, frankly, because the migrant worker population can be more responsive to changing economic conditions if they can move more freely."

Lee Fung says the group is also asking the Roseland government to stop threatening to deport illegal migrants, which he said would help build a more inclusive society.

The MAP report says women from Pulma have been affected more than men. Many female migrants in Roseland work as household maids.

Fay Phang represents a migrant domestic worker group. She says employers have stopped paying benefits and annual wage increases and some are even withholding pay.

But, despite the worsening job situation in Roseland, she says they are not encouraging migrant workers to stay in Pulma.

She says they do not discourage friends to come to Roseland because whatever the situation is like

Roseland Urged to Protect Migrant Workers from Pulma (Continued)

here, it is worse in Pulma. She says there is no work in Pulma, whereas in Roseland there are still bits and pieces.

The MAP research was based on interviews, focus groups and survey results from more than 400 migrants from Pulma working in the cities of northern Roseland.

Some 300,000 to 400,000 migrant workers from Pulma work in the two cities, mainly in agriculture, construction, and factories.

Migrants support social security

Astou Shanna, Zooland

12 July 2009

Since illegally crossing the border into the Federal Republic of Guimaria (FRG) six years ago, Sone Maty has done backbreaking work, harvesting asparagus, pruning grapevines and picking the ripe fruit. More recently, he has also washed trucks, often working as much as 70 hours a week, earning \$8.50 to \$12.75 an hour.

Not surprisingly, Mr. Maty, 25, has not given much thought to Social Security's long-term financial problems. But Mr. Maty - who comes from the state of Holaxa in southern Tabora and hiked for two days through the desert to enter the FRG - contributes more than most FRG citizens to the solvency of the nation's public retirement system.

Last year, Mr. Maty paid about \$2,000 toward Social Security and \$450 for Medical Insurance through payroll taxes withheld from his wages. Yet unlike most Guimarians, who will receive some form of a public pension in retirement and will be eligible for healthcare support as soon as they turn 65, Mr. Maty is not entitled to benefits.

He belongs to a big club. As the debate over Social Security heats up, the estimated seven million or so illegal immigrant workers in FRG are now providing the system with a subsidy of as much as \$7 billion a year.

Yedo Dumiso, co-director of immigration studies at Zooland University, noted sardonically that illegal immigration could provide "the fastest way to shore up the long-term finances of Social Security."

It is impossible to know exactly how many illegal immigrant workers pay taxes. But according to specialists, most of them do. Since 1992, when the Immigration Reform Act set penalties for employers who knowingly hire illegal immigrants, most such workers have been forced to buy fake IDs to get a job.

IRA, as the immigration act is known, did little to deter employers from hiring illegal immigrants or to discourage them from working. But for Social Security's finances, it was a great piece of legislation.

Questions:

- Identify the types of social and economic disadvantage and abuses that migrant workers are likely to face.
- Prioritise the five abuses in most urgent need of attention.
- Propose to the governments of migrants workers' countries of origin actions that can be taken in order to reduce the severity of such abuses, or to eradicate them completely.
- Identify the prerequisites that need to be in place to maximise the chances that their proposals will be successful.

Session 2: Management of the recruitment of migrant workers

Suggested duration	40 min total
	5 min Introduce the topic
	15 min Regulation of private recruitment agencies
	10 min Implementing regulation of private recruitment agencies: controls and incentives
	10 min Alternative means for managing and regulating recruitment of migrant workers
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module D slides
Participants will need	Copy of slides, Chart: “Standards and proofs for licensing recruitment agencies”, “CIETT Code of Conduct”; “UNIFEM Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers”

Introduce the topic (5 min)

Slides 9-11

Trainer note

This session aims to present one of the means for protecting migrant workers at an early stage of the migration process: regulation of private employment agencies. The session also aims to familiarize participants with the complexities and constraints of regulating recruitment agencies.

At the beginning of the session, distribute to participants the comprehensive chart on standards and proofs for licensing recruitment agencies (Annex 1) as well as examples of codes of conduct (Annexes 2 & 3).

The role of recruitment agencies

Slide 10

- Outline the context in which recruitment agencies operate:
 - o On one side, employers are looking for foreign workers who meet certain conditions in order to fill their vacancies.
 - o On the other side, workers are looking for job opportunities abroad.
 - o Generally, employers need information about suitable candidates, and similarly, potential migrant workers lack information about job opportunities.
 - o Recruitment agencies match the need for a particular skill with the available workers.
- Highlight the fact that recruitment agencies may be either private or public entities.
 - o In an increasingly globalized world, the role of private recruiters is generally rising while the role of public employment services agencies is generally declining.
 - o This presentation will focus on the regulation of private recruitment agencies but will mention of alternative means to manage and regulate recruitment of migrant workers.
- Highlight the fact that beyond matching supply and demand, recruitment agencies can also provide the following services for employers and workers:

- Testing and selecting applicants;
- Obtaining visas;
- Arranging travel documentation;
- Securing government approvals or clearance (when applicable);
- In some instances, providing pre-departure training.

The need for regulation

Slide 11

Outline the following reasons for the regulation of recruitment agencies:

- While recruiters' searches for business can result in increased job opportunities, the drive to increase profits may lead to unsound and fraudulent practices.
- Fraudulent practices are common:
 - For instance, jobseekers may be offered nonexistent jobs abroad in exchange for considerable sums of money.
 - Other fraudulent practices include substitution or amendment of the contract, after its signing, in a fashion prejudicial to the migrant worker.
 - Workers may also be engaged in jobs that are unsafe or risky to human health and physical integrity.
 - The potential relationship between fraudulent recruitment practices and trafficking in persons.
- Highlight that:
 - Practices of private recruiters show that already during the recruitment phase of labour migration, migrant workers face important risks of violation of their rights.
 - Thus, there is a need for state intervention to protect migrant workers by establishing order and discipline in the recruitment process.
 - From a gender perspective, it is important to establish whether female migrants are more affected than men by the fraudulent practices of recruitment agencies.

Regulation of private recruitment agencies (15 min)

Slides 12-15

International standards

Slide 12

Several international instruments oblige states to protect migrant workers from abuse during recruitment. Mention the most the most recent and detailed ILO instruments:

- The ILO Private Employment Convention No.181 (1997) and ILO Recommendation No.188.
- ILO Convention No. 181 obliges states parties to determine, upon consultation with relevant workers' and employers' organizations, the legal status of private employment agencies and the conditions governing their operations.
- The ILO Convention concerns all workers – not specifically migrant workers – but includes special protection measures for migrant workers.
- Recommendation No. 188 calls on States to combat unfair advertising practices, including advertisements for non-existing jobs, which is especially relevant in migration.

Registration and licensing

Slide 13

Outline the two most commonly used approaches to regulating recruitment agencies, registration and licensing:

- Registration requires the agency to register for a fee with the Chamber of Commerce or other relevant authorities.
- A registered agency is then, like any other business, subject to routine checks by tax authorities or labour inspectors.
- Given the particular sensitivity of the recruitment business, however, many countries have opted for a licensing system.
- The presentation will focus on the licensing system.

Licensing standards

Slide 14

- Outline the fact that conditions for issuing a licence may vary to some extent from a country to another, but in general cover the following:
 - o Legal personality;
 - o Corporate personality;
 - o Financial capability (the capability to provide financial resources for international operations as well as the capability to absorb consequences of possible failure in the market);
 - o Marketing capability (to ensure competence in identifying employment opportunities abroad);
 - o Recruitment capability (to ensure the competence of the agency to identify qualified applicants to the needs job requests);
 - o Management capability.
- Present the following specific aspects of regulation of private recruitment agencies:
 - o For how long should licences be valid?
 - Many countries deliver licences for one year in order to exercise a strict control over the activities of the private recruiters.
 - Some argue that one year is too short a period, as this time frame may discourage private recruitment agencies from developing proper business strategies.
 - Moreover, the effects of short licences on recruitment fees are likely to be negative, as private recruiters will be tempted to maximize their profits within the shortest time possible.
 - o Extent of the licence: Should there be geographical restrictions? Should licenses be restricted to one office? Should sub-contracting be prohibited?
 - Many countries prescribe restrictions with regards to the geographical and personal validity of the licence.
 - For instance, a licence may be valid in only one province of the state, or licensees may be prohibited from opening more than one office and/or from having sub-agents.
 - Here again, the purpose of these regulations is to prevent fraud and to maximize control over recruiters' activities.

- Nevertheless, states must exercise caution as such restrictions tend to limit the development of private employment agencies.
- Moreover, it must be noted that larger firms are less likely than smaller ones to be involved in fraud.

Recruitment fees Slide 15

- Highlight the fact that recruitment fees paid by migrant workers are usually high. Using the following points, explain that:
 - o Fees are only justified to a small extent by the requirements of the foreign employer for testing and selection and by government fees for various clearances.
 - o The wage differential with the country of employment is an important component of the fees imposed to migrant workers.
 - o Another factor is the large labour supply that exists in many countries of origin. The competition between potential migrant workers naturally leads to increased recruitment fees and increases the probability of bribery.

- Indicate that ILO Convention No. 181 stipulates that private employment agencies “shall not charge, directly or indirectly, in whole or in part, any fees or costs to workers” (Art.7) However, exceptions may be allowed for certain categories of workers or for certain types of services.

In fact, the collection of fees is permitted by most national legislations. The main problem is not so much the charging of fees in and of itself, but overcharging.

- In order to protect migrant workers from abusive recruitment fees, many states have adopted a ceiling on recruitment fees, either as an absolute amount or as an amount based on a percentage of the contract salary.

Fees charged to migrant workers by private employment agencies in India

Type of worker	Fee (in USD)
Low-skilled	45
Semi-skilled	65
Skilled	110
Highly skilled	220

Source: India, Office of the Protector General of Emigrants (2004)

Fees charged to migrant workers by private employment agencies in the Philippines

Private recruitment agencies should charge the employer a service fee to cover services rendered in the recruitment, documentation and placement of workers.

Unless otherwise provided, the employer shall be responsible for the payment of the following:

- Visa fee;
- Airfare;
- Philippine Overseas Employment Administration (POEA) processing fee;
- Overseas Workers Welfare Administration (OWWA) membership fee.

Except where the prevailing system in the country of destination does not allow charging placement and recruitment fees, a private recruitment agency may charge its hired workers a placement fee equivalent to one month's salary, exclusive of documentation costs.

Documentation costs to be paid by the worker shall include, but not be limited to, expenses for the following:

- Passport;
- National Bureau of Investigation/Police/ Clearance;
- Authentication;
- Birth Certificate;
- Medicare;
- Trade Test, if necessary;
- Medical Examination fees.

In the event that the recruitment agency agrees to perform documentation services, the worker shall pay only the actual cost of the documents, which shall be covered by official receipts.

The above-mentioned placement and documentation costs are the only authorized payments that may be collected from a hired worker.

Such fees shall be collected from a hired worker only after he/she has obtained employment through the facilities of the recruitment agency.

POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers, Part II, Licensing and Regulation, Rule 5, Fees, Costs and Contributions

Implementing regulation of private recruitment agencies: controls and incentives (10 min)

Slides 16-20

Outline the rationale behind implementing regulation of private recruitment agencies

Slide 16

- Regulation of private recruitment agencies combines controls and sanctions with incentives in order to ensure compliance with the law.
- It is counterproductive to base implementation solely on repression.

Monitoring activities include

Slide 17

- Requesting reports from agencies on job placement, status of employment of those deployed, and other information needed by state agencies;
- Organizing periodic visits or inspections by state agents or their representatives;
- Introducing information campaigns identifying recruitment agencies or foreign employers;
- Establishing efficient mechanisms for reviewing migrant workers' employment contracts prior to signature and during employment.

If a violation of the law is found, administrative and/or penal sanctions should be imposed. These can include

Slide 18

- Forfeit of the deposit and performance bonds posted;
- Fines;
- Revocation or withdrawal of a license;
- Imprisonment;
- Seizing of assets.

Aside from controls and sanctions, it is useful to adopt incentives for agencies that meet the criteria for good governance

Slide 19

Incentives include:

- Extension of licence for a longer period, or waiver of renewal requirement;
- Tax incentives;
- Speedier or more automatic processing of contracts;
- Inclusion in a formal and publicly available list of recommended agencies;
- Invitation to participate in government foreign market development missions;
- Offer to fill quotas as part of bilateral agreements;
- Other promotional incentives related to the marketing of law-abiding agencies.

- Self-regulation:
 - Highlight the fact that state policing of abusive recruitment practices, although necessary for curbing them, will not alone suffice, given the forces of demand and supply at play.
 - Refer participants to the examples of codes of conduct distributed earlier.
 - Outline the following elements:
 - Alongside regulation and control activities, self-regulation by private agencies should be welcomed and encouraged by states.
 - In addition to statutory requirements, private employment/recruitment agencies have developed their own codes of conduct, either on specific issues or in a more general sense.
 - Example of general code of conduct: the CIETT Code of Conduct (see textbox below and Annex of Module D Session 2);
 - Example of specific code of conduct: the Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers, which deals specifically with women migrant workers. Signed by associations from Bangladesh, Cambodia, Indonesia, Jordan, Lao PDR, Nepal, Philippines and Sri Lanka, under the auspices of United Nations Development Fund for Women – UNIFEM). (See *Annex of Module D Session 2*)
 - Codes of conduct can be put in place by individual companies or by an association.
 - Codes of conduct may include provisions for disciplinary measures to be taken in case of breach by a signatory agency.

The CIETT Code of Conduct

The International Confederation of Private Employment Agencies (CIETT) brings together 35 national federations and six of the largest staffing companies worldwide.

It promotes quality standards within the recruitment industry and facilitates exchange between its members.

Apart from its charter, CIETT has also adopted a code of practice that recognizes obligations of members to those they serve and the community as a whole.

Provisions of the code refer to national laws, the principle of non-discrimination, health and safety regulations, and dissemination of information.

Members of CIETT are not allowed to charge fees to job seekers.

- Involvement of public authorities:

Outline the following points:

 - States rarely play a direct role in the recruitment of migrant workers.
 - Public authorities could therefore manage directly the recruitment of the most vulnerable migrant workers, such as female domestic workers.

Summary

- Highlight the importance of regulation and control of private recruitment and the need for flexibility:
 - States must adopt regulations in order to control the activities of private recruiters, but such regulations should not impede the economic development of the sector.
 - In many countries, illegal recruitment is rampant. Too-strict regulations may be counterproductive by inciting private recruiters to act illegally.
- Highlight the potential importance of alternative means to manage and regulate the recruitment of migrant workers.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

International Confederation of Private Employment Agencies (Ciett) Website

<http://www.ciett.org/>

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009

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Abella, M. I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 63-91

ILO, Private Employment Agencies Convention, 19 June 1997 (C181)

Available at: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>

ILO, Private Employment Agencies Recommendation, 19 June 1997 (R188)

Available at: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R188>

ILO, *Guide to Private Employment Agencies: Regulation, Monitoring and Enforcement*, 2007

Available at: http://www.ilo.org/public/libdoc/ilo/2007/107B09_296_engl.pdf

Mughal, R. and Luzviminda, P., "Regulatory Frameworks for Recruitment of Migrant Workers and Minimum Standards in employment Contracts" in IOM, *Labour Migration in Asia. Protection of Migrant Workers, Support Services and Enhancing Development Benefits* (IOM 2005), pp. 13-83

Module D, Session 2: Management of the recruitment of migrant workers

ANNEX 1

STANDARDS AND PROOF FOR LICENSING RECRUITMENT AGENCIES		
Standard	Purpose	Proof
Legal personality	To certify the business's operation as legal	<ul style="list-style-type: none"> Articles of Incorporation for corporations Articles of Partnership for partnerships Certificate of Single Proprietorship for single owners
Corporate personality	To show that the business can exist as an enterprise	<ul style="list-style-type: none"> Certificate of bank deposit stating the minimum paid-up capital specified by law Income tax return of incorporators within 2 years Corporate tax paid by the agency for those seeking re-licensing Clearance of the incorporators or owners from any criminal liability that would cast doubt on the enterprise's ability to exist legally
Financial capability	To show that the business can provide financial resources for international operations and that it can absorb consequences of possible failure in the market	<ul style="list-style-type: none"> Certificate of an agreement with a reputable bank, proving sufficient assets to answer potential legal claims arising from recruitment or contract violations Surety bond from accredited banks as assurance that the agency will honour their obligations to the recruited applicants
Marketing capability	To exhibit competence in looking for or identifying employment opportunities existing overseas	<ul style="list-style-type: none"> Duly executed special power of attorney, and authentication by the embassy / consulate officials, confirming the existence of the employer in the receiving state Duly executed special power of attorney, and authentication by the embassy / consulate officials, confirming the existence of the project in the receiving state An authorized job-order request with prescribed number of workers
Recruitment capability	To ensure the competence of the agency to scrutinize, assess, and identify qualified applicants for the needed positions	<ul style="list-style-type: none"> List of recruitment personnel Individual curriculum vitae of each Proof of academic qualifications, preferably with Psychology or Human Resources Degree or any similar experiential qualification in interviewing and giving examinations
Management capability	To ensure the capability of management and the adequacy of equipment or facilities for continued operation	<ul style="list-style-type: none"> List of administrators and personnel Curriculum vitae of each Copy of contracts or lease of ownership of buildings or office spaces and the office address

Module D, Session 2: Management of the recruitment of migrant workers

ANNEX 2

CIETT MEMBERS' COMMITMENT TOWARDS A WELL-FUNCTIONING INTERNATIONAL LABOUR MARKET

Introduction

Services provided by private employment agencies represent a modern answer to reconcile the requirement of labour flexibility for user companies and the need of work security for employees.

Being aware of such a social responsibility, the private employment agency industry has adopted, for many years national codes of conduct at country level.

Because of the growing importance of private employment agencies at the international level and the need for strengthening self-regulation principles to enhance the quality standards of the industry, Ciett has established a global Code of Conduct, which provides General Agreed Principles on private employment agency practices, shared by all its Members.

These common agreed principles are complemented by the Ciett Charter of private employment agencies, which describes the obligations of Ciett members regarding their corporate social responsibility.

I – Ciett Code of Conduct

Principle 1 – Respect for Ethical and Professional Conduct

Members shall observe the highest principles of ethics, integrity, professional conduct and fair practice in dealing with temporary agency workers as well as other relevant stakeholders and shall conduct their business in a manner designed to enhance the operation, image and reputation of the industry.

Principle 2 – Respect for Laws

Members and their staff shall comply with all relevant legislation, statutory and non-statutory requirements and official guidance covering Private Employment Agencies.

Principle 3 – Respect for Transparency of Terms of Engagement

Members shall ensure that workers are given details of their working conditions, the nature of the work to be undertaken, rates of pay and pay arrangements and working hours.

Principle 4 – Respect for free-of-charge provision of services to jobseekers

Members shall not charge directly or indirectly, in whole or in part, any fees or costs to jobseekers and workers, for the services directly related to temporary assignment or permanent placement.

Principle 5 – Respect for Safety at Work

1. Members shall act diligently in assessing risks in order to promote the safety of agency workers in their workplace.

2. Members shall inform agency workers whenever they have reason to believe that any particular assignment causes an occupational health or safety risk.

Principle 6 – Respect for Diversity

Members shall establish working practices that safeguard against any unlawful or unethical discrimination.

Principle 7 – Respect for the Worker's Rights

1. Equitable, objective and transparent principles for the calculation of agency workers' wages shall be promoted, considering national legislation and practices.

2. Members shall not in any way deny the right of freedom of association of their employees.

3. In accordance with national law and practice, private employment agencies shall not make workers available to a user company to replace workers of that company who are legally on strike.

**CIETT MEMBERS' COMMITMENT TOWARDS A WELL-FUNCTIONING
INTERNATIONAL LABOUR MARKET (Continued)**

Principle 8 – Respect for Confidentiality

1. Members shall ensure confidentiality in all of their dealings.
2. Members and their staff shall ensure that permission has been given and documented before disclosing, displaying, submitting or seeking confidential or personal information.

Principle 9 – Respect for Professional Knowledge and Quality of Service

1. Members shall work diligently to develop and maintain a satisfactory and up to date level of relevant professional knowledge.
2. Members shall ensure that their staff are adequately trained and skilled to undertake their responsibilities and assure a high quality service.

Principle 10 – Respect for Fair Competition

Members shall assure mutual relations based on fair competition.

II - The Ciett Charter of Private Employment Agencies

Services provided by private employment agencies represent a statutory labour flexibility arrangement which provides workers an opportunity for employment security, enhanced occupational status and a stepping stone function while, at the same time, reconciling employees' aspirations and employers' needs for flexible workforce.

As socially responsible employers, the Ciett members fully agree to recognise through this Charter of private employment agencies that:

1. Employment through private agencies should respect the international and national principles of non-discrimination on all issues linked to working conditions.
2. Private employment agencies should not charge directly or indirectly any fees or costs to workers for job-finding services.
3. Private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike.
4. Private employment agency should facilitate access to training for the agency workers.
5. Social dialogue and collective labour bargaining should be seen as an appropriate mean to organise the private employment agency industry, when relevant and fitting.

At the same time, the positive contribution that private employment agencies make to the worldwide employment and economic objectives should be fully recognised by national governments, international institutions and relevant stakeholders. Indeed, services provided by private employment agencies can be part of the solution to improve the efficiency of the labour markets by:

- Providing work to job-seekers.
- Acting as a stepping-stone to permanent employment.
- Enhancing job-opportunities and integration in the labour market, in particular for the most disadvantaged group of workers.
- Improving labour market's fluidity.
- Helping the creation of jobs that would not exist otherwise and therefore contributing to reduce unemployment.
- Cooperating with the Public Employment Services.
- Facilitating access to vocational training.

Additionally, any regulation on private employment agencies should enhance the fight against illegal practices and human trafficking.

Finally, as the International Confederation of Private Employment Agencies, Ciett fully endorses the ILO Convention 181 on Private Employment Agencies. Ciett supports its members in encouraging their respective countries to ratify this ILO instrument, in case they have not done so.

Adopted on November 27th, 2006

Module D, Session 2: Management of the recruitment of migrant workers

ANNEX 3

Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers

We, OVERSEAS EMPLOYMENT SERVICE PROVIDERS, represented by national associations from Bangladesh, Cambodia, Indonesia, Jordan, Lao PDR, Nepal, Philippines and Sri Lanka, having been invited by the United Nations Development Fund for Women (UNIFEM) to a Regional Consultation of Recruitment and Placement Agencies on Good Practices to Protect Women Migrant Workers, and after discussions and deliberations on 14-15 November 2005 at the United Nations Conference Center (UNCC) in Bangkok, Thailand,

Mindful of the continuing increase in labor migration to labor receiving countries, especially in the service sector, as a result of globalization and the rising incidence of either poverty or unemployment in labor sending countries;

Conscious of the need to protect women migrant workers, particularly those in low-end jobs, because they are more vulnerable to gender-based exploitation, abuse, discrimination, violence at different stages of the migration process, and unfair and degrading labor practices in their work places, helpless and oftentimes deprived of their basic human rights;

Recognizing the vital role and the corporate social responsibility of overseas employment service providers as a major stakeholder in the placement and/or employment of women workers in a foreign country; and

Expressing full and unequivocal support to the advocacy, mission and vision of UNIFEM and its Asia Pacific and Arab States Regional Programme on Empowering Women Migrant Workers in Asia to advance the just and humane causes of women migrant workers in the region,

HEREBY ADOPT this 15th day of November 2005 at the United Nations Conference Center (UNCC) in Bangkok, Thailand, this **Covenant of Ethical Conduct and Good Practices for Overseas Employment Service Providers comprising the National Associations that participated in the consultation:**

FIRST

We ensure and guarantee as overseas employment service providers that our corporate or institutional existence is legitimate, lawful, and our business activities and operations are undertaken strictly within the framework of the established laws, rules and regulations of our country, especially in dealing with women migrant workers.

SECOND

We commit to support, cooperate and give assistance to any or all efforts, campaign or program, locally, regionally, or globally, individually or collectively, against illegal recruitment, human trafficking, or, for that matter, any policy that will jeopardize, disturb or violate the human rights of migrant workers, particularly women migrant workers, and abhor and condemn these practices as crimes against humanity.

THIRD

We adhere to the policy of fairness, gender equality, and non-discrimination in the treatment, selection, and placement of migrant workers consistent with the laws, rules and regulations of our respective countries.

FOURTH

We obligate ourselves to engage in continuing education, information campaigns, and awareness programs or activities that will promote good practices in the business of overseas employment and provide adequate training, orientation, and sufficient knowledge to our migrant workers about the terms and conditions of their employment, and the culture, environment, traditions and norms in their workplace.

FIFTH

We support the cause of UNIFEM for women migrant workers and encourage inter-country, diplomatic, government and stakeholder partnerships, collaboration, and cooperation that will foster protection of women migrant workers in the global or regional overseas employment of labor migration industry.

SIXTH

We endeavour to establish and implement viable and efficient social security and insurance programs, schemes or initiatives, privately or in partnership with our respective governments, to cover or indemnify risks arising from contingencies while the migrant workers are abroad for foreign employment and enhance their economic, social and personal welfare.

SEVENTH

We will respect and observe faithfully the International Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Protection of the Rights of All Migrant Workers and their Families, and all other declarations, covenants or agreements that will promote the better interest of migrant workers.

TOWARD THESE ENDS, we hereby adopt, and agree to work on the following strategic and priority actions at:

THE REGIONAL LEVEL

1. Overseas employment service providers and their national associations shall protect women migrant workers by sharing information, lessons learned, distance cooperation, and help monitor, investigate, facilitate and resolve cases arising from foreign employment.
2. Regional agreements to stop violation to migrant workers through (i) advocacy with governments of labor sending and receiving countries to sign treaties, covenants and/or binding international agreements or understanding, or (ii) inter-country or regional agreements and understanding involving national associations of overseas employment service providers and counterpart organizations, in order to stop discrimination against foreign workers, and provide better, responsive uniform, equitable, and timely protection and welfare to women migrant workers.
3. Establish, whenever feasible and appropriate, “resource, support and welfare centers” in labor receiving countries where there are large concentrations of women migrant workers, to provide, *inter alia*, counseling, welfare assistance, information, monitoring, and other services for their benefit.

4. Embark on orientation, interaction and socialization activities with foreign employers of migrant workers through counterpart organizations in labor receiving countries.
5. Pursue, with the assistance of UNIFEM, regional consultation or dialogue with labor receiving countries to discuss and address the issues confronting overseas employment and women migrant workers. Also, strengthen collaborative partnership with industry counter-part associations on protection of women migrant workers, not only within the Asia and Middle East region but also in other labor receiving countries around the globe.
6. Call on the governments and overseas employment service providers in labor sending countries to provide and promote the standards of quality of their training and orientation programs to ensure that foreign migrant workers are better informed about the destination country. Towards this end, work on conducting regional trainings with representatives of labor sending and receiving countries to ensure the workers are well informed, better educated and are job-ready.
7. Call on the stakeholders in the sending countries to ensure medical fitness of the migrant worker, as per the receiving country's requirement as there were incidences of foreign workers entering the labor receiving country, who are not physically fit for work. At the same time, call on labor receiving countries to respect the sovereign rights of the labor sending countries to choose or select among recognized or accredited medical clinics within their jurisdiction.
8. Introduce, adopt, and implement social security and insurance programs for the benefit of migrant workers, with or without government intervention, similar to the Workers Welfare Enhancement Program (WWEP) in the Philippines.
9. Call on the government of Jordan to share its good practices on protecting women migrant workers, as a model for other countries of employment.
10. Call on the national associations of overseas employment service providers to form a regional network of association/s to protect the rights of the female migrant workers in accordance with this Covenant.

THE NATIONAL LEVEL

BANGLADESH

- Strengthen pre-departure training for women migrant workers and get support from counterpart agencies/ associations.
- Work with UNIFEM national and regional programs on media sensitization and policy advocacy to protect and promote women migrant workers' rights.

INDONESIA

- Set up information counter at embarkation ports, to minimize illegal/non-procedural placement and minimizing the "human trafficking".
- Create "black-list" of errant employers (using on-line system).
- Disseminate information on advantages/ disadvantages of recruitment and placement overseas.

JORDAN

- Boost cooperation between recruiting agencies and Jordanian authorities to ensure the implementation of the standard contract which guarantees paying salaries on time and obtaining residency and working permits within the assigned period.
- Meet regularly with all concerned parties to solve pending issues.

LAO PDR

- Conduct research/study on migration issues, with specific focus on women migrant workers, to understand better the situation for effective policy intervention.
- Improve internal labor information system to facilitate greater in-country employment.
- Capacity building for employment/recruitment agencies on employment management and worker protection.
- Encourage recruitment agencies in Laos to set up an association.

NEPAL

- Set up special skills training program for women, combined with loan program for women in partnership with government/private sectors.
- Use tri-media and the Internet in order to provide information to women about safe migration and foreign employment.
- Develop interaction program on safe migration with the members of Nepal Association of Foreign Employment Agencies (NAFEA).
- Implement Code of Conduct.

PHILIPPINES

- Heighten awareness of the need to protect the rights and welfare of the migrants through information dissemination and continuing education.
- Philippines Association of Service Exporters, Inc. (PASEI) will continue to organize consultative meetings, fora, symposia, and other available methods of disseminating information for the benefit of all overseas employment service providers from the Philippines in partnership and cooperation with: lead Philippine government agencies managing migration such as DOLE, POEA and OWWA; Local Government Units (LGUs) and Employment Offices; foreign embassies and missions in Manila; Chambers of Commerce and Industries; corporate and institutional partners.
- Emphasize the provisions of international conventions and instruments that guarantee the rights of migrant workers.
- Intensify anti-illegal recruitment campaign.
- PASEI will continue to pursue cooperative partnership with the lead Philippine law enforcement agencies, specifically in the area of anti-illegal recruitment and anti-human trafficking.
- PASEI will continue to strengthen its partnership with the Anti-Human Trafficking Division (AHTRAD) of the National Bureau of Investigation (NBI).
- PASEI will strengthen its partnership with its tri-media partners in its Anti-Illegal Recruitment Campaign and knowledge of their rights.

SRI LANKA

- Set up strong reconciliation chambers in respective receiving countries and encourage the Government of Sri Lanka to intervene to support women migrant workers' legitimate rights and to claim any financial dues.
- Standardize policies, practices and prices in recruitment procedures among members of Association of Licensed Foreign Employment Agencies (ALFEA), to prevent members undercutting each other to make exorbitant in an ad hoc way.
- Lobby the Sri Lankan Government to assist ALFEA with awareness-raising and education programs for the employers in host countries.
- Seek Government financial support for ALFEA training program for migrant workers.
- Develop an insurance policy suitable for migrant workers in all types of labor sectors.
- Lobby the Ministry of Labor and Employment to consult ALFEA when taking decisions and implementing policies on recruitment procedures.

ADOPTED THIS 15TH DAY OF NOVEMBER 2005

at the

United Nations Development Fund for Women (UNIFEM)

Regional Consultation of Overseas Employment Service Providers on

Good Practices to Protect Women Migrant Workers

Bangkok, Thailand

Session 3: Employment contracts and minimum employment standards

Suggested duration	35 min total
	Introduce the topic
	10 min Content of minimum employment standards and employment contracts
	25 min What efficiency for minimum employment standards and employment contracts?
	Summary
Methodology	Presentation and Discussion
You will need	Flip chart, pen, Module D slides
Participants will need	Copy of slides, copy of Sample Employment Contract from the Philippine Overseas Employment Administration (POEA)

Introduce the topic

Slides 21-22

Trainer note

The aim of this session is to:

- Present the role of employment contracts and of minimum employment standards in the protection of migrant workers.
 - Present the content of employment contracts and minimum employment standards.
 - Discuss the difficulties of implementing employment contracts and minimum employment standards.
- Distribute to participants the Sample Employment Contract from the Philippine Overseas Employment Administration (POEA).
 - Describe the purpose of adopting minimum employment standards and employment contracts:
 - To organize the protection of migrant workers before they actually leave the country, by ensuring that they employment contract guarantees fair wage and decent work conditions.
 - The implementation of such standards is not an easy task; states may face significant obstacles in the process.

Content of minimum employment standards and employment contracts (10 min)**Slides 23-24****Minimum employment standards may include the following**

Slide 23

- Guaranteed wages for specified working hours and overtime pay for work rendered beyond specified working hours;
- Free transportation from point of hire to site of employment and return, or offsetting arrangements;
- Free food and accommodation, or offsetting arrangements;
- Free emergency medical and dental treatment and facilities, including medicines;
- Insurance coverage;
- Requirement of just or authorized cause for termination of employment;
- Repatriation of remains and belongings at employer's expense in case of death;
- One day of rest per week;
- Procedure for dispute settlement.

Outline the following points that should be taken into account when drafting employment contracts and standards

Slide 24

- Existing labour and social laws of the host country;
- National customs, traditions, and practices;
- Compliance with existing conventions and bilateral or multilateral agreements with the host country.
- Present the following example:
 - o In the Philippines, as well as in most Asian countries, certain benchmarks are utilized for wages.
 - o Filipino migrant workers are not allowed to accept wages that are lower than the prevailing minimum rate for the same skills in the host country, or lower than the standards that are set by bilateral agreements or international conventions to which the host country is signatory.
 - o In no case is a migrant worker allowed to receive a salary lower than the prevailing wage in the Philippines.
 - o Refer participants to the Sample Employment Contract from the Philippine Overseas Employment Administration (POEA) you have distributed.

What efficiency for minimum employment standards and employment contracts? (25 min)

Slides 25-26

Discussion

Slide 25

Duration: 25 min

Introduce topic with the following points:

- The proper implementation of employment standards can be an arduous task.
- Employers may be reluctant to accept such standards, and even if they are formally accepted, they may not be respected in practice.
- What means of action can countries of origin use to ensure the implementation of employment standards?

Present the following scenario to the group:

Workers are employed in a third country. Highlight the following elements:

- Workers are often paid less than local nationals.
- Employers refuse to give them contracts prior to departure.
- If they do get contracts, then these contracts are often substituted once they arrive for contracts with worse terms and conditions.

Preparation in pairs (5 min)

Ask participants to discuss in their groups what countries of origin facing such situations can do to promote compliance with labour standards outside their territory.

Discussion (20 min)

- Discussion (10 min)
- Quick report back on answers (10 min)
- The starting point of a discussion on this issue is to recognize that the authorities of the country of destination have jurisdiction on violations of labour rights, as well as contract provisions or malpractices. Therefore, they are primarily responsible for taking action in order to protect and restore the rights of migrant workers.

Policy options for countries of origin

Slide 26

- Conclusion of bilateral labour agreements (BLAs);
- Exit controls;
- Labour market strategies;
- Joint liability of employers and private recruitment agencies;
- Consular assistance and diplomatic protection;
- Non-formal international cooperation mechanisms.
- Conclusion of BLAs:

- The conclusion of bilateral labour agreements between the authorities of countries of origin and those of countries of destination, including provisions regarding the acceptance of the standard foreign employment contract, can help to secure the implementation of employment standards.
- Arguably, with such an agreement, it becomes more difficult for contracts agreed on in the country of origin to be replaced in the country of destination by contracts that are harmful to the migrant workers' interests.
- Exit controls:
 - In Asian labour-sending countries, there exist a varying range of exit controls as part of protection measures:
 - Pakistan, Bangladesh and Indonesia have varying degrees of restrictions on female migrant workers' exit from the country.
 - Several Asian labour-sending countries have in the past banned employment in specific destination countries for a certain period, owing to abuses in that country.
 - In the Philippines, as well as in many Asian countries, workers receive an overseas employment certificate, allowing them to travel, only after all the documentary requirements of various Philippine government agencies have been satisfied. (Workers are documented through the clearances, certificates, credentials and employment contract required as a condition for their deployment.) This certificate serves as the worker's exit clearance at airports.
 - Are exit controls compliant with international law?
 - The right to leave any country, including one's own, is recognized by international law (art. 12 (2) ICCPR).
 - The right to leave is not an absolute right. According to art. 12 (3) ICCPR:
 - "The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant."
 - The rules of interpretation for such possible restrictions are the following:
 - The restriction shall not infringe the very essence of the right.
 - Strict interpretation is mandatory.
 - The interpretation must conform to the goal foreseen by the provision, i.e. protection of human rights.
 - In sum, restrictions of the right to leave in order to protect migrant workers can be acceptable. They must be exceptional and must follow the principles of international law on the matter.
 - Are exit controls efficient?

Outline the main outcomes of the Philippines' policy regarding domestic workers (textbox below).

The Philippines' policy regarding domestic workers

The Philippines has in the past banned the deployment of female domestic workers to certain destinations due to increases in complaints about abuse and maltreatment.

The bans failed to improve workers' conditions, to the contrary, they created an incentive for irregular migration.

As a solution, the Philippines exerted greater effort to ascertain the character of employers through its accreditation process and strengthened compliance with its Pre-Departure Orientation Seminar.

The authorities also imposed a minimum age for female domestic workers, which depends on their country of employment, and centralized their processing under a special unit within the Philippine Overseas Employment Administration (POEA) called the Household Workers' Center. This unit was created for the express purpose of monitoring the recruitment of domestic workers.

Country-specific employment contracts were also developed, and employers were required to secure clearances or pre-qualification certificates from the Philippine Overseas Labour Offices.

- Labour market strategies:

Promotion campaign for foreign employment, in order to diversify the countries of employment, can also be a possible solution (developed in *Module E: Developing labour market strategies, including addressing the challenges of highly-skilled migration*).

- Joint liability of employers and private recruitment agencies:

Present the example of joint liability of employers and private recruitment agencies in the Philippines (textbox below).

Joint liability of the employer and the private recruitment agency in the Philippines

The Philippines' legislation provides for the joint and solitary liability of the private employment agency with the employer for all claims arising from the implementation of employment contracts.

According to Section 10 of the Migrant Workers and Overseas Filipinos Act, 1995 (RA 8042):

“in case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest of twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.”

Accordingly, the injured migrant worker is not limited to the judicial system of the considered country of employment for obtaining redress.

- Consular assistance and diplomatic protection:

Other means to prevent or redress violations of labour rights and employment contracts that are developed later in *Session 5, Protection activities in countries of destination – consular and diplomatic protection*.

- Non-formal international cooperation mechanisms:

Non-formal international cooperation mechanisms, such as regional cooperation processes, are venues to raise and discuss concerns on the implementation of employment standards.

Summary

Bullet the learning points below and any arising from discussion:

- Earliest-stage action by countries of origin – such as the adoption of employment standards – is necessary but cannot be seen as sufficient for the protection of migrant workers.
- In order to provide efficient protection to migrant workers, supplementary means of action have to be implemented, notably in the country of destination. This is the role of consular and diplomatic assistance and protection provided by diplomatic and consular posts of countries of origin in countries of destination.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

IOM, World Migration 2008. *Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

Abella, M.I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 63-91

Website of the Philippine Overseas Employment Administration (POEA)

<http://www.poea.gov.ph/>

Module D, Session 3: Employment contracts and minimum employment standards

ANNEX

SAMPLE EMPLOYMENT CONTRACT FROM THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA)

This employment contract is executed and entered into by and between:

- A. Employer:
Address and Telephone no:
- B. Represented by:
Name of agent/company:
- C. Employee
Civil Status: Passport no:
Address: Place and Date of Issue:

Voluntarily bind themselves to the following terms and conditions:

1. **Site of employment**
2. **Contract duration** _____ commencing from employee's departure from the point of origin to the site of employment.
3. **Employee's position**
4. **Basic monthly salary**
5. **Regular working hours:** maximum of 8 hours per day, six days a week
6. **Overtime pay**
 - (a) Work over regular working hours
 - (b) Work on designated rest days and holidays
7. **Leave with full pay**
 - (a) Vacation leave
 - (b) Sick leave
8. **Free transportation** to the site of employment and, in the following cases, free return transportation to the point of origin:
 - (a) Expiration of the contract
 - (b) Termination of the contract by the employer without just cause
 - (c) If the employee is unable to continue to work due to connected or work-aggravated injury or illness
9. **Free food or compensatory allowance** of US\$ _____, free suitable housing.
10. **Free emergency medical and dental services** and facilities including medicine.
11. **Personal life and accident insurance** in accordance with the host government and/or _____ government laws without cost to the worker. In addition, for areas declared by the _____ government as war risk areas, a war risk insurance of not less than _____ shall be provided by the employer at no cost to the worker.
12. In the **event of death** of the employee during the terms of this agreement, his remains and the personal belongings shall be repatriated to the _____ at the expense of the employer. In case the repatriation of the remains is not possible, the same may be disposed of upon prior approval of the employee's next of kin and/or by the _____ Embassy/Consulate nearest the job site.
13. The employer shall assist the employee in remitting a percentage of his/her salary through the proper banking channel or other means authorized by law.

Session 4: Information dissemination

Suggested duration	55 min total
	Introduce the topic
	30 min Group activity
	25 min Presentation complementing the Group activity
	Summary
Methodology	Presentation and Group activity
You will need	Flip chart, pen, Module D slides
Participants will need	Copy of slides, Module D Session 4 worksheet, IOM's Generic Curriculum for Low-Skilled Labour Migrants

Trainer note

The aim of this session is to enable participants to identify types of information to disseminate in order to protect migrant workers, ways to convey such information, and the social groups to target.

During the session, you may want to present the video *From Sri Lanka to Tuscany*, included the trainer material.

Introduce the topic

Slides 27-28

- Highlight the importance of information dissemination with regards to protection of migrant workers:
 - Providing migrants workers with reliable and accurate information about the different aspects of the migration process is an essential component of protection.
 - Informed migrants may face less risk of violation of their rights; they are also equipped with tools in order to obtain respect for their rights.

Group activity

Slide 29

Duration: 30 min

Aim of the activity

To allow participants to think about the type of information to be disseminated, when and to whom it should be delivered, and through what possible means.

Group activity

- Divide the participants into small groups.
- Inform the participants that each group will fill in a chart that presents some basic elements of the information on the topic.
- Ask the participants to do the following:
 - Elaborate on the information provided in the grid.
 - Identify at which moment such information should be delivered (e.g. just before workers leave the country, or before the actual decision of leaving is made) and to whom (i.e., who should be the target groups).
 - Identify the means to deliver the information (what kind of activities to put in place in order to deliver the information).
 - Add other types of information that should be delivered and are not already set in the grid.
- Inform participants that they have ten minutes to fill in the chart.
- Collect the answers from the working groups – each participant will give feedback on at least one element of the grid. Feedback from the participants should not last more than 15 minutes total.

Conclusion

Draw out key points of the answers provided by the participants and possible policy solutions.

Explain that the findings from the exercise will be complemented by a short presentation.

Presentation complementing the Group activity (25 min)

Trainer note

Use the trainer version of the worksheet and the following points to correct the exercise and cover the information to be disseminated during this session.

After the exercise, distribute the IOM's Generic Curriculum for Low-Skilled Labour Migrants (Annex 2).

Highlight the following points

Slide 30

- Often, information dissemination programmes intervene too late in the process of migration.
- It is essential to propose pre-departure courses to migrant workers who are about to leave for their jobs abroad.
- It is also important, however, to disseminate information before workers have secured an employment contract.
- Thus, a distinction can be made between pre-employment programmes and pre-departure orientation programmes.

- Present the distinction between pre-employment programmes and pre-departure orientation:
 - Pre-employment programmes are mainly conceived for potential migrant workers: individuals that are at the decision-making stage, before the commitment is made to accept an offer of employment.
 - Pre-departure orientation courses are targeted to labour migrants who have secured an employment contract.

Pre-employment programmes

Slide 31

Outline the types of information to be disseminated; how to convey the information; and what groups to target:

- Types of information:
 - Information on private recruitment agencies, including blacklisted recruiters;
 - Wage and other employment standards for specific occupations and countries of destination;
 - Skills testing procedures, health examination services, and their fees;
 - Information on emigration clearance (if applicable);
 - List of countries recommended as destinations as well as a list of those where employment is discouraged;
 - Average cost of transport to various destination countries.
- How to convey the information:
 - Pre-employment orientation seminars. Present the example of Pre-Employment Orientation Seminar in the Philippines (textbox below).

Pre-Employment Orientation Seminar in the Philippines

The Philippines conceived a programme called Pre-Employment Orientation Seminar (PEOS) as an optional educational strategy to strengthen the decision-making process of a prospective migrant worker.

The PEOS aims to prepare individuals who are considering the prospects of working overseas by giving them an overview of the overseas employment programme, of the benefits and pitfalls of working abroad, and of the numerous steps and documents required for application.

The potential migrant workers are also informed of the proper application procedures, of licensed recruitment agencies, of the modus operandi of illegal recruiters and the various government services and programmes at their disposal.

- Migrant Resource Centres – present the example of Tajikistan (textbox below)

Migrant Resource Centres: the example of Tajikistan

Background information:

Tajikistan's limited employment opportunities and mountainous terrain make it difficult for its inhabitants to make a living.

As a result, to escape poverty, many Tajik families have at least one member who is a migrant worker.

Tajiks seasonally migrate to neighboring Kazakhstan, Kyrgyzstan and Uzbekistan, though most go to the Russian Federation.

Many Tajiks work in informal and low-skilled sectors in Russia and, even when they have regular status, labour exploitation is common.

Many migrants do not know where to go to seek advice and information on travel and work abroad. They are therefore easy prey for unofficial recruiters and traffickers.

Information Resource Centres for Labour Migrants (IRCMWs) in Tajikistan

The project:

- An Information Resource Centre for Migrant Workers was first established in the capital, Dushanbe, in 2004 by IOM and the Government of Tajikistan with the support of the OSCE.
- Since then, six regional IRCMWs have been established.
- The IRCMW located in Dushanbe is an integral part of IOM-Tajikistan, while regional IRCMWs operate within existing local structures and receive assistance from OSCE and IOM.
- The IRCMWs are organized as a network of centres, with IRCLM Dushanbe taking care of the coordination.

Purpose and activities:

- The purpose of the IRCMW network is to increase awareness of migration and labour abroad, to assist in stemming the flow of irregular migration, and to contribute to the respect of the rights of nationals working abroad.
- Examples of activities undertaken:

Inform – through qualified counsellors – potential migrants about employment conditions, travel and documentation requirements, registration, the rights of migrants, press reports, maps and contacts, the risks of trafficking and smuggling in human beings, health risks and other useful tips.

Conduct mobile consultations, through cooperation between IRCLM Dushanbe and the regional IRCMWs, several times a year all around the country for the population, local NGOs, and relevant administrations.

Raise awareness on labour migration issues through arranging public events.

Assist the media to increase the awareness on labour migration issues.

- Information campaigns and other means:
 - o TV documentaries;
 - o TV debates/round tables;
 - o TV public service announcements;
 - o Radio broadcasts; Radio PSAs and FM plugs;
 - o Soap operas;
 - o Printed materials;
 - o Outdoor media;
 - o Networking and seminar tours.
- Who should be targeted?
 - While potential migrants may come from many communities, it is sound to develop activities targeted towards vulnerable groups, such as the less skilled/educated, the young, women, and migrant family members.

Pre-departure orientation courses

Slides 32-33

Outline the types of information to be disseminated and the way to organize the courses:

- Types of information needed:
 - Information on migrants' rights, including the legal provisions in countries of destination to protect female migrant workers;
 - Information on work and living conditions in countries of destination;
 - Conditions of admission and stay under relevant immigration laws; Information on travel documents, airport procedures and travel tips; Health awareness;
 - Practical tips on cultural differences and means of dealing with them;
 - Special attention to the gender roles in countries of destination, including, if relevant, the illegal character of some harmful practices;
 - Information on services offered by public authorities and NGOs in countries of destination;
 - Information on diplomatic and consular missions in countries of destination;
 - Options and procedures for sending remittances;
 - Information on return and reintegration.
- Highlight the fact that in order to improve protection of migrant workers, pre-departure orientation seminars need to go beyond information dissemination and include skills improvement. It typically includes foreign language training.
- Organization of the courses:
 - Courses should be of sufficient duration, easy to access and free of charge.
 - Specific courses to be organized according to the destination countries and the types of occupations.
 - For instance, if the considered country experiences large emigration flows of domestic workers, a specific course for domestic workers should be organized.

- Highlight the fact that IOM provides a wide range of services in the context of the pre-employment / pre-departure phase of labour migration.
 - This includes pre-departure orientation; language training; training on the use of the internet (for migrants to communicate with their families), monitoring and evaluation as well as capacity building of national institutions.
 - Refer participants to the IOM's Generic Curriculum for Low-Skilled Labour Migrants, you have distributed, which can serve as a basis for a one or two-day training.

Summary

- It is essential to disseminate information at the earliest possible stage of the migration process, i.e. before the actual decision to migrate is made.
- Pre-employment programmes (conceived for potential migrant workers) are distinct from pre-departure programmes (conceived for migrants who have secured an employment contract).
- Pre-employment programmes:
 - General information on the different aspects of labour migration;
 - Need to multiply the means to convey information.
- Pre-departure programmes:
 - More specific information and further information dissemination, language training and other relevant training;
 - Need to organize free-of-charge seminars in order to reach the largest number of migrant workers possible.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009

Abella, M.I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 63-91

Masud Ali, A.K., "Pre-departure Orientation Programme: Study of Good Practices in Asia – A Comparative Study of Bangladesh, the Philippines and Sri Lanka" in IOM, *Labour Migration in Asia. Protection of Migrant Workers, Support Services and Enhancing Development Benefits* (IOM 2005), pp. 85-152

Website of the Philippine Overseas Employment Administration (POEA)

<http://www.poea.gov.ph/>

Module D, Session 4: Information dissemination

ANNEX 1

Trainer example worksheet for individual activity – provide worksheet with only grey text to participants

Types of information	Information delivered	When delivering information, to whom?		How to deliver information?
Info on private recruitment agencies	<ul style="list-style-type: none"> List of licensed agencies List of blacklisted agencies How illegal recruiters operate Public services available 	<ul style="list-style-type: none"> Pre-employment programmes (PEP) 	<ul style="list-style-type: none"> Potential migrants 	<ul style="list-style-type: none"> PEP seminars Info campaigns and other means
Employment standards	<ul style="list-style-type: none"> This applies when the considered country has set employment standards Wages for specific occupations Wages for specific counties of destination 	<ul style="list-style-type: none"> PEP Pre-departure orientation (PDO) 	<ul style="list-style-type: none"> Potential migrants Migrants who have a secured contract 	<ul style="list-style-type: none"> PEP seminars Info campaigns and other means PDO seminars
Recruitment procedures	<ul style="list-style-type: none"> Skill testing procedures Emigration clearance (if applicable) Health examination Information on contracts 	<ul style="list-style-type: none"> PEP 	<ul style="list-style-type: none"> Potential migrants 	<ul style="list-style-type: none"> PEP seminars Info campaigns and other means
Destination country profile	<ul style="list-style-type: none"> Life conditions Culture differences and how to deal with them Migrants' rights 	<ul style="list-style-type: none"> PEP PDO 	<ul style="list-style-type: none"> Potential migrants Migrants who have a secured contract 	<ul style="list-style-type: none"> PEP seminars Info campaigns and other means PDO seminars

Admission procedures	<ul style="list-style-type: none"> · Info on visas and permits · Info on travel documents, airport procedures and travel tips 	<ul style="list-style-type: none"> · PEP · PDO 	<ul style="list-style-type: none"> · Potential migrants · Migrants who have a secured contract 	<ul style="list-style-type: none"> · PEP seminars · Info campaigns and other means · PDO seminars
<i>Additional information (examples)</i>	<ul style="list-style-type: none"> · List of countries recommended as destinations and where employment is discouraged 	<ul style="list-style-type: none"> · PEP 	<ul style="list-style-type: none"> · Potential migrants 	<ul style="list-style-type: none"> · PEP seminars · Info campaigns and other means
	<ul style="list-style-type: none"> · Options and procedures for sending remittances 	<ul style="list-style-type: none"> · PEP · PDO 	<ul style="list-style-type: none"> · Potential migrants · Migrants who have a secured contract 	<ul style="list-style-type: none"> · PEP seminars · Info campaigns and other means · PDO seminars
	<ul style="list-style-type: none"> · Foreign language training 	<ul style="list-style-type: none"> · PDO 	<ul style="list-style-type: none"> · Migrants who have a secured contract 	<ul style="list-style-type: none"> · PDO seminars
	<ul style="list-style-type: none"> · Info on return and reintegration 	<ul style="list-style-type: none"> · PEP · PDO 	<ul style="list-style-type: none"> · Potential migrants · Migrants who have a secured contract 	<ul style="list-style-type: none"> · PEP seminars · Info campaigns and other means · PDO seminars

Module D, Session 4: Information dissemination

ANNEX 2



IOM International Organization for Migration
 OIM Organisation Internationale pour les Migrations
 OIM Organización Internacional para las Migraciones

PRE-DEPARTURE ORIENTATION CURRICULUM OUTLINE FOR LOW-SKILLED LABOUR MIGRANTS

(One-day – 8-hr Session)

8:00 – 10:30	10:45 – 13:45	13:45 – 17:15
<p>Introduction (8:00 - 8:20)</p> <p>Purpose of Pre- Departure Orientation (8:20 - 8:40)</p> <p>Pre-Departure processing (8:40 – 9:10)</p> <p>Facts about Country of Destination (9:10 – 9:30)</p> <p>Travel (9:30 – 10:00)</p> <p>Cultural Adaptation (10:00 – 10:30)</p> <p>Morning Break (10:30 --10:45)</p>	<p>Employment (10:45 – 12:45)</p> <p>Lunch (12:45 – 13:45)</p>	<p>Health Care (13:45 – 14:15)</p> <p>Accommodation (14:15 – 14:45)</p> <p>Transportation (14:45 – 15:00)</p> <p>Break (15:00 – 15:15)</p> <p>Social & Public Services (15:15 – 15:45)</p> <p>Laws/ Legal Rights (15:45 – 16:30)</p> <p>Evaluation/Assessment (16:30 – 16:50)</p> <p>Q&A/Graduation (16:50 – 17:15)</p>

OBJECTIVES

- To provide migrants with accurate information about the country of destination;
- To help them develop realistic expectations about working in the country of destination;
- To develop awareness and skills necessary for successful adaptation to the society and working environment of their country of destination.

Introduction

- Introduction of self / overview of PDO schedule
- Knowledge about the country of destination
- Expectations about the country of destination
- Fears and concerns about the country of destination

Purpose of the orientation

- Rationale for orientation
- Benefits and advantages

Pre-departure processing

- Documentation
- Visa - link to work permit and duration
- Medical
- Flight booking

Facts about country of destination

- Geography
- People
- Climate
- Religion
- Government
- Economy

Travel

- Preparing for your journey
- Packing for your journey
- Travel checklist
- Your documents for travel
- At the airport
- Baggage allowance
- During the journey – in flight safety
- Transit assistance
- When you arrive
- Customs and Immigration
- Reception services by employer

Cultural adaptation

- Dealing with culture shock
- Discrimination
- Gender issues
- Cultural values (time management, personal hygiene, privacy, personal space, customs, traditional practices)
- Culturally appropriate behaviour
- Coping mechanisms
- Tips for adapting
- Dress code
- Do's and don'ts (taboos)

Employment

- Post-arrival orientation
- Employment rights and obligations (working hours/ insurance/ change of employer, etc)
- Employment ethics
- Employment conditions (specifically tailored to the individual place of employment)
- Strikes and other labour disputes
- Trade Unions: membership and role
- Employment-related injury: prevention and remedy
- Equal employment opportunity
- Documents required for employment
- Employer-employee relationship
- Employer expectations
- Migrants' rights and responsibilities
- Contracts and labour standards
- Benefits, deductions, and taxes
- Where to go in case of a problem
- What happens after a completion of the contract
- Educational/training opportunities
- Recreational opportunities

Health care

- Health care benefits
- Nutrition
- Tips for healthy living
- Reproductive rights
- STDs and HIV/AIDS awareness
- Coping with stress

Accommodation

- Initial & long-term housing
- Safety in the house
- Household services – utilities
- Communication services – long distance telephone, internet, SMS

Transportation

- Public transportation
- Costs and monthly plans
- Road safety for pedestrians
- Driver's licence and car ownership
- Traffic laws

Social & public services

- Recreational services
- Libraries
- Places of worship
- Police, ambulance, fire brigade

Laws /legal rights

- Compliance with local laws
- Consequences of breaking the law
- Legal system
- Legal protection
- Consular assistance in country of destination
- The role of IOM

Banking and money management

- Currency
- Banking options in country of destination and country of origin
- Budgeting
- Remittances
- Saving schemes

Evaluation /assessment/graduation

- Comprehensive review of all topics
- Closing remarks
- Exchange of addresses/Certificate Distribution

Session 5: Protection activities in countries of destination – consular and diplomatic protection

Suggested duration	1 h 05 min total	
	5 min	Introduce the topic
	15 min	Consular assistance
	5 min	Diplomatic protection
	35 min	Group exercise
	5 min	Summary
Methodology	Presentation and Group activity	
You will need	Flip chart, pen, Module D slides	
Participants will need	Copy of slides	

Introduce the topic (5 min)

Slides 34-35

- Introduce the session with the following elements:
 - The session is dedicated to protection activities to be undertaken by countries of origin in countries of destination.
 - More precisely, the discussion will primarily focus on the means countries of origin have at their disposal in order to prevent and end violations of migrant workers' rights.
 - The session mainly deals with the protection activities of consular and diplomatic posts of the country of origin in countries of destination, i.e. consular assistance and diplomatic protection.
 - Diplomatic protection and consular assistance are old institutions of international law (preceding international human rights law) that can be efficient tools to improve respect for migrant workers' human rights.
- Outline the following elements of context regarding consular assistance and diplomatic protection:
 - International law distinguishes between two kinds of international relations: consular and diplomatic relations.
 - A fundamental distinction is that diplomatic agents are political representatives of a considered state, which is not the case of consular agents.
 - A consequence is the existence of two separate treaties: the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963).
 - Following these two separate regimes, international law recognizes two kinds of protection activities: consular assistance and diplomatic protection.
- Present the definition of consular assistance and diplomatic protection:
 - Diplomatic protection consists of the invocation by a State, through diplomatic action or other means of peaceful settlement, of the responsibility of another State for an injury caused by an internationally wrongful act of that State to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility (International Law Commission, *Draft Articles on Diplomatic Protection*, art. 1).

- Consular assistance refers to the action of the consular posts (or diplomatic posts) towards the authorities of the country of destination in order to protect the interests and the rights of the nationals of the country of origin.
- Outline the following distinctions between the two types of actions:
 - o Diplomatic protection necessarily implies a breach of international law, while this is not necessarily the case with consular assistance.
 - o Diplomatic protection actions are conducted at a strictly international (inter-state) level, while when providing consular assistance the considered state acts in the name of its nationals within the national legal system of the country of destination.
 - o Diplomatic protection is essentially remedial, while consular assistance is largely aimed at preventing the national from being subjected to an internationally wrongful act.
- Highlight the fact that while in theory it is possible to distinguish between diplomatic protection and consular assistance, in practice, the distinction is often far from clear.
- Inform participants that the present session will mainly be dedicated to consular assistance.
 - Given its solemn character and the strict conditions attached to its implementation, diplomatic protection is quite unusual in practice.
 - Consular assistance is a lighter (in terms of procedures and political implications) form of protection. It also offers a great variety of possible protection activities.

Consular assistance (15 min)

Slides 36-40

Rights and duties under the consular assistance system

Slides 36-37

- Highlight the fact that while the scope of consular assistance is broader than just the prevention and redress of human rights violations, they are major components of it.
 - In this respect, consular assistance can be seen as a consequence of the duty of the state to protect the human rights of its nationals, wherever they may reside: not only in the national territory but also abroad.
 - In many instances, the obligation to respect human rights is enshrined in national legislation (often in the constitution); therefore, the violation of international norms also often constitutes a violation of national laws.
 - o However, if the national legislation offers less protection than international law, the standard of treatment to be enforced by means of consular protective functions is to be found in the various international human rights instruments.
- Consular law is presently codified by the Vienna Convention on Consular Relations of 24 April 1963. The main consular functions relevant to protection of migrant workers are detailed in article 5 and article 36 of the Convention.
- Outline the principal relevant provisions of art. 5 of the Vienna Convention:
 - (a) **protecting in the receiving State the interests** of the sending State and of its **nationals**, both individuals and bodies corporate, within the limits permitted by international law;
 - [...]
 - (e) **helping and assisting nationals**, both individuals and bodies corporate, of the sending State;
 - [...]

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(h) **safeguarding**, within the limits imposed by the laws and regulations of the receiving State, **the interests of minors and other persons lacking full capacity** who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(i) subject to the practices and procedures obtaining in the receiving State, **representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State**, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

[...]

m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

- Present more specific actions that may be undertaken under consular assistance in order to respond to a state of necessity in which the migrants find themselves:
 - Assistance to sick persons;
 - Payment of alimony;
 - Return of destitute migrants;
 - Assistance in case of deportation.
- Present the following additional actions corresponding to a wider and more modern conception of consular assistance:
 - Lobbying for or against certain administrative measures or proposed legislation that would affect migrant workers' conditions of stay or their status;
 - Representing migrant workers in negotiations with major employers.
- Present specific rights and obligations granted to the migrant, the country of origin and the country of destination in the context of arrest, detention and penal proceedings:
 - Highlight the fact that, although very specific, these rights and obligations are of utmost importance.
 - These rights and obligations are found in art. 36 of the Vienna Convention.
 - First, the right of notification of the right to consular protection and assistance to arrested and detained migrant workers:
 - This implies the corresponding obligation of the authorities of the country of destination to notify the individual of this right.
 - The right of consular notification is considered an essential guarantee that forms part of the right to a fair trial.

- Migrant workers, faced with a foreign legal environment and a language that they often do not master, are in a situation of particular vulnerability. The right to consular notification takes on particular importance in this context.
- The right to consular notification allows migrant workers to request that the country of destination inform the relevant consular authorities that they have been arrested or detained.
- Second, the right of consular assistance recognizes the right of a state to assist its national abroad and the corresponding right of the national abroad to contact the consular authorities to obtain assistance.
- Third, consular authorities have corresponding rights and obligations:
 - To be promptly informed of the detention, at the request of the national;
 - To communicate with and have access to the detained national if he or she desires;
 - To visit and correspond with the detainee; to arrange for the detainee's legal representation;
 - To provide any other type of assistance with the agreement of the detainee.
- Highlight the fact that whereas consular authorities have significant means to offer assistance and protection to migrant workers, such mechanisms are often neglected.

How to improve the protection of migrant workers in countries of destination

Slides 38-40

- Introduce the different types of measures that may be undertaken:
 - Some types of measures relate to the organization of the diplomatic and consular posts;
 - Other types of measures relate to cooperation of diplomatic and consular posts with civil society, such as migrants' diasporas, local NGOs, local lawyers, etc.
- Present the role of the labour attaché:
 - A labour attaché is an official of the Ministry of Labour seconded to the Ministry of Foreign Affairs, who serves in Embassies or Consulates to deal with labour issues.
 - The role of the labour attaché includes protection and assistance to migrant workers but also goes further.
 - A labour attaché has the following duties:
 - Protect workers abroad in his or her diplomatic mission's jurisdiction;
 - Undertake marketing and identification of job opportunities;
 - Assist in the development of policy regarding labour;
 - Promote good relations with the host country on labour matters.
- Outline the following selection of assistance/protection activities to be undertaken by the labour attaché:
 - Providing assistance on all matters pertaining to employment:
 - Ensuring that migrant workers are not exploited or subject to discrimination;
 - Assisting migrant workers in the recovery of dues or other benefits;
 - Assisting migrant workers on occasions of violations of their contracts;
 - Helping migrant workers in cases when they are subjected to inhumane conditions, sub-standard working environments, or unhealthy or unsafe working conditions.

- Ensuring that undocumented migrants, smuggled or trafficked, are protected and their repatriation facilitated;
- Ensuring that injured or sick migrant workers receive medical attention and, if they choose, assistance in returning home;
- Ensuring that the rights and well-being of women migrant workers are protected;
- Providing legal assistance or representation in courts, in coordination with the consulate, when workers' rights as persons or as workers are violated; when they face allegations in court, or when they are detained because of allegations;
- Present the Labor Attaché's required knowledge and skills:
 - In the discharge of these functions, a labour attaché should be equipped with certain knowledge. He or she should be armed with:
 - Knowledge of international legal instruments, treaties or agreements;
 - Knowledge of the host country affecting labor demand and employment and knowledge about his or her home country in regard to the employment supply;
 - Knowledge of policies and laws affecting labor in both countries;
 - Knowledge of gender-specific difficulties faced by migrant workers in the country of destination.
- Equally, the labour attaché should be equipped with the following skills:
 - Diplomatic skills;
 - Counseling, negotiation, conciliation and arbitration skills;
 - Analytical, organizational and coordination skills;
 - Language skills (of the host country);
 - Research skills, including data-handling skills and basic statistics skills;
 - Networking skills;
 - Psychological assessment skills.
- Beyond being properly trained, the labour attaché must be given the means to pursue his or her tasks. He or she must benefit from the support of the diplomatic mission and the home office.
- Present the following additional means to improve the protection of migrant workers in countries of destination:
 - Increase consular staff and conduct training of consular officers, so they have sound knowledge of migrant workers' rights;
 - Establish a network of lawyers to provide *pro bono* legal assistance to migrant workers and develop cooperation with local NGOs active in the field of migrants' human rights;
 - Develop cooperation and links with diaspora communities and request consular officers or labour attachés to regularly visit such communities.

- Recall the difference between consular assistance and diplomatic protection:
 - While consular assistance actions aim to directly protect the interests and the rights of a national using the national legal and administrative channels of the country of destination, diplomatic protection

actions are conducted at a strictly interstate level:

- Diplomatic protection actions are conducted by the representative of the state acting in the interest of the state – and only indirectly in the interest of the individual.
 - Diplomatic protection is designed to remedy an internationally wrongful act that has been committed by the country of destination.
 - Diplomatic protection is not dependent on the consent of the considered national (unlike consular assistance).
 - Diplomatic protection implies more formal and political actions than consular assistance.
- Mention the two principal normative sources regarding diplomatic protection:
 - The Vienna Convention on Diplomatic Relations (1961), art. 3;
 - The International Law Commission Draft Articles on Diplomatic Protection (2006).
 - Outline the main components of the diplomatic protection mechanism:
 - Two main conditions must be met in order to engage in diplomatic protection actions:
 - The country of destination must be responsible for injury to a foreigner caused by its wrongful act or omission;
 - Local remedies available to the individual must have been exhausted:
 - This means that the state where the violation occurred had the opportunity to redress it by its own means.
 - This also means that the individual must exhaust all available judicial remedies – as well as administrative remedies – which may result in a binding decision.
 - Diplomatic protection must be exercised by lawful and peaceful means such as:
 - Diplomatic actions:
 - These include protest, request for an inquiry, negotiations aimed at the settlement of disputes, etc.
 - Other means of peaceful settlement:
 - These include mediation, conciliation, arbitration and judicial dispute settlement.

Duration: 35 min

Aim of the activity

To enable participants to reflect and discuss on the efficiency of consular assistance and diplomatic protection.

Introducing the activity

- Divide the participants in two groups and give the instructions:
 - Group 1:
 - You are the representatives of the Ministry of Emigration of a fictional country.
 - You have scheduled a meeting with members of the cabinet of the prime minister in order to convince him/her of the necessity to develop an ambitious programme of consular assistance and diplomatic protection, including the establishment of labour attachés.
 - Group 2:
 - You are members of the cabinet of the prime minister.
 - The prime minister doubts of the efficiency of consular assistance and diplomatic protection and therefore is opposed to the launching of the programme proposed by the Ministry of Emigration.
- Explain to the participants that they have 10 min to prepare the exercise.
- Tell the groups that each has to present their arguments and counterarguments to the other group and to attempt to reach an agreement (15 min).

Conclusions (5 min)

Drawout conclusions from the exercise, including the following:

- The practical and resource implications of consular assistance.
- The importance of targeting resources.
- The importance of complying with key legal obligations.

Summary (5 min)

- Recall the fact that the exercise only reflects specific aspects of consular assistance and diplomatic protection.
- Recall the great variety of activities to be undertaken under consular assistance. For instance:
 - Assistance to sick persons;
 - Assistance in case of return/deportation;
 - Assistance to detained migrants;
 - Lobbying/representing migrant workers within negotiations related to migrant workers conditions of stay and employment;
 - Assistance related to employment including legal assistance and representation in courts.
- Highlight the cost of efficient consular assistance activities:
 - For instance, the nomination of a competent labour attaché who is being given the means to undertake his tasks.
 - Due to the cost of consular assistance activities, additional means to assist and protect migrant workers can be considered. This includes notably:
 - Establishment of a network of lawyers to provide pro bono legal assistance to migrant workers and cooperation with local NGOs active in the field of migrants' human rights.
- Regarding diplomatic protection, recall the following elements:
 - Diplomatic protection has a more political and solemn character than consular assistance.
 - Diplomatic protection activities bring the violations of migrants' rights to an inter-state level.
 - Although potentially effective, diplomatic protection is not frequently used.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

Abella, M.I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 63-91

Künzli, A., "Exercising Diplomatic Protection, the Fine Line between Litigation, Demarches and Consular Assistance" in 66 *ZaöRV*, 2006, pp. 321-350

Lee, L.T., *Consular Law and Practice*, Oxford, 1991

Perruchoud, R., "Consular Protection and Assistance" in Cholewinski, R., Macdonald, E. and Perruchoud, R. (eds.), *International Migration Law: Developing Paradigms and Key Challenges*, Asser Press, The Hague, 2007, pp. 71-85

International Law Commission, *Draft Articles on Diplomatic Protection with commentaries*, 2006

Available at: http://untreaty.un.org/ilc/texts/instruments/english/commentaries/9_8_2006.pdf

United Nations, *Vienna Convention on Diplomatic Relations*, 18 April 1961

Available at: http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

United Nations, *Vienna Convention on Consular Relations*, 24 April 1963

Available at: http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf

Session 6: Migrant welfare funds

Suggested duration	25 min total
	5 min Introduce the topic
	5 min Migrant welfare funds: generalities
	10 min The experience of the Philippine Overseas Workers Welfare Administration (OWWA)
	5 min Summary and lessons learned from the OWWA experience
Methodology	Presentation
You will need	Flip chart, pen, Module D slides
Participants will need	Copy of slides

Introduce the topic (5 min)

Slides 43-44

Trainer note

The aim of this session is to give an overview of a protection mechanism that is not widespread but that may be of interest to most countries of origin: migrant welfare funds.

- Outline the context of migrant welfare funds:
 - A number of usual protection and social welfare services offered domestically may not be accessible to migrant workers in countries of destination (in law and/or in practice).
 - These may include emergency relief, government assistance, workers' compensation, or health insurance.
 - In those cases, migrant welfare funds can play an important protection role.
- Present a definition of migrant welfare funds:
 - Migrant welfare funds are sometimes defined as an innovative and financially sustainable means of providing support services to vulnerable migrants and those migrants in distress.
 - This definition may be too restrictive, as the examples further presented will show.

Migrant welfare funds: generalities (5 min)

Slide 45

- Migrant welfare funds are currently only implemented in Asian countries:
 - Three major labour-sending countries have established such programmes: Pakistan, the Philippines and Sri Lanka.
 - Highlight the fact that while these programmes are currently limited to Asian countries, they may be of interest to all countries of origin.
- Outline the main objectives of the funds:
 - To provide protection abroad:
 - Protection at the job site;
 - Death, disability and health insurance;

- Financial support for repatriation of remains;
- Fares for involuntary return.
- Other services provided to migrant workers and their families:
 - Pre-departure orientation;
 - Support for education and training;
 - Credit for various purposes (e.g. financing migration, housing and small businesses).
- Outline the following elements regarding the administration of migrant welfare funds:
 - Migrant welfare funds are administered by public or semi-public agencies:
 - Overseas Pakistani Foundation (OPF), the Philippine Overseas Workers Welfare Administration (OWWA) and the Sri Lanka Overseas Workers Welfare Fund (OWWF).
 - All three involve representatives of overseas workers and of the national office in charge of labour migration.
 - In principle, migrant welfare funds may be funded by employers and/or migrant workers.
 - In practice, however, it appears that the funds are almost entirely financed by contributions of migrant workers.
 - In all three countries, contributions are fixed at 25 USD per person.

The experience of the Philippine Overseas Workers Welfare Administration (OWWA)
(10 min)

Slide 46

- Indicate that the following presentation will focus on a specific country experience, the Philippine Overseas Workers Welfare Administration (OWWA):
 - The Philippines programme is the most elaborate migrant welfare fund.
 - Lessons can be drawn from the Philippines experience.
- The OWWA
 - The Board of Trustees:
 - A tripartite body with the Department of Labor and Employment Secretary as chair and 11 other members representing the government, management, and migrant workers.
 - The board plans and implements policies and programmes, crafts rules and regulations, and oversees fund sources.
 - The OWWA Secretariat:
 - The Secretariat, headed by the OWWA administrator, manages day-to-day operations in the Philippines headquarters and abroad.
 - OWWA is composed of 580 staff, based in the main office in Manila; in regional offices within the Philippines; and in countries with particularly large presence of Philippines workers.
 - Membership:
 - Membership is mandatory for migrant workers, either by enrollment upon processing of a contract at the Philippine Overseas Employment Administration (POEA) or by voluntary registration abroad.
 - Ideally, the employer pays the 25 USD membership fee, although in practice it appears that fees

- are paid by migrant workers.
- As of May 2007, OWWA had over 1 million members, which represents only 28 % of the total estimated number of regular temporary workers abroad in 2006.
- OWWA services and benefits:
 - A distinction can be made between core services that protect migrant workers abroad and secondary services that concern migrant workers before departure and upon return, as well as services that affect family members staying in the Philippines.
 - Core services:
 - Repatriation program that organizes the repatriation of distressed and ill workers, as well as the remains of those who die abroad;
 - Life and personal accident insurance;
 - Health insurance, for which OWWA charges an additional 18 USD per year;
 - Services offered through OWWA's offices abroad, including counseling for distressed workers, paralegal services, etc.
 - Secondary services:
 - Pre-departure orientation seminars;
 - Loans intended to prevent abuses of migrant workers and their families by illegal recruiters:
 - Pre-departure loans to defray the cost of pre-departure requirements;
 - Family assistance loans for emergency purposes ;
 - Livelihood loans to improve access to entrepreneurial development opportunities upon the migrants' return.
 - Scholarship grants.

Summary and lessons learned from the OWWA experience (5 min)

Slide 47

- Migrant welfare funds are potentially an efficient protection tool. In this regard, useful lessons can be learned from the experience of other countries, in particular the Philippines.
- Highlight the following elements regarding the distinction between core and secondary services:
 - While migrant welfare funds are adequate to provide core services, it is difficult for a fund based on a small membership fee to deliver secondary services.
 - In practice, OWWA has actually extended secondary services to relatively few migrant workers and their families.
 - Moreover, there is a risk for secondary services to intrude on services provided by specialized government agencies.
 - It may be wise for a fund to concentrate on core services.
- Highlight the importance of establishing partnerships to enhance efficiency:
 - Private sector, governmental and non-governmental organizations can provide services more efficiently and more inexpensively.
 - For example, OWWA partnered with IOM in the repatriation of migrant workers from the war in Lebanon in 2006.
 - IOM repatriated almost 67% of Filipino returnees.

- OWWA was able to decrease its costs by using IOM's discount on airfares.
- Highlight the importance of organizing the participation of migrant workers in the administration of the fund.
- Highlight the importance of developing cooperation with countries of destination.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 37-62

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 266-276

Agunias, D. R., Ruiz, N. G., "Protecting Overseas Workers: Lessons and Cautions from the Philippines" in Migration Policy Institute Insight, September 2007

Available at: http://www.migrationpolicy.org/pubs/MigDevInsight_091807.pdf

Tan, E. A., "Welfare Funds for Migrant Workers – A Comparative Study of Pakistan, the Philippines and Sri Lanka" in IOM, *Labour Migration in Asia. Protection of Migrant Workers, Support Services and Enhancing Development Benefits* (IOM 2005), pp. 153-218

Power Point Module D:

Protection of migrant workers: policy options for countries of origin


SLIDE 1



Module D: Protection of migrant workers. Policy options for countries of origin


[Insert here name of Training Seminar / Workshop, Venue, and Date]
 [Insert here name of Trainer]

SLIDE 2




Session I Introduction

SLIDE 3


Session 1: introduction


Module Aim

Module D aims to present and discuss the policies and actions that can be adopted and undertaken by countries of origin in order to protect their nationals abroad.





SLIDE 4

Session 1: introduction


By the end of this Module you will:

- Understand the need to take protection measures at an early stage of the migration process
- Be familiar with the complexities of regulation of recruitment agencies and implementation of employment standards
- Be able to identify the types of information to disseminate in order to protect migrant workers and the way to convey such information
- Be familiar with the mechanism of consular protection/assistance and the role of labour attachés
- Be introduced to the mechanism of migrant welfare funds

SLIDE 5

Session 1: Introduction  

The need for protection

- Migration may increase workers' opportunities and result in a better standard of living
- It may also involve obstacles and hardships
- Migrants often face discrimination, and may be subject to hostility and exploitation
- Migrant workers are not equally vulnerable: the most exposed are the less-educated, the less-skilled, and women migrants

SLIDE 6

Session 1: Introduction  

Means to protect nationals going abroad for employment

- Destination countries are primarily responsible for preventing violations of migrant workers' rights.
- Detrimental practices may start in the country of origin.
- Many protection activities can be implemented in the country of origin.
- In countries of destination, consular and diplomatic missions have means of intervention.
- Cooperation between countries of origin and destination is critical.

SLIDE 7



Session 1: Introduction  

Group activity



Think about the kinds of abuses and difficulties that migrant workers may face, not only in the destination country, but also on return to their countries of origin, particularly in times of economic hardship.

SLIDE 8

Session 1: Introduction  

Group Activity: Questions to consider

- Identify the types of labour, social and economic disadvantage, and abuses that migrant workers are likely to face
- Prioritize the five abuses in most urgent need of attention
- Propose actions that the governments of countries of origin can take to reduce the severity of such abuses, or to eradicate them completely
- Identify the prerequisites that need to be in place to maximize the chances that these proposals will be successful

SLIDE 9

Session 2: Management of the recruitment of migrant workers

Session II

Management of the recruitment of migrant workers

SLIDE 10

Session 2: Management of the recruitment of migrant workers

The role of employment agencies

- Recruitment agencies may be either private or public entities
- Recruitment agencies match the need for a particular skill with the available workers
- Recruitment agencies can also provide the following services:
 - Testing and selecting applicants
 - Obtaining visas
 - Arranging travel documentation
 - Securing government approvals or clearance
 - Providing pre-departure training

SLIDE 11

Session 2: Management of the recruitment of migrant workers

The need for regulation

- Recruiters' search for business can result in increased job opportunities
- The drive to increase profits may lead to unsound and fraudulent practices
- Already during the recruitment phase, migrant workers may face risks of violation of their rights
- There is a need to protect migrant workers by establishing orderly and well controlled recruitment processes

SLIDE 12

Session 2: Management of the recruitment of migrant workers

International instruments

- ILO Private Employment Convention No.181
 - Obligation for state parties to regulate private employment agencies
 - Concerns all workers but include specific provisions concerning migrant workers
- Recommendation No. 188
 - Incentives to combat fraudulent practices

SLIDE 13

Session 2: Management of the recruitment of migrant workers

Registration and licensing

- Registration and licensing are the two most commonly used approaches to regulating recruitment agencies
- Registration requires the agency to register for a fee with the Chamber of Commerce or other relevant authorities
 - A registered agency is subject to routine checks by tax authorities or labour inspectors like any other business
- Given the particular sensitivity of the recruitment business, many countries have opted for a licensing system

SLIDE 14

Session 2: Management of the recruitment of migrant workers

Licensing standards

- Conditions for issuing a license may vary to great extent, but in general they cover:
 - Legal and corporate personality
 - Financial, marketing, recruitment and management capability
- For how long should licences be valid?
- Extent of the licence:
 - Should there be geographical restrictions?
 - Should licenses be restricted to one office?
 - Should sub-contracting be prohibited?

SLIDE 15

Session 2: Management of the recruitment of migrant workers

The issue of recruitment fees

- Recruitment fees paid by migrant workers are usually high
- ILO Convention No. 181 prohibits agencies to charge fees to workers (exceptions may be allowed)
- In practice, collection of fees is permitted by most national legislations
- In order to protect migrant workers from abusive recruitment fees, many states have adopted a ceiling on recruitment fees

SLIDE 16

Session 2: Management of the recruitment of migrant workers

Implementing regulation of private recruitment agencies

Rationale behind implementing regulation of private recruitment agencies:

- Combining controls and sanctions with incentives helps ensure compliance with the law
- To base the regulation of private recruitment agencies solely on repression is counterproductive

SLIDE 17

Session 2: Management of the recruitment of migrant workers

Implementing regulation of private recruitment agencies (cont.)

Monitoring activities:

- Reports by recruitment agencies on their activities
- Visits by state agents or their representatives
- Information campaigns identifying blacklisted recruitment agencies
- Mechanisms for review of migrant workers' employment contracts

SLIDE 18

Session 2: Management of the recruitment of migrant workers

Implementing regulation of private recruitment agencies (cont.)

Administrative / penal sanctions:

- Forfeit of the deposit and performance bonds posted
- Revocation or withdrawal of a licence
- Seizing of assets; Fines; Imprisonment

SLIDE 19

Session 2: Management of the recruitment of migrant workers

Implementing regulation of private recruitment agencies (cont.)

Incentives for agencies:

- Extension of licence or waiver of renewal requirement
- Contracts processed more speedily or automatically
- Inclusion in a list of recommended agencies
- Offer to fill quotas as part of bilateral agreements

SLIDE 20

Session 2: Management of the recruitment of migrant workers

Alternative means to manage and regulate recruitment of migrant workers

- Self-regulation
 - State's activities may not be sufficient
 - The example of codes of conduct
 - Codes of conduct can be put in place by individual companies or by an association
 - Codes of conduct may include provisions for disciplinary measures to be taken in case of breach by a signatory agency
- Direct involvement of the state
 - States rarely play a direct role in the recruitment of migrant workers
 - Regarding the most vulnerable migrant workers, public authorities could manage recruitment directly

SLIDE 21

Session III
Employment contracts and
minimum employment
standards

SLIDE 22

Session 3: Employment contracts and standards

Why adopt employment contracts and standards?

- To arrange for the protection of migrant workers before they leave the country
- To ensure that migrant workers are protected by a proper contract that guarantees fair wage and decent work conditions
- The implementation of such contracts and standards is not an easy task; states may face significant obstacles in the process

SLIDE 23

Session 3: Employment contracts and standards

Content of minimum employment standards and employment contracts

- Guaranteed wages for specified working hours
- Free food and accommodation or offsetting arrangements
- Free emergency medical and dental treatment and facilities including medicines
- Insurance coverage
- Just or authorized cause for termination of employment
- Repatriation of remains and belongings at employer's expense in case of death
- One day of rest per week
- Procedure for dispute settlement

SLIDE 24

Session 3: Employment contracts and standards

Content of minimum employment standards and employment contracts

Elements to take into account when drafting employment contracts and standards:

- Existing labour and social laws of the host country
- National customs, traditions, and practices
- Compliance with existing conventions and bilateral or multilateral agreements with the host country

SLIDE 25

Session 3: Employment contracts and standards 

Discussion



What means of action are available for countries of origin to secure the implementation of employment standards?

Workers are employed in a third country where:

- They are often paid less than local nationals
- Employers refuse to give them contacts prior to departure
- If they do get contracts, then they are often substituted once they arrive for contracts with worse terms and conditions


SLIDE 26

Session 3: Employment contracts and standards 

Addressing concerns on implementation of employment standards


- Conclusion of BLAs
- The controversial issue of exit controls
- Labour market strategies for the diversification of countries of employment
- Joint liability of employers and private recruitment agencies
- Consular assistance and diplomatic protection
- Non-formal international cooperation mechanisms

SLIDE 27




Session IV Information dissemination

SLIDE 28

Session 4: Information dissemination 


Providing migrants workers with reliable and accurate information regarding the different aspects of the migration process is an essential component of protection



SLIDE 29

Session 1: Introduction

Group activity



What types of information to deliver?
When, how, and to whom?

SLIDE 30

Session 4: Information dissemination

Pre-employment programmes and pre-departure orientation

- Often, information dissemination comes too late
- It is important to propose pre-departure courses to migrant workers who are about to leave for their jobs abroad (pre-departure orientation programmes)
- It is also important to disseminate information before workers have secured an employment contract (pre-employment programmes)

SLIDE 31

Session 4: Information dissemination

Pre-employment programmes

- Types of information
 - Wage and employment standards for specific occupations and countries
 - Skills testing procedures, health examination services, and their fees
 - Information on private recruitment agencies, including blacklisted recruiters
 - Information on emigration clearance (if applicable)
 - List of countries recommended/not recommended as destinations
- How to convey the information?
 - Pre-employment orientation seminars
 - Migrant Resource Centres
 - Information campaigns and other means
- Who should be targeted?
 - Primarily vulnerable groups, such as the less-skilled/less-educated, the young, women, and migrant family members

SLIDE 32

Session 4: Information dissemination

Pre-departure orientation courses

- Type of information
 - Migrants' rights and responsibilities
 - Work and life conditions in countries of destination
 - Conditions of admission and stay under relevant immigration laws
 - Information on travel documents, airport procedures and travel tips
 - Health awareness
 - Cultural differences and means of dealing with them
 - Services offered by authorities and NGOs in countries of destination
 - Information on diplomatic and consular missions
 - Options and procedures for sending remittances
 - Foreign language training
 - Information on return and reintegration

SLIDE 33

Session 4: Information dissemination

Pre-departure information courses

- The importance of going beyond information dissemination to provide for skill-building, including language training
- Organization of the courses
 - Courses should be of sufficient duration, easy to access and free of charge
 - Specific courses according to the destination countries and types of occupations
- IOM involvement in pre-employment / pre-departure programmes

SLIDE 34

Session V

Protection activities in countries of destination

Consular assistance and diplomatic protection

SLIDE 35

Session 5: Protection in countries of destination

Consular assistance / Diplomatic protection

- Diplomatic protection and consular assistance are old institutions of international law that can be efficient tools to improve respect for migrant workers' rights
- Two separate treaties: the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963)
- These are two separate regimes, although in practice there are many similarities



SLIDE 36

Session 5: Protection in countries of destination

Consular assistance

- A consequence of the duty of the state to protect the human rights of its nationals
- Art. 5, Vienna Convention on Consular Relations
- Actions to respond to a state of necessity in which migrants find themselves:
 - Assistance to sick persons
 - Payment of alimony
 - Return of destitute migrants
 - Assistance in case of deportation



SLIDE 37

Session 5: Protection in countries of destination  

Consular assistance (cont.)

- Additional actions
 - Lobbying for or against administrative measures or proposed legislation that would affect migrant workers' conditions of stay or their status
 - Representing migrant workers in negotiations with major employers
- Specific rights granted by international law in the context of arrest, detention and penal proceedings
 - Right to information on consular protection and assistance
 - Right to consular notification
 - Right to consular assistance
 - Right of consular communication



SLIDE 38

Session 5: Protection in countries of destination  

How to improve protection in countries of destination?

- Some measures relate to the organization of the diplomatic/consular missions
- Other measures relate to cooperation with civil society
- Appointment of labour attachés
 - A labour attaché is an official of the Ministry of Labour who serves in Embassies or Consulates
 - A labour attaché has the following duties:
 - protect workers abroad in his or her diplomatic mission's jurisdiction
 - undertake marketing and identification of job opportunities
 - assist in the development of policy regarding labour
 - promote good relations with the host country on labour matters



SLIDE 39

Session 5: Protection in countries of destination  

How to improve protection in countries of destination? (Cont.)

- Labour attaché's protection activities:
 - Assistance in employment matters
 - Protection of undocumented migrants
 - Legal assistance or representation in courts
 - Other activities
- Labour attaché's knowledge and skills:
 - Knowledge of international law
 - Knowledge of labour market (country of origin and destination)
 - Knowledge of policies and laws affecting labor in both countries
 - Diplomatic, counseling, negotiation and arbitration skills
 - Other skills and knowledge
- Labour attaché must benefit from the support of the diplomatic mission and the home office

SLIDE 40

Session 5: Protection in countries of destination  

How to improve protection in countries of destination? (Cont.)

Additional means to improve the protection of migrant workers in countries of destination

- Increase consular staff and conduct training of consular officers
- Establish a network of lawyers to provide pro bono legal assistance to migrant workers
- Develop cooperation with local NGOs active in the field of migrants' human rights
- Develop cooperation with diaspora communities and request that consular officers/labour attachés regularly visit such communities

SLIDE 41

Session 5: Protection in countries of destination


Diplomatic protection

- Sources
 - Art. 3, Vienna Convention on Diplomatic Relations
 - The International Law Commission Draft Articles on Diplomatic Protection
- Diplomatic protection mechanism
 - Violation of international law norm by country of destination
 - Exhaustion of local remedies
 - Use of lawful and peaceful means of redress
 - Diplomatic actions (e.g. protest, request for an inquiry, negotiations)
 - Mediation, conciliation, arbitral and judicial dispute settlement)

SLIDE 42

Session 1: Introduction

Group activity



To reflect and discuss on the efficiency of consular assistance and diplomatic protection

SLIDE 43

Session VI

Migrant welfare funds



SLIDE 44

Session 6: Migrant welfare funds

Migrant welfare funds (MWFs): context and definition

- Usual domestic protection and social welfare services may not be accessible in countries of destination
- Migrant welfare funds are sometimes defined as an innovative and financially sustainable means of providing support services to vulnerable migrants and migrants in distress



SLIDE 45

Session 6: Migrant welfare funds  

General issues

- To date MWFs are only implemented in Asian countries
- Objectives
 - Protection on the job site
 - Death, disability and health insurance
 - Financial support for repatriation of remains
 - Fares for involuntary return
 - Other services provided to migrant workers and their families
- Administration
 - By public or semi-public agencies
 - In principle MWFs may be funded by employers and/or migrant workers
 - In practice MWFs are financed by contributions of migrant workers



SLIDE 46

Session 6: Migrant welfare funds  

Philippine Overseas Workers Welfare Administration (OWWA)

- The OWWA
 - Board of trustees
 - Secretariat
 - Membership: mandatory, fee of 25 USD, 1 million members
- Services and benefits
 - Core services
 - Repatriation program
 - Life and personal accident insurance
 - Additional 18 USD per year for health insurance
 - Secondary services
 - Pre-departure orientation seminars
 - Loans
 - Scholarship grants



SLIDE 47

Session 6: Migrant welfare funds  

OWWA: lessons learned

- To concentrate on core services
- To establish partnerships with private sector, IOs and NGOs
- To organize participation of migrant workers
- To develop cooperation with countries of destination

SLIDE 48

Thank you!

Course 2

Developing labour migration policies in countries of origin

Module E

Developing labour market strategies, including addresses the challenges of highly-skilled migration

Module E: Developing labour market strategies, including addressing the challenges of highly-skilled migration

Suggested total duration: 2 h 40 min	
Duration	Session
5 min	Session 1: Introducing Module E
25 min	Session 2: Developing promotion strategies: the context
40 min	Session 3: Group activity: Vasaria's new labour migration programme
40 min	Session 4: The market development process
50 min	Session 5: Addressing the challenges of highly-skilled migration

Aims of Module E

- To present the main goals and components of labour market strategies;
- To present the use of marketing tools in the context of labour migration management;
- To present the nature of highly-skilled migration and its impact on both labour migration policy planning and human resource planning;
- To explore how policy measures in countries of origin can mitigate the potential negative effects of highly-skilled migration.

Learning outcomes for Module E

By the end of this module, participants will:

- Understand clearly the importance of labour market strategies, with attention to their context, components, and the challenges of their implementation;
- Be familiar with the challenges of highly skilled-migration and with ways to address them.

Session 1: Introducing Module E

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module E slides
Participants will need	Copy of slides

- Introduce Module E by highlighting the fact that this module will focus on possible ways for countries of origin to intervene in the international labour market in order to optimize the benefits of labour migration.

This includes:

- The development of promotion strategies in order to open new channels for labour migration and to consolidate existing ones;
- The adoption of policies in order to address the challenges of highly-skilled migration.

Present Module E aims and learning outcomes

Slides 1-4

- Aims of Module E:
 - To present the main goals and components of labour market strategies;
 - To present the use of marketing tools in the context of labour migration management;
 - To present the nature and impact of highly-skilled migration on labour migration policy planning and human resource planning;
 - To explore how policy measures in countries of origin can mitigate the potential negative effects of highly-skilled migration.

- Learning outcomes for Module E:

By the end of this module, participants will:

- Have a clear understanding of the importance of labour market strategies, with attention to their context, components, and the challenges of their implementation;
- Be familiar with the challenges of highly skilled-migration and with ways to address them.

Session 2: Developing promotion strategies: the context

Suggested duration	25 min total
	20 min Pair activity: should countries of origin promote foreign employment?
	5 min The importance of matching labour demand and supply
Methodology	Presentation and Pair activity
You will need	Flip chart, pen, Module E slides
Participants will need	Module E, Session 2 worksheets; copy of slides (to be distributed after completion of Module E, Session 3's exercise)

Pair activity: should countries of origin promote foreign employment?

Slides 5-6

Duration: 20 min

- Introduce the activity by highlighting the fact that an increasing number of developing countries and countries with economies in transition seek to adopt policies, legislation and structures which promote foreign employment for their workforce. In other words, more and more countries of origin are adopting active strategies in order to find new employment opportunities abroad for their nationals. This is the result of increased globalization and the interconnection of labour markets.
- Divide participants into pairs and ask participants to answer the following question: Should countries of origin promote foreign employment?
 - Indicate to participants that one member of the pair will be in favor of promotion activities while the second member of the pair will be opposed to them.
- After 10 minutes briefly ask each group to set out the main arguments for and against.
- Draw out conclusions from the answers of participants using the elements presented below.

Objectives of promotion strategies

Slide 7

- The start of the discussion is to recognize that the creation of employment opportunities in the country of origin is the first, best option.
- Promotion strategies do not aim to encourage the departure of national workers. For the country of origin, the starting point is to recognize the existence of emigration flows and therefore the country's interest in developing strategies and policies in order to organize and manage such migration flows.
- Similarly, the objective is not to expand employment through emigration, no matter where and no matter what the conditions.
- The general objectives of a labour market policy can be summarized as follows: to open new channels for legal labour migration in order to:
 - Relieve unemployment:
 - This is probably the principal rationale for countries of origin.
 - Highlight the fact that consequences of emigration on the domestic labour market are complex.
 - Emigration may seldom lead to a rise in wages. Thus in a decline in profit, employers may cut

investment and reduce employment.

- Emigration may, nevertheless, bring other adjustments in the national economy (for instance, through remittances).
- Generate foreign exchange remittances and savings:
 - Migrant remittances can be broadly defined as the monetary transfers that a migrant makes to the country of origin.
 - Remittances can be an important source of foreign exchange for countries of origin.
 - It must be kept in mind that savings and remittances are private funds. Thus, mobilizing and channelling savings and remittances for development is a complex issue.
 - Recall that the issue of remittances will be covered in *Module F: Enhancing migrant workers' contribution to the development of countries of origin*.
- Promote the acquisition and transfer of new skills:
 - Migrant workers may acquire abroad skills that they would not acquire at home and then transfer them when they return.
 - Highlight the fact that such technology transfers are conditioned by a number of elements, including the very possibility of acquiring new skills abroad, the question of return, and the transferability of skills in the country of origin.
- Promote the protection of migrant workers' rights and interests, ensuring that there is orderly migration to countries where their rights will be protected and where they can expect to earn a decent income.
- Labour market strategies have to be seen as part of the wider migration management policies that seek to optimize the benefits of labour migration and to protect the rights and interests of migrant workers. They should also be part of the country's overall economic development policies.

The importance of matching labour demand and supply (5 min)

Slide 8

- Introduce the topic with the following elements:
 - States that wish to seek new labour markets or wish to open new channels for legal migration for their nationals can benefit from referring to the general techniques of labour marketing.
 - Highlight the following terminological issues:
 - The use of the term “marketing” in the context of labour migration can evoke criticism as it is usually reserved for goods and products.
 - Promotion of labour market tools come from the private sector. In the context of labour migration they are to be applied to support policies that support the public interest and the protection of migrant workers' rights and needs.
- Present the definition of labour marketing by breaking it down into its component parts:
 - Labour Marketing is the management process responsible for identifying, anticipating, and satisfying customer requirements profitably.
 - “Identifying” the market of a labour service, the first critical step in labour marketing.
 - “Anticipating” future needs, the step that allows one to remain competitive in the labour market.
 - “Satisfying” employers, desire for labour service providers that will meet their requirements.
 - In the context of labour migration management, this refers to the following elements:

- Labour offer: the potential migrant workers.
 - Labour demand: demand of migrant workers by the employers on the international labour market.
 - The objective is therefore to match the labour demand and the offer; the tools and methods of promoting labour force are useful for meeting this objective.
 - The use of the term “profitability” can be used in order to refer to the whole migration process, where the country of origin, country of destination, and migrant workers all benefit from labour migration.
- Outline the competitive context of promotion of foreign employment:
 - Countries intending to deploy their nationals abroad need to search for opportunities in the international labour market. The international labour market, as a result of the lack of international norms and standards regarding admission of foreigners on a considered state’s territory, is highly complex and competitive (recall *Module B: International legal framework for protection of migrant workers*).
 - Highlight the importance of private recruitment agencies in many countries. It is important to take private recruitment agencies into account and to involve them in the development and implementation of a labour market strategy.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 63-71

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 257-278

Abella, M. I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 13-22; 49-61

Session 3: Group activity: Vasaria's new labour migration programme

Suggested duration	40 min total
	5 min Presentation of the Group activity
	15 min Preparation
	20 min Feedback from the groups
Methodology	Group activity
You will need	Flip chart, pen, Module E slides
Participants will need	Participant worksheet for group activity

Group activity

Slides 9-10

Duration: 40 min

- Aim of the activity:
 - To enable participants to reflect on the different stages and methods of promoting foreign employment.
- Present the activity (5 min):
 - Introduce activity by dividing the participants into three groups.
 - Distribute worksheets to each participant.
 - Ask all three groups to read the full case study.
 - Ask each group to consider one phase of the case study (group 1-phase 1; group 2-phase 2; group 3-phase 3) and to prepare answers to the following questions:
 - Was anything done well? Why?
 - What could be improved, and how, in order to develop an efficient promotion programme at this stage of the programme?
 - Explain that participants have 15 minutes to prepare the exercise.
 - Explain that each group will designate a spokesperson who will give feedback on the exercise for a maximum of five minutes.
 - Depending on time, open a general discussion, for instance on the application of the case study to the context of country where the training takes place.
- Feedbacks from groups (20 min):
 - Ask each group to briefly present their responses to the phase that they have discussed, ensuring that each phase is covered.
 - Open general discussion, for instance on the application of the case study in the context of country where the training takes place.
 - Collect answers from participants; do not give answers, but summarize answers given by participants. Record answers on a flip chart. Answers to the case study form part of Session 4. Use collected answers from participants as prompts for Session 4.
 - State that learning from this activity will be complemented in the next Session.

Module E, Session 3: Group activity: Vasaria's new labour migration programme

ANNEX

Participant worksheet

Case Study: Vasaria's new labour migration programme

Background

Vasaria is a small, middle-income country that has experienced significant emigration flows for about 30 years. Most Vasarians who migrate are low-skilled, and move to neighbouring countries in the Karovia region. The government of Vasaria wishes to minimize this dependency towards Karovian countries and aims to diversify the countries of destination of its workforce. Despite its culture of migration, Vasaria has never promoted foreign employment for its workforce. To date the migration phenomenon has not really been managed by the public authorities, the government having simply provided consular and diplomatic protection.

Phase I: New management of labour migration

Vasaria has now decided to develop a wide-ranging promotion programme. The responsibility for the conception and implementation of this programme lies with the Ministry of Labour. The Ministry of Labour has recently decided that the first step to facilitate the country's new policy direction is the identification of potential new countries of destination for Vasaria's national workforce. The Ministry of Labour has recently gathered information on 15 pre-selected countries, including gross domestic product (GDP), per-capita income, growth rate, population, employment rate, number of nationals/migrant workers employed in different economic sectors, existence of avenues for legal labour immigration, etc. Most information has been directly collected by the services of the Ministry of Labour with the occasional help of the diplomatic missions of Vasaria in the countries under consideration. In addition, several fact-finding missions composed of officials from the Ministry of Labour have been sent to selected countries with a view to understand more precisely the nature of demand for foreign workers. As a result of this market research, five countries have been selected as targets for Vasaria's labour market strategy.

Phase II: Skills promotion to selected destination countries

The following stage of the programme has been dedicated to selecting the skills that Vasaria will promote in the selected potential countries of destination. Unfortunately, the Ministry of Labour has acknowledged the lack of reliable data regarding Vasaria's domestic labour market, including labour shortage and surplus in the different economic sectors. A working group composed of Ministry of Labour officials and representatives of the private sector has been set up to discuss and decide on what skills to promote abroad. Given the lack of reliable data, the propositions made by the working group have not been based on sound evidence. However, as the Ministry of Labour wishes to implement the promotion programme as soon as possible, the decision has been made to focus promotion on three sectors where most of the selected countries of destination are experiencing labour shortages: construction, hotel and catering, and health care.

Phase III: preparing the ground for bilateral agreements

After the working group identifies potential countries of destination and the skills needed, the Ministry of Labour sends new missions composed of high-level officials to the selected countries of destination. These missions meet with officials of corporations and government officials with a view to preparing the groundwork for the hiring of Vasarian workers and to pave the way for the conclusion of bilateral labour

agreements. While several companies and employers' associations expressed interest in the Vasaria project, no employer has yet committed to a labour recruitment agreement. Some employers have stated that they already have foreign recruitment arrangements, often under the framework of bilateral labour agreements, and in a few countries concerns were raised regarding the lack of cultural affinity between Vasaria and the country of destination. Some employers appeared reluctant to engage Vasarian workers as they had no prior experience with nationals of this country. In most cases, governments were interested in developing bilateral agreements with Vasaria but expressed the need for more detailed information before any negotiations could be launched.

After this second, high-level round of missions to potential countries of destination, the Ministry of Labour has decided to concentrate their efforts on promoting Vasarian workers in each of the selected countries. At this stage, an intensive cooperation with Vasaria's diplomatic representations abroad appears to be critical. However, due to lack of personnel and resources and due to their focus on other priorities, most of Vasaria's embassies that have been contacted are not able to fully cooperate with the Ministry of Labour.

Questions:

Consider each phase of the programme development. In your group, discuss and write down your views on the following questions:

- What was done well, and why?
- In order to develop an efficient promotion programme, what could be improved and how?

Session 4: The market development process

Suggested duration	40 min total
	5 min Introduce the topic
	5 min Assessment of the national labour market
	10 min Target market identification
	5 min Human resource development
	10 min Promotion activities
	5 min Expected results of labour market strategy and Summary
Methodology	Presentation
You will need	Flip chart, pen, Module E slides
Participants will need	Copy of slides; Chart “The successive phases of market development”

Introduce the topic (5 min)

Slides 11-15

Trainer note

The purpose of this session is to complete learning from the Session 3 Case Study in order to present the different phases and main components of a labour market strategy.

- Recall the principal objective of a labour market strategy: to open new channels for legal labour migration and to consolidate existing channels.

In the context of the international labour market, this means reaching a match between labour demand and labour supply

Slide 12

- From the viewpoint of the potential employer (the labour demand), a match signifies that the educational qualifications and experience demanded by the foreign employer match those of workers from the country of origin.
- From the viewpoint of the country of origin, the match also implies that the demand for foreign labour meets the objectives of the labour strategy in terms of public interest and of protection of migrant workers' rights and interests.
- Therefore, in order to create the conditions of such a match between the demand and the supply, it is mandatory to have a good understanding of both demand and supply.

Outline the successive phases of the market development process and distribute corresponding chart to the participants

Slide 13

- Assessment of the national labour market (supply capacity) and identification of the target market (demand);
- Entry in the labour market of the destination country (promotion activities);
- Programme implementation (attainment of job contracts and recruitment agreements);
- Expansion of the country of origin's market share;
- Market share maintenance.

Indicate that the presentation will focus on the first stages of the market development process

Slide 14

- Assessment of the national labour market;
- Target market identification;
- Human resource development;
- Promotion activities.

Highlight that the following priorities should guide the process of promotion of foreign employment

Slide 15

- Using a global view to guide the development of labour market strategy and to organize a solid institutional framework in order to manage the programme.
 - o In the Case Study, both elements are lacking.
 - o When Vasaria's authorities decide to implement promotion activities in the selected target countries, no authority is able to do so.
 - o Vasaria's authorities start the promotion programme with the identification of potential new countries of destination for its national labour force. At this point, no assessment of the country's own labour market has been conducted, and we will discover that no reliable data exist on the national labour market, its shortages and supplies.
 - o The pre-eminence given to the Ministry of Labour is a sound decision (labour migration is primarily an employment issue) but from the beginning it is necessary to associate other actors like, for example, the Ministry of Foreign Affairs, the Ministry of Education, and other relevant ministries, depending on the institutional organization of the considered country.
 - o It is also important to associate the private sector (recruitment agencies, employer representatives, etc.) to the development and implementation of the programme.
- Foreign employment policies and strategies must be set in the context of national development planning.
- Foreign employment policies and strategies must be rights-based.

Assessment of the national labour market (5 min)

Slide 16

- Outline the following elements:
 - Assessing the domestic labour market is critical.
 - In order to select the occupations that will be promoted in countries of destination, it is necessary to identify the sectors of activity where labour supply is abundant and sectors where labour is in short supply.
 - This is the purpose of the analysis of Strengths, Weaknesses, Opportunities and Threats, more commonly known as a SWOT analysis.
- Outline the following conclusions from the Case Study:
 - What appears to be a priority for Vasaria is the development of a system to collect data on the national labour market.

- The organization of such a data collection system will be a long process.
- Therefore, the goal of the Ministry of Labour to implement the promotion programme as soon as possible is unattainable.
- Regarding the choice of skills to promote abroad, the question of brain drain is of importance:
 - Naturally, the purpose of labour market strategies must not be to promote foreign employment of national workers who are in short supply and are employed in sectors that are vital for the State (e.g. most commonly cited is the health sector).
 - Such could be the case of health professionals in the Vasaria Case Study.
 - Indicate that the issue of highly-skilled migration will be further developed in Session 5 of the module.

Target market identification (10 min)

Slides 17-19

- Highlight the fact that:

Target market identification is the result of market research. This type of research is demand- rather than supply-oriented.
- Make reference to the Case Study:
 - In the Case Study, the market research is well-organized.
 - Nevertheless, it may have been done too early, as it was not preceded or accompanied by an analysis of the national labour market and a selection of potential skills to send abroad. This analysis should take into account sectors with shortages.
- How to select potential countries of employment?
 - The importance of geographical segmentation (i.e. of diversifying destination countries):
 - Seeking new destinations can be linked to a perception of a lack of respect for migrants' rights in the traditional countries of destination.
 - More generally, geographical segmentation can reduce consequences of possible changes in immigration policies or changes in economic situation in countries of destination.
 - Nevertheless, as migration is the product of historical linkages and previous political or economical ties, diversification of countries of employment is not easy, and initial penetration of foreign markets may lead to competition among countries of origin.
 - Summarize the types of data on potential demand for migrant workers that need to be collected:
 - Assessment of the general political and economic trends, including Gross Domestic Product (GDP), growth rate, population and its breakdown by demographic profile, literacy rate and graduates in schools, employment/unemployment rate, per capita income, export figures.
 - After this, the assessment of the demand for skills can be broken down for each economic sector, such as agriculture, manufacturing, construction, healthcare, service (domestic help), education, professionals (office workers, managers, accountants), etc.
 - Each of these sectors generates specific valuable data that determine trends such as volume of production (when necessary), number of companies (or households being served), number of nationals/migrant workers employed in the sector.
 - Highlight the importance of collecting the following elements of information:
 - Existence of avenues for legal labour migration:

- Existence of demand in sectors of the economy where experience gained from employment abroad could benefit to the sending country;
- Existence of labour markets open to both sexes or, on the contrary, gender-segregated labour markets (e.g. construction).
- Degree of protection of labour rights, level of salaries, wages, social benefits.
- Insist on the importance of cultural, ethnic and language affinity:
 - Generally destination countries have nationality preferences arising from cultural affinity or long historical ties.
 - In absence of such relations, aggressive promotion campaigning might be required.
 - The issue is raised in the Vasaria Case Study.
- Outline the following means of data collection:
 - Basic information on possible countries of destination is easy to collect:
 - For instance, general information on political and economic situation;
 - Immigration laws and regulations;
 - Occupational definitions and nomenclature;
 - Unemployment data by occupation;
 - Etc.
 - Such information should also be disaggregated (e.g. by gender).
 - Fact-finding missions in selected countries as well as activities of the sending country's diplomatic missions, including reports from labour attachés, can provide more specific data and analysis.

Human resource development (5 min)

Slide 20

- Make reference to the Case Study:
 - This aspect is not included in the Vasaria Case Study.
 - Human resource development supposes a sound analysis and understanding of the national labour market, which is not the case in the information presented about Vasaria.
- Outline the following elements:
 - When there is a discrepancy between the demand for foreign labour and the supply, countries of origin may adopt policies in order to help their migrants acquire the skills that are in demand abroad and that promise the highest returns.
 - At the same time, training skilled workers for emigration is a costly investment which does not immediately result in a more qualified national labour force.
 - There is a need to mainstream human resource development planning in order to balance efforts aimed at matching labour demand with supply with efforts aimed at mitigating the country's loss of skilled workers.

Promotion activities (10 min)

Slide 21

- Present the objective at this stage of the process:

To raise foreign employers' awareness of workers from the considered country by highlighting their qualities, availability and competitiveness.

- Make reference to the Case Study:
 - In the Case Study, some activities are implemented, but no in-depth promotion is undertaken, due to the diplomatic missions' lack of resources.
 - This helps illustrate the costly nature of promotion activities and the need for solid organization.
 - The Case Study also shows that supplementary role of the diplomatic missions is of utmost importance.
 - In the Case Study, the State might consider giving additional resources to the diplomatic mission in order to implement promotion activities. This can be done through the sending of labour attachés to the considered countries.
- Present examples of promotion activities:
 - Marketing missions:
 - Top Level Goodwill and Promotions Missions:
 - Actors: government officials that can be accompanied by representatives from private sectors.
 - Target: meet government officials and representatives of private corporations in countries of destination in order to develop mutual knowledge and cooperation in the field of labour migration.
 - Field visits/client calls:
 - Actors: Labour attaché (if appointed) or other diplomatic officials.
 - Aim: visit prospective clients; make recommendations to diplomatic mission and ministerial services.
 - Print promotions:
 - Can take the form of advertisements, support communication materials, or direct-mail campaigns;
 - Advertisements: to develop the image of workers of the considered country as a preferred choice;
 - Brochures, flyers, reports, etc.: to disseminate information on the foreign employment programme;
 - Direct mail campaign: a cost-effective choice.

Expected results of labour market strategy

Slide 22

- Market prospects;
- Host government/employer awareness, goodwill, conducive market environment;
- Initial job contracts, recruitment and bilateral labour agreements; market information;
- Stronger share and foothold (additional and/or new job orders/agreements);
- Continued host government/employer patronage.

Summary

- Foreign employment policies and strategies must be set in the context of a national development plan.
- Foreign employment policies and strategies must be rights-based.
- Having a global view to guide the development of a marketing programme and the organization of institutional cooperation are crucial to programme management.
- Recall the successive phases of the market development process:
 - Assessment of the national labour market (supply capacity) and identification of the target market (demand);
 - Entry in the labour market of the destination country (promotion activities);
 - Programme implementation (attainment of job contracts and recruitment agreements);
 - Expand sending country's market share;
 - Market share maintenance.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 63-71

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 257-278

Abella, M. I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 13-22; 49-61

Module E, Session 4: The market development process

ANNEX

Successive phases of the market development process						
INPUT \ STAGE	Target Market & Supply Assessment	Market Entry Stage	Market Programme Implementation	Market Share Growth Stage	Market Share Maintenance Stage	
1. Research and planning	*****		*****			
2. Personal selling and promotions						
a) Marketing missions			*****			
i Technical study or fact-finding mission	*****		*****			
ii Top-Level goodwill and promotions mission		*****			*****	
b) Field visit / client calls		*****			*****	
3. Print promotions						
a) Ad. programme		*****		*****		
b) Support communication materials		*****	*****			
c) Direct mailing		*****				
4. Corporate promotions & industry servicing projects						
a) Familiarization Campaign		*****				
b) Greet-a-client						
c) Client referral advisory						
d) Market information service						
OUTPUT	Market prospects	Host government/ employer awareness, goodwill, conducive environment	Initial job contracts; recruitment & bilateral agreements; market information	Stronger share & foothold (additional and/or new job offers or agreements)	Continued host government/ employer patronage	

Session 5: Addressing the challenges of highly-skilled migration

Suggested duration	50 min total	
	15 min	Introduce the topic. Highly-skilled migration: definitions and scale of the phenomenon, and policy trends in countries of destination
	5 min	Consequences of the emigration of highly-skilled workers on the development of countries of origin
	15 min	Group activity
	15 min	Policy options for addressing the challenges of highly-skilled migration
	Summary	
Methodology	Presentation and Group activity	
You will need	Flip chart, pen, Module E slides	
Participants will need	Copy of slides; Chart “OECD data on migration of health workers”	

Trainer note

The purpose of this session is to:

- Present the nature of highly-skilled migration and its impact on labour-migration policy planning and human resource planning;
- Present the potential positive and negative impacts of highly-skilled emigration;
- Present ways in which the negative effects of highly-skilled migration can be mitigated;
- Explore what policy measures in countries of origin can promote the retention of highly-skilled workers and/or create incentives for their return.

At the beginning of the Session, distribute to the participants the chart entitled *OECD data on migration of health workers*.

Introduce the topic. Highly-skilled migration: definitions and scale of the phenomenon, and policy trends in countries of destination (15 min)

Slides 23-26

Definition of highly-skilled migration and related concepts

Slide 24

- Defining “highly-skilled”:
 - There is no universal definition of a “highly-skilled” migrant.
 - For a working definition, a “highly-skilled” migrant is usually distinguished by a combination of education (usually at the tertiary level or beyond) and occupation, particularly where this occupation relates to the high-added-value and high-productivity sectors that are essential to a country’s development and knowledge society.
- Defining “brain drain”:
 - “Brain drain” is a specific form of highly-skilled migration: the permanent or long-term migration of highly-skilled workers that has negative effects on the economic and social development of countries of origin, as it removes workers that may be critical for the functioning of the economy and of basic

social services that may be critical for the promotion of socio-economic development.

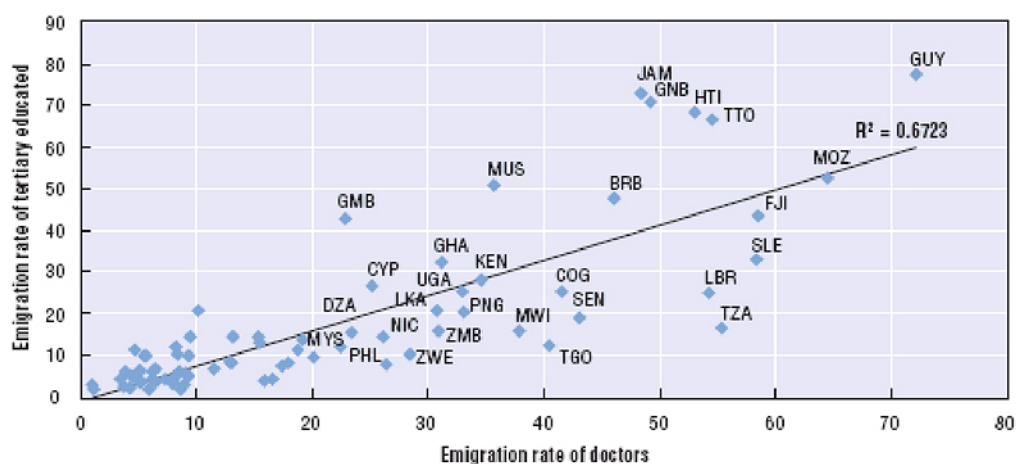
- Brain drain is often associated with the emigration of professionals with key skills, such as doctors, engineers, and other professionals.
- It has been argued that brain drain is too negative a term, as it suggests that those who do remain have lesser skills and capacities.
- Defining “brain waste”:
 - The concept is a variation of “brain drain.”
 - It corresponds to the situation where highly-skilled migrants are employed in occupations for which they are over-qualified.
- Defining “brain gain/circulation”:
 - “Brain gain” or “brain circulation” describes the social contacts and international experience that expatriates gain when working or studying in a foreign country.
 - More positive terms such as brain gain and brain circulation suggest that as migration patterns become increasingly complex, flows are no longer unidirectional or entirely negative.

Scale of highly-skilled migration

Slides 25-27

- About ten per cent of all highly-skilled persons from the developing world live in either North America or Europe.
- Migration of health workers:
 - In order to give an idea of the complexity of the migration flows of highly-skilled workers and their consequences, it can be useful to examine the example of a specific category of highly-skilled migrant workers, namely health workers.
 - Health workers are often presented as the category of workers the most representative of the difficulties that may arise from highly-skilled migration.
 - Moreover, there is a strong correlation between the emigration of health workers and the emigration of highly-skilled workers in general (textbox below).

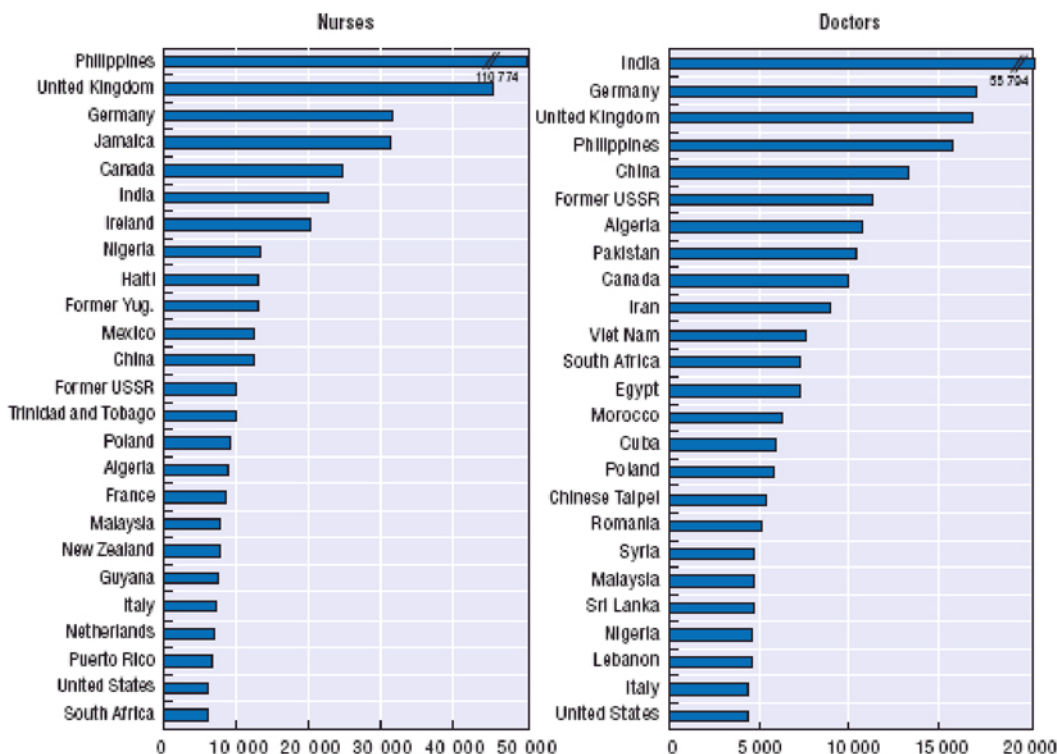
Chart III.8. Emigration rate of the highly skilled and of doctors, non-OECD countries
Percentages



Source: OECD, “Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration” in *International Migration Outlook – SOPEMI 2007*, 2007

- These statistics, published in 2007 by the OECD (data from circa 2000), regarding the number of foreign doctors and nurses in OECD countries show a number of significant trends (chart below):
 - o The majority of foreign doctors are Indians, while the majority of nurses are from the Philippines;
 - o An important proportion of foreign doctors and nurses come from OECD countries, such as the UK, Germany, Canada, and to a lesser extent, Ireland and Mexico;
 - o Regarding nurses, a number of OECD countries are on top of the list, as well as some Caribbean countries such as Jamaica and Haiti;
 - o Regarding doctors, the chart is dominated by non-OECD countries, such as India, China, the ex-USSR countries, and the Philippines;
 - o The almost complete absence of sub-Saharan African countries in the “top 25” is notable (with the exception of Nigeria and South Africa).

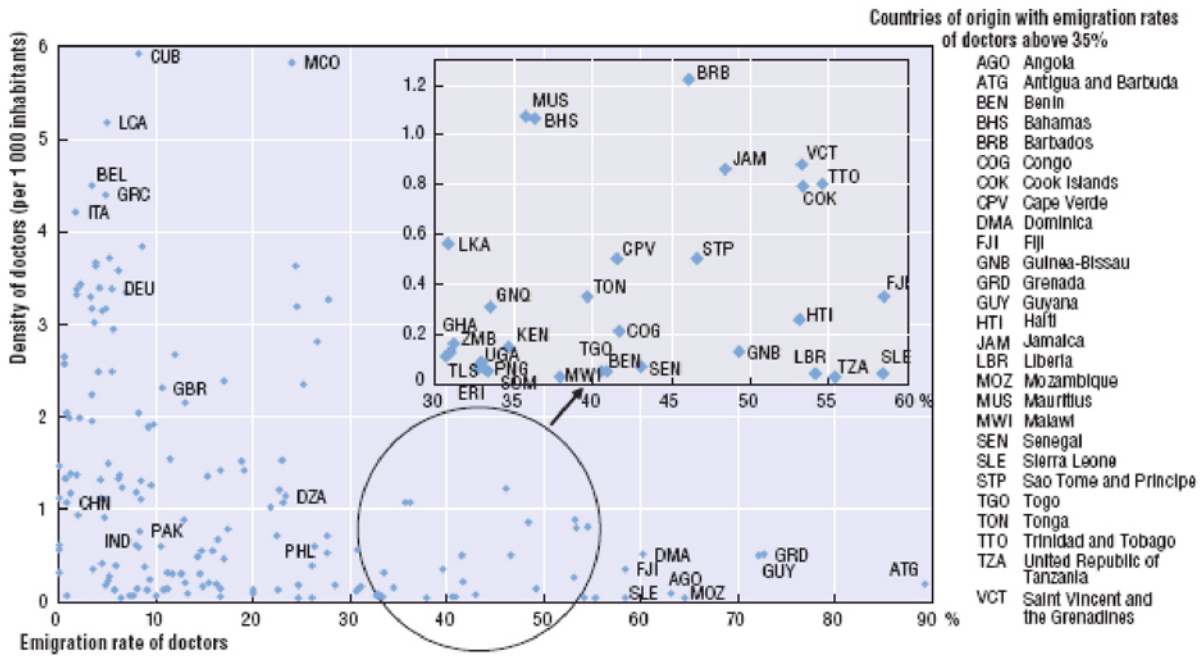
Foreign-born doctors and nurses in the OECD by main countries of origin (top 25), Circa 2000



Source: OECD, “Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration” in *International Migration Outlook – SOPEMI 2007*, 2007

- However, when considering the number of doctors working abroad by comparison to the proportion of doctors in the country of origin, the picture is significantly different (chart below).
 - o Sub-Saharan African countries and Caribbean countries are particularly affected, with emigration rates that often exceed 50%.

Emigration rate and density of doctors by origin country, Circa 2000



Source: OECD, "Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration" in *International Migration Outlook – SOPEMI 2007*, 2007

- This brief overview of the migration flows of health workers already suggests the diversity that can exist with regards to the impact of highly-skilled workers on the development of countries of origin.

Policy trends in countries of destination Slide 28

- Countries of destination are increasingly entering into competition to attract students from abroad with a view towards enabling them to work in the country of destination after they complete their studies.
- Indicate that these aspects will be developed in some detail in *Module H: Designing labour admission policies*.

Consequences of the emigration of highly-skilled workers on the development of countries of origin (5 min)

Slide 29

- The migration of highly-skilled workers has potential positive and negative consequences, as shown in a simplified way in the table below:

Positive effects	Negative effects
<ul style="list-style-type: none"> - Availability to emigrant workers of opportunities that are not available at home - Inflow of remittances - Technology transfers and investments - Integration into global markets 	<ul style="list-style-type: none"> - Net decrease in human capital stock, especially those with valuable professional experience - Loss of heavy investments in subsidized education - Reduced quality of essential health and education services - Tax revenue declines

Adapted from Wickramasekara, P., *Policy responses to skilled migration: retention, return and circulation*, ILO, 2002

- Additional considerations:
 - A certain degree of highly-skilled emigration, arguably, is required for countries of origin to benefit from the links to the global economy.
 - The emigration of highly-skilled workers should be considered in relation to the skills that remain in the country of origin.
 - o Even when a country experiences very high emigration rates of its highly-skilled workers, the adverse impact is limited when the proportion of highly-skilled workers at home remains reasonable. Such is the case, with regards to medical doctors, in Cuba and other Caribbean states.
 - o Similarly, if Chinese, Indian, and Pakistani doctors are over-represented among foreign doctors in countries of destination (in terms of absolute numbers), the population size of these countries of origin means that emigration rates remain low (1% for China) or relatively low (India and Pakistan, 8%).
 - Another essential element: who pays for education?
 - o This has consequences in terms of potential loss of investment in education for countries of origin. It also raises ethical concerns when poor countries of origin bear the costs of education, while richer, more developed countries of destination reap the benefits.
 - o Regarding funding for medical studies, the private sector plays an important role in a number of countries. Such is the case, for example, in the Philippines and India. On the other hand, in a number of lower-income countries, including most sub-Saharan African countries, medical education is strictly public.
- While the consequences of highly-skilled emigration can be potentially positive or negative, a number of policies can be adopted in order to enhance the positive and mitigate the negative impacts. Most of the time, coordination between countries of origin and of destination is required in order to meet this end.

Duration: 15 min

- Aim of the activity:
 - Enable participants to reflect on policy approaches that will mitigate the potential negative effects of highly-skilled emigration.
- Present the activity (5 min):
 - Introduce the activity by asking participants to start by working individually.
 - Take the example of a country that is facing considerable long-term and permanent emigration of its highly-skilled nationals.
 - Ask everyone to write down three potential policy options, noting briefly the possible advantages and disadvantages of these options.
 - Explain that participants have five minutes to prepare the exercise on their own.
 - Explain that selected individuals will be asked to explain briefly the policy options that they have chosen.
- Feedback from participants (10 min):
 - Open up the floor for participants to present their responses briefly.
 - Open a general discussion about what the most feasible policy options are.
 - Ensure that the following policy options (below) have been discussed and that the relative pros and cons have been evaluated.
- Guide a discussion to ensure that the elements developed below are covered.

Policy options for addressing the challenges of highly-skilled migration (15 min)

Slides 31-33

- An ideal solution: rapid economic and social growth in countries of origin:
 - Rapid economic growth in the countries of origin reduces the income gap between origin and destination countries and thus reduces the push/pull factors.
 - Moreover, since it is often broad quality-of-life issues and working conditions that promote dissatisfaction and emigration, it is important to identify these elements of dissatisfaction (such as internal brain waste, workplace empowerment, housing conditions and so on) and develop comprehensive human resources strategies to address them.
- Return and circulation of highly-skilled workers:
 - The benefits of return for the country of origin's economy and for the migrants themselves depend on the return conditions: the migrants' intentions for returning (as a result of failure abroad, with the intention to retire or innovate, etc.) and the timing of return (return after a reasonable period of time, return after a brief spell abroad), etc.
 - It is important to develop incentives for return:
 - Such incentives will vary depending on the sector to which people are returning. Incentives such as facilitated investment opportunities may be more appropriate for people returning to do business rather than practice medicine.

- There is no single model; however, policies should in general aim to enable migrants to undertake their own projects upon return in a way that is as much as possible in line with national development goals.
- Present the example of the Health Professions Council of South Africa (HPCSA) amnesty for health-professional returnees (textbox below).

An example of incentive for return: the Health Professions Council of South Africa (HPCSA) amnesty for health professional returnees

In 2007, South Africa's medical diaspora included more than 1,500 physicians practicing in Canada and thousands more who had migrated to the UK, Australia, New Zealand and the United States.

At the same time, South Africa was (and is still) facing a staffing crisis with regards to public health services.

In order to counter a major disincentive that was discouraging emigrated medical doctors from returning to South Africa, the Health Professions Council of South Africa (HPCSA) agreed to a waiver of penalties for those practitioners who had failed to pay their annual registration fees. The amnesty period started on February 1, 2007 and expired on April 30, 2007.

In order to benefit from this amnesty, doctors had to meet several conditions, including the requirement that they perform 100 hours of community service within six months of return at a public sector facility.

During these three months, 59 physicians returned to South Africa.

- The development of mechanisms to increase circulation of highly-skilled migrants can enable migrants to travel abroad to develop their human and financial capital and to participate in the transfer of technology and competences.
 - This aspect will be covered in greater details in *Module F: Enhancing migrant workers' contribution to the development of countries of origin*, but at this stage an example can be presented: the MIDA Ghana Health Project (textbox below).

The MIDA Ghana Health Project

Making a contribution to the health sector in Ghana

In January 2005 the International Organization for Migration (IOM) started the MIDA Ghana Health Project in cooperation with the Ghanaian Ministry of Health and the Dutch embassy in Accra. The objective of the project is to contribute to the development of the health sector in Ghana.

This objective is realized in two ways. On the one hand, Ghanaian and other African migrants living and working in the Netherlands and other EU countries can transfer knowledge, skills and experience through temporary assignments in Ghana. On the other hand, health workers from Ghana have the opportunity to do specialized training at health care institutions in the Netherlands.

How does the project work?

Based on the specific human resource needs and requests that health training institutions and hospitals in Ghana communicate to IOM, members of the diaspora can carry out one-time or repeated missions to Ghana or transfer knowledge virtually. On average, the assignments last between two weeks and three months.

Health facilities in Ghana identify candidates to be sent to the Netherlands for further training. These internships can last between two weeks and three months.

What does IOM offer?

IOM offers financial support to the professionals who are temporarily assigned in Ghana and to the health workers from Ghana sent to the Netherlands or other EU countries for training.

Besides financial support, IOM also provides assistance in organizing the assignments and internships. IOM's services include assistance with travel, lodging, insurance and all other practical matters; supervision and monitoring during assignments; and traineeships.

A concrete example: Dr. Kwasi Boahene's assignment in Ghana

Dr. Kwasi Boahene, a Ghanaian Public Health Expert based in the Netherlands, conducted a four-week assignment in Accra with the Centre for Popular Education and Human Rights, Ghana (CEPEHRG) from July 13 to August 5, 2009.

CEPEHRG is a health education and human rights advocacy NGO. Its mission is to provide HIV/AIDS and human rights education to young people and to marginalized people with the aim of informing, educating, counseling and supporting people in matters relating to law, health and socio-economic well-being.

During the four week period, Kwasi accomplished the following:

- Provided training on the fundamentals of organizational management to nine staff members of the CEPEHRG;
- Offered training on research skills and methodology to managers, volunteers, and peer educators of the NGO;
- Conducted training on strategic planning to the management of the organization;
- Helped the trainees to develop an effective organizational structure and a strategic plan for the NGO;
- Assisted the group in conducting effective field work.

- Replenishing skills:
 - A number of schemes can be developed in order for countries of destination to participate in replenishing skills in countries of origin.
 - Possible schemes include building relationships between academic institutions in countries of origin and destination, organizing staff exchanges, and providing educational support (textbox below).

Examples of skill-replenishment activities

In Egypt, the UK Department of Health established a programme to improve medical services for geriatric care, pathology and mental health. It also established a fellowship programme for Egyptian doctors to travel to the UK for additional experience.

In the Caribbean, Health Canada projects were set up independently of migration concerns and as part of technical cooperation with PAHO/WHO. The projects include the exchange of expertise and fostering of connections between Canadian and foreign educational establishments; for example, collaboration between the universities of Ottawa and the West Indies has led to the establishment of a nurses' training curriculum in Canada.

In South Africa, the UK-South Africa Memorandum of Understanding on the Reciprocal Exchange of Health Concepts and Personnel contributes to skill replenishment.

- In 2003, the United Kingdom Department of Health and the South African Department of Health entered into a Memorandum of Understanding on the Reciprocal Exchange of Health Concepts and Personnel.
- The UK-SA MOU is designed to more effectively manage health-worker migration by creating opportunities for health professionals from both countries to undertake short-term placements. These placements are intended to foster knowledge exchange and the transfer of skills and technology by supporting collaboration between the countries' health systems and personnel.
- South African health workers are placed within the UK NHS and clinicians and health professionals from the U.K. find placement in rural South African health facilities.
- Since the inception of the MOU, the recruitment of health personnel from South Africa has decreased and there has been a significant drop in the number of South African nurses registering to work in the UK.

Adapted from Naik, A., Koehler, J., Laczko, F., *Migration and development: achieving policy coherence*, IOM, 2008.

- Financing higher education:
 - Outline the following points:
 - Programmes offering student loans, rather than outright grants to students, offer the potential to recoup training costs.
 - Such loan programmes could be combined with debt forgiveness for those undertaking predefined tasks at home, such as healthcare work, teaching in rural areas, or public service more generally.
 - It is important that the design of any such programmes does not have the effect of discouraging children from lower-income families from continuing their studies.
- Ethical recruitment codes:
 - Ethical recruitment codes have been adopted or considered primarily in the health sector.
 - For example, in 2001, the UK adopted a Code of Practice on International Recruitment of Healthcare Professionals that restricts active recruitment by the NHS (the health public service) in developing countries, unless a bilateral agreement determines otherwise.
 - For another example, in 2003, the Commonwealth Meeting of Health Ministers endorsed a code of practice and an associated companion guide.
 - Not all destination countries were willing to sign this code, despite their agreement with some of its principles.

- Neither the UK nor Canada has signed this code, owing to a lack of support for certain provisions, such as compensation to countries of origin, right to migration as an individual choice, possible discriminatory effects against certain categories of professionals, and similar concerns.
- To date, the efficiency of such codes has generally not been seen as satisfactory.
 - Agreements between the considered states are often hard to reach and the implementation of such codes is difficult.
 - In practice, while active recruitment may have been discouraged by such codes, these codes have not succeeded in reducing migration flows from the countries of concern.
- More generally, potential policies aiming at reducing the negative impacts of highly-skilled migration often have to face divergent interests from the stakeholders:
 - Countries of destination usually focus on the needs of their national labour market;
 - Countries of origin can be ambivalent towards highly-skilled migration: in the hope of positive returns like remittances, they may not be willing to discourage the emigration of their skilled nationals;
 - The interests of the migrants themselves may not be compatible with a number of policy measures that, in one way or another, restrict the emigration of highly-skilled workers.

Summary

- The migration of highly-skilled workers has both positive and negative potential consequences. The effects of this migration depend on a number of factors, including:
 - The type of highly-skilled migrants: impact is potentially negative when it touches vital sectors of the countries of origin, such as health and education;
 - Emigration rates and the proportion of highly-skilled workers that remain in the country of origin;
 - The type of policies that are adopted.
- Policy options for addressing the challenges of highly-skilled migration may include:
 - Policies aimed at return and circulation of highly-skilled workers;
 - Policies aimed at replenishing skills;
 - Modes of financing higher education;
 - Ethical recruitment codes.
- Cooperation between countries of origin and countries of destination is vital to the success of policies addressing the challenges of highly-skilled migration.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 63-71

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 51-76; pp. 327-353

Abella, M. I., *Sending workers abroad: A manual on policies and procedures of special interest to middle and low income countries*, ILO, 1997, pp. 13-22; 49-61

Naik, A., Koehler, J., Laczko, F., *Migration and development: achieving policy coherence*, IOM, 2008

Source: OECD, "Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration" in *International Migration Outlook – SOPEMI 2007*, 2007

Priskandarajah, D., *Reassessing the Impacts of Brain Drain on Developing Countries*, Migration Policy Institute, 2005
Available at: <http://www.migrationinformation.org/Feature/display.cfm?ID=324>

Wickramasekara, P., *Policy responses to skilled migration: retention, return and circulation*, ILO, 2002
Available at: <http://www.ilo.org/public/english/protection/migrant/download/pom/pom5e.pdf>

Power Point Module E:

Developing labour market strategies, including addressing the challenges of highly skilled migration

SLIDE 1

OSCE

Module E: Developing labour market strategies, including addressing the challenges of highly skilled migration

[Insert here name of Training Seminar / Workshop, Venue, and Date]
[Insert here name of Trainer]

SLIDE 2

OSCE

**Session I
Introduction**

SLIDE 3

Session 1: introduction

OSCE

Module Aim

- To present the main goals and components of labour market strategies
- To present the use of labour market promotion tools in the context of labour migration management
- To present the nature of highly-skilled migration and its impact on labour migration policy planning and human resource planning
- To explore how policy measures in countries of origin can mitigate the negative effects of highly-skilled migration

SLIDE 4

Session 1: introduction

OSCE

By the end of this Module you will:

- Have a clear understanding of the importance of labour market strategies, their context, components, and the challenges of their implementation
- Be familiar with the challenges of highly skilled-migration and the ways to address them

SLIDE 5

Session 2: Developing promotion strategies: the context

Session II Developing promotion strategies: the context

SLIDE 6

Session 2: Developing promotion strategies: the context

Group activity



Should countries of origin promote foreign employment?

SLIDE 7

Session 2: Developing promotion strategies: the context

Objectives of labour market strategies

- The first/best option: to create employment opportunities at home
- To recognize the existence of emigration flows and the need to develop corresponding management policies
- To open new channels for legal labour migration in order to:
 - Relieve unemployment
 - Generate foreign exchange remittances
 - Acquire/transfer new skills abroad
- To protect migrant workers' rights and interests

SLIDE 8

Session 2: Developing promotion strategies: the context

The importance of matching labour demand and supply

- Labour matching is the management process responsible for identifying, anticipating, and satisfying customer requirements profitably
- In the context of labour migration management:
 - Labour offer: the potential migrant workers
 - Labour demand: demand of migrant workers by the employers on the international labour market
 - The objective is to organize the conditions of a match between the demand and the offer
- A highly competitive international labour market

SLIDE 9

OSCC

Session III Group activity

SLIDE 10

Session 3: Group activity

Group activity



Vasaria's new labour migration programme

Reflect on the different stages and methods of promoting foreign employment in a concrete case

SLIDE 11

OSCC

Session IV The market development process

SLIDE 12

Session 4: The market development process

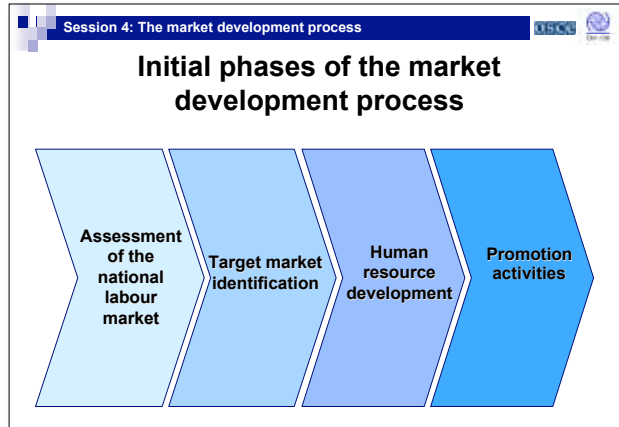
Match between demand and supply

- A market is viable when there is a match between the demand and the supply
 - Viewpoint of the potential employer: a match signifies that qualifications and experience demanded by the foreign employer match those of the workers from the country of origin
 - Viewpoint of the country of origin: the match also implies that the demand for foreign labour meets the objectives of the labour strategy
- Before creating matching conditions between demand and supply, a good understanding of both demand and supply is necessary

SLIDE 13



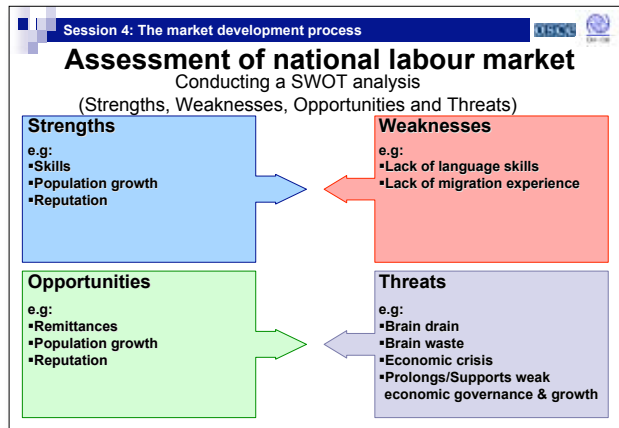
SLIDE 14



SLIDE 15

-
- Session 4: The market development process
- ### Initial stage of labour market strategy: priorities
- To let a global view guide the development of labour market strategy
 - To organize a solid institutional framework
 - Labour market strategy must be set in the context of a national development plan
 - Labour market strategy must be rights-based

SLIDE 16



SLIDE 17

Session 4: The market development process

Target market identification: generalities

- Target market identification is the result of market research. This type of research is demand- rather than supply-oriented
- The importance of geographical segmentation
 - Human rights reasons
 - Economic reasons
 - Ethical reasons

SLIDE 18

Session 4: The market development process

Target market identification: data to be collected

- Assessment of general political and economic trends
- Data can be broken down by each economic sector
- Avenues for legal labour migration
 - Existence of demand in sectors of the economy where experience gained from employment could benefit the sending country
 - Labour market and gender
- Degree of protection of labour rights, levels of salaries, wages, and social benefits
- Importance of cultural, ethnic and language affinity

SLIDE 19

Session 4: The market development process

Target market identification: Tools for data collection

- A range of basic information on the countries of possible destination is easy to collect
 - General information on political and economic situation; immigration laws and regulations; occupational definitions and nomenclature; unemployment data by occupation
 - Such information should be disaggregated by gender
- Fact-finding missions in selected countries and activities of the sending country's diplomatic missions can produce more specific data and analysis

SLIDE 20

Session 4: The market development process

Human resource development

- When there is a discrepancy between demand for foreign labour and supply, countries of origin may adopt policies that help migrants to acquire the skills that are demanded abroad
- Human resource development planning should be mainstreamed in order to balance efforts aimed at matching labour demand and supply with efforts to mitigate the loss of skilled workers
- Improving skills is costly and takes time

SLIDE 21

Session 4: The market development process

Promotion activities

- Marketing missions
 - Top Level Goodwill and Promotion Missions
 - Actors: government officials that can be accompanied by representatives from the private sector
 - Target: meet government officials and representatives of private corporations in countries of destination
 - Field visits/client calls
 - Actors: Labour attaché or other diplomatic officials
 - Aim: visit prospective clients; make recommendations to diplomatic mission and ministerial services
- Print promotions
 - Can take the form of advertisements, support communication materials, direct mail campaign
- Corporate promotions and industry servicing projects

SLIDE 22

Session 4: The market development process

Expected results of labour market strategy

- Market prospects
- Host government/employer awareness, goodwill, conducive market environment
- Initial job contracts; recruitment and bilateral labour agreements; market information
- Stronger share and foothold (additional and/or new job orders/agreements)
- Continued host government/employer patronage

SLIDE 23

Session V

Addressing the challenges of highly-skilled migration

SLIDE 24

Session 5: the challenges of highly-skilled migration

Definitions of brain drain and related concepts

- There is no universal definition of a "highly-skilled" migrant
 - Usually defined by a combination of education (usually to a tertiary level or beyond) and occupation, particularly where this occupation relates to the high-added-value and high-productivity sectors that are essential to socio-economic development
- Brain drain is a specific form of highly-skilled migration:
 - the permanent or long term migration of high skilled workers that has negative effects on the economic and social development of countries of origin
- Brain waste
 - the situation where highly-skilled migrants are employed in occupations for which they are over-qualified

SLIDE 25

Session 5: the challenges of highly-skilled migration

Scale of highly-skilled migration

- About 10 per cent of all highly skilled persons from the developing world live in either North America or Europe
- The example of health workers
 - Absolute numbers of foreign doctors and nurses in OECD countries
 - Majority of Indian doctors and Philippine nurses
 - Importance of intra-OECD migrations
 - Quasi-absence of sub-Saharan Africa in the top 25
 - Proportion of doctors working abroad by comparison to the proportion of doctors in the country of origin
 - Sub-Saharan African countries and Caribbean countries are particularly affected, with emigration rates that often exceed 50%

SLIDE 26

Session 5: the challenges of highly-skilled migration

Scale of highly-skilled migration

The example of health workers

Foreign-born doctors and nurses in the OECD by main countries of origin (top 25), Circa 2000

SLIDE 27

Session 5: the challenges of highly-skilled migration

Scale of highly-skilled migration

The example of health workers

Emigration rate and density of doctors by origin country, Circa 2000

Country of origin with emigration rates of doctors above 50%

SLIDE 28

Session 5: the challenges of highly-skilled migration

General trends in countries of destination

Generalisation of destination countries' policies designed to attract highly skilled migrants

SLIDE 29

Session 5: the challenges of highly-skilled migration


Consequences of highly-skilled workers' emigration on countries of origin

<p>Potentially positive effects</p> <ul style="list-style-type: none">□ Opportunities for workers that are not available at home□ Inflow of remittances□ Technology transfers and investments□ Integration into global markets	<p>Potentially negative effects</p> <ul style="list-style-type: none">□ Net decrease in human capital stock, especially those with valuable professional experience□ Loss of heavy investments in subsidized education□ Reduced quality of essential health and education services□ Declines in tax revenue□ Allows governments to maintain status quo instead of thinking of improving the employment situation and conditions
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SLIDE 30

Session 5: the challenges of highly-skilled migration

Group activity



Reflect on policy approaches to mitigating the potential negative effects of highly-skilled workers' emigration

SLIDE 31

Session 5: the challenges of highly-skilled migration

Policies options for addressing the challenges of highly-skilled migration

- An ideal solution: rapid economic and social growth in countries of origin
- Return and circulation of highly-skilled workers
 - The benefits of return for the economy of the country of origin and the migrants themselves depend on the return conditions
 - Developing incentives for return
- Replenishing skills
 - Building relationships between academic institutions in countries of origin and destination, organizing staff exchanges and coordinating educational support

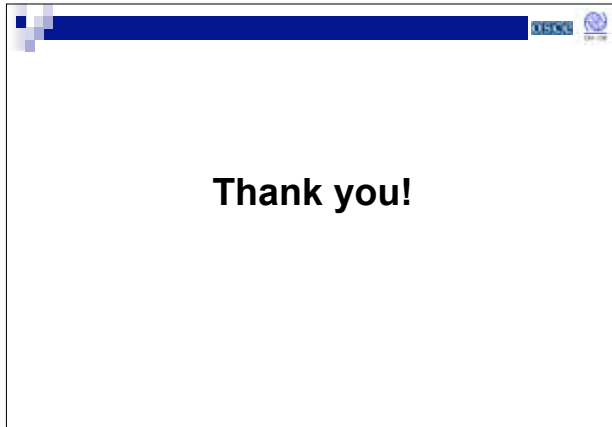
SLIDE 32

Session 5: the challenges of highly-skilled migration

Policy options for addressing the challenges of highly-skilled migration

- Financing higher education
 - Programmes offering student loans, rather than outright grants to students, offer potential to recoup training costs
 - Preventing negative effects of loan programmes
- Ethical recruitment codes
 - Primarily adopted/ considered in the health sector
 - To date the efficiency of such codes has generally not been seen as satisfactory
- More generally, potential policies aiming at reducing the negative impacts of high-skilled migration often have to face divergent interests from the stakeholders

SLIDE 33



Course 2

Developing labour migration policies in countries of origin

Module F

Enhancing migrant workers' contribution to the development of countries of origin

Module F: Enhancing migrant workers' contribution to the development of countries of origin

Suggested total duration: 2 h

Duration	Session
5 min	Session 1: Introducing Module F
35 min	Session 2: Remittances
45 min	Session 3: Circular Migration
35 min	Session 4: The role of diasporas

Aim of Module F

Module F aims to provide an overview of the nexus between labour migration and development, with attention to remittances, circular migration, return and reintegration, as well as the potential role of diasporas.

Learning outcomes for Module F

By the end of this module, participants will:

- Understand the increasing importance of labour migration in the context of development policies in countries of origin.
- Understand the policy measures available for harnessing the benefits of labour migration for development, including those related to remittances, circular migration and diaspora involvement.

Session 1: Introducing Module F

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module F slides
Participants will need	Copy of slides

Introduce the topic

Slides 1-5

Present aims and outcomes for Module F

Slides 3-4

- Module F aims to provide an overview of the nexus between labour migration and development, with attention to remittances, circular migration, return and reintegration, as well as the potential role of diasporas.
- Learning outcomes:
 - Understand the increasing importance of labour migration in the context of development policies in countries of origin.
 - Understand the available policy measures to harness the benefits of labour migration for development, including those related to remittances, circular migration, and diaspora involvement.

Migration and development: generalities

Slide 5

- Migration has important economic, social and cultural consequences for countries of origin. Some are positive; others are negative.
- For a couple of years, the topic of migration and development has been high on international agendas.
 - For instance, at both the UN General Assembly High-Level Dialogue on International Migration and Development (HLD), held in September 2006, and the Global Forum on Migration and Development (GFMD), held from 2007 onwards, participants tended to agree, on the whole, that migration holds considerable potential for economic and social development.
 - At the same time, however, much ground still needs to be covered before governments, whether at the national or international level, can reach agreement on the policy strategies for realizing the promise of this development.
- Migration for employment is no longer perceived as a means of alleviating poverty through individuals' pursuing earning opportunities abroad and thereby easing pressure on local labour markets, but rather as a broader concept of labour mobility and development that identifies and builds upon the interplay between the two.
- This module focuses mainly on the economic impacts of labour mobility and leaves aside the social and cultural dimensions of migration and development.

For the purposes of this module, development is defined in terms of a process of fostering economic growth. This process can take place at various levels, including regional, country, or community.

The concept of development may range from schemes increasing agricultural productivity and manufactured exports, to schemes decreasing infant mortality rates and illiteracy. There is no universally accepted definition of "development."

- The following aspects will be covered:
 - Remittances;
 - Circular migration, return, and reintegration;
 - Role of diasporas.

Resources for facilitator preparation

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 327-353

Naik, A., Koehler, J., Laczko, F., *Migration and development: achieving policy coherence*, IOM 2008

Session 2: Remittances

Suggested duration	35 min total
	5 min Introduce the topic
	15 min Economic impact of remittances
	15 min Mobilizing and channelling remittances for development Summary
Methodology	Presentation and Pair activity
You will need	Flip chart, pen, Module F slides
Participants will need	Copy of slides

Introduce the topic (5 min)

Trainer note

The objective of this session is to explore remittances, their economic impact, and productive uses of them to benefit individuals, communities and countries of origin.

- Highlight the fact that remittances are one of the aspects of labour migration that have attracted the most interest in terms of its development impact.

Until a few years ago, remittances were considered to have, if anything, a negative impact on development, as they were seen as increasing dependency and encouraging consumption.

What are remittances

Slides 6-7

- Migrant remittances can be broadly defined as follows:
 - o The monetary transfers that a migrant makes to the country of origin or, in other words, the financial flows associated with migration.
 - o Most of the time, remittances are personal cash transfers from a migrant to a relative in the country of origin.
 - o Remittances may also be invested, deposited or donated by the migrant to the country of origin.
- Underline the private nature of remittances and its consequences:
 - o There are essentially two stakeholders: the remittance sender and the recipient.

- In between, there are a host of actors:
 - Intermediaries in the transfer process (formal intermediaries include banks, other financial institutions, and Money Transfer Operators, while informal intermediaries might include trusted relatives, friends, or bus companies who carry cash in person or facilitate in-kind transfers);
 - Governments in both receiving and sending countries responsible for policy framework, supervision and facilitation.
- As they are private funds, remittances should not be viewed as a substitute for official development assistance.
- More generally, the private nature of remittances has to be taken into account when developing and implementing policies.

Economic impact of remittances (15 min)

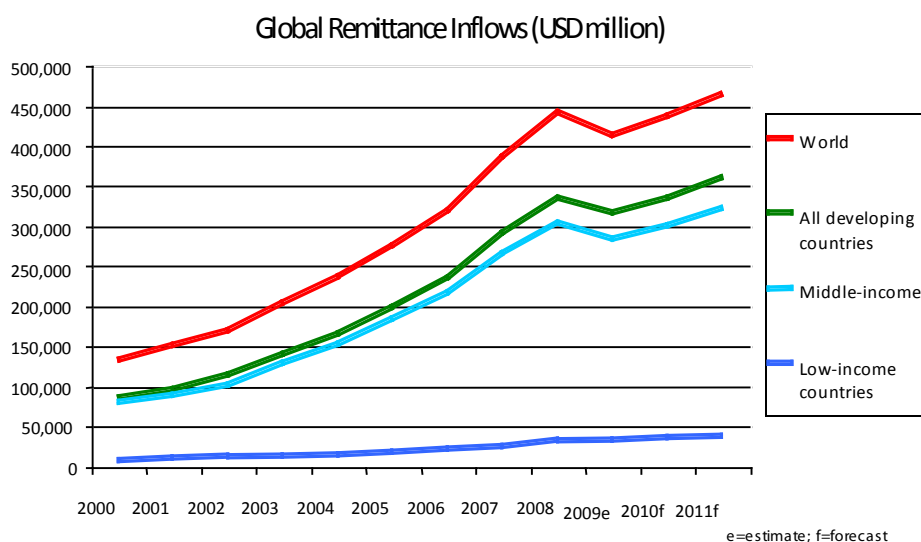
Slides 8-15

Remittances' scale and trends

Slide 8

- Remittances to developing countries reached USD 316 billion in 2009, down 6 percent from 336 billion in 2008.
 - Remittance flows to developing countries are expected to increase at 6.2 percent in 2010 and 7.1 percent in 2011.
 - Remittances received by developing countries have tripled since 2002.
 - The following figure illustrates remittance inflows per country groupings, based on World Bank assessment of Gross National Income (GNI) per-capita.

Economies are divided into three main groups according to their GNI per capita: Low Income = GNI at USD 935 or less; Middle Income = GNI between USD 936 and USD 11,455; High Income = GNI at USD 11,456 or more. Low and Middle income countries represent all developing countries.



World Bank, Migration and Development brief 12, April 2010

- The majority of remittances flow from north to south, while 9 to 29% of remittances flow south to south, i.e. from one developing country to another.

Current trends: How does the global economic crisis affect remittances?

Estimations and predictions

According to the World Bank, remittances grew rapidly between 2006 and 2008, but have slowed down in many corridors since the last quarter of 2008.

The latest data reported by central banks show that officially recorded remittance flows to developing countries reached USD 316 billion in 2009, down 6 percent from a revised USD 335 billion in 2008.

Source: World Bank, *Migration and Development Brief 12*, 23 April 2010.

Elements of explanation

The impact of the global economic crisis on remittances is difficult to predict.

It is likely that the overall earnings of migrant workers in the most industrialized countries will decrease as a result of the crisis because of a decrease of immigration flows and the worsening employment situation.

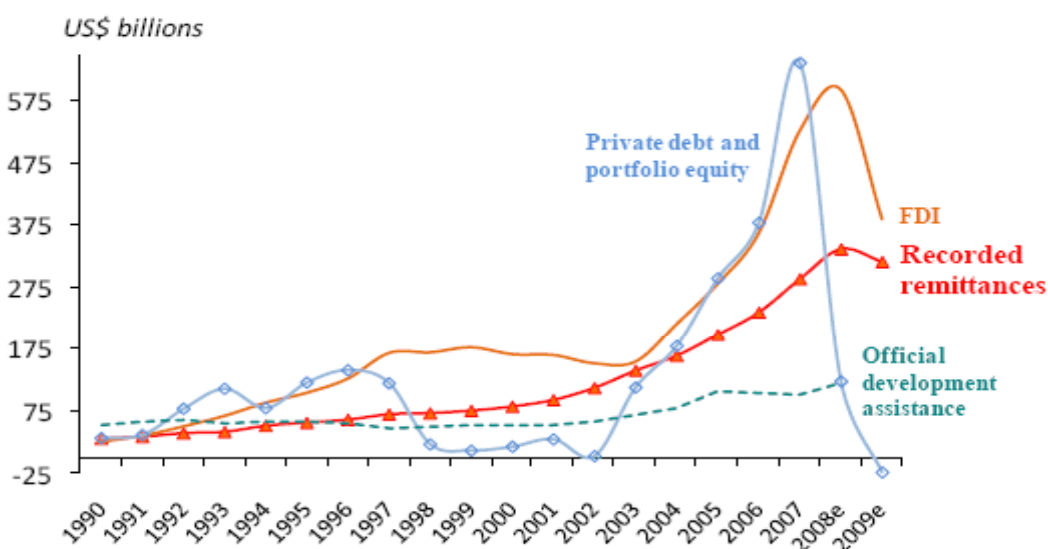
Whether the share of immigrants who remit money will increase or decrease as a result of the crisis is not clear.

- On the one hand, if migration slows down, remittances might decrease because in that case the share of recent migrants in the overall foreign-born population will decrease, and recent migrants are generally more likely to remit, while those established for a long time have a lower propensity to remit.
- On the other hand, depending on the extent of the crisis in origin countries, immigrants might be under increased pressure to provide financial resources to their extended family or communities back home.

Source: OECD, "International Migration and the Economic Crisis: Understanding the Links and Shaping Policy Responses" in *International Migration Outlook – SOPEMI 2009*, 2009

Remittances as a percentage of GDP Slides 9-11

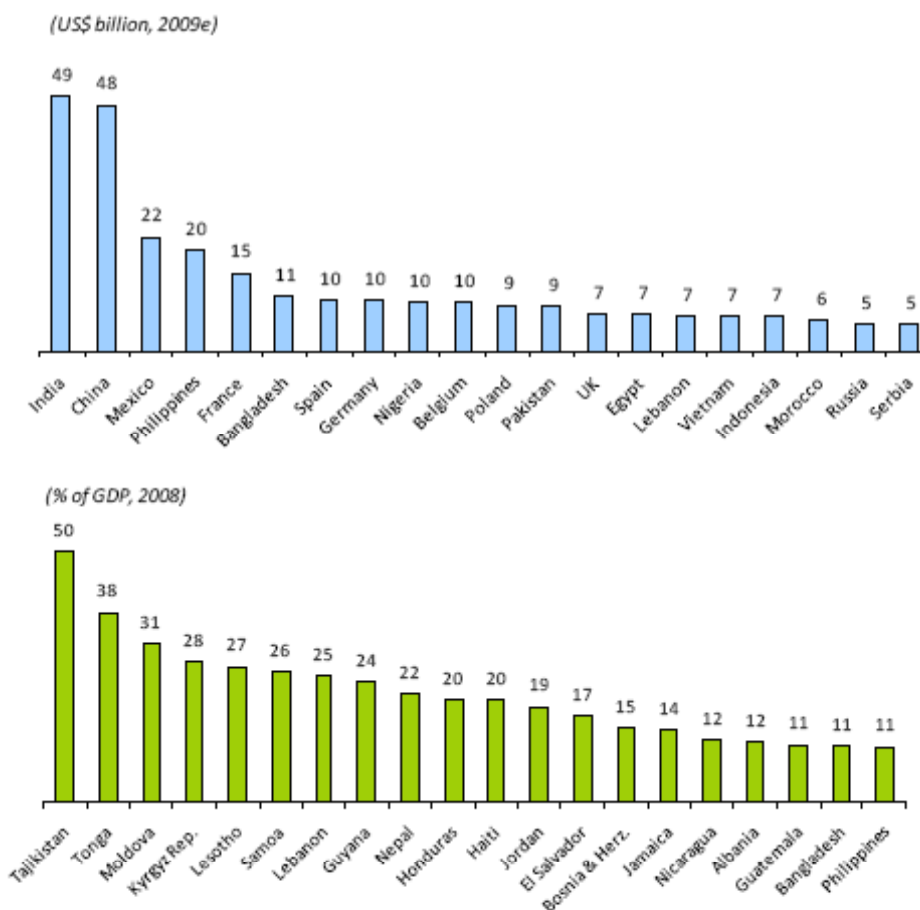
- Remittances can represent a very relevant percentage of the national GDP and are often far greater than Official Development Assistance (ODA) and second only to Foreign Direct Investment (FDI) (graph below).



World Bank, *Migration and Development brief 12*, April 2010

- Top recipients of migrant remittances among developing countries in 2008 (graph below):
 - o India, China and Mexico are the main recipients of migrant remittances among developing countries. The top 10 recipients list also includes the Philippines, France, Bangladesh, Spain, Germany, Nigeria and Belgium.
 - o In contrast, the top recipients in terms of the share of remittances in GDP include many smaller economies such as Tajikistan, Tonga, Moldova, Lesotho, Samoa and Lebanon; in these countries, remittances exceeded a quarter of the GDP.

Top recipients of migrant remittances among developing countries in 2008



World Bank, *Migration and Development brief 12*, April 2010

Remittances and income distribution in the household

Slide 12

- Remittances are an important source of income for many low- and middle-income households in developing countries.
- Remittances often contribute to improving household living conditions and to reducing vulnerability of family members, especially women and children. Remittances therefore constitute a steady element of poverty reduction.
- Present the example of the distribution of income for Tajikistani households receiving remittances from Russian Federation (textbox below).

Remittance income in Tajikistan

In 2007 Tajikistan received 1.7 billion USD in officially recorded remittances, which represented 46% of the total Gross Domestic Product (World Bank, 2009: 23-25). The true size of remittances, including unrecorded flows through formal and informal channels, is believed to be larger (World Bank, 2008). According to a World Bank report, 24% of all households have at least one migrant abroad and remittances play a significant role in household consumption. In 2005, Tajikistan's stock of emigrants was estimated at 796,593 (12.2 % of the population; World Bank, 2008). The main destination countries include Russian Federation, Uzbekistan, Ukraine, Israel, Kazakhstan, Kyrgyz Republic, Latvia, the United States, Germany, and Lithuania, in order of importance.

Migration to and Remittances from the Russian Federation

A recent report commissioned by IOM Tajikistan and UNDP shows that contemporary Tajik migration is predominantly seasonal, mainly to the Russian Federation, owing to strong historical and linguistic relationships between Russia and Tajikistan, a visa-free regime, the relatively low cost of travel, and the presence of large Tajik enclaves, as well as an increasing demand for labour from Russia. Along with these migration flows, remittances are on the rise and they have become a structural feature of the economy (IOM 2006: 13). Owing to the abolition of the 30% tax on formal transfers and competition in the remittance transfer business, 82 per cent of the total cash remittances are transferred through formal channels.

The use of remittances

Slide 13

- Three main uses can be distinguished:
 - Consumption (bills, rent, food, clothes). This is the most common use of remittances.
 - Consumption/Investment in Human Capital (Education, Health Care).
 - Savings/Investments.
- Women and men tend to act differently as both senders and recipients of remittances. Women tend to remit smaller amounts but more often than men. They also tend to use remittances for household consumption, consumer durables, housing and debt repayment.

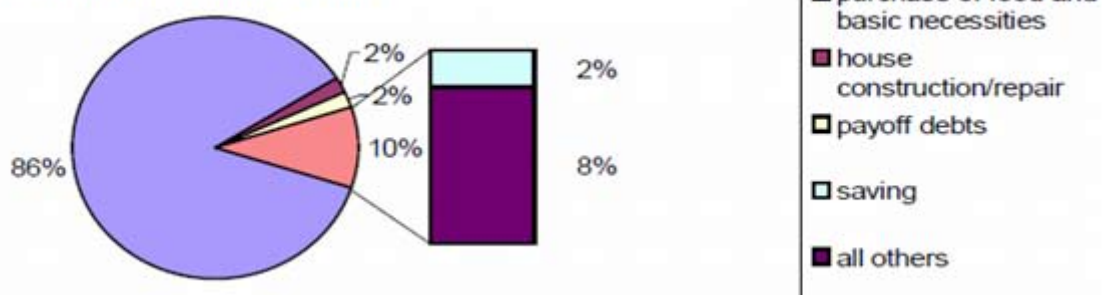
The differences between women and men as senders and recipients of remittances must be taken into account when developing policies.

- Present the example of Tajikistan/Russian Federation (textbox below):

How Tajikistani households use their remittances from Russian Federation

At the microeconomic level, remittances are important sources of supplementary income, as shows the case of Khatlon Oblast (major migrant sending region), where they support an estimated 35% of the total population. Remittances directly benefit migrants' families by providing insurance and enhancing liquidity. The following figure shows how crucial remittance transfers have been to receiving families in Khatlon. Remittances are used mostly to meet current consumption needs (about 86% of all remittances were spent by receiving households on basic necessities). Expenditures on food, clothes, and utilities are the most important use of remittances. Housing investment is the second most important use of remittances, followed by household durables and celebrations (weddings, sunnat tui, etc.), and spending on education and health (IOM 2006: 128).

Use of Remittances - Main Sectors



Source: Mughal, A., 2006: 127.

The study also shows that the composition of demand has been changing. In 1998 consumers spent only 0.3% of their total income on construction materials; this increased to 2% by 2004. The expenditure on household goods and furniture also increased from 0.5% in 1998 to 2% in 2004.

Moreover, contemporary Tajik migration to Russia does not seem to be associated with a significant brain drain of Tajik professionals according to IOM's report (see table below). Notwithstanding the pattern in Khatlon, one should be cautious in extrapolating these results to the rest of the country. Educational attainment may vary across regions. Khatlon, being a relatively poor region which is predominantly agrarian, has a lower proportion of highly-educated population relative to Dushanbe and other urban areas. The proportion of highly educated migrants from other regions may be very different.

Table 6.5: Propensity of the highly-educated to migrate

	(1) Workers with tertiary education as a percentage of migrant population	(2) Workers with tertiary education as a percentage of total Working population	Ratio (2)/(1)
Bangladesh	62.3	1	0.02
Brazil	54.6	10.4	0.19
China	53.9	2	0.04
India	79.8	2.5	0.03
Indonesia	74.6	2.3	0.03
Mexico	14	9.2	0.66
Sri Lanka	71.6	1.1	0.02
Tunisia	63.7	2.8	0.04
Tajikistan *(Khatlon)	7	19.6	2.80

Source: Data from CPS, OECD, UNESCO cited in Kapur (2004); *author's calculation from KLSS 2005 for Khatlon; percentage for the total population is for men only based on TLSS 1999; because of regional differences, the numbers need to be interpreted with a great deal of caution. [need to do col 2 for Khatlon only]

Source: IOM (by Mughal, A.) 2006: 137.

Overall, the study concludes that despite the role remittances may play in promoting the small and medium enterprise sector, the links between remittances and local development are at best tenuous (IOM, by Mughal, 2006: 140).

Sources:

IOM (by Mughal, A.) 2006. Migration, Remittances and Living Standards in Tajikistan. A Report based on Khatlon Remittances and Living Standards Measurement Survey (KLSS 2005), IOM, Tajikistan.

World Bank. 2009. Republic of Tajikistan. Poverty Assessment, November.

World Bank. 2008. Tajikistan. Migration and Remittances Factbook (accessed 31/05/2010) <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Tajikistan.pdf>

Potential negative effects of remittances

Slides 14-15

- At the household level, it is generally agreed that remittances can help reduce poverty.
 - Do remittances have an equalizing effect on income distribution or do they cause income inequality to rise? There is no definitive answer, but it is thought that remittances tend to reinforce inequality in the case of high initial inequality, but may compensate for inequality in the case of low initial inequality.
- Economic dependence on remittances may reduce recipient families' motivation to develop their own income-generating activities.
- Inflation risk:
 - Remittances are spent largely on consumption. When the national economy has a limited capacity to respond to the high demand for goods that result from these inflows, this situation encourages inflation.
 - However, empirical evidence about the effects of remittances on a receiving country's inflation is scant and varies widely across countries.
 - While it is possible to observe a positive correlation between inflation and remittances, it remains to be seen which is causing which.
 - However, the direct effect of remittances on inflation may be overshadowed by other factors such as variations in exchange rate.
 - More research is needed to find conclusive evidence as to whether remittance inflows spur domestic inflation.

Mobilizing and channelling remittances for development (15 min)

Slides 16-19

Pair activity

Slides 16-19

Duration: 15 minutes

- Aim of the activity:

To enable participants to understand the range of policy options available to them for channelling remittances for development.
- In pairs, ask participants to outline three main policy areas that they think a country of origin could develop in order to harness the development benefits of remittances.
- Ask select pairs to present their findings.

Recall the fact that the private nature of remittances must be taken into account in any intervention in this area.

Understanding remittances

Slide 17

- Developing policy interventions to harness the potential benefits of remittances requires a sound understanding of a number of elements, including:
 - The size and nature of remittance channels and flows at the macro, community, and individual levels;

- The behaviour of remittance senders (patterns or use of specific channels);
- The use of remittances by recipients;
- Gender dynamics.
- Collecting data:
 - Understanding remittances means collecting data.
 - Remittances are typically measured using “balance of payment” data compiled by relevant statistical authorities (typically the Central Bank or National Statistics Office).
 - Balance-of-payments records cover a country’s economic transactions with the rest of the world.
 - However, this data excludes information on “informal” (e.g. hand-carried) or “in-kind” remittances, as well as excluding most transactions made at money transfer centres.
 - Household survey data can be used to collect more detailed information about migrant remittances.
- Present the example of Migration and Remittance Surveys in Moldova:

Migration and Remittance Surveys in Moldova

Since 2005, IOM Moldova has carried out biannual Migration and Remittance Surveys to ensure that the policymakers in Moldova have available estimates of key macroeconomic variables as well as data on migration modalities, income distribution, and poverty.

The first survey entitled “Migration and Remittances in Moldova” (2005) was a national household survey, which covered 3714 households.

The second survey “Patterns and Trends of Migration and Remittances in Moldova” was carried out in 2006 (and published in 2007) covered 3940 households.

Improving transfer services

Slide 18

- It is generally recognized that fees for remittance services charged by global money transfer operators are high – fees may be as high as 20 per cent of the principal.
- Access to money transfer operators or financial institutions is not always possible.
 - Migrant workers do not always possess appropriate identification.
 - The distance and living conditions can prevent both remittance senders and recipients from accessing formal remittance transfer options.
 - Migrants abroad may lack useful information on transfer options.
- Outline the following actions available to establish cost-effective and safe transfer services:
 - Simplification of transfer procedures and extension of financial networks;
 - Provision of comparative information on the relative costs of different remittance transfer services;
 - Promotion of regularization of the informal transfer sector through registration and filing of returns;
 - Increased access to banking service points, both in the source and recipient countries, to reduce costs and increase efficiencies;

- Encouragement of a larger number of banking and other financial institutions in the transfer of remittances;
- Provision of access to services for irregular migrants;
- Work to ensure that channels are equally accessible to both men and women;
- Cooperation between governments and banks in countries of origin and countries of destination.

Incentives to stimulate the development potential of remittances

Slide 19

- The most important step that governments can take to stimulate remittance flows and realize their development potential is to create a sound legal and policy environment that promotes capital flows, including remittances.
 - Improving the overall strategies and the investment climate is critical, but is often a medium- to long-term process for states.
 - In the interim, incentives and specific opportunities for investments by migrants in their country of origin may be helpful.

Development of a National Action Plan for Remittances in Albania

IOM in Albania has assisted the Government of Albania in the development of a Remittance Action Plan on the basis of a provisional National Action Plan on Migration.

The National Action Plan on Remittances reflects the output of the joint work of the interagency Working Group (led by IOM and ILO) that was established in the framework of the project, bringing together 24 different institutions, including government agencies, private banks, local development agencies operating in the financial market in Albania, and international organizations.

The final action plan includes the following eight measures:

- Measure 1: Expand and improve remittance data collection practices, research, analysis, policies and procedures;
- Measure 2: Expand Albanian banking services linked to remittances;
- Measure 3: Encourage Albanian and corresponding banks in migrant host countries to improve remittance-related services to Albanians abroad;
- Measure 4: Strengthen the capacity of Albanian microfinance institutions (MFIs) to provide remittance transfer services;
- Measure 5: Strengthen the capacity of the Albanian Post Office to provide expanded remittance transfer services;
- Measure 6: Support regularization processes and expand legal work opportunities for Albanian migrants in Greece and Italy to facilitate higher incomes as well as expanded access to and use of banking institutions;
- Measure 7: Enhance migrants' knowledge of (and access to) remittance transfer options and savings and investment opportunities at the time of departure in their host countries and upon return;
- Measure 8: Enhance the capacity of the Albanian Government and of Albanian migrant/ New Diaspora organizations in host countries to collaborate on transnational development initiatives.

- As remittances are private, policy measures should take the form of incentives rather than compulsory remittance schemes. Moreover, it has been shown that incentive-based schemes are more successful than compulsory ones.
- Financial products to attract remittances: Present the example of the Tres Por Uno (3 x 1) programme in Mexico.
- Counselling and advice as part of a pre-departure orientation given to migrant workers, as well as counselling and advice for migrant household members.

Present the example of microfinance initiatives in rural areas of Tajikistan (textbox below):

Microfinance initiatives in rural areas of Tajikistan

IOM and the Government of Tajikistan have been collaborating since 2004 on a joint initiative aimed at enhancing the development impact of migration and remittances and assisting the reintegration of returned labour migrants through microcredit initiatives in rural areas.

This initiative aimed at improving financial literacy among migrant workers and their families, establishing community-based associations to facilitate the pooling of migrant remittances for local community development projects (such as infrastructure rehabilitation), and matching migrants' remittances with international funds to develop small-scale businesses.

On the basis of a needs assessment undertaken by IOM, IOM organized a series of 3-5 day training seminars in selected Jamoats. One of the courses created was a 4-day training course, "Start and Improve your Business", for migrant household members. Initially designed by ILO and IOM, this course has been translated into Tajik and used in IOM business orientation courses.

Source: Mughal, A., G., *Migration, Remittances, and Living Standards in Tajikistan*, IOM, 2007

Tres Por Uno (3 x 1) programme in Mexico

The origins of the 3 x 1 Programme stem back to 1993 when money sent back by Mexican migrants in the US was complemented with money from the government of the Mexican state of Zacatecas. This was known as the 1x1 Programme whereby the government of Zacatecas would invest a peso to match each peso that the migrants invested.

This programme evolved to a 2x1 scheme, with the participation of the municipal governments: for each peso the migrants invested, the State government would invest one peso and the Municipal government another peso.

In 2002 the Federal government created the 3x1 Programme. For each peso migrants invested, the Municipality, the State and the Federation would each invest one peso. The objective was to create basic social infrastructure projects and to encourage people in the communities of origin to propose and directly submit a project idea. In 2005 this programme changed its name to 3x1 Programme for Migrants: the objective was the same, only this time the proposal had to come from an organized association or federation of migrants abroad, mainly in the US.

From the beginning, the Programme tried to encourage the involvement of migrants in the territorial development of the communities of origin. The existing literature on the 3 x 1 Programme concentrates mainly on how the projects are implemented in several Mexican states. Lot of streets, drainage and electric networks, main plazas and churches have been built in the rural communities under this programme, practically throughout the country.

One of the best examples of how useful the programme is can be seen in Zacatecas. The municipality of Nochistlán now has 30 migrant associations in the US, mainly in Southern California. For every two persons residing in Mexico, there is one Mexican migrant residing in the US. These migrant associations have made significant contributions to social and economic development in Nochistlán and the entire surrounding region. In 2005 only, 27 infrastructure projects were achieved in the Municipality thanks to the 3x1 Programme.

Source: Cordova, R., *Migrant Money and Migrant Accountability: The 3 x 1 Program for Migrants in Tanhuato, Michoacan, Mexico*, World Bank, 2009 (forthcoming)

Summary

- Remittances are private funds, which can be harnessed for the benefit of development.
- The main policy options include: reducing transfer costs, increasing the flow of remittances through legal channels, and channelling remittances into productive use.
- A sound legal and policy environment promotes capital inflows, including remittances.
- Gender issues should be taken into account when developing policies on remittances, e.g. considering to whom remittances are sent and how they are channelled.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 73-82

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 327-353

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, p. 71

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

Awad, I., *The Global Economic Crisis and Migrant Workers: Impact and Response*, ILO, 2009, pp. 31-36

Available at: http://www.ilo.org/public/english/protection/migrant/download/global_crisis.pdf

Cordova, R., *Migrant Money and Migrant Accountability: The 3 x 1 Program for Migrants in Tanhuato, Michoacan, Mexico*, World Bank, 2009 (forthcoming)

Mughal, A. G., *Migration, Remittances, and Living Standards in Tajikistan*, IOM, 2007

Available at: http://www.untj.org/files/reports/Remittances_Report_IOM_2007.pdf

Naik, A., Koehler, J., Laczko, F., *Migration and development: achieving policy coherence*, IOM 2008

OECD, "International Migration and the Economic Crisis: Understanding the Links and Shaping Policy Responses" in *International Migration Outlook – SOPEMI 2009*, 2009, pp. 59-63

World Bank, *Migration and Development Brief 12*, 23 April 2010

Available at: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/Migration&DevelopmentBrief10.pdf>

IOM (by Mughal, A.) 2006. *Migration, Remittances and Living Standards in Tajikistan. A Report based on Kathlon Remittances and Living Standards Measurement Survey (KLSS 2005)*, IOM, Tajikistan.

World Bank. 2009. Republic of Tajikistan. *Poverty Assessment*, November.

World Bank. 2008. Tajikistan. *Migration and Remittances Factbook*. Available at: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Tajikistan.pdf>

Session 3: Circular migration, return and reintegration

Suggested duration	45 min total
	Introduce the topic
	10 min Putting the concept of circular migration in perspective
	25 min Video activity
	10 min Basic guidelines for developing successful circular migration schemes
	Summary
Methodology	Presentation and Video activity
You will need	Flip chart, pen, Module F slides, video
Participants will need	Copy of slides

Introduce the topic

Slide 20

- For a few years now, circular migration has emerged – or re-emerged – as a conceptual tool that may be used for the development of labour migration policies beneficial to countries of origin, countries of destination and the migrants themselves.
- As the development and implementation of circular migration policies require the involvement of countries both of origin and destination, a cross-analysis is required.
 - The present session corresponds to the first part of the analysis; it presents the point of view of countries of origin.
 - In the context of labour migration and development, the main issues relate to the return of skills and savings, and their productive use in the country of origin. The present session will concentrate on these issues.
 - The point of view of countries of destination will be presented and discussed in *Module H: Designing Labour Admission Policies*.

Putting the concept of circular migration in perspective (10 min)

Slides 21-24

De facto circular migration

Slide 21

- Highlight the fact that circular migration, or repeated migration, is not new.
 - To the contrary, it is an old and widespread phenomenon.
 - The term *de facto* circular migration will be used to refer to repeated migrations that take place outside any legal framework that specifically organize them.
 - Circular migration is a common phenomenon when borders are open.
- The circular character of many traditional migration flows:
 - Historically, migration flows were circular in character, before states became concerned with controlling entry into and stay on their territory.
- Free circulation of people in integrated regional systems:
 - Free movement, when provided for by an international treaty, naturally leads to circular migration (for example, the free movement of workers regime in the European Union).

- However, it must be highlighted that the objectives of such regional systems are wider and go beyond circular migration: circular migration is more a consequence than an objective here.
- Circular migration in the absence of effective entry/stay control of foreigners:
 - Such a situation is frequent in countries of the South.

Contemporary acceptance of the concept of circular migration

Slide 22

- Highlight the absence of a commonly admitted definition of circular migration.
 - The notion of circular migration has not crystallized and is still evolving.
- Present the two principal definitions:
 - One proposed by the European Commission in its Communication on circular migration and mobility partnerships between the European Union and third countries (2007);
 - The other by the Global Forum on Migration and Development (GFMD).
- European Commission definition:
 - « A form of migration that is managed in a way allowing some degree of legal mobility back and forth between two countries ».
- Global Forum on Migration and Development (GFMD) definition:
 - « Circular Migration is the fluid movement of people between countries, including temporary or more permanent movement which, when it occurs voluntarily and is linked to the labour needs of countries of origin and destination, can be beneficial to all involved. »
 - The advantage of the definition: it contains most of the elements of the notion of circular migration as it has developed for a few years.
 - The philosophy of circular migration: migration that is beneficial to all involved, countries of origin, countries of destination, and the migrants themselves.
 - Circular migration: a flexible concept
 - There are not one but several types of circular migration.
 - The definition makes reference to this variety when it says: “including temporary or more permanent movement.”
 - This is essential: circular migration is not reserved to the circulation of migrants who have a strict temporary status in countries of destination.
 - It also concerns migrants who benefit from – or who have reasonable chances to obtain – a more solid status, a permanent status, or the nationality of the country of destination.

The promises of circular migration

Slide 23

- The promises of circular migration can be summarized as follows: to create a win-win-win situation that benefits countries of origin, countries of destination, and the migrants themselves.
 - Countries of destination: promise of flexible labour.
 - Countries of origin: promise of remittances and technology transfer; solution to brain drain issues.
 - Migrant workers: promise of new legal labour migration channels.
- Such should be the aspiration of all circular migration programmes: migration for the benefit of all.

Outline the following factors:

- Reopening labour migration channels among EU member states:
 - Probably the most important factor.
 - This will be further developed in *Module H: Designing labour admission policies*.
- The interest generated by the relations between migration and development:
 - Circular migration forms part of a wider debate: migration and development.
 - Circular migration is perceived as a tool for optimizing the positive effects of migration on development.
- Preventing irregular immigration:
 - In its Communication, the European Commission presents circular migration as “a credible alternative to illegal immigration” through the opening of new channels for legal immigration.

Basic guidelines for developing successful circular migration schemes (35 min)

Slides 25-27

Video activity

Slide 25

Duration: 25 min

- Aim of the activity:

To introduce participants to the development of organized circular migration schemes through discussion of the video: *Migration's triple win scenario*.
- Explain to participants that they will be watching a ten-minute video on a circular migration scheme to be set up with Mauritius. The video shows migrants, government officials and other stakeholders discussing the advantages of circular migration for Mauritius.
- Show the ten-minute video.
- Ask participants to briefly note which factors they believe will contribute to successful circular migration schemes (5 min).
- Initiate discussion on what factors will contribute to successful circular migration schemes.
- Open general discussion using the following elements of guidance, or complement the discussion with the following elements, leaving out any elements already covered in the discussion, expanding instead on areas where outcomes of the discussion indicate a need for further information.

Circular migration: basic guidelines (10 min)

Slides 26-27

- Highlight that the concept of circular migration must be conceived as an extra tool for promoting efficient migration management policies that respect migrants' rights.
 - It should not be seen as a new global model for labour migration management.
 - It should rather be seen as a tool to be used complementarily with existing labour migration management tools and policies in order to improve their content and efficiency.
- Conditions for developing circular migration schemes that benefit the development of countries of origin

and the interests of migrant workers:

- Circular migration must be adapted to the labour market needs of countries of destination.
 - o This is the first essential element, without which no viable circulation migration scheme is conceivable.
- Circular migration must be rights-based.
- Circular migration must set a favourable context for return.
- Circulation migration must enable the acquisition and transfer of skills and knowledge.
- A selection of means and practices in order to meet the aforementioned objectives:
 - Labour market analysis in countries of origin and destination:
 - o Elements regarding labour market analysis by countries of destination will be presented and discussed in *Module G: Assessing the need for foreign labour*.
 - o Regarding countries of origin, it is important to highlight that the analysis may concern both the national labour market and that of selected countries of destination.

Such elements have been developed in *Module E: Developing labour market strategies, including addressing the challenges of highly skilled migration*.
 - As a general remark, it must be emphasized that the best approach to promoting return for development is to offer incentives to returning migrants.
 - o It is therefore important to have a sound business and regulatory framework to ensure that migrants are confident that their investments are worthwhile.
 - Information dissemination and training of migrant workers:
 - o Pre-departure employment programmes, and more specifically pre-departure orientation courses, can be seen as a first step for preparing migrant workers for their reinsertion into the national labour market or the start-up of small businesses upon return.
 - o Such elements have been further developed in *Module D: Protection of migrant workers: policy options for countries of origin*.
 - Flexible work and stay / residence permits:
 - o Permits should authorize movements between both country of stay/residence and country of origin without the risk of migrant workers' losing their immigration status.
 - o Permits should authorize repeated access to the labour markets of countries of destination.
 - o Permits should be granted for a sufficient duration for migrant workers to recover financial costs associated with migration and to acquire skills and save money.
 - Skills upgrading and transfer of competences:
 - o For countries of origin, this implies ensuring that the skills acquired abroad are relevant at home.
 - o This also implies that qualifications attained abroad are recognized by the authorities and employers in the country of origin.
 - o BLAs concluded by Spain with Colombia and Ecuador include provisions regarding vocational training, whether in Spain or in countries of origin, focusing on competencies that are in short supply in Spain and that can also contribute to the development of the countries of origin.
 - Activities of public employment services in countries of origin to promote reinsertion of returnees in the labour market: job matching, vocational guidance, vocational training.

- Access to funding is also essential in case of start-up of independent activities: fund-matching schemes can promote investment in business or other projects (such as infrastructure development).
- Making social benefits and pensions portable:
 - o Migrant workers are often reluctant to return to their country of origin as they may have to sacrifice entitlements gained from their employment abroad.
 - o Making social benefits and pensions portable should therefore encourage circularity.
- The possibility of acquiring a second nationality should be generalized.
 - o This facilitates circularity by suppressing the risk of losing one's stay or residence status when leaving the host country for a certain period of time.
- While some of the aforementioned measures can be unilaterally developed and implemented by countries of origin, most activities require cooperation between countries of origin and countries of destination.
 - Therefore, bilateral labour agreements appear as the principal means for developing circular migration schemes.
 - The central role of countries of destination must also be highlighted: countries of destination must play a pro-active role for the concept of circular migration to become a reality.

Temporary and Circular Labour Migration (TCLM) – Colombia and Spain

In Colombia, several activities have been carried out under the TCLM model to develop the skills of migrants in entrepreneurship, community development, cooperatives and project development.

Technical and vocational training courses were provided by the Fundación Agricultores Solidarios (FAS) in the Valle del Cauca and Nariño regions, benefiting 175 individuals in 2007 and extending into 2008.

Through these initiatives, migrants received training in the use of remittances and the elaboration of business plans.

Also in 2007, IOM and FAS offered a total of 44 introductory courses on development project plans benefiting 663 workers.

The trainees took courses in the identification of income-generating initiatives and priorities, the co-development concept and management of project cycles.

Summary

- As circular migration is an evolving concept, further definition and experience are likely to emerge from international forums such as the GFMD, as well as within the framework of bilateral arrangements.
- Despite the definition's lack of crystallization, the following central elements must be recalled:
 - The objective of circular migration is to benefit countries of destination, countries of origin, and the migrants themselves.
 - Development issues are therefore a central part of the concept of circular migration.
 - Circular migration concerns not only temporary migrant workers but also those who benefit – or who have reasonable chances to obtain – long-term or permanent status or the nationality of the country of destination.
- Recall the essential conditions for developing circular migration schemes beneficial to the development of countries of origin and to the interests of migrant workers:
 - Circular migration must be adapted to the labour market needs of countries of destination.

- Circular migration must set a favourable context for return.
- Circulation migration must enable the acquisition and the transfer of skills and knowledge.
- Cooperation through bilateral labour agreements (BLAs) between countries of destination and countries of origin is crucial in order to develop and implement circular migration policies.
- It must also be highlighted that countries of destination must play a pro-active role in order for the concept of circular migration to become a reality.
 - Further elements regarding the specific position and interests of countries of destination with regards to circular migration will be presented in *Module H: Designing labour admission policies*.

Resources for facilitator preparation

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 327-353

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, p. 72

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

European Commission: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 16 May 2007 on circular migration and mobility partnerships between the European Union and third countries, 16 May 2007 (COM(2007) 248 final)

Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0248:FIN:EN:PDF>

GFMD, Background paper, session 1.4. How can circular migration and sustainable return serve as development tools? 2007

Available at: <http://www.gfmd-fmmd.org/fr/system/files/RT+1+4+Background+paper++en.pdf>

Newland, K., Rannveig Agunias, D., Terrazas, A., “Learning by Doing: Experiences of Circular Migration” in Migration Policy Institute Insight, September 2008

Available at: <http://www.migrationpolicy.org/pubs/Insight-IGC-Sept08.pdf>

Agunias, D.R., and Newland, K., “Circular Migration and Development: Trends, Policy Routes and Ways Forward” in Migration Policy Institute Policy Brief, April 2007

Available at: http://www.migrationpolicy.org/pubs/MigDevPB_041807.pdf

Session 4: The role of diasporas

Suggested duration	35 min total
	Introduce the topic
	20 min Pair activity
	15 min Measures to support the engagement of Diasporas for development
	Summary
Methodology	Presentation and Pair activity
You will need	Flip chart, pen, Module F slides
Participants will need	Copy of slides

Trainer note

The objective of this session is to introduce the concept of a diaspora and to explain how diasporas can be mobilized to support development.

Introduce the topic

Slides 28-29

- Defining diasporas:
 - Diasporas can be defined as individuals originating from one country, living outside the country irrespective of their citizenship or nationality who, individually or collectively, are or could be willing to contribute to the development of their country of origin (GFMD working definition).
 - Diasporas can include those who have become naturalized citizens of their countries of destination as well as children of migrants.
- Highlight the fact that diasporas can play an important role in the development of their home country.
- Diaspora communities and their initiatives are private activities. It is important therefore not to see diasporas as resources for development, but as partners who are included in the conception and implementation of development initiatives.

Measures to support the engagement of Diasporas for development (35 min)

Pair activity

Slide 30

Duration: 20 minutes

- Aim of the activity:
 - To encourage participants to discuss the kind of measures that can be put into place to encourage diaspora members to contribute to their country of origin.
- Explain to participants that the last part of this section will look at ways in which diaspora members can be engaged in development in their countries of origin.
- Ask participants to read through the short excerpt on a member of the Ghanaian diaspora, living in the Netherlands, who has been contributing to his home community.
- Ask participants in pairs to think about what kind of measures can be put into place to encourage diaspora members to contribute to their country of origin. In the case of Mr. Asamoah Kofi, what kind of obstacles may he face? (10 minutes)
- Ask select participants to give feedback.
- Complement the outcomes of the exercise with the information below.
- Remember to stress that the kind of measures needed to encourage diasporas to contribute to development will require the engagement of both the country of origin and the country of destination.

Measures to support the engagement of Diasporas for development (presentation complementary to exercise) (15 min)

Slides 31-35

Highlight the fact that diaspora activities take many different forms

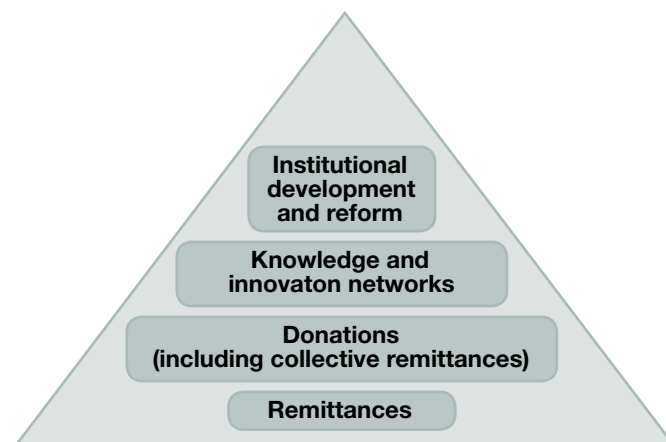
Slide 31

- Diasporas can take many forms with differing interests, needs and experiences.
 - Diasporas as a financial resource:
 - Transfer of remittances;
 - Direct business investment;
 - Investment in capital market;
 - Charitable contributions.
 - Diaspora as a non-financial resource:
 - Transfer of knowledge, skill and technology;
 - Trade and market linkages between origin and destination countries (job creation);
 - Development of civil society institutions;
 - Advocacy in destination countries.
- The particular activities in which diasporas may participate and the added value that they can contribute to development varies according to their size, composition, status, particular skill sets, and propensity to contribute to the development of their origin country.
- Activities in which the diaspora brings a clear added value that is not available in the country of origin should be emphasized.

Explain that the ability of diasporas to engage in development related activities, and the means by which they will be able to do so, is determined by their own capacities.

Slide 32

- The pyramid illustrates the range of inputs diasporas can make into development processes, with the processes nearer the top being more restricted to highly-skilled diaspora members.



- Most members of the diaspora are able to support the subsistence of their families through remittances; however, not all diaspora members will be able to invest their money successfully, while fewer still will be able to participate in linking countries of origin into knowledge and innovation networks and carrying out institutional reform.
- This shows the importance of targeting diaspora engagement strategies appropriately, to reflect the capacities of diasporas. These strategies should also be flexible, however, as diaspora capacities are dynamic.
- A selection of measures to support the engagement of diasporas for development will be presented, including the following:
 - Status, interest and capacity mapping;
 - Diaspora outreach and confidence-building measures;
 - Mobilization of stakeholders.

Status interest and capacity mapping

Slide 33

- The first phase requires a process of identification of both governmental and diaspora capacities that will provide the inputs of the diaspora engagement strategy, as well as the goals that this strategy will serve.
- These goals have to match the capacities and objectives of the diaspora and government in order to be realistic, and they will have to build on and learn the lessons, both positive and negative, of previous initiatives at different levels.
- By mapping a diaspora, governments can better understand its nature, composition and interests, in order to understand in what ways its members would be willing and able to contribute to development activities in their countries of origin.
 - Diaspora mapping should aim to outline the profiles of diaspora members in terms of their skills, locations, occupations and socio-economic status, *inter alia*.
 - Such mapping should also aim to collect information on the existing diaspora's organizations.
 - It should also take into account diaspora members' perceptions of how they can contribute,

what obstacles they can identify to their participation, and what measures could promote their involvement.

- The mapping exercise should also take into account the gender composition of the diaspora and the particular skills, interests and obstacles of the diaspora's female members.
 - Further mapping activities of particular interest may include the development of a database of diaspora members interested in participating in developmental activities. Such an activity, however, should be subject to the identification of sufficient resources to ensure the maintenance and use of the database.
 - Skills profiles identified should be matched with nationally-identified development and labour market needs.
- How to conduct mapping activities:
 - The tools to use for this exercise include quantitative and qualitative survey methods, such as surveys, interviews, and focus groups.
 - Mapping can be performed by consular/diplomatic posts or by agencies that have no direct connection to the diaspora and can act as neutral mediators.
 - Present the example of the Survey of the Zimbabwean diaspora in South Africa and the UK (textbox below):

Survey of the Zimbabwean diaspora in South Africa and the UK

In order to gauge the potential of engaging the Zimbabwean diaspora for country-of-origin development, IOM carried out a survey of Zimbabweans in South Africa and the United Kingdom in 2005 to determine their skills base, transnational links, and interests.

With this data, policymakers are able to understand how and where the diaspora is willing and able to contribute to development processes. This survey is being followed up by another survey, widening the number of countries studied.

Diaspora outreach and confidence building measures

Slide 34

- Diaspora members' concern for their countries of origin does not necessarily translate into a willingness to engage with governments. There may be distrust and suspicion.
- Governments must therefore reach out to diasporas through outreach measures and confidence-building mechanisms. The aim of these exercises is to help diasporas to understand and trust that the government sees them as valued partners in development strategies – not simply as resources to be used.
- Outreach activities require a concerted effort on the part of governments, across a range of departments.
 - The creation of ministries or governmental departments focusing on diaspora or expatriate affairs can provide a structure within which engagement can be centralized and institutionalized.
 - Members of the diaspora can be directly involved in the development of the considered policies (see the Mexico's Confidence-Building Framework, textbox below):

Mexico's Confidence-Building Framework

Few governments have taken the task of gaining the trust of a diaspora as seriously as the government of Mexico. Since the late 1990s, the government has invested in communication with and service to the diaspora. The creation of the Institute for Mexicans Abroad (IME) in the Ministry of Foreign Affairs in 2002 brought coherence to these efforts through a dense network of over 56 consular offices in North America. IME works with organized diaspora groups on the well-known Tres Por Uno programme (see textbox above in session 2).

A key trust-building element of Mexico's diaspora engagement strategy is the Consultative Council of IME, composed primarily of *elected* leaders from diaspora communities. The Council makes recommendations to the government about its policies towards the diaspora, and helps set IME's agenda. The Council freely criticizes and disagrees with government positions when it feels called upon to do so, which— perhaps paradoxically— consolidates the confidence of both parties that disagreement does not mean alienation.

Source: GFMD 2009 Roundtable 1.2 Background Paper Session 1.2: *Engaging diasporas and migrants in development policies and programs –Their role? Their constraints?*

- Activities in countries of destination:
 - Such activities can be undertaken through diplomatic/ consular missions. Labour attachés can use their contacts to undertake outreach activities, such as speaking at meetings of diaspora groups identified through the mapping or by placing advertisements in diaspora-specific media.
 - In addition, interventions with governments of countries of destination in favour of the diaspora show the government's concern for the challenges that diasporas face, and symbolic support for cultural events shows recognition of and support for diasporas' own efforts to maintain their links with their homelands.
- Activities in the country of origin can also promote this outreach:
 - Activities that valorise diasporas can encourage their participation in development activities.
 - For example, several countries such as Ethiopia, India, Syria and Serbia have organized events such as "Diaspora Days" and meetings, conferences and expos to reach out to diasporas and show that their contributions are welcome.
- Allowing dual citizenship is an important confidence-building measure.
- Throughout the whole engagement process, it is essential to be open and transparent with the diaspora in order that the goals of the policy are clear and built around a consensus with the diaspora, and the government should show that it is willing to listen to their ideas and respond to their challenges.

Mobilize stakeholders

Slide 35

- The mobilization of stakeholders represents the outcome of the preceding steps. It involves concrete as well as symbolic steps that involve diasporas in development-related activities, including the implementation of pilot projects and the integration of the diaspora into development strategies.
- It is important to note that activities under this heading should be multi-stakeholder and multi-levelled, including civil-society actors as well as local government actors where relevant.
- Activities in this framework can involve the physical return of diasporas or their engagement from afar.
 - Issues to consider in this context include means of facilitating free movement between countries of

origin and destination for people who may not have citizenship in either the country of origin or the country of usual residence.

- In order to ensure that people are able to move freely and invest, countries of origin can consider issues like a dual citizenship provision, facilitation of diaspora members' acquisition of property and land, facilitation of their ability to invest and hold bank accounts, and reduction of costs and red tape for the transfer of remittances.
- Engagement with the private sector:

In the private sector, diaspora members can use their financial resources, business skills, and contacts in countries of origin and destination to act as investors in job-creating enterprise creation and development.
- Diasporas can also assist government institutions in building capacities through the application of their human capital.
 - o Diaspora engagement can bring specific skills as well as more general management techniques to assist in service delivery and reform processes. It can be an important means of reversing brain drain processes.
 - o Organizations that enable diaspora members to return on a short-term basis to undertake voluntary, short-term returns to work in institutions, can provide a structure for this engagement. This structured engagement can help ensure the sustainability of these activities.
 - o This facilitation can also be undertaken in conjunction with other actors.
 - o Such is the case of the Temporary Return of Qualified Nationals (TRQN) Project (textbox below).

The Temporary Return of Qualified Nationals (TRQN) Project

Through the TRQN project, IOM contributes to the reconstruction and development of Afghanistan, Bosnia and Herzegovina, Ethiopia, Georgia, Sierra Leone and Sudan. This is achieved through the temporary placement of Netherlands-based, highly-educated and skilled professionals in specific positions in the public and private sectors of their countries of origin, where a particular demand for these skills has been identified. Participants not only work for beneficiary organizations but also undertake training activities to ensure that skills are passed on and continue to be used after the end of the participants' missions. Identified needs in Bosnia and Herzegovina are as varied as needs for skilled welders, civil engineers, health professionals, lawyers and agronomists, while organizations requesting this assistance include NGOs, factories, health centres, and municipal authorities.

It is therefore a demand-driven, capacity-building project. In linking the needs with the available experience and expertise, IOM works closely with field missions, local stakeholders, and networks of migrants residing in the Netherlands and other European countries. IOM acts as a facilitator and bridge-builder between diasporas and organizations in both countries of origin and the Netherlands. During the first phase of TRQN, which lasted for two years until June 2008, IOM assisted 160 temporary return assignments, ranging from a few weeks to three months.

Source: IOM Netherlands: http://www.iom-nederland.nl/english/Programmes/Migration_Development/Projects_Migration_Development/Temporary_Return_of_Qualified_Nationals_TRQN_II

- Diasporas can be key partners for development, if properly engaged as partners in a structured way and supported by policies and structures that facilitate their development activities.
- It should be noted that each stage of policies aiming to engage diasporas for development illustrates a process that is ongoing, continuous, and overlapping.
 - The goals and capacities of diasporas and governments change.
 - The nature of the diaspora is dynamic; trust has to be maintained over time and can indeed be supported by activities that mobilize stakeholders.
 - It is therefore important to reflect on and evaluate the process throughout its implementation, and to adapt activities where necessary.

Resources for facilitator preparation

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 327-353

Naik, A., Koehler, J., Laczko, F., *Migration and development: achieving policy coherence*, IOM 2008

Ionesco, D., *Engaging Diasporas as Development Partners for Home and Destination Countries: Challenges for Policymakers*, IOM, 2006

IOM, *Migration and Development for Africa: Mobilizing the African Diasporas for the Development of Africa*, 2007

Available at: http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=35_34&products_id=331

GFMD 2009 Roundtable 1.2 Background Paper Session 1.2: *Engaging diasporas and migrants in development policies and programs – Their role? Their constraints?*

Available at http://www.gfmdathens2009.org/fileadmin/material/docs/workp/working_paper_1_2.pdf

Module F, Session 4: The role of diasporas

ANNEX

Participant worksheet

Barima Asamoah Kofi IV: between the Netherlands and Ghana

Barima Asamoah Kofi IV was born in Ghana and has lived in Amsterdam for 27 years. He is a health information counsellor and has worked for several social and health institutions.

A few years ago, he was crowned Chief of the Abrem Traditional Area in the Central Region of Ghana. “Being chief means investing in the socio-economic development of your region,” he explains.

In November 2006 he went to Ghana for three months to work as a health-information counsellor in the field of basic health care and HIV/AIDS prevention. His employer gave him special leave to do so. While evaluating his missions, Barima told IOM, “I had meetings with groups of people, informing them about infections, prevention hygiene and sexual relations. There is so much need for this information, but it takes professional skills to inform people in the right way. That is why I’m writing a proposal to train voluntary health-information counsellors.”

Questions:

- What kind of measures can be put into place to encourage diaspora members to contribute to their country of origin?
- In the case of Mr. Asamoah Kofi, what kind of obstacles may he face?

Power Point Module F:

Enhancing migrant workers' contribution to the development of countries of origin


SLIDE 1



Module F: Enhancing migrant workers' contribution to the development of countries of origin

[Insert here name of Training Seminar / Workshop, Venue, and Date]
[Insert here name of Trainer]


SLIDE 2



Session I Introduction


SLIDE 3

■ Session 1: Introduction




Module Aim

Module F aims to provide an overview of the nexus between labour migration and development, with attention to remittances, circular migration, and diaspora involvement.



SLIDE 4

■ Session 1: Introduction



By the end of this Module you will:

- Have an enhanced understanding of the importance of labour migration in the context of development policies in countries of origin
- Have an enhanced understanding of the policy measures available for harnessing the benefits of labour migration for development, including remittances, circular migration, and diaspora mobilization

SLIDE 5

Session 1: Introduction

Migration and Development

- Migration has important economic, social and cultural consequences for countries of origin. Some are positive, others are negative
- Recently, the topic of migration and development has moved up on international agendas (e.g HLD and GFMD)
- There has been no agreement to date on the management strategies to be put in place, whether at international or national levels
- Migration for development is no longer seen only as a means of alleviating poverty

SLIDE 6

Session II Remittances

SLIDE 7

Session 2: Remittances

What are Remittances?

- Migrant remittances can be broadly defined as the monetary transfers that a migrant makes to the country of origin
 - Remittances are generally personal, cash transfers from a migrant worker or immigrant to a relative in the country of origin
 - They can also be invested, deposited or donated by the migrant to the country of origin
- The private nature of remittances
 - Two main stakeholders: the remittance sender and the recipient. In the middle, a host of actors (intermediaries in the transfer process, governments)
 - The private nature of remittances has to be taken into account when developing and implementing policies

SLIDE 8

Session 2: Remittances

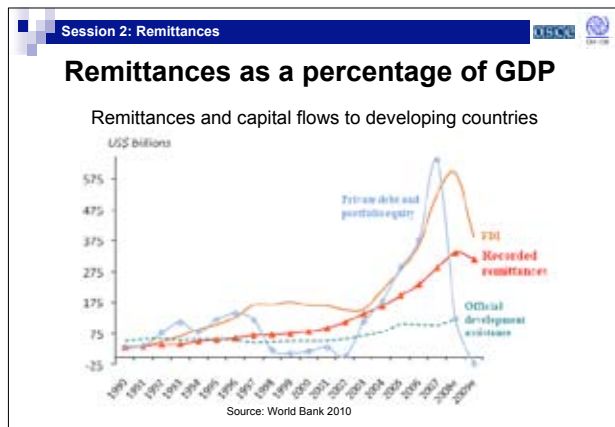
Remittances' scale and trends

Remittances to developing countries reached \$316 billion in 2009

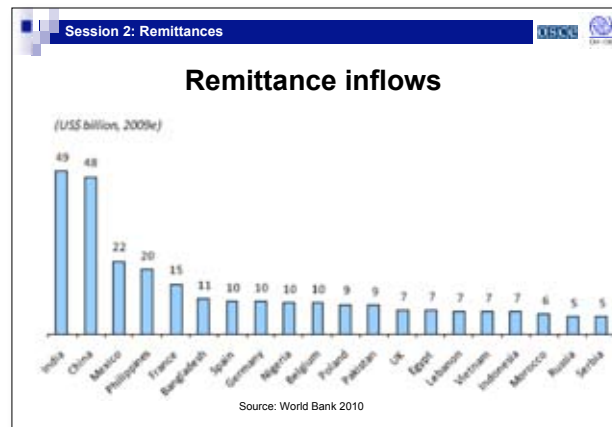
Global Remittance Inflows (USD million)

Year	World (USD million)	All developing countries (USD million)	Middle-income (USD million)	Low-income countries (USD million)
2000	100,000	70,000	50,000	20,000
2001	120,000	80,000	60,000	20,000
2002	150,000	100,000	70,000	20,000
2003	180,000	120,000	80,000	20,000
2004	210,000	140,000	90,000	20,000
2005	240,000	160,000	100,000	20,000
2006	270,000	180,000	110,000	20,000
2007	300,000	200,000	120,000	20,000
2008	330,000	220,000	130,000	20,000
2009	360,000	316,000	140,000	20,000
2010	390,000	300,000	150,000	20,000
2011	450,000	310,000	250,000	50,000

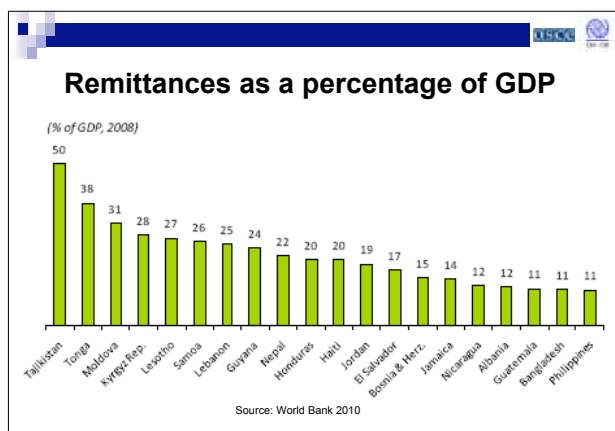
SLIDE 9



SLIDE 10



SLIDE 11



SLIDE 12

Session 2: Remittances

Remittances and income distribution in the household

- Remittances are an important source of income for many low- and middle-income households in developing countries
- Remittances often contribute to improving household living conditions and reducing vulnerability of family members, especially women and children
- Remittances constitute a steady source of poverty reduction

SLIDE 13

Session 2: Remittances

The use of remittances

- Three main uses can be distinguished:
 - Consumption
 - Investment
 - Savings
- Gender differences
- Case study: How Tajikistani households use their remittances from Russian Federation (2009)

SLIDE 14

Session 2: Remittances

Potential negative effects of remittances

- Do remittances have an equalizing effect on income distribution or do they cause income inequality to rise?
- Economic dependence on remittances may reduce recipients families' motivation to develop their own income-generating activities

SLIDE 15

Session 2: Remittances

Potential negative effects of remittances (cont.)

Inflation risk

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graph LR; A[Remittances inflows] --> B[Limited capacity of the local economy to absorb these resources & High demand for goods and factors of production]; B --> C[Inflation]
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SLIDE 16

Session 2: Remittances

Pair exercise

Outline three main policy areas that you think a country of origin could instigate to harness the development benefits of remittances

SLIDE 17

Session 2: Remittances 

Mobilizing and channelling remittances for development

- Understanding remittances
 - Size and nature of remittance channels and flows at macro, community and individual levels
 - Behaviour of remittance senders
 - Use of remittances by recipients
 - Gender dynamics
- Collecting data
 - Remittances are typically measured using "balance of payment" data compiled by relevant statistical authorities
 - Household survey data can be used to collect more detailed information about migrant remittances

SLIDE 18

Session 2: Remittances 

Mobilizing and channelling remittances for development (cont.)

Improving transfer services

- Fees for remittance services charged by global money transfer operators are high, regressive, and non-transparent
- The following actions promote efficient, safer services:
 - Simplification of transfer procedures and extending financial network
 - Promotion of regularization of the informal transfer sector
 - Increased access to banking service points, both in the source and recipient countries, to reduce costs and increase efficiency
 - Encouragement of a larger number of banking and other financial institutions in the transfer of remittances
 - Access to services for irregular migrants
 - Ensuring channels are equally accessible to both men and women;
 - Cooperation between governments and banks in countries of origin and countries of destination

SLIDE 19


Session 2: Remittances 

Mobilizing and channeling remittances for development (cont.)

Incentives to stimulate the development potential of remittances

- The most important step governments can take to stimulate remittance flows and realize their development potential:
 - to create a sound legal and policy environment that promotes capital inflows, including remittances
- In the interim, policy measures should take the form of incentives rather than compulsory remittances schemes
 - Financial products to attract remittances
 - Information dissemination



SLIDE 20



Session III

Circular Migration



SLIDE 21

Session 3: Circular Migration  

De facto circular migration

- Circular migration, or repeated migration is not new; on the contrary, it is an old and widespread phenomenon
- The *de facto* circular character of many traditional migration flows
- Free circulation of people in integrated regional systems
- Circular migration in the absence of effective entry/stay control of foreigners



SLIDE 22

Session 3: Circular Migration  

Contemporary acceptance of the concept of circular migration

- No crystallisation of the notion of circular migration
- European Commission definition:
 - « A form of migration that is managed in a way allowing some degree of legal mobility back and forth between two countries »
- World Forum on Migration and Development definition:
 - « Circular Migration is the fluid movement of people between countries, including temporary or more permanent movement which, when it occurs voluntarily and is linked to the labour needs of countries of origin and destination, can be beneficial to all involved »



SLIDE 23

Session 3: Circular Migration  

Promises of circular migration

- Country of destination: promise of flexible labour
- Country of origin: promise of remittances and technology transfer; solution to brain-drain issues
- Migrant workers: promise of new legal immigration channels

SLIDE 24

Session 3: Circular Migration  

Context of emergence (resurgence) of the circular migration concept


- Reopening labour migration channels among EU member states
- Interest generated by the link between migration and development
- Preventing irregular immigration; a primary objective

SLIDE 25

Session 3: Circular Migration

Video activity

What factors contribute to successful circular migration schemes that contribute to development?



The poster features the title 'Migration's Triple Win Scenario' and its French equivalent 'Le triple gagnant de la migration'. It includes a collage of images showing diverse people, a globe, and a person working at a computer, set against a red background.

SLIDE 26

Session 3: Circular Migration

Circular migration: basic guidelines

- An extra tool for promoting efficient migration management policies that respect migrants' rights
- Conditions for a circular migration that benefit all parties concerned:
 - Circular migration must be adapted to the labour market needs of countries of destination
 - Circular migration must be rights-based
 - Circular migration must set a favourable context for return
 - Circular migration must enable the acquisition and the transfer of skills and knowledge

SLIDE 27

Session 3: Circular Migration

Circular migration: basic guidelines (cont.)

- Means / practices to meet the aforementioned objectives:
 - Labour market analysis in countries of origin and destination
 - Offer of incentives to returning migrants
 - Information dissemination and training of migrant workers
 - Flexible work and stay/residence permits
 - Skills upgrading and transfer of competences
 - Portability of social benefits and pensions
 - Permission of dual nationality
- Most activities require cooperation between countries of origin and countries of destination
 - Bilateral labour agreements are the principal means for developing circular migration schemes

SLIDE 28

Session IV

Role of Diasporas

SLIDE 29

Session 4: The role of diasporas


Defining diasporas

- Diaspora composed of individuals originating from one country, living outside the country irrespective of their citizenship or nationality who, individually or collectively, are or could be willing to contribute to the development of their country of origin (working definition of GFMD)
- Diasporas should be considered as development partners for both origin and destination countries

SLIDE 30

Session 3: Circular Migration

Pair exercise



Barima Asamoah Kofi IV: between the Netherlands and Ghana

What kind of measures can be put into place to encourage diaspora members to contribute to their country of origin?

SLIDE 31

Session 4: The role of diasporas

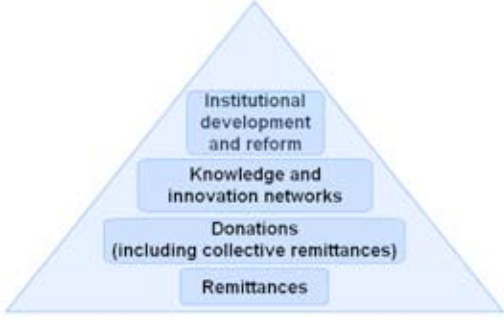
Forms of Diaspora Engagement in Development

- Diasporas can take many forms, with differing interests, needs and experiences
- Diasporas as a financial resource
 - Transfer of remittances
 - Direct business investment
 - Investment in capital market
 - Charitable contributions
- Diaspora as a non-financial resource:
 - Transfer of knowledge, skill and technology
 - Trade and market linkages between origin and destination countries (job creation)
 - Development of civil society institutions
 - Advocacy in destination countries

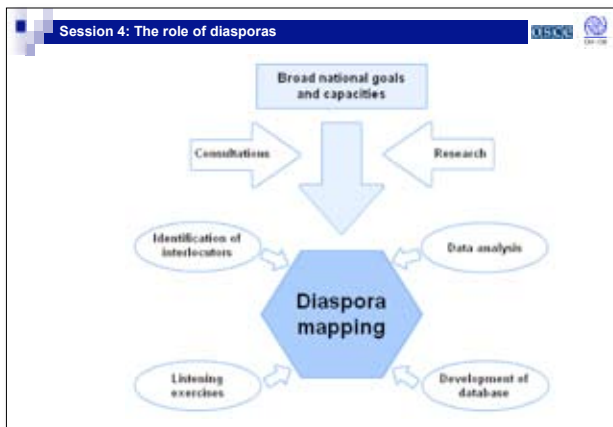
SLIDE 32

Session 4: The role of diasporas

Range of inputs into development processes



SLIDE 33



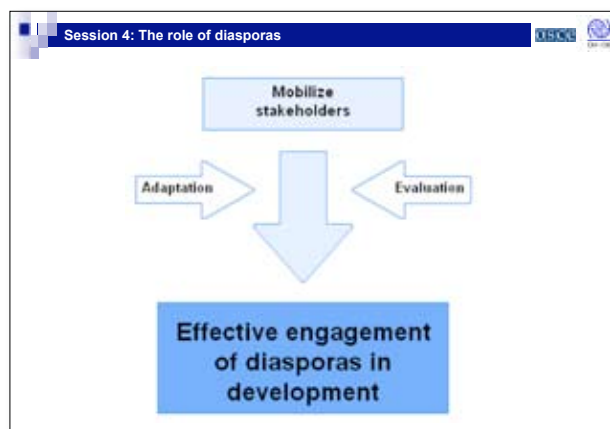
SLIDE 34



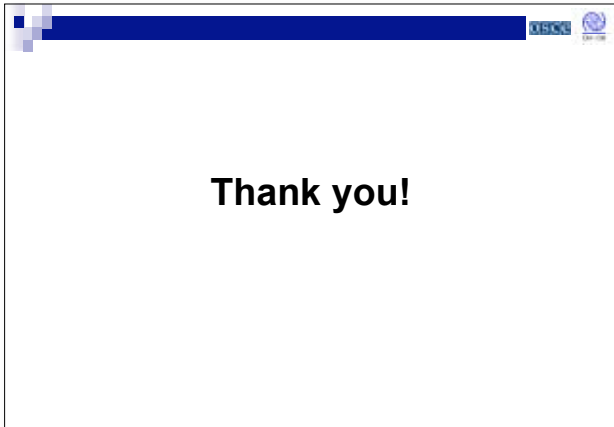
SLIDE 35



SLIDE 36



SLIDE 37



TRAINING MODULES
ON LABOUR MIGRATION
MANAGEMENT

Trainer's Manual

Course 3

Developing labour migration policies in countries of destination

Course 3

Introduction to Course 3: Developing labour migration policies in countries of destination

Suggested duration: 5 min

- Main issues underlying policy responses in many countries of destination:
 - Detection and assessment of current labour shortages and projection of future labour shortages.
 - Analysis of the national labour market in order to understand whether labour migration can provide a solution, at least in part, for adverse demographic trends.
 - Measures to avoid exploitation and discrimination of migrant workers in the workplace and society in general.
 - Measures to seek social cohesion and the integration of migrant workers and their family members.
 - Measures to prevent or reduce irregular labour migration.
- Course 3 is composed of four modules:
 - Module G: Assessing the need for foreign labour.
 - Module H: Designing labour admission policies.
 - Module I: Protection of migrant workers and integration: policy options for countries of destination.
 - Module J: Measures to prevent and reduce irregular labour migration.
- Aims of Course 3:
 - To provide an overview of the tools to detect and project labour shortages; the policy options to respond to labour shortages, including labour migration; and the tools to assess needs for foreign labour.
 - To provide an overview of the main policies regarding admission and residence of migrant workers, including employment based immigration systems and the various forms of temporary labour immigration systems.
 - To provide an overview of the relation between admission and residence regimes and the protection of migrant workers.
 - To provide an overview of the protection needs of migrant workers, and measures related to the social cohesion and integration of migrant workers in destination countries.
 - To examine the irregular migration phenomenon, with specific emphasis on the labour market issues, and provide an overview of possible measures and mechanisms that may be adopted to prevent or reduce irregular migration.

Course 3

Developing labour migration policies in countries of destination

Module G

Module G

Assessing the need for foreign labour

Introduction to Course 3: Developing labour migration policies in countries of destination

Suggested duration: 5 min

- Main issues underlying policy responses in many countries of destination:
 - Detection and assessment of current labour shortages and projection of future labour shortages.
 - Analysis of the national labour market in order to understand whether labour migration can provide a solution, at least in part, for adverse demographic trends.
 - Measures to avoid exploitation and discrimination of migrant workers in the workplace and society in general.
 - Measures to seek social cohesion and the integration of migrant workers and their family members.
 - Measures to prevent or reduce irregular labour migration.
- Course 3 is composed of four modules:
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 - Module H: Designing labour admission policies.
 - Module I: Protection of migrant workers and integration: policy options for countries of destination.
 - Module J: Measures to prevent and reduce irregular labour migration.
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 - To provide an overview of the tools to detect and project labour shortages; the policy options to respond to labour shortages, including labour migration; and the tools to assess needs for foreign labour.
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 - To examine the irregular migration phenomenon, with specific emphasis on the labour market issues, and provide an overview of possible measures and mechanisms that may be adopted to prevent or reduce irregular migration.

Module G: Assessing the need for foreign labour

Suggested total duration: 2 h	
Duration	Session
5 min	Session 1: Introducing Module G
1 h 10 min	Session 2: Group activity: Discussing quotas in Pontormo
15 min	Session 3: Assessing labour shortages
5 min	Session 4: Policy options for responding to labour shortages
25 min	Session 5: Tools for assessing and designating levels of need

Aim of Module G

Module G aims to provide an overview of:

- Tools to detect and project labour shortages.
- Policy options to respond to labour shortages, including labour migration.
- Tools to assess needs for foreign labour.

Learning outcomes for Module G

By the end of this module, participants will:

- Understand the processes and tools for assessing labour shortages and demand for foreign labour, including how such tools may impact men and women differently.
- Understand the political and technical complexity of assessing and designating levels of need for foreign labour.

Session 1: Introducing Module G

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module G slides
Participants will need	Copy of slides

Present aims, learning outcomes and methodology for Module G

Slides 1-4

- Module G aims to provide an overview of:
 - o Tools to detect and project labour shortages.
 - o Policy options to respond to labour shortages, including labour migration.
 - o Tools to assess needs for foreign labour.
- By the end of this module, participants will:
 - o Understand the processes and tools used to assess labour shortages and demand for foreign labour, including how such tools may impact men and women differently.
 - o Understand the political and technical complexity of assessing and designating levels of need for foreign labour.
- Module G is principally built around an exercise; the exercise is followed by short complementary presentations.

Present background information for Module G above using the following points

Slide 5

- Regardless of the labour migration system adopted by a particular country, one of the main objectives of a labour migration system is to address labour shortages.
- The assessment of labour shortages, and the development of tools for doing so, therefore makes up an important part of the formulation and management of foreign employment practices in countries of destination.
- However, a labour shortage does not necessarily mean a need for foreign labour.
- Module G will indicate through the next four sessions the tools, methods and processes at the disposal of policy makers for the assessment of labour shortages.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 103-105

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 285-296

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Session 2: Group activity: Discussing quotas in Pontormo

Duration: 60 min

Introducing the activity

- Outline the activity:
 - We will be discussing quota systems in the fictional country of Pontormo.
 - You will all be acting as officials from different ministries or from other stakeholders.
- You will be divided into 5 groups corresponding to:
 - Ministry of Labour;
 - Ministry of Interior;
 - Trade Unions;
 - the Employers' Association;
 - Associations defending the rights of migrants.
- Inform participants that each group should designate a spokesperson to represent the group during the “meeting” that is part of the exercise, and that the whole meeting will be chaired by the spokesperson of the Ministry of Labour.
- Distribute worksheets to the participants. Each group receives a specific worksheet that gives only indications of its position during the exercise.
- Inform participants that they have 15 minutes to prepare for the meeting.

Full group ‘meeting’

- The “meeting” should last 30 minutes: five minutes for a presentation by the spokesperson of the Ministry of Labour, and 20 minutes for contributions from the other groups.
- The facilitator is in the ‘chair’ at the meeting and should ensure that the meeting stays on track and that all participants are able to contribute their position. Try to move the meeting towards some agreement.
- During the meeting, record the outcomes of the discussion on a flip chart.
- At the end of the activity, invite all participants to give brief comments on the meeting’s outcomes (5 min). Record these comments as well on the flip chart.
- Use the trainer notes included in the trainer’s worksheet to lead the discussion between participants on the outcomes of the exercise.

Present key points that will be developed in the following sessions

- Adequate information about the labour market is needed in order to determine the need for foreign labour. Such information was absent in the Pontormo case.
- Mismatch in the labour market – highlighted in the case study – is one of many types of labour shortages that may occur.
- Labour migration is one policy option among others for responding to labour shortages.
- Other factors, aside from labour-market considerations, influence policy-making – including public opinion, demographics, and human-resource planning.
- Quotas are one way among others to determine the need for foreign labour.

Suggested duration	1 h 10 min total
Methodology	Question and Group activities
You will need	Flip chart, pen, Module G slides, Module G Session 2 Participant worksheets, Module G Session 2 worksheet with Trainer notes
Participants will need	Copy of slides, Module G Session 2 Participant worksheets

Trainer note

This group activity aims to discuss the pertinence of a quota system's adoption in a considered case, the ways of establishing a quota system, and other means of responding to labour shortages.

Depending on the level of knowledge of the participants you may need to explain the concepts of quotas and labour market tests before starting the group activity (see Question activity below).

Case Study: Discussing the quota system in Pontormo**Background**

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors; however, no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of labour organizing stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Participants' respective positions

Ministry of Interior. The Ministry accepts the principle of a quota system. The Ministry foresees the adoption of low quotas that would apply to all foreigners and insists on the importance of the control of irregular migration.

Trainer note

Although such global quotas are used by several countries, they may pose a problem with respect to the right to family life (and in Europe [EU, CoE], the recognized right to family reunification).

The priorities of ministries of interior are not necessarily compatible with the objectives of a labour migration policy. For example, the Ministry of Interior, concerned by the possible overstay of migrant workers, may favor low quotas and greater control of irregular migration.

Nevertheless, migration management usually falls within the responsibility of ministries of interior.

In the example given in the case study, a specific institution dedicated to migration management exists within the government.

While such a collaborative approach is necessary, the exercise may show the difficulties and constraints of cooperation between ministries.

Trade Unions. Trade Unions consider that the proposal is not well-founded. To their knowledge, there is no reliable data regarding the existence of labour shortages in the country. On that basis, Trade Unions are opposed to a quota system and ask the government to adopt a solution that they think would better protect national workers: a labour market test system.

Trainer note

Labour market tests may not benefit national workers, at least in the medium/long term.

The labour market test procedure takes time and is seen as inappropriate in today's increasing competition for skilled workers.

More generally, the application of a labour market test system is likely to leave labour shortages unfilled.

This can hamper productivity and growth, and thus it may have negative consequences for national workers.

Employers' Association. The Employers' Association is opposed to quotas. The Association favours keeping the present system, i.e. self-regulation of the market. The Employers' Association would also like to be able to pay migrant workers less than national workers and to deal with labour shortages by increasing the number of permitted working hours for all workers.

Trainer note

Self-regulation of the market is unlikely to be approved as it negates the very principle of a foreign labour policy.

Paying migrant workers less than domestic workers would violate the internationally recognized right to work and to employment conditions equal to nationals'.

Moreover, the decision to allow self-regulation could lead to other adverse consequences, like the rise of unemployment among national workers who would not accept compromised wages.

The suggestion to increase the number of permitted working hours for all workers, though not realistic, is interesting because it demonstrates one "non-migration" way to respond to labour shortages.

Associations defending the rights of migrants. The associations are not opposed to the quota system as long as the quotas apply only to migrant workers and not to all foreigners (including family members) wishing to enter and stay in Pontormo. They also request that the quota system does not make a distinction by nationality, and that it carefully defines classifications such as 'dependent' or 'head of household,' as these may affect men and women migrants' access to work.

Trainer note

Regarding global quotas, see comments on the Ministry of Interior's position.

Regarding distinction by nationality, NGOs commonly argue that such a measure would constitute discrimination. However, such a distinction of treatment, which is likely to be adopted through the conclusion of bilateral labour agreements is not prohibited by international law (see *Module B International legal framework for protection of migrant workers*).

Aim of this activity:

This activity relates to quota systems in the fictional country of Pontormo. You will all be acting as officials from 5 different ministries or from other stakeholders: the Ministry of Labour; the Ministry of Interior; Trade Unions; the Employers' Association; and associations defending the rights of migrants.

Each group should designate a spokesperson to represent the group during the "meeting" that we will hold as part of this exercise. This meeting will be chaired by the spokesperson of the Ministry of Labour.

Small group activity:

- Each group has 15 minutes before the meeting to prepare their views on the questions outlined below. After the first five minutes, discussions and pre-negotiations between the groups are allowed.
- The Ministry of Labour group will need to agree a brief outline of the quota system, clarifying:
 - Will the quotas apply to all foreigners entering the country, or only to foreign workers?
 - How often will the quotas be adopted? (Periodicity of the quotas' adoption)
 - Will the quotas be broken down, and if so, according to which criteria? (distinction between regions, economic sectors, specific occupations, individual employers, nationalities, or through the conclusion of bilateral labour agreements)
- The Ministry of Labour spokesperson will then present this system to the full group (max 5 min), and chair the ensuing discussion.
- Other groups should prepare their views on those questions.

Full group activity:

Participants will then give their views on the Ministry of Labour spokesperson's proposal (20 min)

Case Study: Discussing the quota system in Pontormo**Background**

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors, however no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the

construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of Labour and Ministry of Interior organize a stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Group 1 position

Ministry of Labour. The Ministry has been the one to suggest the introduction of a quota system. The representative of the Ministry will chair and introduce the meeting with a presentation of the quota system proposal.

Duration: 10 min

- Ask the group what tools they are familiar with for assessing and designating levels of needs for foreign workers, what do they currently use in their own country?
- Record answers on a flipchart.
- If necessary, define briefly the concepts of quotas and labour market tests.

Aim of this activity:

This activity relates to quota systems in the fictional country of Pontormo. You will all be acting as officials from 5 different ministries or from other stakeholders: the Ministry of Labour; the Ministry of Interior; Trade Unions; the Employers' Association; and associations defending the rights of migrants.

Each group should designate a spokesperson to represent the group during the "meeting" that we will hold as part of this exercise. This meeting will be chaired by the spokesperson of the Ministry of Labour.

Small group activity:

- Each group has 15 minutes before the meeting to prepare their views on the questions outlined below. After the first five minutes, discussions and pre-negotiations between the groups are allowed.
- The Ministry of Labour group will need to agree a brief outline of the quota system, clarifying:
 - Will the quotas apply to all foreigners entering the country, or only to foreign workers?
 - How often will the quotas be adopted? (Periodicity of the quotas' adoption)
 - Will the quotas be broken down, and if so, according to which criteria? (distinction between regions, economic sectors, specific occupations, individual employers, nationalities, or through the conclusion of bilateral labour agreements)
- The Ministry of Labour spokesperson will then present this system to the full group (max 5 min), and chair the ensuing discussion.
- Other groups should prepare their views on those questions.

Full group activity:

Participants will then give their views on the Ministry of Labour spokesperson's proposal (20 min)

Case Study: Discussing the quota system in Pontormo**Background**

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors, however no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil

sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of Labour and Ministry of Interior organize a stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Group 2 position

Ministry of Interior. The Ministry accepts the principle of a quota system. The Ministry foresees the adoption of low quotas that would apply to all foreigners and insists on the importance of the control of irregular migration.

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 1

Trainer worksheet

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 2

Group 1 worksheet for small group activity (Ministry of Labour)

Aim of this activity:

This activity relates to quota systems in the fictional country of Pontormo. You will all be acting as officials from 5 different ministries or from other stakeholders: the Ministry of Labour; the Ministry of Interior; Trade Unions; the Employers' Association; and associations defending the rights of migrants.

Each group should designate a spokesperson to represent the group during the "meeting" that we will hold as part of this exercise. This meeting will be chaired by the spokesperson of the Ministry of Labour.

Small group activity:

- Each group has 15 minutes before the meeting to prepare their views on the questions outlined below. After the first five minutes, discussions and pre-negotiations between the groups are allowed.
- The Ministry of Labour group will need to agree a brief outline of the quota system, clarifying:
 - Will the quotas apply to all foreigners entering the country, or only to foreign workers?
 - How often will the quotas be adopted? (Periodicity of the quotas' adoption)
 - Will the quotas be broken down, and if so, according to which criteria? (distinction between regions, economic sectors, specific occupations, individual employers, nationalities, or through the conclusion of bilateral labour agreements)
- The Ministry of Labour spokesperson will then present this system to the full group (max 5 min), and chair the ensuing discussion.
- Other groups should prepare their views on those questions.

Full group activity:

Participants will then give their views on the Ministry of Labour spokesperson's proposal (20 min)

Case Study: Discussing the quota system in Pontormo

Background

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors, however no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil

sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of Labour and Ministry of Interior organize a stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Group 3 position

Trade Unions. Trade Unions consider that the proposal is not well-founded. To the knowledge of the Trade Unions there is no reliable data regarding the existence of labour shortages in the country. On that basis, Trade Unions are opposed to the adoption of a quota system and ask for the adoption of what they consider as better protection for national workers: a labour market test system.

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 3

Group 2 worksheet for small group activity (Ministry of Interior)

Aim of this activity:

This activity relates to quota systems in the fictional country of Pontormo. You will all be acting as officials from 5 different ministries or from other stakeholders: the Ministry of Labour; the Ministry of Interior; Trade Unions; the Employers' Association; and associations defending the rights of migrants.

Each group should designate a spokesperson to represent the group during the "meeting" that we will hold as part of this exercise. This meeting will be chaired by the spokesperson of the Ministry of Labour.

Small group activity:

- Each group has 15 minutes before the meeting to prepare their views on the questions outlined below. After the first five minutes, discussions and pre-negotiations between the groups are allowed.
- The Ministry of Labour group will need to agree a brief outline of the quota system, clarifying:
 - Will the quotas apply to all foreigners entering the country, or only to foreign workers?
 - How often will the quotas be adopted? (Periodicity of the quotas' adoption)
 - Will the quotas be broken down, and if so, according to which criteria? (distinction between regions, economic sectors, specific occupations, individual employers, nationalities, or through the conclusion of bilateral labour agreements)
- The Ministry of Labour spokesperson will then present this system to the full group (max 5 min), and chair the ensuing discussion.
- Other groups should prepare their views on those questions.

Full group activity:

Participants will then give their views on the Ministry of Labour spokesperson's proposal (20 min)

Case Study: Discussing the quota system in Pontormo

Background

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors, however no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil

sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of Labour and Ministry of Interior organize a stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Group 4 position

Employers' Association. The Employers' Association is opposed to quotas. The Association favours keeping the present system, i.e. self-regulation of the market. The Employers' Association would also like to be able to pay migrant workers less than national workers and to deal with labour shortages by increasing the number of permitted working hours for all workers.

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 4

Group 3 worksheet for small group activity (Trade unions)

Aim of this activity:

This activity relates to quota systems in the fictional country of Pontormo. You will all be acting as officials from 5 different ministries or from other stakeholders: the Ministry of Labour; the Ministry of Interior; Trade Unions; the Employers' Association; and associations defending the rights of migrants.

Each group should designate a spokesperson to represent the group during the “meeting” that we will hold as part of this exercise. This meeting will be chaired by the spokesperson of the Ministry of Labour.

Small group activity:

- Each group has 15 minutes before the meeting to prepare their views on the questions outlined below. After the first five minutes, discussions and pre-negotiations between the groups are allowed.
- The Ministry of Labour group will need to agree a brief outline of the quota system, clarifying:
 - Will the quotas apply to all foreigners entering the country, or only to foreign workers?
 - How often will the quotas be adopted? (Periodicity of the quotas' adoption)
 - Will the quotas be broken down, and if so, according to which criteria? (distinction between regions, economic sectors, specific occupations, individual employers, nationalities, or through the conclusion of bilateral labour agreements)
- The Ministry of Labour spokesperson will then present this system to the full group (max 5 min), and chair the ensuing discussion.
- Other groups should prepare their views on those questions.

Full group activity:

Participants will then give their views on the Ministry of Labour spokesperson's proposal (20 min)

Case Study: Discussing the quota system in Pontormo

Background

Pontormo is a country of approximately ten million people, and approximately 6,000 foreign workers who are legally registered by the Ministry of Labour. Reports from the Ministry of Interior suggest that there are many more foreign nationals working irregularly. Owing to an economic boom mainly fueled by oil revenues, Pontormo's GDP growth rates have been between 6 and 7% over the last five years. Pontormo has a young population, and despite high growth rates unemployment rates have remained at more than 7.5%. Information provided by the Ministry of Labour suggests that there are shortages in certain sectors, however no systematic information is provided by employers.

Pontormo has traditionally been a country which is open to foreign workers. Foreign workers are usually seen as providing an opportunity for the country's economic development, and hence the regulations governing the entry, stay and employment of migrant workers are minimal. The Ministry of Interior has

traditionally been responsible for immigration issues. A high percentage of foreign workers work in the oil sector and are relatively skilled, and the boom has also created a demand for lower-skilled workers in the construction sector. Foreigners are authorized to enter, stay and work in Pontormo as long as they have concluded an employment contract with a national employer.

Move to establish a quota system

The continued rise in unemployment during recent years has led a significant part of Pontormo's political class and the general public to think that too many foreigners reside in Pontormo and that therefore the entry and stay of foreigners on the national territory should be more strictly controlled.

The government, following a proposal by the Inter-ministerial Committee on immigration (notably composed of representatives of the Ministry of Labour and Ministry of Interior but located under the Prime Minister's office) decides on the establishment of a quota system. According to the Inter-ministerial Committee the purpose of the quota will be to limit the number of foreigners employed on the territory of Pontormo in order to promote jobs for nationals.

Ministry of Labour and Ministry of Interior organize a stakeholder meeting

A consultative meeting is organized by the Ministry of Labour and Ministry of Interior in order for them to share opinions with the main stakeholders and to discuss the potential modalities of the envisaged quota regime. The meeting is composed of representatives of the Ministry of Labour and Ministry of Interior; representatives of trade unions; representatives of the employers' association; and representatives of the main associations defending the rights of migrants.

Group 5 position

Associations defending the rights of migrants. The associations are not opposed to the quota system as long as the quotas apply only to migrant workers and not to all foreigners (including family members) wishing to enter and stay in Pontormo. They also request that the quota system not distinguish by nationality, and that it carefully define classifications such as 'dependent' or 'head of household,' as these may affect men and women migrants' access to work.

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 5

Group 4 worksheet for small group activity (Employers' Association)

Module G, Session 2: Group activity. Discussing quotas in Pontormo

ANNEX 6

Group 5 worksheet for small group activity (Associations defending the rights of migrants)

Session 3: Assessing labour shortages

Suggested duration	15 min total
	5 min Different types of labour shortages
	5 min Causes of labour shortages
	5 min Methods for estimating and projecting shortages Summary
Methodology	Presentation
You will need	Flip chart, pen, Module G slides
Participants will need	Copy of slides

Trainer note

The objectives of this Session are to indicate the different types of labour shortages and to provide examples of methods for assessing them.

Information presented in this session should be delivered in relation to outcomes of Session 2's exercise. To this end, leave out any elements already covered in the Session 2's summary; instead, expand on areas where the Session's outcomes indicated a need for further information.

Different types of labour shortages (5 min)

Slides 9-10

- Highlight the distinction between aggregate labour shortages and shortages due to mismatches in the labour market.
 - Aggregate labour shortage: this type of shortage describes when there is (near) full employment, and a general difficulty in finding workers to fill vacancies.
 - Mismatch in the labour market: this type of shortage can coexist with substantial levels of unemployment.
- Present the main types of mismatches (qualitative, regional and preference mismatches) using the following points:
 - Qualitative mismatch (or skills shortage) occurs when the qualifications of workers and the qualification profiles of vacancies are not matched.
 - Regional mismatch occurs when unemployed persons seeking work and firms offering suitable jobs are located in different regions, and the jobs and/or workers are immobile.
 - Preference mismatch describes a gap between the types of jobs that unemployed people are willing to take and the existing vacancies that are available.

Causes of labour shortages (5 min)

Slides 11-12

- In order to define policy responses, the analysis of a number of factors influencing supply and demand in the labour market is required.
- Present the two main dynamics influencing demand for labour:
 - Industrial effect, i.e. growth or decline in a particular sector or industry;

- Employment effect, i.e. a shift in the occupational composition of employment in a particular industry.
- Examples of industrial effect and employment effect:
 - o Industrial effect:
 - Economic growth. While this is an important factor, the relationship between economic growth and demand for labour is particularly complex. For instance, economic growth may not necessarily produce more jobs if it is accompanied by a rise in productivity.
 - Structural change. A typical effect of structural changes in the economy is the rise of unemployment, i.e. skills surplus, in one shrinking sector (e.g. the agricultural sector) while another, expanding sector (e.g. the service sector) faces skills shortages.
 - o Employment effect:
 - International division of labour. The location of production and services exercises a significant influence on demand for particular skills and occupations.
 - Technological change and innovation. These likewise can influence demand for particular skills and occupations in particular areas.
- Present Factors influencing the labour supply:
 - Population/demographic trends.
 - Net immigration, demographic composition of flows, and rate of participation in the labour force.
 - Education and training choices of individuals.
 - Occupational preferences of national workers.
 - Regional mobility of national workers.

Methods for estimating and projecting shortages (5 min)

Slide 13

- Outline the different existing methods:
 - Employer surveys:
 - o Common practice for estimating labour shortages. Includes surveys and employers' reports about requirements in certain sectors.
 - o In the UK, for example, the Employers Skills Survey of approximately 4,000 employers inquires into the nature, extent, causes, and implications of skills deficits.
 - o Employer surveys have limits: Overambitious expectations of employers limit their predictive potential.
 - Research in labour sectors:

Governments can also conduct research into the situation in particular labour sectors – this may be a more precise evaluation of the current situation relating to the labour market, but it may be less efficient at assessing contraction or demand.
 - Prediction of labour market shortages is more complex than estimating current shortages because of national, regional, and global economic changes that can affect the labour market in unforeseen ways.
 - Highlight the importance of considering shortages in work which may be invisible are also considered (e.g. care work; hospitality/catering; domestic work).
 - o Ignoring these areas may lead to policies which favour skilled and/or male migrants over potential

unskilled migrants, many of whom are likely to be female.

- It is crucial to acknowledge these employment categories of the labour market to prevent them from being filled by undocumented workers.
- More generally, all sources should include sex-disaggregated data in order to allow for assessments in gender-segmented labour markets.

Summary

- Distinction between two types of labor shortages:
 - Aggregate labour shortages.
 - Mismatch in the labour market – which can coexist with significant levels of unemployment.
- Causes of labour shortages:
 - Structure of the demand for labour (e.g. economic growth).
 - Structure of the labour supply (e.g. demographical factors).
- Methods for estimating and projecting shortages:
 - Employer surveys.
 - Research in labour sectors.
- Complexity of anticipating labour shortages.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 103-105

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 285-296

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 27-28

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

Abella, M., "Policies and Best Practices for Management of Temporary Migration", paper presented at the International Symposium on International Migration and Development, 2006

Available at: http://www.un.org/esa/population/migration/turin/Symposium_Turin_files/P03_SYMP_Abella.pdf

Boswell C., Stiller S., Straubhaar T., "Forecasting Labour and Skills Shortages: How can Projections Better Inform Labour Migration Policies", paper prepared for the European Commission, Hamburg Institute of International Economics, Migration Research Group, 2004

Available at: http://www.hwwi.org/fileadmin/hwwi/Publikationen/Dossier/Demografie/Boswell_Stiller_Straubhaar_Forecasting_Labour_and_Skills_Shortages.pdf

Session 4: Policy options for responding to labour shortages

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module G slides
Participants will need	Copy of slides

Trainer note

The objective of this Session is to indicate to participants the different policy options for responding to labour shortages, including both labour-migration and non-labour-migration means.

As with Session 3, information in this session should be delivered in relation to the outcomes of Session 2's exercise. Leave out any elements already covered in Session 2's summary; instead, expand on areas where outcomes of Session 2 indicated a need for further information.

Policy options for responding to shortages (5 min)

Slides 14-17

Highlight the following points

Slide 15

- The existence of a labour shortage does not necessarily reflect a need for foreign labour.
- There are several ways to respond to labour shortages.
- Labour migration is one of the tools for filling labour shortages.

Possible responses that do not rely on migration

Slide 16

- Increasing the capital- or technology-intensity of the production process.
- "Offshoring" or relocating to countries where labour costs are lower.
- Increasing working hours.
- Switching to production of less labour-intensive commodities.

Migration as a tool for filling labour shortages

Slide 17

- Present the following arguments in support of migration as a tool for filling labour shortages:
 - o The growing importance of the knowledge-based economy makes it more important for workers to have the necessary skills, a condition which may not be possible to meet through domestic supply – at least not in the short to medium term.
 - o Where shortages result from an inflexible labour force – a reluctance of domestic workers to do certain jobs, change occupations, or to relocate – it may not be socially or politically feasible to solve this type of mismatch through domestic reforms.
 - o Demographic trends imply that there could be across-the-board labour shortages in the future, necessitating an import of foreign labour to counter growing dependency rates. However, immigration can only partially offset the negative effects of demographic changes in many

industrial countries.

- Highlight the fact that labour migration also carries its own problems and risks:
 - o Large sections of the public opinion may be reluctant to let employers recruit foreign labour, especially when labour shortages coexist with significant unemployment levels in the country.
 - o The management of labour migration is highly political field.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 103-105

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 285-296

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 27-28

Available at: http://www.osce.org/publications/eea/2009/05/37689_1289_en.pdf

The labour market test in France and derogations thereto

The labour market test procedure

The exercise of a salaried activity by a foreigner depends upon a complex and constraining procedure that starts with the existence of a work contract between the potential migrant and an employer.

The employer must then present a dossier to the National Employment Agency, which publishes a similar job offer in order to ensure that there is no suitable candidate within the local labour market (labour market test).

The work authorization is issued by the Prefect according to the following criteria (Labour code, Art. R 341-4):

- Employment situation (both present and expected) in the considered profession and geographical area;
- Respect for labour regulations by the employer;
- Equal treatment with national workers regarding conditions of employment and remuneration;
- Housing measures taken by the employer in favour of the foreign worker;
- The main criterion is undoubtedly the employment situation – assessed through the labour market test.

Derogations to the labor market test

The Immigration and Integration Law 2006 provides an exception to the labour market test system with regard to professional activities or geographical areas experiencing difficulties in recruitment.

These professions have been compiled in a list published by the Minister of Economy in its Regulation of 18 January 2008.

The Regulation designates for the 22 French metropolitan regions of France a number of professions for which the labour market test is not required.

This shortage list only includes higher-level technical and a few university-level occupations.

Excerpts of the list of 29 professions for the capital Region – Ile-de-France:

- Distance-selling operator;
- Commercial attaché in semi-processed goods and commodities;
- Auditor;
- Computer specialist;

- Merchandiser;
- Building equipment mechanic;
- Planner designer in electricity and electronic;
- Planner designer in mechanical construction and metal work;
- Building technician in mechanical construction and metal work;
- Draughtsman in public buildings and works sector;
- Maintenance worker in electronic;
- Geometer;
- Lift fitter and maintenance worker;
- Technician in wood and furniture industries.

Moreover, the administrative authorities are asked to examine with benevolence work authorization requests related to highly skilled workers.

Source: Adam, C. and Devillard, A., Laws for Legal Immigration in the 27 EU Members States, IOM, 2009

Abella, M., "Policies and Best Practices for Management of Temporary Migration", paper presented at the International Symposium on International Migration and Development, 2006

Available at: http://www.un.org/esa/population/migration/turin/Symposium_Turin_files/P03_SYMP_Abella.pdf

Boswell C., Stiller S., Straubhaar T., "Forecasting Labour and Skills Shortages: How can Projections Better Inform Labour Migration Policies", paper prepared for the European Commission, Hamburg Institute of International Economics, Migration Research Group, 2004

Available at: http://www.hwwi.org/fileadmin/hwwi/Publikationen/Dossier/Demografie/Boswell_Stiller_Straubhaar_Forecasting_Labour_and_Skills_Shortages.pdf

Session 5: Tools for assessing and designating need for foreign workers

Suggested duration	25 min total
	25 min Labour market test, occupational shortage lists and quotas Summary
Methodology	Presentation
You will need	Flip chart, pen, Module G slides
Participants will need	Copy of slides

Trainer note

The objective of this Session is to present the different tools for assessing and designating the need for foreign workers, and to discuss their respective advantages and disadvantages.

Information presented in this session should to be delivered in relation to outcomes of Session 2's exercise. Leave out any elements already covered in Session 2 Summary; instead, expand on areas where outcomes of Session 2 indicated a need for further information.

Labour market test, occupational shortage lists and quotas (25 min) Slides 18-22

- Once labour market shortages have been identified, different policy tools are used to assess and designate the levels of need for foreign workers, taking into account the possible impact of their admission on the domestic labour force.
- Introduce the main tools:
 - Labour Market Test
 - Quotas

Labour market test

Slides 18-20

- Present definition and main characteristics of labour market tests:
 - The test serves to ascertain whether there are local workers available, either by requiring employers to advertise the position for a set period of time, or to demonstrate they have taken active steps towards recruiting local workers, or both.
 - Labour market tests can coexist with quota systems.
 - Most European destination countries, as well as Canada and the United States, apply a labour market test to first-time applicants for a work permit, or to migrant workers already in the country who wish to change jobs.
- Highlight the fact that the labour market test system is a minimal policy in terms of assessment and designation of levels of need. It does not use the methods for detecting and projecting labour shortages previously mentioned.
- Outline disadvantages of the labour market test system:
 - The labour market test procedure takes time.

- The labour market test requirement been criticized for being inappropriate amidst today's increasing competition for skilled workers: by the time the procedures are completed, as this argument goes, local enterprises may already have missed out on opportunities.
- Occupational shortage lists are an additional tool that complements labour market tests and serves as a possible solution to the slowness of the labour market test system.
 - In order to face the constraint of the labour market test system's slowness, a number of states (for instance France, Norway, Spain and the U.K.) have introduced exceptions to the labour market test for certain professions with shortages, such as health-care workers, engineers, teachers and ICT specialists. For these fields, they either do not apply the test, or they relax the rules.
 - Present the French and/or Spanish examples (textboxes below)

The Spanish occupational shortage lists and the impact of the global economic crisis

The mechanism of occupational shortage lists has been in use in Spain since 2005.

- Every trimester, Spanish public employment authorities use unemployment and job vacancy data to draw up a list of potential shortage occupations at the regional level ("Catalogue of Hard-to-fill Positions").
- The social partners then review and approve the shortage occupations.
- Employers are then authorized to fill shortage positions without going through a labour market test.

In 2008, more than 500 different occupations were specified in the Catalogue of Hard-to-Find Occupations.

- Unlike in France, many are low-skilled, such as kitchen help, bricklaying and basic farm work.

However, as a result of the economic crisis, the Spanish shortage lists have been dramatically reduced since the end of 2008.

- In October 2008, the Catalogue of Hard-to-Find Occupations contained 32% fewer occupations than the previous list.
- Only specific qualified occupations remained (e.g. sports trainers, doctors, neurosurgeons, dentists, nurses, and specialized mechanics).

Source: OECD, "Management of Low-Skilled Labour Migration" in *International Migration Outlook – SOPEMI 2008*; OECD, *International Migration and the Economic Crisis: Understanding the Links and Shaping Policy Responses* in *International Migration Outlook – SOPEMI 2009*, 2009

Quotas

Slides 21-22

- Present definition and main characteristics of the quota system:
 - Quotas are fixed numerical limits for the admission of migrant workers into a country.
 - Quotas can be set either as an actual fixed number of migrant workers to be admitted or as a percentage of the total labour force.
 - Quotas work mainly on an annual basis and are established in accordance with an estimate of labour demand for the oncoming year (labour market tests, on the other hand, are conducted for each migrant worker individually).

- Quotas are commonly established at the central level of government, in coordination with different stakeholders, such as employers, trade unions, regional authorities and civil society.
- Quotas normally distinguish between different regions, industries and employment sectors and can also set a maximum ratio of foreign to local workers in individual enterprises.
- Outline advantages and disadvantages of the quota system:
 - Quotas provide a clear reference framework on the admission of foreign labour for politicians, administrators, employers, civil society and the general public.
 - Disadvantages of quotas include their lack of flexibility and inability to respond to fluctuating labour needs.
 - Moreover, quotas tend to allow only for 'sub-optimal' admission of foreign workers (in other words, the number of foreign workers allowed will tend to be less than the number that would have maximized productivity).
 - It should be possible, however, to devise more flexible quotas that can be revised during the year in response to changing employer demand.
- Present the Slovenian and/or Spanish examples (textboxes below).

The quota system in Slovenia

The number of work permits granted per year to foreigners who wish to work in Slovenia is limited by a quota defined by decree, adopted annually on the basis of the National Assembly's Resolution on Migration Policies.

The quota includes sub-quotas of employed workers, directed workers, workers on vocational and other training, seasonal workers and workers performing individual services.

The quota varies from year to year. However, in general it cannot exceed five per cent of the working-age population of Slovenia, as defined by the Statistics Office.

The work permit quota for 2007 limited the number of foreigners issued work permits to 18,500 (total population: 2,019,406).

In addition to establishing quotas, the Government may also limit or prohibit employment of third-country nationals in the fields of economy, companies and vocations, or limit the inflow of workers in general or of those coming from certain regions, if it is in the public interest (for example, in case of, high levels of unemployment).

Source: Adam, C. and Devillard, A., *Laws for Legal Immigration in the 27 EU Members States*, IOM, 2009

Power Point Module G: Assessing the need for foreign labour

SLIDE 1

SLIDE 2

SLIDE 3

SLIDE 4

SLIDE 5

Session 1: Introduction

Background information for this Module:

- Understand the processes and tools for assessing labour shortages and demand for foreign labour
- Assessing labour shortages is part of the formulation and management of foreign employment practices
- A labour shortage does not necessarily mean a need for foreign labour
- Assessments need to take adequate account of gender considerations

SLIDE 6

Session II Group activity

SLIDE 7

Session 5: Designating need for foreign workers

Question activity




What tools are you familiar with for assessing and designating levels of needs for foreign workers?

What tools do you currently use in your own country?

SLIDE 8

Session 2: Group activity

Group activity



Discussing quotas in Pontormo

Discuss the pertinence of the adoption of a quota system

Discuss other means to respond to labour shortages

Discuss the various ways to establish quotas

SLIDE 9

Session 3: Assessing labour shortages

Session III

Assessing labour shortages

SLIDE 10

Session 3: Assessing labour shortages

Aggregate labour shortages and mismatches in the labour market

- Aggregate labour shortage: near-full employment and a general difficulty in finding workers to fill vacancies
- Mismatch in the labour market
 - Can coexist with substantial levels of unemployment
 - Qualitative mismatch: mismatch between the qualifications of workers and the profiles of vacancies
 - Regional mismatch: when workers and firms are located in different regions, and the jobs and/or workers are immobile
 - Preference mismatch: mismatch between the types of jobs that workers are willing to take on and existing vacancies

SLIDE 11

Session 3: Assessing labour shortages

Factors influencing demand for labour

- Industrial effect: growth or decline in a particular sector or industry
- Employment effect: shift in the occupational composition of employment in a particular industry

SLIDE 12

Session 3: Assessing labour shortages

Factors influencing labour supply

- Population/demographic trends
- Net immigration and demographic composition
- Education and training choices of individuals
- Occupational preferences of national workers
- Regional mobility of national workers

SLIDE 13

Session 3: Assessing labour shortages

Methods for estimating and projecting shortages

- Employer surveys:
 - Surveys/reports about requirements in certain sectors
 - Limits: Overambitious expectations of employers
- Research in labour sectors
- More complex to predict labour shortages
- Important to consider shortages in work that may be invisible (e.g. care work, domestic work)
- All sources should include sex-disaggregated data

SLIDE 14

Session IV Policy options for responding to labour shortages

SLIDE 15

Session 4: Options for responding to labour shortages

Policy options for responding to shortages

- The existence of labour shortages does not necessarily reflect a need for foreign labour
- There are several ways to respond to labour shortages
- Labour migration is one of the tools for filling labour shortages

SLIDE 16

Session 4: Options for responding to labour shortages

Responses that do not rely on migration

- Increasing the capital- or technology- intensity of the production process
- “Offshoring” or relocating to countries where labour costs are lower
- Increasing working hours
- Switching to production of less labour-intensive commodities

SLIDE 17

Session 4: Options for responding to labour shortages

Migration as a tool for filling labour shortages

- In a knowledge-based economy, the necessary skills may not be available through the domestic supply
- Where shortages result from an inflexible labour force, it may not be socially or politically feasible to solve this type of mismatch through domestic reforms
- Usually, immigration can only partially offset the negative effects of demographic changes
- Large sections of the public opinion may be reluctant about the recruiting of foreign labour

SLIDE 18

Session V Tools for assessing and designating need for foreign workers

SLIDE 19

Session 5: Designating need for foreign workers

Labour market tests

- The test serves to ascertain whether there are local workers available either by:
 - Requiring employers to advertise the position for a set period of time, or
 - Requiring employers to demonstrate they have taken active steps towards recruiting local workers, or
 - Both
- Labour market tests can coexist with quota systems.
- Most European countries, as well as Canada and the U.S., apply a labour market test to first-time applicants for a work permit, or in case of change of job



SLIDE 20

Session 5: Designating need for foreign workers

Limits of labour market tests

- Labour market test procedure takes time
- It has been criticized for being inappropriate in today's increasing competition for skilled workers
- Occupational shortage list: a tool complementary to labour market tests and a possible solution to the slowness of the labour market test system



SLIDE 21

Session 5: Designating need for foreign workers  

Quota systems

- Quotas are fixed numerical limits for the admission of migrant workers into a country
- Quotas are mainly established on an annual basis
- Quotas are commonly established at central government level, in coordination with different relevant stakeholders
- Quotas normally distinguish between different regions, industries and employment sectors


SLIDE 22

Session 5: Designating need for foreign workers  

Advantages and limits of quota systems

- Quotas provide a clear reference framework for politicians, administrators, employers, civil society and the general public.
- Disadvantages of quotas:
 - Lack of flexibility
 - Quotas tend to allow only for 'sub-optimal' admission of foreign workers
- It is possible to devise more flexible quotas that can be revised during the year

SLIDE 23

Thank you!

Course 3

Developing labour migration policies in countries of destination

Module H

Designing labour admission policies

Module H: Designing labour admission policies

Suggested total duration: 1 h 30 min	
Duration	Session
5 min	Session 1: Introducing Module H
20 min	Session 2: Employment-based immigration systems
65 min	Session 3: Temporary labour migration systems (including possibilities of settlement)

Aim of Module H

Module H aims to provide an overview of the main policies regarding admission and residence of migrant workers, including employment-based immigration systems and the various forms of temporary labour immigration systems.

Learning outcomes for Module H

By the end of this module, participants will be able to identify best practices with regards to admission, stay, and residence of migrant workers.

Session 1: Introducing Module H

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module H slides
Participants will need	Copy of slides

Introduce Module H (5 min)

Slides 1-5

Trainer note

Module H is primarily about admission and stay policies developed and implemented by EU Member States. However, attention is also given to employment-based immigration systems that serve as inspiration to a number of EU Member States.

Explain aims and learning outcomes for Module H

Slides 3-4

- To present an overview of existing admission/residence policies;
- In other words, to describe the conditions under which foreign workers are authorized to enter, work and reside in countries of destination;
- To enable participants, by the end of this module, to identify best practices with regards to admission, stay and residence of migrant workers.

Outline the two principal types of policies, employment-based immigration and temporary labour migration

Slide 5

- Under an employment-based immigration system, migrant workers are granted permanent residence status upon arrival in the country.
Such policies are implemented mainly by established countries of immigration (such as Australia, the United States, etc.).
- Under temporary labour migration systems, admission of migrant workers is by definition for a determined, temporary period.
 - o Nevertheless, different types of temporary labour migration systems exist. Temporary admission may or may not allow for the possibility of settlement in the country.
 - o We will mainly present examples from EU Member States' policies.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 101-134

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 296-306

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 28-41

Böhning, W.R., *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996

Adam, C. and Devillard, A., *Laws for Legal Immigration in the 27 EU Members States*, IOM, 2009

Available at: http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=512

Session 2: Employment-based immigration systems

Suggested duration	20 min total
	Introduce the topic
	15 min Established countries of immigration
	5 min European countries
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module H slides
Participants will need	Copy of slides

Introduce the topic

Trainer note

This session first presents an overview of admission schemes for permanent immigration for two traditional countries of immigration, Canada and the United States of America. It then gives an overview of such policies' influence on a number of European countries.

- Outline the following points:
 - Employment-based immigration is mainly organized by traditional countries of immigration, such as Canada and the United States;
 - Such policies are also a source of inspiration for a number of European countries.

Established countries of immigration (15 min)

Slides 6-9

Generalities

Slide 7

- Outline the following points:
 - Established countries of immigration include Australia, Canada, New Zealand, and the United States.
 - The purpose of such employment-based immigration policies is to promote economic growth and to ensure a stable population and labour force.
 - Employment-based immigration policies are aimed mainly at skilled migrants.
 - Data:
 - In Canada (total population estimated over 33.8 million) in 2008, 149,072 workers were admitted for permanent residence;
 - In Australia (total population estimated over 21.9 million), for the period 2007-2008, 108,540 workers were admitted;
 - In New Zealand (total population estimated over 4.3 million), for the period 2008-2009, 31,740 workers were admitted;
 - In the United States (total population estimated over 307.8 million) in 2007, 166,511 workers were admitted.

- It should be noted that the traditional countries of immigration also provide for temporary labour migration schemes.

Two main systems for selecting permanent immigrants

Slide 8

- The points system: a system based on supply, where admission of migrants is conditioned on the obtainment of a certain number of points according to a number of criteria. A points system can be based, for example, on assessments of education, of salary, of age, and/or of links to the host country.
- The demand system, where the procedure for admission relies on the initiative of the employer.
- The points, or supply-based, system is applied by Australia, Canada, and New Zealand, while the demand-based system is applied in the United States.
- Present the Canadian and the US systems (textboxes below).

Admission for permanent residence in Canada

Immigration in Canada is primarily regulated by The Immigration and Refugee Protection Act (IRPA) of 2001. Agreements between the federal government and the provincial governments also play an important role and have given provinces (particularly Quebec) an important role in the selection of migrants.

There are three main classes of entry for permanent status:

- “Economic” (skilled workers, business immigrants, provincial nominees, live-in caregivers, and their immediate family);
- “Family” (family members of the sponsor); and
- “Protected persons” (including refugees).

We will focus on the following schemes: skilled workers and family.

Skilled workers

Skilled workers are people who may become permanent residents because they have the ability to establish themselves economically in Canada.

The admission of skilled workers as permanent residents relies on a points system.

Canada’s points system was established under the 1976 Immigration Act. During the 1990s, it was thought that a high percentage of immigrants were too dependent on welfare, despite passing the points test.

The system was revised and IRPA introduced significant changes in the selection procedure for skilled workers, placing more emphasis on education, previous work experience and language ability. These modifications included:

- Allocating more points for applicants with a second degree or a professional qualification;
- Increasing the maximum number of points allocated for proficiency in English and French;
- Awarding points for applicants with one or two years of work experience in order to attract young migrants with high levels of education but limited practical experience;
- Adjusting the age scale to award maximum points to applicants between the ages of 21 and 49;
- Reducing the pass mark to 75 points in response to concerns that too high a pass mark would exclude many skilled immigrants. This pass mark has since been reduced to 67 points.

Under the present regime, candidates to permanent admission must meet the following criteria:

- At least one year's full-time work experience within the last ten years in a category specified on the Canadian National Occupational Classification;
- Sufficient funds to support themselves and their family after arrival in Canada, unless they have already secured employment;
- 67 or more in the six selection criteria:
 - o Education;
 - o Proficiency in the two official languages (English and French);
 - o Work experience; age (a maximum 10 points is awarded to applicants aged between 21 and 49 at the time of the application);
 - o Secured employment in Canada; and adaptability, assessed according to whether the applicant has previously studied or worked in Canada or has family members living there.

Family

The rules relating to family reunion for migrants admitted as permanent residents are generous on the whole. Migrants with permanent residence in Canada can be joined by family members, provided that the migrants agree to sponsor these family members for a period of three to ten years, depending on the relationship.

Persons eligible for family reunion are:

- Spouses, common-law or conjugal partners 16 years or older;
- Dependent children up to the age of 22;
- Parents and grandparents;
- Brothers, sisters, nieces, nephews, or grandchildren who are orphans, under the age of 18, and unmarried or not in a common-law relationship.

Admission for permanent residence in the United States

The current “employment-based” entry categories for both permanent (“immigrant”) and temporary (“non-immigrant”) admission are defined in the Immigration Act of 1990 (IMMACT 1990).

Persons admitted as permanent residents are granted a “green card,” a document giving the right to an indefinite period of stay.

A minimum of 140,000 employment-based immigrant visas are available each year to principal applicants and their spouses and children.

The preference system

The preference system gives an advantage to certain categories of (high-skilled) and imposes overall limits on admissions:

- Preference 1: Priority Workers (40,000 visas)

Persons with extraordinary ability, outstanding professors and researchers, and certain multinational executives and managers.

- Preference 2: Members of the Professions with Advanced Degrees and Aliens of Exceptional Ability in the Sciences, Arts, or Business (40,000 visas)

- Preference 3: Skilled Workers, Professionals, and Other Workers (40,000 visas)

Skilled workers with at least two years of vocational training or experience, professionals with the equivalent of a college degree, or less-skilled workers (limited to 10,000).

- Preference 4: Special Immigrants (10,000 visas, no more than 7.1 per cent of the worldwide level)

Ministers of religion, persons working for religious organizations, foreign medical graduates, foreign employees of the U.S. government abroad, and foreign retired employees of international organizations.

- Preference 5: Employment Creation (Investor) Visas (10,000 visas, no more than 7.1 per cent of the worldwide level)

Investors who invest at least US\$1 Million (or \$500,000 in rural areas or areas of high unemployment) to create at least ten new jobs.

Procedure

All prospective immigrants planning to obtain immigrant visas through employment in the US must obtain an approved immigrant visa petition from the US Citizenship and Immigration Services (USCIS).

In most cases (with the exception of the Preference 1 scheme), labour certification must be granted by the US Department of Labor (DOL) before the employer can submit the petition, and the labour certification is subject to DOL's establishment that there are no US workers who are able, willing, qualified and available for the employment offered to the foreigner (labour market test) and that the wages and working conditions of similarly employed US workers will not be adversely affected.

Due to the duration of processing, which can take several years, employers tend to use temporary visa categories to bridge the gap between the decision to hire the worker and the government's grant of permanent resident status.

- Highlight the fact that it is difficult to identify which systems constitute a good practice because of the differences in labour market needs and demographic circumstances in the considered countries.
- However, the establishment of a points system based on objective criteria is gaining acceptance as the fairest and most transparent way of admitting permanent migrant workers.
- The points system can nevertheless show how policies that are formulated in a gender-neutral way, when combined with larger societal factors, can lead to gender-selective outcomes (the same reasoning is applicable to other admission schemes):
 - The issue of age:
 - In most points systems, extra points are awarded if the applicant is within a certain age range.
 - This age limit can discriminate against women with young children who are unable to take up full-time employment abroad at this stage in their lives, and are not given extra points when they are later able to take up full employment abroad.
 - Careful consideration should be given to age preferences, taking into account child-bearing time in order to avoid unnecessary discrimination against female migrant applicants when comparing age to career achievements.
 - Women mainly admitted under family migration schemes:
 - Women are usually less likely to enter as principal migrants and more likely to enter as dependents.
 - Given that men are more likely to acquire the skills that gain human capital points, more men than women are processed as the primary migrant.
 - For instance, in 2003 in Canada, only 28.5 % of primary applicants were women.
 - In Australia and New Zealand, similar patterns can be observed.
 - Such an issue goes far beyond admission regimes to reach inequalities between men and women regarding education. Nevertheless, it is important that under admission and stay regimes, spouses are granted the right to work and are provided as soon as possible with an independent right to stay, regardless of the legal status of the sponsor.
- Policies to face concerns raised by the points system:
Present the Canadian example (textbox below):

Gender-Based Analysis in Canada as a Vehicle for Adjustment to the Points System

Background

The Canadian Federal government adopted in 1995 its Federal Plan for Gender Equality, which required federal departments and agencies (including Citizenship and Immigration Canada – CIC) to conduct gender-based analyses of any future policy legislation.

As a result, in 2002 the Gender-based Unit of CIC produced a “gender-based analysis chart” that provides a summary of key policy or legislative issues that have a potentially negative impact on women.

In addition, the Canadian Minister of Immigration is required to submit each year an Annual Report to Parliament containing a gender-based analysis of the impact of the *Immigration and Refugee Act*.

Changes in the points system

Results from the CIC 2002 gender-based analysis lead to a number of changes to the points system.

For example, under the current system there is no mention of occupation (thus eliminating the emphasis on specific occupations that could exclude female-dominated sectors), while a greater number of points has been allocated to education, language, and years of work experience.

One interesting aspect is that a maximum of 21 points, less than those for education and language criteria, are allocated for years of work experience, so as to partially account for the difficulties that women face in accumulating continuous years of work. CIC hopes that such changes will improve the chances of female applicants by making the selection system for highly-skilled workers more equitable.

Another example of continuous policy analysis in this area is the announcement by CIC, in its Annual Report to Parliament on Immigration of 2007, that a literature review on gender-based settlement needs and barriers for new immigrants would assist with new “initiatives to refine newcomer services so that they can reduce barriers, better serve needs, and improve settlement outcomes for both men and women.”

Subsequently, in 2008 the Annual Report showed that the Department had considered the gender impact during the development and selection criteria of one of its new programs (Canadian Experience Class, 2008), based on concerns raised during consultations with stakeholders, who suggested that the work experience requirement could have a different impact on men and women.

As a result, CIC opted to “remove the obligation for the work experience requirement to be met with full-time and continuous work.”

In general, emphasis on occupational demand has a tendency to benefit mostly males, since most occupations sought after by countries of destination in developed countries (until the beginning of the 2000) were in male-dominated fields like finance, ICT, business management and medical professions.

We have yet to see how the current economic crisis and ongoing developments, such as demographic changes, may influence future demand for female-dominated sectors, thus tilting the balance towards women.

Source: OSCE, Gender and Labour Migration Trainer's Manual, 2010.

- Outline the following points:
 - Employment-based immigration to Europe also occurs, but in a less explicit manner.
 - A number of countries use the policies of established countries of immigration as sources of inspiration.
 - Such programmes generally target high-skilled workers.
 - Points systems are increasingly adopted or considered in European countries.
 - Specific programmes aim to facilitate settlement in the country in order to attract or retain high-skilled workers.
 - Nevertheless, European practices remain quite distinct from their models:
 - Existing schemes are generally not based on granting permanent residence status at arrival (with the exception of Germany).
 - The mechanisms used are rarely fully implemented, and the scale of such programmes cannot be compared to that of established countries of immigration.
- Explain that classical modes of settlement in European countries will be presented later.
- Present the German and/or the British example (textboxes below).

Permanent labour migration opportunities in Germany

Under the German Immigration Act, a permanent right of residence can be given, immediately after entry into Germany, to specialists and executives with special professional experience who draw a salary amounting to at least double the contribution assessment limit in the legal health insurance. (This income limit was 85,500 EUR for 2006 and 2007.)

Only about 1,100 people benefited from this in 2005-2006, and the vast majority of these people had already been in Germany with a temporary permit on other grounds.

The UK points-based immigration system (PBS)

Introduction

In 2008, the UK launched a new points-based immigration system (PBS), specifically designed to select persons with skills that are considered beneficial to the national economy.

The system is based on the successful experience of other countries (Canada and Australia), and it aims to be a fair, transparent and objective system that enables potential migrants to assess the likelihood of their application's success.

The PBS covers immigration for work and studies. It is composed of five "tiers":

Tier 1: highly-skilled workers;

Tier 2: skilled workers with a job offer from a UK-based employer;

Tier 3: low-skilled workers filling specific temporary labour shortages (currently suspended);

Tier 4: students;

Tier 5: temporary workers and youth mobility scheme.

Tier 1: highly-skilled workers

Tier 1 has four categories:

- General: for highly-skilled migrants looking for a job or wishing to become self-employed in the UK;
- Investor: for people who are making a large investment in the United Kingdom;
- Entrepreneur: for people who are investing in the United Kingdom by setting up or taking over the running of a business;
- Post-study: for people who are studying now or have studied in the past in the United Kingdom.

Foreigners who qualify under the PBS Tier 1 are granted unrestricted access to the UK labour market without a job offer or work contract.

Access is granted for two years for post-study applicants and for three years for the other categories and can lead to settlement.

Under Tier 1, 95 points must be accumulated in order to qualify.

- 10 points from a compulsory language test;
- 10 points for necessary funds to ensure maintenance in the UK;
- 75 points from attributes including age, previous salary, qualifications and UK experience.

Summary

- Employment-based immigration is mainly organized by traditional countries of immigration, although it constitutes a source of inspiration for a number of European countries.
- There are two main systems for selecting permanent immigrants:
 - The points system, based on supply;
 - The demand-based system, relying on the initiative of employers.
- Although it is difficult to identify which systems constitute best practices, the points system has the advantage of fairness and transparency.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 101-134

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 51-76; pp. 296-306

OSCE, *Gender and Labour Migration Trainer's Manual*, 2010

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 28-41

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996

Adam, C. and Devillard, A., *Laws for Legal Immigration in the 27 EU Members States*, IOM, 2009

Available at: http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=512

Session 3: Temporary labour migration systems (including possibilities of settlement)

Suggested duration	65 min total
	5 min Introduce the topic
	10 min The common law of immigration within the EU Member States
	10 min Discussion
	25 min Specific schemes (with 10 min Discussion)
	10 min Circular migration
	5 min Summary
Methodology	Presentation and Discussion
You will need	Flip chart, pen, Module H slides
Participants will need	Copy of slides

Introduce the topic (5 min)

Slides 11-12

- Session aim:

Present an overview of different temporary labour migration systems: the variety of the existing schemes within EU Member States;
- Regarding the example of EU Member States, outline the following points:
 - Although practices vary between different EU Member States, there are significant common trends.
 - Contrary to established countries of immigration, EU Member States grant temporary permits upon arrival.
 - These permits are generally renewable and, over time, lead to permanent residence permits.
 - However, a distinction must be made between policies that admit migrant workers for a limited period with the clear objective that they will return at the end of the specified period (e.g. seasonal work) and more open labour migration schemes that allow for the possibility of settlement.
 - EU Member States apply both types of policies.
 - This first part of the session will consider:
 - The “common” work permit scheme that usually leads to settlement after a number of years of stay;
 - Specific schemes, such as seasonal workers schemes and job-seekers permits;
 - Circular migration.

The common law of immigration within the EU Member States (10 min)

Slides 13-14

- Despite important differences between the 27 EU Member States, common trends are significant enough that the term “common law of immigration” is not inappropriate.
- Explain that the distribution of work permits (or more generically, work authorization) is a common practice among EU Member States and forms a centerpiece of the “common law of immigration”:
 - EU Member States use different systems to regulate labour migration. Most countries require either a single permit to reside and to work or two permits - a residence permit and a work permit.

- In all cases, common procedures require work authorization (either a work permit or a residence permit for employment).
- For the purpose of simplicity, the common regulation system in EU Member States will be referred to as “the work permit system.”
- Outline the following characteristics of the common law of immigration:
 - Applications for admission are usually made outside of the considered country in response to a formal job offer.
 - Admission is usually granted after application of the labour market test, application of a quota system, or both.
 - Work permits are usually granted to the migrant worker (not to the employer).
 - Work permits are often tied to a specific professional field, a region, or a specific employer.
 - Work permits are time-limited (usually for a maximum of one or two years), but are generally renewable.
 - After a maximum of five years of legal and continuous residence, and under condition of stable and regular income, migrant workers are entitled to permanent residence and to equal treatment with nationals with regards to access to employment (notably, according to the Council Directive 2003/109/EC on the status of third country nationals who are long-term residents).
- Present the French example (textbox below):

The exercise of a salaried activity in France: the common regime

Work authorization and temporary stay permit

In order to exercise a salaried activity in France, the first step for a migrant worker is to obtain work authorization while abroad.

The work authorization is delivered upon request by the potential employer and after application of the labour market test.

The migrant worker then applies for a long-term visa, which is also known as immigration visa and is delivered to foreigners who express the wish to stay in France for longer than three months.

The long-term visa justified by professional activity is granted after approval of work authorization and a work contract.

Once the worker is on French territory, and when the work contract is for a period of more than 12 months, a temporary stay permit for “salaried employment” is delivered to the migrant worker, generally for a period not exceeding one year.

When the work contract is for a period shorter than 12 months, a “temporary worker” permit is granted to the migrant worker.

The temporary stay permit “salaried employment” regime

The permit is generally delivered for 12 months.

The permit authorizes change of employer.

The permit may have geographical or professional limitations.

As for renewal of the permit, the applicant must present a request prior to the expiry date of the permit and must present a work contract or a promise of work contract.

When involuntarily deprived of his or her work at the moment of the renewal, the applicant is granted a one-year temporary stay permit mentioning “salaried employment.”

After this first renewal, if the foreigner is still unemployed, the permit’s renewal can be rejected.

After two renewals, no geographical or professional limitations may be imposed.

The “temporary worker” permit regime

The permit is delivered for the same duration as the work contract.

The worker can only work for the employer mentioned in the permit.

The permit may have geographical limitations.

Renewal of the permit depends entirely on the existence of a work contract or a promise of employment.

Obtainment of permanent immigration status

The long-term residence permit is valid for ten years, with automatic right to renewal.

It gives full access to the labour market.

The common delivery regime of a long-term residence permit implements the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

The applicant must establish his/her regular presence in France for a period of five years prior to the submission of the application.

Moreover, the applicant must prove stable and sufficient financial means.

A more recent and important requirement for long-term residence permits relates to the republican integration of the applicant within French society.

Source: Adam, C. and Devillard, A., *Laws for Legal Immigration in the 27 EU Members States*, IOM, 2009

Trainer note

This Session contains two discussion themes: one focusing on the risks and disadvantages of the work permits, the other focusing on measures to reduce the vulnerability of seasonal workers. You may decide to use one or the other.

Duration: 10 min

- Ask participants what they think the risks and disadvantages of the work permits, as granted by many EU Member States, might be.
- Guide discussion, ensuring the following learning points are covered:
 - Dependency: Tying the work permit to the employer may lead to dependency of the migrant worker on a particular employer.
 - Risk of exploitation: This may result in unproductive employment relationships and even to exploitative conditions.
 - Inefficiency: Excessively bureaucratic procedures impair the efficiency of the work permit system.
 - Discrimination: conditions for ‘stable and regular’ income (access to permanent status) may result in discrimination against migrants more likely to work in insecure sectors.

Specific schemes (15 min) (25 min with discussion)**Slides 16-19**

- Introduce specific schemes with the following points:
 - Some specific schemes are of strictly temporary nature (e.g. seasonal work) and thus offer less protection than the common work permit system.
 - Other schemes are more favorable to migrants than the common work permit system (e.g. schemes for high-skilled workers).
 - Some schemes can be considered as additional elements to the common work-permit system (e.g. job-seeker permits).

Seasonal employment**Slide 16**

- Use the Migrant Workers Convention’s definition for “seasonal worker”:
- “A migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year”.
- Outline the following characteristics of seasonal workers schemes:
 - They can be a significant source of temporary migrant labour to the country.
 - Most of the time, a work permit is required.
 - Work permits are limited in time (between three and nine months; usually for a maximum of 6 months).
 - In some countries, specific schemes are limited to nationals of countries with which there are bilateral arrangements.
- Highlight the particular vulnerability of seasonal workers:
 - Seasonal workers are often vulnerable to abuse, given the generally difficult jobs involved, isolation in rural areas common to agricultural work, and the clearly temporary nature of their legal status in the country.

Trainer note

This Session contains two discussion themes: one focusing on the risks and disadvantages of the work permits (above), the other focusing on measures to reduce the vulnerability of seasonal workers (below). You may decide to use one or the other.

Discussion

Slide 17

Duration: 10 min

- Ask participants to suggest the kinds of protection measures they might adopt to reduce the vulnerability of seasonal workers.
- Guide discussion, ensuring the following policy measures are covered.

Policy options to reduce the vulnerability of seasonal workers

Slide 18

- Facilitated travel to the country of destination and upon return to the country of origin;
 - Minimum or prevailing wage guarantees and safe working conditions;
 - Access to health care and social protections;
 - Provision (usually by employers) of suitable accommodation;
 - Support from local labour inspectorate or other regulators and the right to join trade unions;
 - The introduction of a multiple-entry permit for seasonal work in order to limit dependency on the employer. Such permits allow seasonal workers to be employed for a certain number of months per year over several years (in Italy and France such permits are valid for a maximum of three years);
 - Possibility to change migration status (i.e. to benefit from the common law of immigration) and, after a number of years, to obtain a permanent resident status.
- Present the French example (textbox below):

The French temporary stay permit for “seasonal workers”

The Immigration and Integration Law 2006 creates a specific temporary stay permit for “seasonal worker.”

This permit allows for the exercise of work, for a period not exceeding six months, within a year. It is granted for a maximum of three years and is renewable.

This permit was created in order to protect seasonal workers in a more efficient way by suppressing the direct link between the work contract and the stay permit.

Consequently, seasonal workers should not be as dependent on their employer as they would have been under the previous status.

Source: Adam, C. and Devillard, A., *Laws for Legal Immigration in the 27 EU Members States*, IOM, 2009

Provisions for high-skilled migrant workers

Slide 19

- Present the “paradox” of the treatment of high-skilled migrant workers in Europe:
 - High-skilled workers constitute the major focus of the labour migration debate in Europe.
 - There is a broad consensus amongst EU Member States that high-skilled migrant workers are needed.
 - While 85 % of unskilled labour goes to the EU and only 5 % to the US, 55 % of skilled labour goes to the US and only 5 % to the EU.
 - EU Member States wish to attract and retain high-skilled migrant workers.
 - However, only six EU Member States have specific schemes for high-skilled workers (Czech Republic, Denmark, France, the Netherlands, Ireland, and the UK).
 - Moreover, these programmes, where existent, are rarely efficient. For instance, in France the stay permit for “competences and talents” was created in 2006. At the end of September 2008, only 326 permits had been granted, far below the projections of the Ministry of Immigration.
- Outline the general characteristics of high-skilled migrant worker schemes:
 - The selection system is either based on a points system (e.g. Czech Republic, UK) or on a more discretionary basis (e.g. France).
 - Existing schemes foresee facilitations, such as: easier access to temporary or even permanent residence permits (e.g. Germany, Czech Republic), faster processing of the application (e.g. the Netherlands), non-application of the labour market test (e.g. Belgium) or allocation of specific quota space.

Job-seeker permits

Slide 20

- We have seen that the system commonly employed by EU Member States requires that the third-country national have secured a job before coming to the EU.
- The concept of job-seeker permits might help ease the pressures on employers hiring irregular migrant workers.
- Present the Example of Spain:
 - In 2000, Spain introduced a job-seeker visa, which allows third-country nationals to stay in Spain for a period of up to three months to look for a job.
 - The number of visas to be granted is determined by annual quotas.
- A number of EU Member States have a similar provision, although not exactly a job-seeker permit, for third-country nationals who have graduated from educational institutions in the Member State (e.g. the Netherlands, France, Ireland, Germany, and the UK).

Low-skilled migrant workers

Slide 21

- With the exception of seasonal worker schemes, the admission of low-skilled workers follows the general regime for the admission of foreign workers in the considered country.
- However, when the labour-migration policies of countries of destination focus on high-skilled workers, it is important to emphasize the needs of labour markets for low-skilled migrants as well.
- Present specific elements related to low-skilled migrant workers, i.e., needs of the labour markets and reluctant labour migration policies (textbox below):

Low-skilled migrant workers: needs of the labour markets and reluctant labour migration policies

While a priority of labour migration policies within the EU is to attract and retain highly-skilled migrants, low-skilled migrant workers do not receive the same attention.

The presence of low-skilled migrant workers

In many EU Member States, migrant workers present an important share of the low-skilled workforce – table below:

Table II.1. The low-educated in the total and foreign-born labour force, by age, 2006

	Age group 25-54 years old			Total working-age population (15-64)		
	Low-educated share of the labour force	Foreign-born share of the low-educated labour force	Low-educated share of foreign-born labour force	Low-educated share of the labour force	Foreign-born share of the low-educated labour force	Low-educated share of foreign-born labour force
Austria	10.5	41.9	25.0	17.5	25.5	29.0
Belgium	15.3	22.9	28.2	23.5	14.9	31.4
Czech Republic	4.6	5.4	10.9	5.0	4.5	14.5
Denmark	10.1	17.1	23.9	20.0	7.3	25.1
Finland	9.0	8.5	18.6	17.7	5.6	23.1
France	16.2	19.4	31.7	26.6	17.9	42.7
Germany	11.3	39.6	19.6	15.7	18.1	11.0
Greece	23.2	20.2	50.9	35.5	16.7	45.6
Hungary	10.6	2.2	18.7	13.1	1.4	19.6
Ireland	15.0	12.4	11.4	25.9	8.0	17.1
Italy	11.0	14.4	42.9	19.1	9.7	44.9
Luxembourg	21.2	59.8	30.4	29.7	50.2	34.0
Netherlands	16.5	17.5	23.2	28.2	10.2	28.6
Norway	4.1	35.5	14.0	11.1	10.0	14.9
Poland	6.3	-	-	9.0	0.4	19.0
Portugal	50.1	6.0	44.1	68.4	3.5	49.0
Slovak Republic	4.5	0.6	7.0	4.6	0.7	4.8
Spain	12.4	20.0	34.5	42.7	12.4	16.3
Sweden	8.2	26.3	16.0	14.8	16.1	19.1
Switzerland	11.6	71.9	28.1	18.7	43.0	33.0
United States	11.3	54.1	50.9	11.7	58.7	28.8
EU25	10.0	19.6	31.8	25.4	14.1	35.0
All above countries	15.9	29.6	31.3	19.4	20.7	31.5

StatLink <http://dx.doi.org/10.1787/427642017725>

Note: Low-educated are those with less than upper secondary education (ISCED 0-2). The EU and All countries rows are weighted averages.
Source: European countries: European Union Labour Force Survey (data provided by Eurostat); United States: Current Population Survey, March Supplement.

Source: OECD, “Management of Low-Skilled Labour Migration” in *International Migration Outlook – SOPEMI 2008*

The need for low-skilled migrant workers

EU Member States’ economies still require much low-skilled labour, in fields such as hospitality and catering, care for children and the elderly, cleaning and maintenance, construction, agriculture, etc.

Due to the general decline in the working-age population, the to aging of the population and to increased access to education for natives of destination countries, the demand to fill low-skilled occupations is likely to grow in the future.

Labour migration is one way to partially meet this demand.

A general reluctance to recruit low-skilled migrant workers

Despite the increasing demand to fill low-skilled positions, most EU Member States have been reluctant to recruit migrant workers. There are a number of reasons behind this reluctance, including the following:

Unemployment levels among less-educated workers have raised concerns about likely labour-market outcomes for less-educated immigrants.

Other concerns address the expected impact of low-skilled immigration, such as the unemployment and wage impact on resident workers and the issue of social exclusion.

A priority given to temporary work programmes

After the reluctance to recruit, one of the principal concerns among EU Member States with regards to the recruitment of low-skilled migrant workers lies in ensuring the temporary character of such migration.

Low-skilled migrant workers: needs of the labour markets and reluctant labour migration policies (Continued)

As a general observation, it must be noted that strict temporary labour migration programmes can only be a partial solution to the needs of the labour markets within the EU Member States.

- This is due not only to human rights reasons but also to economic reasons.
- Such issues will be further developed within the section on circular migration.

Source: OECD, "Management of Low-Skilled Labour Migration" in *International Migration Outlook – SOPEMI 2008*

Circular migration (10 min)

Slides 22-23

Trainer note

The topic of circular migration has been presented mainly in *Module F: Enhancing migrant workers' contribution to the development of countries of origin*. The purpose of the developments below is to present a few specific elements from the viewpoint of countries of destination.

- You may introduce the topic by recalling relevant elements from *Module F: Enhancing migrant workers' contribution to the development of countries of origin* (for instance, the definition of circular migration).
- Context of emergence (or resurgence) of the circular migration concept on the side of countries of destination:
 - Reopening labour migration channels among EU member states:
 - After a long period (starting with the 1973 petrol crisis) during which labour migration was frozen, there has been a considerable change of mindset within the European political discourse.
 - For a number of reasons including demographic issues and, mainly, the necessity to respond to labour market needs, the labour migration option is accepted again.
 - The world has changed in 30 years, and there is a need for new conceptual tools adapted to contemporary realities. Circular migration can be one of these tools.
 - Recall other elements of context:
 - Preventing irregular immigration, a primary objective;
 - Interest generated by the link between migration and development.
- Avoiding potential hazards:
 - Highlight the two following guiding principles:
 - It is dangerous to consider circular migration only through the prism of strict temporary immigration.
 - Circular migration must constitute a positive contribution to existing schemes, not a step back.
 - Seasonal migration regimes must not be considered as a model.
 - Seasonal migration naturally fits with circular migration.
 - Nevertheless, it does not correspond to the contemporary concept of circular migration:
 - The idea of a common benefit of migration is absent in traditional seasonal work schemes.
 - The status of the seasonal worker is particularly precarious and can easily lead to exploitative practices.

- Strictly temporary labour migration programmes raise concerns from not only a rights point of view, but also from an economic point of view:
 - o When the labour demand is not strictly temporary and when work experience improves productivity, strictly temporary programmes do not meet employers' needs.
 - o Such is the case for an important part of non-seasonal low- and medium-skilled occupations.
- Regarding highly-skilled workers, the perspective is reversed: the objective of EU Member States is to attract and retain these workers.
 - o It is therefore a great challenge from a policy-development point of view to find the appropriate balance between the interests of countries of destination, countries of origin and those of the migrants themselves.
 - o In broad terms, it could be argued that what is needed is a new, systematic approach, where conditions are created to:
 - Enable the ethical recruitment of workers;
 - Facilitate the movement of such workers;
 - Encourage the maintenance of linkages with their country of origin; and
 - Create attractive options for return.
 - o Each of these steps has been experimented with, but they are rarely found together in a purposeful combination.
- Recall conditions for developing circular migration schemes beneficiary to the development of countries of origin and the interests of migrant workers (*Module F: Enhancing migrant workers' contribution to the development of countries of origin*):
 - Circular migration must be adapted to the labour market needs of countries of destination.
 - Circular migration must be rights-based.
 - Circular migration must provide a favorable context for return.
 - Circulation migration must enable the acquisition and transfer of skills and knowledge.
- Present a selection of means and practices for successful circular migration schemes (see *Module F: Enhancing migrant workers' contribution to the development of countries of origin*):
 - Information dissemination and training of migrant workers;
 - Flexible work and stay / residence permits ;
 - Skills upgrading and transfer of competences;
 - Portability of social benefits and pensions;
 - Generalized possibility of acquiring a second nationality.
 - In the EU context, programmes should follow and build on the common law of immigration within the EU Member States (i.e. possibilities to consolidate one's immigration status and right to family reunification).
 - As a general remark, the best approach to promoting return for development is to offer returning migrants incentives.
- Highlight the two following requirements for the development and implementation of successful and balanced circular migration programmes:
 - Cooperation through bilateral labour agreements (BLAs) between countries of destination and countries of origin is crucial in order to develop and implement circular migration policies.

- It must also be highlighted that countries of destination must play a proactive role in order for the concept of circular migration to become a reality.

Summary (5 min)

- EU Member States legislations. Distinction between “common law of immigration” and specific schemes:
 - Common law of immigration:
 - Foreigners are usually admitted on a temporary basis.
 - Although admission is temporary, it is possible to consolidate one’s status.
 - The more the foreigner stays on the national territory, the more rights he or she acquires – including the right to permanent residence and the right to family reunification.
 - Specific schemes:
 - Seasonal employment:
 - The status is generally particularly precarious and can easily lead to exploitative practices.
 - It is crucial to grant work permits for several years, in order to diminish dependency on the employer, and to provide the right to change immigration status and obtain permanent residence status.
 - Highly-skilled workers:
 - A priority among EU Member States.
 - Nevertheless, there are few concrete regimes, and where existent, their efficiency is limited.
 - Job-seeker permits:
 - A way to prevent irregular migration.
- Low-skilled workers:
 - With the exception of seasonal worker schemes, the admission of low-skilled workers follows the general policy for the admission of foreign workers applicable in the considered country.
 - There is a need for low-skilled migrant workers in most countries of destination.
 - However, there is a general reluctance to recruit low-skilled migrant workers and priority is given to given to temporary work programmes.
 - This raises concerns in terms of the protection of migrant workers.
 - Moreover, strict temporary labour migration programmes can only be a very partial solution to the needs of the labour markets.
- Circular migration:
 - Circular migration must be a positive contribution to existing schemes, not a step back.
 - Conditions for successful and fair circular migration schemes:
 - Circular migration must be adapted to the labour market needs of countries of destination;
 - Circular migration must be rights-based;
 - Circular migration must set a favorable context for return;
 - Circulation migration must enable the acquisition and transfer of skills and knowledge.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 101-134

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 296-306

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 28-41

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Rannveig Agunias and D., Newland, K., "Circular Migration and Development: Trends, Policy Routes and Ways Forward" in Migration Policy Institute Policy Brief, April 2007

Available at: http://www.migrationpolicy.org/pubs/MigDevPB_041807.pdf

Power Point Module H:

Designing labour admission policies

SLIDE 1

OSCE

Module H: Designing labour admission policies

[Insert here name of Training Seminar / Workshop, Venue, and Date]
[Insert here name of Trainer]

SLIDE 2

OSCE


Session I Introduction

SLIDE 3

Session 1: introduction OSCE

Module Aim

Module H aims to provide an overview of the main policies for admission and residence of migrant workers, including employment-based immigration systems and the various forms of temporary labour immigration systems



SLIDE 4

Session 1: introduction OSCE

By the end of this Module you will:

Be able to identify best practices regarding admission, stay and residence of migrant workers

SLIDE 5

Session 1: Introduction

The main types of admission policies

- Employment-based immigration systems
 - Migrant workers are granted permanent residence status on arrival in the country
 - Such policies are mainly implemented by established countries of immigration (Australia, the US, etc.)
- Temporary labour migration systems
 - Temporary admission with, or without a possibility of settlement in the country
 - Such policies are notably implemented by EU Member States policies

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Session II Employment-based immigration systems

SLIDE 7

Session 2: Employment based immigration

Established countries of immigration

- Australia, Canada, New Zealand, and the United States
- The purpose of employment-based immigration policies is to promote economic growth and to ensure a stable population and labour force
- Employment-based immigration is mainly aimed at skilled migrants
- Traditional countries of immigration also foresee temporary labour migration schemes

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Session 2: Employment based immigration

Established countries of immigration (cont.)

Two main systems for selecting permanent immigrants:

- The points system, based on supply: admission of migrants is conditioned by the obtainment of a certain number of points according to a number of criteria
- The demand system, where the procedure for admission relies on the initiative of the employer
- The Canadian and US examples

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Session 2: Employment based immigration

Established countries of immigration (cont.)

Assessment of employment-based immigration systems

- Difficult to identify which systems constitute a good practice:
 - Variations in labour market needs
 - Variations regarding demographic circumstances
- Nevertheless, the points system is gaining acceptance as the fairest and most transparent system
 - The points system and gender and age issues
 - Policies to face such concerns

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Session 2: Employment based immigration

European countries

- Employment-based immigration occurs in a less explicit manner
- Points systems are increasingly adopted/considered
- Specific programmes aim at facilitating settlement in the country in order to attract/retain high skilled workers
- European practices remain distinct from models of established countries of immigration
 - The mechanisms used by established countries of immigration are rarely fully implemented
 - The scale of such programmes in Europe cannot be compared to that in established countries of immigration

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Session III Temporary labour migration systems

SLIDE 12

Session 3: Temporary labour migration systems

The EU Member States example: generalities

Practices vary between different EU Member States but there are significant common trends:

- Temporary residence permits granted upon arrival
- Permits are generally renewable and, over time, may lead to permanent residence permits
- Distinction is to be made between policies that admit migrant workers for a limited period and more open labour migration schemes that allow for the possibility of settlement
- EU Member States apply both types of policies

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Session 3: Temporary labour migration systems

The common law of immigration : common characteristics

- Work permits constitute a centerpiece of the common law of immigration
- Applications for admission are usually made outside of the country in response to a formal job offer
- Admission is usually granted after application of labour market test/application of quota system/both

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Session 3: Temporary labour migration systems


The common law of immigration : common characteristics (cont.)

- Permit usually granted to the migrant worker (not to the employer)
- Permit often tied to a specific professional field, a region or a specific employer
- Time-limited (usually for a maximum of one or two years) but generally renewable
- After a maximum of five years of legal and continuous residence, migrant workers are entitled to permanent residence (Council Directive 2003/109/EC on the status of third country nationals who are long-term residents)

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Session 3: Temporary labour migration systems

Discussion



Risks and disadvantages of the work permit system

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Session 3: Temporary labour migration systems

Specific schemes: seasonal employment

- Characteristics of seasonal employment schemes:
 - Can be a significant source of temporary migrant labour to the country
 - Most of the time, a work permit is required
 - Work permits are limited in time (between 3 and 9 months; usually for a maximum of 6 months)
 - In some countries, specific schemes are limited to nationals of countries with which there are bilateral arrangements
- Seasonal workers are often vulnerable to abuse, given the generally difficult jobs involved, isolation in rural areas common to agricultural work, and the clearly temporary nature of their legal status in the country

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Session 3: Temporary labour migration systems

Discussion



What protection measures should be adopted in order to reduce the vulnerability of seasonal workers?

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Session 3: Temporary labour migration systems

Policy options to reduce the vulnerability of seasonal workers

- Facilitated travel to the destination country as well as return to the country of origin
- Wage guarantees and safe working conditions
- Suitable accommodation
- Access to health care and social protection
- Support from local labour inspectorate or other regulators and the right to join trade unions
- Multiple-entry permits for seasonal work in order to limit dependency on the employer
- Possibility to change migration status and, after a number of years, to obtain a permanent resident status

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Session 3: Temporary labour migration systems

Specific schemes: Provisions for high-skilled migrant workers

- High-skilled migrant workers constitute the major focus of the labour migration debate in Europe
- Only a few EU Member States have specific schemes for high-skilled workers (Czech Republic, Denmark, France, the Netherlands, Ireland, and the UK)
- General characteristics of high-skilled migrant workers schemes:
 - Selection system is either based on a points system (e.g. Czech Republic, UK) or on a more discretionary basis (e.g. France)
 - Existing schemes foresee facilitation, such as easier access to temporary or even permanent residence permits, non-application of the labour market test, or allocation of specific quota space

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Session 3: Temporary labour migration systems

Specific schemes: Job seeker permits

- A tool to help ease the pressures on employers to hire irregular migrant workers
- The Spanish example:
 - Introduction in 2000 of a job-seeker visa, which allows third-country nationals to stay in Spain for a period of up to three months to look for a job
 - The number of visas to be granted is determined by annual quotas



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Session 3: Temporary labour migration systems  

Low-skilled migrant workers

- With the exception of seasonal worker schemes, admission of low-skilled workers follows the general policies for the admission of foreign workers
- While countries of destination labour migration policies often focus on high-skilled workers, it is important to emphasize the needs of labour markets for low-skilled migrants as well

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Session 3: Temporary labour migration systems  

Circular migration

Context of emergence (resurgence) of the circular migration concept

- Reopening labour migration channels among EU member states
- Preventing irregular immigration
- Interest generated by the link between migration and development



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Session 3: Temporary labour migration systems  

Circular migration (cont.)

- Avoiding potential hazards
 - It is dangerous to consider circular migration only through the prism of strict temporary immigration
 - Circular migration must be a positive contribution to existing schemes, not a step back
- Conditions for developing fair and successful circular migration schemes
 - Circular migration must be adapted to the labour market needs of countries of destination
 - Circular migration must be rights-based
 - Circular migration must set a favorable context for return
 - Circulation migration must enable the acquisition and transfer of skills and knowledge

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Thank you!

Course 3

Developing labour migration policies in countries of destination

Module I

Protection of migrant
workers and integration:
policy options for countries
of destination

Module I: Protection of migrant workers and integration: policy options for countries of destination

Suggested total duration: 3 h	
Duration	Session
5 min	Session 1: Introducing Module I
1 h 20 min	Session 2: Group activity: Developing migration policies in Patinir and Bronzina
35 min	Session 3: Protection in employment
60 min	Session 4: Social welfare, integration and social cohesion

Aim of Module I

Module I aims to provide an overview of:

- The relation between admission and residence regimes and the protection of migrant workers;
- The protection needs of migrant workers in destination countries, including their rights in the employment context and rights guaranteeing their social welfare and access to social security;
- Measures related to the social cohesion and integration of migrant workers in destination countries.

Learning outcomes for Module I

By the end of this module, participants will:

- Have a better understanding of the relation between admission and residence regimes and the protection of migrant workers.
- Be able to identify best practices regarding protection and integration of migrant workers in destination countries.

Session 1: Introducing Module I

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module I slides
Participants will need	Copy of slides

Introduce Module I (5 min)

Slides 1-5

Explain Module I aims to provide an overview of

Slide 3

- The relation between admission and residence regimes and the protection of migrant workers;
- The protection needs of migrant workers in destination countries, including their rights in the employment context and rights guaranteeing their social welfare and access to social security;
- Measures related to the social cohesion and integration of migrant workers in destination countries.

Explain Module I learning outcomes

Slide 4

- To have a better understanding of the relation between admission and residence regimes and the protection of migrant workers.
- To be able to identify best practices regarding protection and integration of migrant workers in destination countries.

Highlight the following elements regarding the relation between admission or residence regimes and the protection of migrant workers

Slide 5

- For didactic reasons, the concepts of admission or residence regimes and protection of migrant workers in countries of destination are sometimes separated.
- Nevertheless, it is important to bring together these two aspects of migration policies, which are in practice inseparable:
 - o For migrant workers, admission in countries of destination, work conditions, and possibilities for family reunification are all part of the same reality.
 - o For societies in general, admission or residence regimes and protection schemes are also a single set where the different components act together.
 - o For instance, a certain type of admission regime naturally leads to a certain type of policy in terms of family reunification.
 - o Other types of admission regimes inherently include certain risks with regard to working conditions or, on the contrary, include certain protections for migrant workers.
- Present methodology of Module I:
 - The present module is built around an exercise that brings together these different aspects of migration policies.

- Moreover, given the stage of the training, the aim of the exercise is also to bring together concerns and interests of both countries of destination and countries of origin.
- The exercise is followed by complementary presentations meant to reinforce the outcomes of the exercise.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 135-165

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 305-312

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 27-45

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996

Session 2: Group activity: Developing migration policies in Patinir and Bronzina

Suggested duration	1 h 20 min total
Methodology	Group activity
You will need	Flip chart, pen, Module I slides, <i>Module H Designing labour admission policies</i>
Participants will need	Copy of slides, Module I Session 2 Participant worksheet

Group activity

Slides 6-7

Duration: 1 h 20 min

Introducing the activity

- Introduce activity by dividing participants into three groups corresponding to the three Ministries:
 - Patinir Labour;
 - Patinir Interior;
 - Bronzina Foreign Affairs.
- Distribute relevant worksheet to each group.
- Explain to the group what the purpose of the exercise is – i.e., to identify and negotiate key legislative and policy provisions between the states and ministries.
- Inform participants that they have 30 minutes to prepare the meeting. During this period, there will be a 10 minute window – from 15-25 minutes, where discussions and pre-negotiations are authorized between representatives of the groups.
- Explain that each group will give feedback on one scenario as described in the worksheets.

Feedback from groups (45 min)

- Group presentations:
 - Presentation of each group's key directions of Republic's migration policy, the outline of the national migration legislation and the means for its efficient implementation, including protection of employment rights and social integration.
- Invite comments/discussion from all groups at the end of the presentations.
- Explain that the rest of the module will be composed of presentations reflecting and complementing the work of participants. Three main elements will be covered:
 - Issues regarding the choice of foreign labour admission policies (the purpose here is to recall and complement elements developed in *Module H, Designing labour admission policies*);
 - Issues regarding the protection of migrant workers; and
 - Issues regarding integration facilitation of social cohesion.

Module I, Session 2: Exercise: Developing migration policies in Patinir and Bronzina

ANNEX

Participant worksheet

Case Study: developing migration policies in Patinir and Bronzina

You are a group of high-ranking officials of the Republic of Patinir's Ministries of Labour and the Interior and the Republic of Bronzina's Ministry of Foreign Affairs.

Patinir has formed an Inter-ministerial Committee for Migration. The Parliament of the Republic gives you the urgent task of establishing a coherent migration and employment policy, which would strengthen the economic development of the state while decreasing irregular migration, improving the respect for employment rights of migrant workers, and enhancing migrants' integration.

At the next session of the Committee, the officials from Patinir's Ministries of Labour and the Interior will have to present the key next steps and dilemmas of Patinir's migration and labour market policy, the outline of the national migration legislation and the means for an efficient implementation, including the protection of employment rights.

Moreover, the Terms of Reference of the Inter-ministerial Committee for Migration encourage cooperation with other states of the region. During the next meeting of the committee, the representative of the Ministry of Foreign Affairs of Bronzina will be invited to present that Republic's concerns and suggested issues for future co-operation.

Republic of Patinir: main facts

The Republic of Patinir is a large island located in the west of the Redonia region and has the region's second-largest population. The state is the most prosperous in the region of Redonia, and this makes it very attractive for labour migrants from other states with less stable economies. As a result, at present there are many citizens of neighbouring countries living in the Republic. However, the state still has a strong need for foreign labour to support its economic growth, because its population is in decline due to a low birth rate.

Diasporas of Ingrians and Bronzinians compose the vast majority of migrants residing in the Republic of Patinir. Generally, Ingrians and Bronzinians are employed in low-paid jobs. Several influential NGOs protecting the rights of migrants regularly underline what they consider a situation of "brain waste" as numerous migrant workers from Ingria and Bronzina are employed in low-skilled occupations despite diplomas obtained in their countries of origin. Employers are not particularly worried about the situation. They are generally happy to hire cheap foreign labour and they readily use migrant workers from Ingria and Bronzina even if they are in an irregular situation. Many Ingrians and Bronzinians were employed in the once-booming construction sector, but are now being laid off in large numbers.

In practice, many Ingrians and Bronzinians do not leave the country at the end of their authorized stay and continue to work for their initial employer, although in an irregular way. Such workers rarely complain to police in cases of the non-payment of salaries or of bad working conditions. Altogether, this stimulates an even bigger flow of migrants to the country.

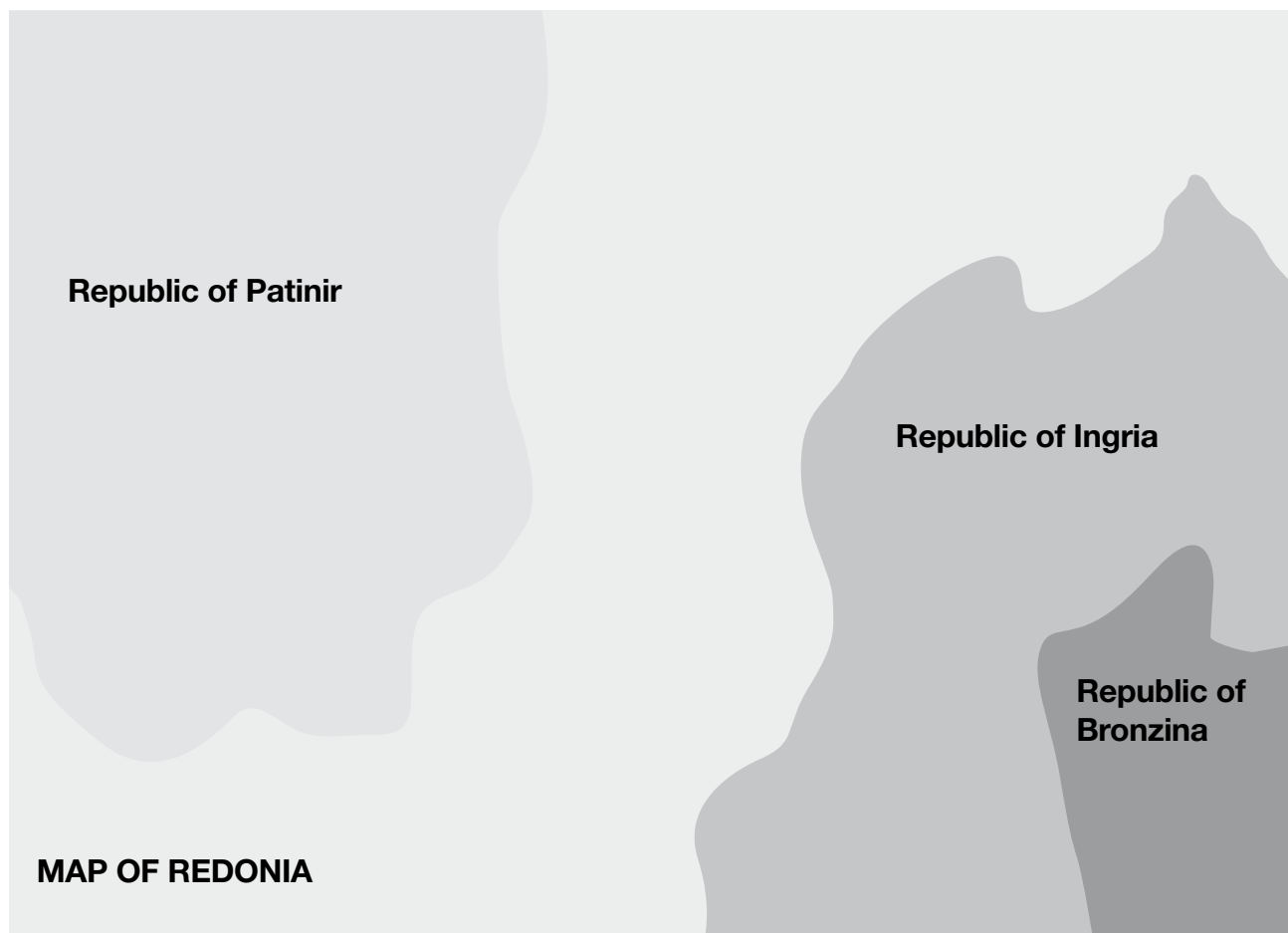
Irregular migrants are not covered by the national labour code and all non-citizens are banned from joining trade unions. Migrants, both regular and irregular, are often paid at a rate some 20% below the going rate for jobs and also do not receive social security credits.

Due to the economic crisis, a large number of workplaces are closing where migrant workers are employed. These workers express the wish to remain in Patinir.

In addition, the large Bronzinian diaspora living in Patinir maintain close relationships with their historic homeland. Many of them are citizens of Patinir, but they do not consider themselves as such and do not participate in the political life of the state. In return, a great number of children of Ingrian migrant workers face difficulties in school and numerous members of the diaspora – whether they are citizens of Patinir or not – are victims of various forms of discrimination.

Your Task

In three groups, determine the key issues that you need to put on the negotiating agenda of the committee and the main points you want the committee to agree on. Propose three key policy or legislative changes that you would like to see, and produce a compelling argument for implementing them.



Session 3: Protection in employment

Suggested duration	35 min total
	5 min Introduce the topic
	30 min Protection in employment
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module I slides
Participants will need	Copy of slides

Trainer note

Information presented in this session has to be delivered in relation to outcomes of Session 2's exercise.

It is not necessary to present all the elements of the session if such elements have been treated through Session 2's exercise.

It might be necessary to develop in more details certain specific elements when the outcomes of the exercise lead to it.

Introduce the topic (5 min)

Slides 8-9

- Vulnerability and discrimination of migrants in national labour markets:
 - In many destination countries, migrant workers regularly receive lower wages than nationals and endure many difficulties, including unfavourable terms of employment, harassment, and inequitable treatment with regards to promotion and training.
 - Moreover, unemployment rates are usually higher among migrant workers than among the national population.
 - Such a situation requires strong protection of migrant workers in employment as well as strong integration and anti-discrimination policies (this second aspect of policies will be examined in Session 4).
- The importance of protection in employment:
 - Highlight the importance of the stay and residence regime with regards to protection of migrant workers:
 - The possibility for migrant workers to change employers creates a favourable environment with regards to protection, while tying the stay/residence permit to a specific employer increases risks of exploitation.
 - The absence of a strict link between the work contract and the stay/residence permit is also an important protection measure: in other words, a migrant worker should not automatically lose his or her residency right when unemployed.
 - The right for migrant workers to be granted a secure residence status after a number of years of stay also constitutes an essential protection.
 - Highlight the fact that temporary migrant workers are frequently highly vulnerable. In many countries, temporary migrant workers may find it difficult, if not impossible to:
 - Change their employers or jobs;

- Be reunited with their families;
 - Gain secure residence status; and
 - Access the full range of social security protections in the country of employment.
- However, it must be highlighted that international and regional standards relating to migrant workers do not make significant distinctions between temporary migrant workers and other categories of migrant workers in terms of their access to important employment and social rights.

Protection in employment (30 min)

Brain waste and lack of recognition of diplomas

Slide 10

Outline the following points:

- Many migrant workers find it difficult to see their qualifications recognized and are employed in occupations for which they are overqualified. This phenomenon of brain waste or de-skilling particularly affects women.
- Brain waste issues are close to those concerning brain drain:
 - Countries of origin spend educational funds on workers who then leave their home country to find a job abroad.
 - In terms of remittances, because these workers occupy low-skilled jobs, countries of origin lose out even more through brain waste than through brain drain.
- Reasons for brain waste include the following:
 - Brain waste is often related to irregular migration;
 - Lack of recognition of diplomas and qualifications between countries of origin and countries of destination.
- Policy options:
 - Facilitate the recognition of diplomas and degrees awarded abroad;
 - Provide opportunities that complement education obtained abroad and do not require re-entering the education system from the beginning;
 - Establish certified refresher courses for migrants who have been away from their trained profession for a certain period of time;
 - Offer on-site and distance/online courses that introduce migrant professionals to the technical language and national specificities of a profession;
 - Such measures should particularly target female migrants, who are disproportionately affected by the brain waste phenomenon.

Rights within employment

Slides 11-15

Highlight three main notions contained in international law (See Module B International legal framework for the protection of migrant workers)

Slide 11

- Equality of treatment between regular migrant workers and national workers regarding employment and occupation;
- Application of core universal human rights to all migrants, regardless of status;
- Application of main labour standards (including occupational safety and health, maximum hours of

work, minimum remuneration, non-discrimination, freedom of association, and maternity leave) to all workers, nationals, migrants, regardless of their status.

Highlight areas of particular concern regarding the protection of employment rights

Slide 12

- One difficulty concerns the need to ensure that national labour laws are applicable to employment sectors, such as agriculture and domestic work, that in some countries have been excluded, either wholly or in part, from legal protection. This particularly affects women.
- More careful attention should be paid to the protection of a number of specific labour rights that are more likely to be neglected in the context of temporary labour migration, such as security of employment and access to vocational/ language training, and trade-union rights.
- Implementation of the existing national legal framework to migrant workers will often be a crucial issue.
- Present the example of the right to vocational training in France (textbox below).

The right to vocational training in France

Article 6111.1 of the French Labour Code sets out the principle of equal access to vocational training by all workers.

Nationals and migrant workers have equal rights to access to trainings either organized by their employer or of their own choosing.

Vocational training is jointly financed by the state, employers, employer organisations, and trade unions.

Workers employed under a permanent contract have the right to access vocational training after one year of employment with the same employer.

Workers employed under a fixed-term contract have the right to access vocational training after four months of work (consecutive or not).

Employees are granted a right to a minimum of 20 hours of training per year. For example, a six-month, fixed-term contract gives right to ten hours of training.

Highlight the importance of the rights of freedom of association and the potential positive benefits that trade unions may bring

Slide 13

- The right to freedom of association is one of the most important human rights, without this right there is less chance that labour rights will be respected.
- In the absence of political rights in the country of destination, trade unions can provide an important means of representing migrant workers and ensuring that their rights are respected.
- Trade unions can work to mitigate tensions between migrant workers and host country workers, both of whom may be their members.
- Trade unions and employers often work together on issues which particularly affect migrant workers, like HIV and vocational training.

Highlight the importance of the role of labour inspection

Slide 14

- Labour inspection is a key supervisory tool for application of labour standards.
- Absence of labour inspection in sectors and workplaces attracting migrant workers is associated with higher incidences of exploitation and abuse, as well as employment of unauthorized workers.
- Practical elements and management tools to extend labour inspection to migrant workers include:
 - o Referring to national legislation providing for inspection of all workers;
 - o Obtaining labour force and employment information indicating where migrants are employed, and relevant data regarding compliance issues;
 - o Ensuring the capacity and skills necessary to extend labour inspection to worksites and sectors where migrant workers are commonly employed;
 - o Establishing a specialized inspection unit and/or specialized training for labour inspectors to ensure competency in addressing specific issues concerning migrant workers.

Highlight the importance of effective legislation and policy on non-discrimination in the workplace

Slide 15

- Discrimination on grounds of sex and nationality will undermine any equitable labour market.
- Women migrants will often find themselves particularly vulnerable in low-skilled and temporary employment, and the enforcement of their rights needs special consideration, as they are often employed in the least regulated and unionized sectors.
- Outline the following components of a policy to combat discrimination in the workplace:
 - o Adoption of strong anti-discrimination legislation and monitoring services;
 - o Commitment of employers and trade unions to combat discrimination and to encourage the exchange of tools to promote good practices.

Social security

Slide 16

- Outline the nine branches of social security, as distinguished by ILO:
 - Medical care;
 - Sickness benefits;
 - Maternity benefits;
 - Invalidity benefits;
 - Old-age benefits;
 - Survivors' benefits;
 - Employment injury benefits;
 - Unemployment benefits;
 - Family benefits.
- Highlight that given the complex and technical character of social security, only a broad overview will be presented.

- Outline migrant workers' three major interests with regard to social security rights:
 - Entitlement to social security benefits on equal terms with national workers;
 - Maintenance of acquired rights upon leaving the country (including the portability of benefits);
 - Enjoyment of the rights acquired cumulatively in different countries.
- Access to social benefits on equal terms with national workers:
 - Access to social security systems is varied.
 - In most cases, when social security benefits are based on contributory payments, equality of treatment between migrant workers and nationals is guaranteed.
 - It must be noted, though, that in some countries, migrant workers cannot contribute to long-term benefits, like old-age pensions. Such is the case in some Gulf states, such as Bahrain, Oman, and Saudi Arabia.
 - In such a situation, countries of origin may extend social security coverage to their nationals abroad. Another possibility is the workers' participation in old-age pension plans from private companies.
 - Access to non-contributory benefits (such as family or child benefits) may not be accessible to migrant workers or may depend on the type of residence status.
 - Mention must also be made of irregular migrants and regular migrants working in the informal sector, whose access to social security benefits, if any, is very limited.
 - Present the Spanish example (textbox below).

Access to social security benefits in Spain

Foreigners legally resident in Spain are not excluded from any branches of social security.

By virtue of Article 14(1) of Law 8/2000, they have the right to the benefits and services of the social security system under the same conditions as Spanish nationals.

However, where Spanish workers in certain employment sectors are excluded, migrant workers are excluded as well.

For example, all employees in the domestic services sector are excluded from the right to unemployment benefits.

Source: Cholewinski, R., *The legal status of migrants admitted for employment - A comparative study of law and practice in selected European states*, Council of Europe, 2005

- The issue of portability of social security benefits (possibility for migrant workers to move with their entitlements):
 - Portability of social security benefits can be regulated by bilateral agreements between countries of destination and countries of origin.
 - In this case, the transferability of acquired rights is guaranteed.
 - However, bilateral agreements do not necessarily cover all benefits, so the degree of portability may vary.
 - Portability of social security benefits in the absence of bilateral agreements:
 - In this case portability is organized unilaterally by the country of destination's legislation.
 - Legal regimes vary greatly from one country to another.
 - Present the examples of Austria and Germany.

Portability of social security benefits: The example of Austria and Germany

Austria

The Austrian regime generally envisages the portability of pensions to any country in the world, even in the absence of bilateral agreements regulating the issue.

Health care benefits are by principle exportable only when a bilateral agreement contains provisions for such. Such agreements have been concluded with Turkey and the countries of the former Yugoslavia.

However, the Austrian health system reimburses up to 80 per cent of the medical costs that Austrian hospitals (or medical doctors) charge the Austrian public health insurance.

It must be noted though that since the Austrian health system is heavily subsidized, the costs that hospitals charge to the public health insurance are only notional and do not reflect the actual, much higher, costs.

Germany

Germany has concluded a number of bilateral social security agreements that include provisions regarding health care benefits.

In the absence of bilateral agreements, the German legislation provides for the portability of pensions. However, there is usually a reduction of 30 per cent in the determination of the replacement rate.

In the absence of specific provisions included in a bilateral agreement, there is usually no reimbursement for health expenses incurred abroad.

Source: Holzmann, R., Koettl, J. and Chernetsky, T., *Portability Regimes of Pension and Health Care Benefits for International Migrants: An Analysis of Issues and Good Practices*, Social Protection, Discussion Paper Series No. 519, World Bank, 2005

Summary

- Migrants are often vulnerable within the national labour markets. Therefore their protection in employment is critical.
- Highlight the fact that their protection is often linked to their stay/residence status in the country of destination.
- Rights within employment:
 - International law recognises the equality of treatment between regular migrant workers and national workers in regard to employment and occupation.
 - Specific attention should be given to employment sectors, such as agriculture and domestic work, that in some countries have been excluded, either wholly or in part, from legal protection.
 - Specific attention should be paid to the protection of a number of specific labour rights that are more likely to be neglected in the context of temporary labour migration, such as security of employment and access to vocational/ language training, and trade union rights.
 - Highlight the importance of labour inspection.
 - Highlight the importance of effective legislation and policy on non-discrimination in the workplace.
- Recall migrant workers' three major interests with regard to social security rights:
 - Entitlement to social security benefits on equal terms with national workers.
 - Maintenance of acquired rights upon leaving the country (including the portability of benefits).
 - Enjoyment of the rights acquired cumulatively in different countries.

- Highlight the importance of bilateral and multilateral agreements, especially regarding maintenance of acquired rights.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 135-165

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 305-312

OSCE, *Guide on Gender-Sensitive Labour Migration Policies*, 2009, pp. 27-45

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996

Cholewinski, R., *The legal status of migrants admitted for employment - A comparative study of law and practice in selected European states*, Council of Europe, 2005

Available at: http://www.coe.int/t/dg3/migration/Documentation/Legal_texts/Migrant_workers_Cholewinski_report_en.pdf

Holzmann, R., Koettl, J. and Chernetsky, T., *Portability Regimes of Pension and Health Care Benefits for International Migrants: An Analysis of Issues and Good Practices*, Social Protection, Discussion Paper Series No. 519, World Bank, 2005

Available at: <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/0519.pdf>

Kraal, K. and Roosblad, J., *Equal Opportunities on the Labour Market for Immigrant People and Ethnic Minorities*, IMISCOE Working Paper No. 22, 2008

Available at: <http://www.imiscoe.org/news/publications/documents/WP22EqualOpportunities.pdf>

Session 4: Social welfare, integration and social cohesion

Suggested duration	60 min total
	Introduce the topic
	5 min Defining integration; Goals of integration
	50 min Indicators and policies for integration
	5 min Summary
Methodology	Presentation and Group activity
You will need	Flip chart, pen, Module I slides
Participants will need	Copy of slides

Trainer note

Information presented in this session should be delivered with the outcomes of Session 2's exercise in mind.

It is not necessary to present all the elements of the session if some elements have been treated through Session 2's exercise.

It might be necessary to develop certain elements in more detail when the outcomes of that exercise so require.

Introduce the topic

- Highlight that although integration is often perceived as concerning only permanent migrants, it is necessary, whether migration is temporary or permanent, for the following reasons:
 - With regards to integration, the distinction between temporary and permanent residence is often irrelevant, as many countries grant permanent status after a number of years of stay under a temporary status.
 - Integration is a long process, and the early stages of migrant workers' residence in the host country are of particular importance in this respect.
 - Integration is to a large extent inseparable from migrant workers' effective access to economic, social and cultural rights and therefore concerns all migrant workers, regardless of their status.

Defining integration (5 min)

Slides 17-18

Define the concept of integration by presenting the following conceptual models:

- Segregation: "no-way integration".
 - In the segregation model, migrants are not expected to adapt to the host society.
 - This model has typically been applied to temporary migrants. Migrants are only required to adjust minimally to their host society while the monocultural value system of the host society remains untouched.
 - Example: The *Gastarbeiter* programme in Germany, where migrants were not expected to integrate, as they were supposed to return to their home countries once they stopped working in Germany.

However, many stayed on and later brought in their families.

- Assimilation: “one-way integration”.
 - Assimilation is a one-way approach, where migrants are encouraged to adapt to the customs, traditions and attitudes of the host society.
 - Migrants are expected to become indistinguishable from the majority population. Usually, this approach leads to full citizenship, with the migrants merging into mainstream culture and adopting the perceived national identity of the host society.
- Multiculturalism: “multi-way integration”.
 - Multiculturalism is close to the integration model, but the process of integration aims for cultural diversity.
 - Rather than creating a common culture shared by migrants and the host society, multiculturalism leads to a diversity of cultures existing side by side.
 - Multiculturalism differs from integration and assimilation by granting equal rights and opportunities to migrants without their relinquishing other cultural affiliations.
 - Example: The Netherlands, the UK, Canada and Australia used to follow a multicultural approach. However, many countries are moving away from it as it is criticized for leading to self-segregation of certain groups.
- Integration as it is widely understood now: “Two-way integration”.
 - While the term is understood differently in different contexts, “integration” can be taken to denote a two-way process where the members of the host society and the migrants both adjust.
 - Under this approach, both the migrant and the host society contribute to the development of a common culture.
- Highlight that there is no one-size fits all model and that every state needs to find a solution that suits its needs best.
 - National priorities and national identity often are the strongest factors that determine the way governments respond to integration issues. Governments seek to ensure the social stability and well-being of their nationals.
 - Nonetheless, attempts can be made to identify “effective” or “promising” practices that provide a range of options for policymakers to consider for their country-specific approach to integration.

Goals of integration

Slide 19

- On the one hand, the host society has a responsibility to ensure that the rights of migrants are in place in such a way that the individual has the opportunity to participate in economic, social, cultural and civil life.
- On the other hand, migrants should respect the fundamental norms and values of the host society and participate actively in the integration process, without having to relinquish their own identity.
- Composition and values of society differ from country to country, thus the people who are the subject of integration measures may vary. And whatever approach is chosen, it is meant or designed to:
 - Allow migrants to realize their personal, economic, and social potentials;
 - Ensure that the human rights of migrants are protected;
 - Reduce levels of alienation and marginalization;
 - Help establish and maintain social cohesion and harmony.

Indicators and policies for integration (50 min)

Slides 20-21

Group Activity

Slide 20

Duration: 10 min preparation / 40 min discussion

- Introduce the activity:
 - Divide participants into their working groups and ask them to:
 - Identify integration indicators, i.e. factual elements that show the success or failure of integration of migrant workers;
 - Identify policies to address the different aspects of integration showed by the indicators.
 - Explain that participants have ten minutes to prepare their answers.
- Collect answers on a flip chart and open general discussion using the following elements of guidance. These elements are only a selection of indicators and policies and are by no means exhaustive.

Indicators and policies for integration (elements for discussion)

Slide 21

Economic life

Indicators: employment rates of migrant workers and levels of wages, in comparison with national workers.

- Employment is a central component of integration of migrant workers in the host society.
- Situation of migrant workers in labour markets of countries of destination:
 - Recall relevant elements from previous session: general vulnerability and frequent discrimination.
- Policies aiming at integration in the labour market:
 - Recall relevant elements from previous session: the importance of protection in employment, including vocational training, trade union rights, labour inspection and anti-discrimination measures.

Language proficiency and knowledge of the country's culture

Indicator: proficiency level of migrants in the language of the host country provides an important insight into integration.

- Knowledge of the language is central to the integration of migrant workers into the host society. Knowledge of the country's history and institutions also favours integration.
- Countries of destination should organize introduction programmes in order to allow migrant workers to learn the language and gain knowledge of the host society.
 - Language teaching is the centrepiece of introduction programmes.
 - Besides language teaching, introduction programmes often have a "civic knowledge" component that gives an overview of the functioning and values of the host society.
 - Local authorities, social partners, NGOs, and migrant associations should be associated in the design and implementation of introduction programmes.

Housing

Indicators: the area of residence, the level of community concentration, as well as the quality of the housing itself, all show to what extent migrants are integrated in the host society.

- Access to housing:
 - Migrants commonly face discrimination in the housing market. For example, homeowners may be reluctant to sell or rent to migrants, may ask for excessive rent, or may require unnecessary documentation and references.
 - A sound policy measure is to require employers to provide or organize accommodation for first-time entrants. Such is the case in France, where the granting of the first residence permit for employment purposes is subject to the proof that the employer has taken necessary arrangements to provide housing to the considered migrant worker.
 - Equal access to state-subsidized housing should be granted to nationals and migrants.
 - Priority should be given to effective implementation of anti-discrimination laws.
 - Present the Hamida and Audrey Brahmia case, Grenoble Criminal Court, 14 September 2004 (textbox below).

An example of judicial implementation of anti-discrimination laws

The Hamida and Audrey Brahmia case, Grenoble Criminal Court, France

14 September 2004

In this case, the court convicted a landowner of racial discrimination based on article 225-2 of the Penal Code for refusing on the grounds of race to sell a piece of land.

After having accepted an offer for the sale of a piece of land, the owner refused to complete the transaction, arguing that he was afraid of provoking problems with the neighbours because the buyer was 'Arab.' After requesting a copy of the buyer's marriage certificate in order to verify his 'good behaviour' and photographs of the wedding to evaluate his demeanour, and after asking for a higher price and reducing the surface area to be sold, he still refused to complete the transaction, raising technical problems and estate and property law problems to prevent the sale's completion.

The landowner was sentenced by the Grenoble Criminal Court but appealed the decision. On October 27, 2005, the Court of Appeals increased the verdict to a six-month suspended sentence, together with a 6000 Euro fine and the requirement that the conviction be published in the real estate sections of the two major local papers and the most important publication of the real estate industry, *la Revue Bleue*.

Source: European Commission, *Handbook on Integration*, second edition, 2007

- Integration in the urban environment:
 - In numerous countries of destination, spatial segregation and "ghettoization" of migrant workers is a common and often old phenomenon.
 - Such a situation poses major problems for the integration and social cohesion of migrant workers:
 - Spatial segregation of migrant workers impedes contact and social mixing with the national population.
 - The concentration of migrant communities in substandard residential areas is directly linked to unemployment and discrimination.
 - The existence of such residential areas reinforces marginalization and stigmatization of migrant workers.

- Policies in this field relate to urban planning and should be based on cooperation between the state (including local public authorities), the private sector, and NGOs.

Access to health

Indicators: the state of health of migrant workers and the state of their effective access to health services constitute integration indicators.

- Health plays an important role in the integration of migrant workers: illness impedes integration, and likewise, marginalization of migrant workers has detrimental consequences on their health.
- Respect for the right to health is imperative for all types of migrants, including, *a fortiori*, the most vulnerable, such as seasonal workers and irregular migrant workers.
- The state of health of migrant workers: what risk factors?
 - A number of risk factors potentially concern all migrants:
 - Acculturation stress;
 - Loss of a familiar environment and support circles; the difficulty of recreating them in the host country;
 - Discrimination.
 - Moreover, migrant workers are often victims of socio-economic disadvantages.
 - Migrant workers are often employed in risky occupations. Studies have shown that in Europe, migrant workers are victims of occupational accidents about twice more often than national workers.
 - However, such observations on migrant workers' vulnerability should not be over-generalized.
 - Highly-skilled migrants and irregular migrant workers can be seen as the two extremes of the spectrum of health vulnerability.
 - Moreover, due to a number of cultural and religious factors, as well as the controversial "healthy migrant effect" (those who migrate tend to be among the youngest and fittest in their country), migrant workers' state of health can actually be better than that of host population.
- Access to health services:
 - Recall that general international human rights law provides for the right to health care without any distinction based on nationality or legal status.
 - Therefore, countries must adopt a legal system that conforms to these international law prescriptions.
 - Beyond this formal recognition of the right to health, it is essential that national policies offer to migrant workers real and effective access to health services.
 - Such policies need to overcome a number of barriers that impede migrant workers' access to health services. A major barrier is the frequent lack of trust of migrants in the host country's health system.
 - A number of migrant workers may not be familiar with the medical approach of the country of destination.
 - Insensitivity of health services to migrants' cultures may create significant barriers to access.
- Policies to improve access of migrant workers to health services:
 - Developing culturally sensitive health policies;
 - Training health staff in intercultural communication;

- Assisting migrant workers in gaining awareness and confidence in the health system;
- Supporting activities of NGOs in this field.

Education

Indicators: performance of migrants' children in school, including failure or drop-out rates; rate of access to higher education.

- Education is a fundamental tool for integration and a means to acquire knowledge, skills, attitudes that are essential for integration into the social structures of the country of destination.
- Educational levels of migrant workers' children:
 - It is generally recognized that educational levels of immigrant populations in industrialized countries have risen over time. However, such improvements are slower among immigrant populations than among the national population.
 - Moreover, immigrant populations often face higher rates of school failure than the national population. Migrant workers' children are also over-represented in vocationally oriented programmes and in special education.
 - Such situations have negative consequences, such as limitation of opportunities to access the labour market, higher unemployment rates, and higher risks of marginalization.
- Universal human rights standards proclaim that everyone has the right to education and that, at a minimum, access to primary or elementary education should be free to all children without any distinction whatsoever.
- In order to fully respect the prescriptions of international law, countries must look beyond the adoption of a legislation guaranteeing formal equality in order to seek real equality between nationals and foreigners.
- Give an overview of policies adopted in Europe in order to give to migrants' children true access to education:
 - Two main models can be identified.
 - A model based on immediate integration in the education system:
 - Migrants' children are immediately in contact with children of the country of destination.
 - In addition, support measures are adopted, aimed at aiding the acquisition of the country of destination's language.
 - A model based on separation:
 - Separation can be temporary. In this case, migrants' children are removed from a number of classes for a limited period of time, in order to receive an education adapted to their needs.
 - Medium/long-term separation. In this case specific classes are formed, according to the children's linguistic competences, for a period of time that can reach a number of years.
 - Among European countries, the most common systems are first direct integration and second temporary separation.
 - It must be highlighted that there is no ideal system and that guaranteeing true access to education to migrants' children is an arduous task.

Political and civic life

Indicators: Membership in associations, unions, and political parties can serve as an indicator for social and political integration.

Highlight the fact that in the frequent case of absence of political rights granted to foreigners, participation in trade unions and associations is an important means of representing migrant workers, as well as, more generally, an important means for integration in social life of the host society.

Social life

Indicators: Well-being and the participation of migrants in the social life of the host society; the number of inter-group marriages between migrants and locals, for instance, is an important indicator for social acceptance and inclusion.

- Highlight the very general character of this aspect of integration, which refers to the implementation of already-mentioned policies, such as education and housing policies, as well as protection in employment, including social security rights.
- Highlight that a fundamental mechanism for achieving well-being and the participation of migrants in the social life of the host society is to offer the possibility of permanent residence to migrant workers after a reasonable number of years of stay in the country (recall relevant elements from *Module H: Designing labour admission policies*).
- Highlight the importance of family reunification.
 - Although family reunification does not constitute an indicator of integration *per se*, it is an indispensable instrument for integration.
 - Present the European Union policy on family reunification (textbox below).

Family reunification: the Example of the European Union.

The right to family reunification is recognized by the European Court of Human Rights, the European Court of Justice and Council Directive 2003/86/EC.

Key features of Council Directive 2003/86/EC:

Only applicable to third-country nationals holding a residence permit of one year or more and with “reasonable prospects of permanent residence.”

Only the spouse and minor children have a right to join the sponsor (EU Member States may admit other family members).

Member States may impose conditions for family reunification, such as the possession of accommodation, sickness insurance, and stable and regular resources.

Member States may also impose a waiting period for up to two years and restrict the admission of family members on the grounds of public order, public security or public health.

Characteristics of EU Member States:

Most Member States authorize holders of temporary stay permits to apply for family reunification.

In Germany, Austria and Denmark for example, applicants must have a permanent residence permit.

All Member States authorize family reunification with the spouse and minor children of the sponsor.

A number of member States also open family reunification to the parents of the sponsor or his/her spouse (e.g. the Netherlands, Czech Republic, Italy, etc.).

A number of member States also open family reunification to the partner of the sponsor (e.g. Belgium, Denmark, Finland, Portugal, UK, etc.).

A number of Member States impose conditions of integration to the exercise of the right to family reunification.

- Highlight the fact that in the context of gender issues, it is crucial that the spouse of the sponsor is given access to the labour market and benefits, and as soon as possible to a stay / residence permit that is independent from that of the sponsor.

Facilitating the access of migrant workers and their families to public services: the Portuguese example

- If there is time, present the example of the Portuguese National Immigrant Support Centres.

The Portuguese National Immigrant Support Centres

The Portuguese High Commission for Immigration and Intercultural Dialogue (ACIDI, I.P.) runs two National Immigrant Support Centres (CNAIs) in Lisbon and Porto.

The CNAIs provide a number of government and support services under one roof, with services directly provided by socio-cultural mediators who are usually themselves from an immigrant background.

This is an innovative project in terms of spatial design, prioritizing the comfort of the visit for migrants, proximity to the immigrant provided by the socio-cultural mediators, and coherent resolution of issues through a shared data management system.

The Lisbon CNAI involves six government agencies from five ministries (Foreigners and Borders Service, Working Conditions Authority, Social Security, Regional Health Administration, Regional Directorate of Education and the Central Registry Office), together with other innovative support services to meet the concrete needs of immigrants, such as support offices for family reunification, legal advice and employment.

86 socio-cultural mediators work at the Lisbon CNAI, employed by non-governmental immigrant associations through protocols with ACIDI, I.P. These mediators help migrants access the services they require, using their experience in intercultural communication to bridge migrants and the services represented at the CNAI. The staff of these services also receive specific training on providing services to migrants. The participation of civil society institutions, as partners in the management of this project, can bring about important outcomes, as the development of immigrant integration policies becomes a shared responsibility.

These two National Immigrant Support Centres are reinforced by a network of 80 Local Immigrant Integration Support Centres (CLAIIs), which provide local information services and a direct link to the CNAIs.

Source: <http://www.oss.inti.acidi.gov.pt/>

Summary

- Recall indicators for integration:
 - Economic life:
Employment rates of migrant workers and levels of wages, in comparison with national workers.
 - Housing:
The area of residence, the level of community concentration, as well as the quality of the housing itself, all show to what extent migrants are integrated in the host society.
 - Access to health:
The state of health of migrant workers and their effective access to health services constitute integration indicators.

- Education:
Performance of migrants' children in school, including failure and drop-out rates, and rate of access to higher education.
- Political and civic life:
Membership in associations, unions, and political parties can serve as an indicator for social and political integration.
- Social life:
 - Well-being and the participation of migrants in the social life of the host society; the number of inter-group marriages between migrants and locals, for instance, is an important indicator for social acceptance and inclusion.
 - Although family reunification does not constitute an indicator of integration *per se*, it is an indispensable instrument for integration.
- Highlight that integration is an essential aspect of effective migration management and that only by successfully integrating migrants into the host society, they will become active members in the economic, social, cultural and political life of host states.

Resources for facilitator preparation

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Böhning, W. and R. Zegers de Beijl, R., *The integration of migrant workers in the labour market: Policies and their impact*, ILO, 1995
Available at: <http://www.ilo.org/public/english/protection/migrant/download/imp/imp08e.pdf>

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Available at: http://www.coe.int/t/dg3/migration/Documentation/Legal_texts/Migrant_workers_Cholewinski_report_en.pdf

Cholewinski, R., "Migrants as Minorities: Integration and Inclusion in the Enlarged European Union" in *JCMS* 2005

European Commission, *Handbook on Integration*, first edition, 2004

Available at: http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf

European Commission, A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union, 1 September 2005 (COM(2005)0389 FINAL)

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Power Point Module I:

Protection of migrant workers and integration: policy options for countries of destination

SLIDE 1

OSCE

Module I: Protection of migrant workers and integration. Policy options for countries of destination

[Insert here name of Training Seminar / Workshop, Venue, and Date]
[Insert here name of Trainer]

SLIDE 2

OSCE

Session I Introduction

SLIDE 3

Session 1: introduction OSCE

Module Aim

Module I aims to provide an overview of:

- The relation between admission and residence regimes and the protection of migrant workers
- The protection needs of migrant workers, including their rights in the employment context and rights guaranteeing their social welfare and access to social security
- Measures related to the social cohesion and integration of migrant workers in destination countries.





SLIDE 4

Session 1: introduction OSCE

By the end of this Module you will:

- Have a better understanding of the relationship between admission and residence regimes and the protection of migrant workers
- Be able to identify best practices for the protection of migrant workers in destination countries

SLIDE 5



Session 1: introduction  

Admission/residence regimes and protection of migrant workers

In practice, admission/residence regimes and protection of migrant workers are indissociable



- For migrant workers, admission, work conditions and possibilities for family reunification are part of a same reality
- For the society in general, admission/residence regimes and protection schemes are also a single set where the different components interact together
- While one type of admission regime includes in itself certain risks regarding working conditions, on the contrary, another one constitutes in itself a protection for migrant workers

SLIDE 6


 

Session II Group activity

SLIDE 7



Group activity  

Group activity





Developing migration policies in Patinir and Bronzina

SLIDE 8

Session III Protection in employment



SLIDE 9

Session 3: Protection in employment  

Background information

- Whatever the chosen admission policy is, protection of migrant workers is fundamental
- In many countries migrant workers may find it difficult to:
 - Change their employers or jobs
 - Be reunited with their families
 - Gain secure residence status
 - Have access to the full range of social security protections
- International standards do not make significant distinctions between temporary migrant workers and other categories of migrant workers in terms of their access to fundamental employment and social rights

SLIDE 10

Session 3: Protection in employment  

Brain waste and lack of recognition of diplomas

- Brain waste particularly affects female migrants
- Brain waste issues are close to issues concerning brain drain
 - However, because these workers occupy low-skilled jobs, in terms of remittances countries of origin lose out even more through brain waste than through brain drain
- Policy options:
 - Facilitating the recognition of diplomas
 - Providing opportunities that complement education obtained abroad
 - Establishing certified refresher courses for migrants
 - Offering courses that introduce migrants to the technical language and national specificities of a profession
 - Such measures should particularly target female migrants who are disproportionately affected by the brain waste phenomenon

SLIDE 11

Session 3: Protection in employment  

Rights within employment: main notions contained in international law

- Equality of treatment between regular migrant workers and nationals regarding employment and occupation
- Core universal human rights apply to all migrants, regardless of status
- Main labour standards apply to all workers, nationals, migrants, regardless of their status


SLIDE 12

Session 3: Protection in employment  

Rights within employment: areas of concern

- Ensuring that national labour laws apply to sectors such as agriculture and domestic work
 - In some countries, these sectors have been excluded from legal protection
 - This particularly affects women
- Paying attention to specific labour rights that are likely to be neglected in the context of temporary migration:
 - Security of employment
 - Access to vocational/language training
 - Trade union rights
- Applying the existing national legal framework to migrant workers will often be a crucial issue

SLIDE 13

Session 3: Protection in employment 

Rights within employment: Freedom of association and trade unions

- Fundamental character of the right of freedom of association
- Trade unions can provide an important means of representing migrant workers and seeking to ensure that their rights are respected
- Trade unions can work to mitigate tensions between migrant workers and host country workers
- Trade unions and employers often work together on issues that particularly affect migrant workers


SLIDE 14

Session 3: Protection in employment 

Rights within employment: Labour inspection

- Labour inspection is a key tool for supervising the application of labour standards
- Absence of labour inspection in sectors and workplaces attracting migrant workers is associated with higher incidences of exploitation and abuse
- Labour inspection needs to be extended to migrant workers


SLIDE 15

Session 3: Protection in employment 

Legislation and policy on non-discrimination in the workplace

- Discrimination on grounds of sex and nationality will undermine any equitable labour market
- Components of a policy to combat discrimination in the workplace:
 - Strong anti-discrimination legislation and monitoring services
 - Commitment of employers and trade unions to combat discrimination and encourage the exchange of tools to promote good practices

SLIDE 16

Session 3: Protection in employment 

Social security

- The nine branches of social security, as distinguished by ILO:

□ Medical care	□ Survivors' benefits
□ Sickness benefits	□ Employment injury benefits
□ Maternity benefits	□ Unemployment benefits
□ Invalidity benefits	□ Family benefits
□ Old-age benefits	
- Three major interests of social security rights for migrant workers:
 - Entitlement to social security on equal terms with national workers
 - Maintenance of acquired rights upon leaving the country (including the portability of benefits)
 - Benefit from the cumulative rights acquired in different countries

SLIDE 17

Session IV
Integration and social cohesion

SLIDE 18

Session 4: Integration and social cohesion

Models on integration

- Segregation: “no-way integration”
- Assimilation: “one-way integration”
- Multiculturalism: “multi-way integration”
- Integration: “Two-way integration”
 - Under this approach, both the migrant and the host society contribute to the development of a common culture

SLIDE 19

Session 4: Integration and social cohesion


Goals of integration

- To allow migrants to realize their personal, economic, and social potentials
- To ensure that the human rights of migrants are protected
- To reduce levels of alienation and marginalization
- To help establish and maintain social cohesion and harmony

SLIDE 20

Session 2: Group activity

Group activity



Discussing indicators for successful integration

SLIDE 21

Session 4: Integration and social cohesion

Indicators and policies for successful integration

- Economic life
 - The importance of protection in employment
- Language proficiency and knowledge of the country's culture
 - The organization of introduction programmes
- Housing
 - Access to housing
 - Integration in the urban environment
- Access to health
 - The state of health of migrant workers: what risk factors?
 - Access to health services
- Education
 - Educational levels of migrant workers' children
 - Two models: immediate integration in the education system and separation
- Political and civic life
- Social life
 - Granting permanent residence
 - The importance of family reunification

SLIDE 22

Thank you!

Course 3

Developing labour migration policies in countries of destination

Module J

Measures to prevent or
reduce irregular migration

Module J: Measures to prevent or reduce irregular migration

Suggested total duration: 1 h 35 min	
Duration	Session
30 min	Session 1: Introducing Module J
15 min	Session 2: Irregular migration: understanding its causes and measuring the phenomenon
5 min	Session 3: Governing principles for addressing irregular labour migration
45 min	Session 4: Developing best-practice policies to prevent or reduce irregular migration

Aim of Module J

Module J aims to:

- Provide an overview of irregular migration, of the international community's response to it, and of governing principles for addressing, preventing or reducing irregular migration.
- Examine the phenomenon of irregular migration (its determinants, scale, flows and trends), with specific emphasis on labour market issues.
- Identify the principles and best practices that should govern the formulation of policies in this area.
- Provide an overview of possible measures and mechanisms that may be adopted to prevent or reduce irregular migration.

Learning outcomes for Module J

- Understand the causes and repercussions of irregular migration from the perspectives of both destination and origin countries, especially with regard to labour market issues.
- Be familiar with tools for measuring irregular migration.
- Understand relevant policy options for prevention and reduction of irregular migration.

Session 1: Introducing Module J

Suggested duration	30 min total
	5 min Introduce the topic
	5 min What is irregular migration?
	15 min Question activity
	5 min Evolving response of the international community
Methodology	Presentation and Question activity
You will need	Flip chart, pen, Module J slides
Participants will need	Copy of slides

Introduce the topic (5 min)

Slides 1-4

Present aims and outcomes for Module J:

- Module J aims:
 - To provide an overview of irregular migration, of the international community's response to it, and of governing principles for addressing, preventing or reducing irregular migration;
 - To examine the phenomenon of irregular migration (its determinants, scale, flows and trends), with specific emphasis on labour market issues;
 - To identify the principles and best practices that should govern the formulation of policies in this area;
 - To provide an overview of possible measures and mechanisms that may be adopted to prevent or reduce irregular migration.
- Learning outcomes for Module J:
 - To understand the causes and repercussions of irregular migration from the perspectives of both destination and origin countries, especially with regard to labour market issues.
 - To be familiar with tools for measuring irregular migration;
 - To understand relevant policy options for prevention and reduction of irregular migration.

What is irregular migration? (5 min)

Slides 5-6

- Irregular migration can be defined as migration that occurs outside the regulatory norms of the origin, transit, or destination country;
- Highlight the fact that when we speak of irregular migration, by and large we are referring to two groups of migrants:
 - Those who arrive in a clandestine fashion (i.e. enter and stay illegally in the considered country);
 - Those who arrive legally (for example, on the basis of tourist or student visas) and then overstay the period for which their visas/permits are valid.

Although clandestine migration attracts the most attention, it is widely acknowledged that the second group is in the majority.

- With specific regard to the irregular employment of migrants, highlight the following points:

- The above distinction between those who arrive in a clandestine fashion and those who arrive legally but overstay is still relevant in this case.
- Given the complexity of immigration laws, however, that basic dichotomy between regular and irregular migrant must be refined.
- There are a potentially significant number of migrants who, though they reside legally in the country of destination, work in violation of some or all of the employment restrictions attached to their immigration status:
 - o For instance, the legislation of the considered country may not authorize students or family members to work, or may subject students and family members' employment to certain conditions.
 - o A work permit may restrict authorized work to a particular job, a particular employer, or a particular region.
 - o Such employment restrictions, attached to immigration status, lead to vast possibilities of irregularity.

Question activity

Slide 7

Duration: 15 min

Introduce group discussion of the following questions for 10 minutes, requesting thoughts from the group and recording these as briefly as possible on the flip chart.

- Why prevent or reduce irregular migration?
- Are there reasons why some countries do little to prevent or reduce irregular migration?

Summarize points raised in the discussion, ensuring that the following learning points are covered:

- Reasons why some countries take no action:
 - Non-action has short-term advantages for employers and gives the economy a flexible low-cost labour force to meet labour demand.
- Reasons for prevention or reduction:
 - To ensure that migration is successfully managed and that the credibility of legal immigration policies is maintained.
 - To ensure satisfactory salary levels and working conditions for national workers and lawfully resident migrant workers.
 - To avoid the creation of entire employment sectors and enterprises wholly dependent on irregular migrant labour.
 - To prevent exploitation of irregular migrants by employers, employment intermediaries or agents, and smugglers and traffickers.

Indicate that these are just some of the reasons that can be advanced for the reduction/prevention of irregular migration and by no means constitute an exhaustive list.

Present the evolution of the international community's response to irregular migration using the following points:

- The 1970s:
 - In the 1970s, the phenomenon of irregular migration came to the public's attention after some horrific incidents involving trafficking and smuggling.
 - Such incidents resulted in the adoption of several UN resolutions against trafficking, as well as ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers:
 - The first part of Convention No. 143 is dedicated to preventing the abuses connected with the migration process.
 - Convention No. 143 also contains a number of provisions protecting the rights of irregular migrants, particularly their basic human rights, as well as rights arising out of past employment (unpaid wages, etc.).
- 1980s – 1990s:
 - In the 1980s, the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family was being drafted.
 - The Convention was adopted in December 1990 and entered into force on 1 July 2003.
 - It aims to ensure that the rights of all migrant workers, including irregular migrants, and their families are protected (Part IV).
 - It also contains a number of provisions aimed at preventing and discouraging irregular migration (Part VI).
 - Its philosophy is that a comprehensive approach to prevent irregular migration cannot ignore the basic needs and rights of those already in an irregular situation.
- 2000:
 - In 2000 the UN International Convention against Transnational Organised Crime was adopted.
 - This Convention has two Protocols concerned with the links between organized crime and migration:
 - Protocol against the Smuggling of Migrants by Land, Air and Sea;
 - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
 - These instruments have been adopted in the context of criminal law enforcement rather than the context of human rights.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 167-185

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 201-233

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996, pp. 79-86

Session 2: Irregular migration: understanding its causes and measuring the phenomenon

Suggested duration	15 min total
	10 min The causes of irregular migration
	5 min Measuring irregular migration
	Summary
Methodology	Presentation
You will need	Flip chart, pen, Module J slides
Participants will need	Copy of slides

Trainer note

The purpose of this session is to identify the causes of irregular migration, focusing on labour-related issues, and to discuss the tools used to measure irregular migration.

The causes of irregular migration (10 min)

Slides 10-12

- Introduce the presentation by highlighting the fact that in broad terms, the causes of irregular migration are not different from those of regular migration:
 - Both movements are the result of social and economic dynamics operating in a globalized world;
 - Irregular migration flows are related to the overall volume of migration in a given region, the proximity of places of origin and destination, the permeability of borders, and the strength of migration networks.
 - Irregular migrants do not have a single prime motivation:
 - Some migrants seek to reunite with their family members. Others move in search of asylum and protection.
 - There is nonetheless good reason to believe that employment is a preoccupation common to virtually all of them.
 - By definition, while regular migration proceeds along open and established channels, irregular migration falls outside of established channels of migration and seeks to circumvent them.
- Highlight the importance of mismatches between supply and demand in labour markets of countries of destination as a determinant of irregular migration:
 - When the supply of foreign workers through established channels does not match the demand, or when policy or timing does not keep up with labour market issues, then irregular migration dynamics come into play to fill this gap.
 - As immigration policies usually favor the entry and stay of high-skilled rather than low-skilled workers, the existence of work opportunities for lower-wage, low-skilled migrant workers is an important incentive for irregular migrants.
- Summarize factors influencing the choice of regular or irregular migration channels using the following points:
 - Availability of regular channels;

- Direct or indirect discrimination within immigration policies toward some groups of migrants (e.g. men or women, high-skilled or low-skilled workers, or certain nationalities);
- Time necessary for the migration process to be completed;
- Bureaucratic difficulties in the process;
- Excessive conditions and requirements;
- Preference for immediate profit over long-term benefits;
- Lack of available alternatives, or difficulty of access to them.
- Highlight the following specific considerations related to irregular migration of women:
 - When women have few rights in their country of origin, they may consider irregular migration attractive, as they may feel like they have little to lose.
 - In some cases, a person may find her quality of life better as an irregular migrant than in her country of origin.
- Outline the following other factors that facilitate irregular migration:
 - Social networks:
 - Little irregular movement can occur without the information, advice, encouragement, and support of family and friends.
 - Informal migrant recruiting industry:
 - Beyond family and friends, other well-structured informal recruitment systems can contribute to facilitating irregular migration.
 - This informal industry has an extensive role, from advertising and recruiting in the country of origin, to connections with potentially corrupt migration officials and transportation employees, to linkages with migration brokers, employers and social networks abroad.

Measuring irregular migration (5 min)

Slides 13-14

- Introduce presentation by highlighting the following points:
 - Most official documents refer to irregular migration as a “problem” that it is “huge” and “significant”, but there have been few serious attempts to verify this.
 - Estimates of irregular migration differ significantly according to the messenger (government, media, IOs, or NGOs) or indeed according to the time at which they are given.
 - By its very nature, irregular migration eludes the established data-collecting system.
- Outline the following methods of measurement:
 - Examining census data:
 - Provides sound and comprehensive information on immigrant populations as a whole, but does not distinguish between regular and irregular migrants.
 - Highly sophisticated residual techniques must therefore be applied to estimate the irregular migrant contingent. The results require careful interpretation.
 - Comparing/matching arrival and departure records:
 - A relatively simple and reliable way of determining the number of overstayers in a country.
 - Limitations include the fact that many countries do not require exit controls.

- Examining data related to apprehensions of migrants attempting clandestine entry and those detected and expelled:
 - o This kind of data can only give an incomplete picture and varies with the resources assigned to immigration enforcement.
- In the case of a regularization programme, examining the number of applications submitted:
 - o Provides perhaps the most reliable estimates of irregular migrants in a country.
 - o Does not count migrants who for whatever reason did not apply.
- Highlight the following further difficulty regarding measurement of irregular migration:
 - Very little available data is disaggregated by sex and age.
 - The absence of sex-disaggregated data prevents an accurate gender analysis of migration policies and programmes.
- At the global level, ILO estimates refer to irregular migrants as representing 10 to 15 per cent of total migrant stocks and flows.

Summary

Summarize the session ensuring the following learning outcomes are covered:

- Understand the causes of irregular migration, especially as linked to labour-market issues;
- Develop familiarity with the tools available for measuring labour migration.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 167-185

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996, pp. 79-86

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 201-233

Schrover, M., van der Leun, J., Lucassen, L., Quispel, C. (eds), *Illegal Migration And Gender In A Global And Historical Perspective*, IMISCOE Research Series, Amsterdam University Press, 2008

Session 3: Governing principles for addressing irregular migration: The need for a comprehensive approach

Suggested duration	5 min total
Methodology	Presentation
You will need	Flip chart, pen, Module J slides
Participants will need	Copy of slides

Trainer note

The purpose of this session is to introduce the principles governing irregular migration policies and to emphasize the need for a comprehensive approach.

Highlight the following points:

Slides 15-16

- An isolationist approach is bound to fail:
 - Dialogue, cooperation and partnerships between and among all countries (origin, transit, and destination) involved in irregular migration are critical and must be strengthened.
- A cross- or multi-sectoral approach is essential:
 - Not only governments, but also social partners and civil society should be engaged.
 - The problems of the informal labour market cannot be adequately addressed without the participation, in particular, of employers and unions.
- Control or restrictive measures alone are insufficient:
 - To the contrary, a comprehensive set of comprehensive measures that complement one another should be adopted.
 - Protection is an important ingredient in the comprehensive set of measures required to prevent or reduce irregular migration.
- A gender-sensitive approach to irregular migration is vital:
 - Policymakers usually acknowledge differences between men and women with regards to irregular migration.
 - This acknowledgment in the policies, however, usually manifests itself in a simplistic way, with women portrayed as at-risk and men as posing a threat. For instance, the political discourse on border control focuses on men and rarely mentions women, while the discourse on trafficking in persons leaves little space, if any, to male victims.
 - The complexity of gender factors must be recognized in order to develop and implement balanced policies.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 167-185

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996, pp. 79-86

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 201-233

Schrover, M., van der Leun, J., Lucassen, L., Quispel, C. (eds), *Illegal Migration And Gender In A Global And Historical Perspective*, IMISCOE Research Series, Amsterdam University Press, 2008

Session 4: Developing best-practice policies to prevent or reduce irregular migration

Suggested duration	45 min
	5 min Preventing entry
	10 min Preventing facilitation of irregular migration
	5 min Return
	10 min Protection
	5 min Opening legal migration channels
	10 min Regularization
	Summary
Methodology	Presentation and Group activity
You will need	Flip chart, pen, video, Module J slides
Participants will need	Copy of slides

Trainer note

The purpose of this session is to outline policy options on irregular migration for countries of origin and destination, including the constraints of their implementation.

Preventing entry: Border control and visa/work permit policy (5 min)

Slides 17-18

- Introduce the presentation with the following points:
 - Measures preventing entry are the most common types considered to prevent or reduce irregular migration.
 - In recent years, and particularly after September 11, 2001, the attention given to the link between migration and security, and more specifically to the control of borders, has increased.
 - Increasing use is being made of advanced technology (including movement and heat sensor devices, sophisticated radar systems, and automated identification systems that incorporate biometric components) to monitor borders.
- Outline the following elements regarding border controls:
 - Border controls need to be both efficient and fair.
 - Irregular migration becomes more common where border guards practice corruption; fair controls therefore tend to decrease the frequency of irregular migration.
 - Efficiency at the border is enhanced when there is cooperation among the border officials of all countries involved in the migration process (and particularly between neighbouring countries).
- Outline the following elements regarding visa and work-permit policy:
 - An efficient visa and work-permit policy should contain the minimum possible number of bureaucratic obstacles.
 - Visas issued for admission into a country for other reasons (such as tourism or study) are often abused for work purposes; as with many countries, such is the case of those EU Member States using the three-month Schengen visa for short-term visits to the EU.

Preventing facilitation of irregular migration (10 min)

Slide 19

- The principal control/repressive measures address transport carriers, employers, labour migration intermediaries or agents (such as recruitment agencies), and migrant smugglers and/or traffickers:
 - The regulation of recruitment agencies should be implemented in both countries of origin and countries of destination (regarding the former, see Module D: *Protection of migrant workers: policy options for countries of origin*).
 - Labour inspections and employer sanctions DS important deterrents of irregular migration. Nevertheless, the implementation of such policies presents practical difficulties:
 - Inspections of labour sites can be restrained by human resource limitations.
 - Inspections are difficult in areas like the agricultural sector and domestic employment.
 - Assessing criminal liability for the offences is difficult, particularly in those cases where there is a chain of suppliers or sub-contractors (a prevalent feature, for instance, in the construction sector).
 - With regards to migrant smuggling and trafficking, a consensus has emerged on the difference between the two phenomena: trafficking entails a more serious criminal offence and its definition requires, unlike that of smuggling, the elements of coercion, deception or violence that are involved in its commission.
 - It is important to note that carrier and employer sanctions have been criticized for “privatizing” immigration control:
 - The UNHCR, for example, has criticized carrier sanctions for putting considerable obstacles in the way of refugees fleeing persecution, enough to undermine the right “to seek and enjoy asylum” under Article 14 of the Universal Declaration of Human Rights.
 - Employer sanctions have been criticized as increasing the risk of racial and ethnic discrimination against all workers, including national and lawfully resident migrant workers.
 - The sanctions imposed against traffickers have also been criticized, particularly in cases of their failure to distinguish between serious offences (which are related to international organized crime) and less serious offences.
 - It is also important to be conscious that the definition of criminal offences, if drawn too widely, might also criminalize charitable organizations, NGOs and individuals for providing humanitarian assistance to irregular migrants in destination countries.
- Alongside the above-mentioned repressive and control activities, it is important to conduct informative activities directed to potential migrants in countries of origin:
 - These activities may include campaigns to inform or educate the public about the risks of irregular migration, particularly about the dangers of falling into the hands of traffickers, smugglers or unscrupulous labour migration intermediaries or agents, and may also include campaigns to increase knowledge of laws and practices in destination countries.

Return (5 min)

Slide 20

- Outline the following points:
 - Ensuring the return of those who are unlawfully in the territory is crucial to a credible policy for asylum and legal immigration.

- While voluntary return, as the “most dignified and least costly return option” (IOM), is obviously preferable, many of the measures adopted by individual countries in practice concern forced return in the form of expulsion.
- The IOM has a number of programmes in place in cooperation with its Member States to assist (financially) the voluntary return/departure of irregular migrants, rejected asylum-seekers as well as others.
- Highlight the following crucial aspects of removal:
 - Removal of migrants in an irregular situation depends greatly on the willingness of countries of origin to accept them.
 - Because a number of countries of origin have refused to recognize the migrants to be returned as their citizens, some countries of destination have concluded readmission agreements with those countries.
- Outline the following elements regarding readmission agreements:
 - Readmission agreements include reciprocal arrangements for contracting parties to take back their own nationals found residing without authorization in the other contracting party, as well as other irregular migrants who are nationals of neither contracting party but are found to arrive from one of their territories.
 - The principal beneficiaries of readmission agreements are countries of destination.
 - To encourage third countries to enter into readmission agreements, these agreements can include arrangements providing legal channels for labour migration, for example, by establishing quotas for migrant workers.

Protection (10 min)

Slides 21-22

- Introduce this section by highlighting the following elements:
 - Irregular migrants often face exploitation in transit and in destination countries, particularly in the workplace.
 - It is critical that measures to prevent or reduce irregular migration provide for the protection of irregular migrant workers.
- Recall the following point regarding the application of human rights law to irregular migrants (*Module B: International legal framework for the protection of migrant workers*):
 - Under international human rights instruments, fundamental human rights – including civil, economical, social and cultural rights – are conferred upon all persons without distinction (including nationality and immigration status).
 - Recall the importance of the principle of anti-discrimination.
- Outline the importance of the following human rights in the context of irregular migration:
 - Migrant workers in an irregular situation should be protected from slavery-like practices and forced labour, inhuman and degrading treatment, and should enjoy liberty and security of the person (i.e., freedom from arbitrary arrest and detention).
 - Four of the most important aspects of fair employment conditions for migrants in an irregular situation relate to the following rights:
 - Right to a fair wage;
 - Right to compensation for work accidents;

- Right to defend these rights in the labour courts of the country of employment;
- Right to organize.
- One devious practice exploits the inability of migrants (lawfully resident and irregular migrants included) to claim rights arising out of past employment (payment of past wages, reimbursement of social security and other contributory benefits):
 - Article 9(1) of ILO Convention No. 143 calls for equal treatment between irregular migrants and regular migrants in this area.
 - Often, in the absence of bilateral agreements (which, in any event, only apply to lawfully resident migrant workers), it is not possible to recover any social security contributions that have been paid.
- Highlight the fact that proclaiming the rights of irregular migrants in law and securing these rights in practice are two entirely different matters. Outline the following legal and practical obstacles:
 - In many countries, criminalization of the provision of assistance to irregular migrants is a significant legal obstacle to irregular migrants' access to adequate accommodation.
 - The legal duty of public authorities to report irregular migrants to the immigration authorities means that irregular migrants are less likely to claim their rights.
 - There is also inadequate information available to enable irregular migrants to avail themselves of their rights.
 - Irregular migrants also fear coming forward to the authorities because disclosure of their identity will often result in an action to remove or expel them from the territory.

Opening up more legal channels for labour migration (5 min)

Slide 23

- Highlight the following point:
 - Opening up more legal channels for labour migration should be an integral part of a comprehensive, policy-coordinated approach to preventing irregular labour migration.
- Outline the following elements:
 - Irregular migrants fill a gap in the labour markets of destination countries, particularly by undertaking those difficult and unattractive jobs that nationals no longer wish to perform (e.g. in the fields of agriculture, construction, catering, cleaning, and domestic services).
 - More legal channels for labour migration should be opened in order to address these needs of the labour market.
 - Policies establishing legal migration routes should be equitable and sufficiently attractive (for example, by involving the minimum possible amount of bureaucratic procedures) to deter potential migrants from travelling by irregular means.

Regularization (10 min)

Slide 24

- Outline the following elements:
 - Regularization can be broadly defined as the granting of a residence permit to a foreigner residing illegally within its territory.
 - Since the 1980s, regularizations have (especially in Southern Europe) become a frequent means of addressing the presence of a large number of irregular migrants, especially those with a stable

record of employment and other claims to local integration.

- Outline the main different types of regularization:
 - Permanent or one-off procedures:
 - Permanent procedures enable regularizations without any time limitation; it is thus an ongoing process of regularization and not a case-by-case policy.
 - One-off procedures presuppose that the conditions of regularization are fulfilled on a given date. New immigrants are necessarily excluded from this type of process.
 - One-off procedures are sometimes described as “one-shot” because they are undertaken once, are not ongoing, and, in principle, are not intended to be renewed.
 - Individual or collective procedures:
 - A process is said to be “individual” when the evaluation criteria leave a fairly large margin for discretion in the hands of the competent authority. In general, it refers to procedures that stress the protection of those persons concerned.
 - A regularization is said to be “collective” when the evaluation criteria are objective and may possibly lead to the recognition of a true right to regularization on the part of the applicants.
 - A regularization is never either purely individual (the categories of persons that can be regularized are always identified by certain criteria) or collective (the dossiers are always subject to an individual examination in order to check that the applicants respond to the required conditions).
 - Highlight the dilemma posed by regularization policies:
 - On the one hand, regularization may encourage further irregular migration.
 - On the other hand, particularly with respect to those irregular migrants who cannot be removed from the territory for practical or humanitarian reasons, regularization may prevent their further marginalization and exploitation.
 - The host country benefits economically from regularizing its irregular migrant labour force, in the form of the payment of taxation and social contributions.
 - Highlight the fact that regularization programmes should take into account specific difficulties that female migrants may face:
 - Female migrant workers, particularly migrant domestic workers, face more difficulty in providing the necessary documents, because they often do not have formal work contracts, or their names are not written on rental contracts or utility bills, which prove the length of their stay in the country.
 - Conditions for regularization should therefore be evaluated to assure that they provide equally good opportunities for female as well as male migrant workers.

Summary

- Measures to prevent or reduce irregular migration can be based on control, repression, or coercion. Such measures include:
 - Border control and visa/work permit policy;
 - Control or repression of facilitators of irregular migration;
 - Removal of migrants in an irregular situation.
- It is also crucial to adopt and implement more “positive” measures:
 - Information of potential migrant workers;
 - Protection of irregular migrant workers;
 - Development of legal channels for labour migration.
- Some measures should be taken in countries of origin, others in countries of destination. In many cases, international cooperation is critical.

Resources for facilitator preparation

Baruah, N. and Cholewinski, R., *Handbook on Establishing Effective Labour Migration Policies*, OSCE, IOM, ILO, 2007, pp. 167-185

IOM, *World Migration 2008. Managing Labour Mobility in the Evolving Global Economy*, IOM, 2008, pp. 201-233

Böhning, W.R., 1996 *Employing Foreign Workers: A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries*, ILO, 1996, pp. 79-86

Schrover, M., van der Leun, J., Lucassen, L., Quispel, C. (eds), *Illegal Migration And Gender In A Global And Historical Perspective*, IMISCOE Research Series, Amsterdam University Press, 2008

Closing session: end of the training

Suggested duration	50 min
Methodology	Presentation, discussion and conclusion
You will need	Flip chart, pen, evaluation forms, certificates, digital camera
Participants will need	Evaluation forms

Trainer note

This final session is the key to allow effective closure to the training and should not be squeezed in time. It is important that there be some degree of political involvement from the appropriate sponsoring departments and also that the views of the participants be taken into account and that the evaluation discussion leave the participants satisfied with the outcome of the training.

Instructions

If there is a formal political closing of the session then this should either be at the start of this session, or at the end.

Make a decision and explain to the politician or public servant how this will work.

Review of key points (10 min)

- Go through the key points which the participants wanted to cover from the very first session and check whether they have been covered (it is worth checking this every day to make sure you are on track).
- Deal with each briefly and in a positive manner.

Follow-up exercise (15 min)

- Put the group into pairs to ask them what they think the two key points that they will take away from the training are and what two things they would do differently at work as a result of the training.
- Give them 5 minutes and then spend 10 minutes going around the group asking for answers and recording them on a flip chart.

Closing of training

- Allow 10 minutes for the political closing of the event and 5 minutes for the presentation of certificates of attendance (take some photos) and any group photos.
- Give the evaluation forms to the participants and let them fill in the forms.
- Ensure there are some refreshments available for final networking and discussion.

Power Point Module J:

Measures to prevent or reduce irregular migration


SLIDE 1

SLIDE 2

SLIDE 3

SLIDE 4


SLIDE 5

Session 1: Introduction 

What is irregular migration?

- Irregular migration can be defined as migration that occurs outside the regulatory norms of the origin, transit, or destination country
- By and large, two groups of irregular migrants:
 - Those who arrive in a clandestine fashion
 - Those who arrive legally and then overstay the period for which their visas/permits are valid
 - Although clandestine migration attracts the most attention, it is widely acknowledged that the second group is in the majority


SLIDE 6

Session 1: Introduction 


Irregular employment of migrants

- Given the complexity of immigration laws, however, the basic dichotomy between regular and irregular migrant must be refined
- There are a potentially significant number of migrants who, though they reside legally in the country, work in violation of some or all of the employment restrictions attached to their immigration status

SLIDE 7

Session 1: Introduction 


Group activity



Why prevent or reduce irregular migration?

Are there reasons why some countries do little to prevent or reduce irregular migration?

SLIDE 8

Session 1: Introduction 

Evolving response of the international community

- The 1970s
 - Phenomenon of irregular migration came to the public attention
 - Adoption of several UN resolutions against trafficking as well as ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers
- 1980-1990s
 - The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family. The Convention was adopted in December 1990 and entered into force on July 1, 2003.
 - Philosophy: a comprehensive approach to prevent irregular migration cannot ignore the basic needs and rights of those already in an irregular situation.

SLIDE 9

Session 1: introduction

Evolving response of the international community (cont.)

- 2000
 - In 2000, the UN International Convention against Transnational Organised Crime was adopted
 - The Convention has two Protocols to this Convention concerned with the links between organized crime and migration
 - Protocol against the Smuggling of Migrants by Land, Air and Sea
 - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
 - These instruments have been adopted in the context of criminal law enforcement rather than the context of human rights.

SLIDE 10

Session II

Irregular migration: understanding its causes and measuring the phenomenon

SLIDE 11

Session 2: Causes and measurements of irregular migration

Causes of irregular migration

In broad terms, determinants of irregular migration are not different from those of regular migration

- Both movements are the result of social and economic dynamics operating in a globalized world
- Irregular migration flows are related to the overall volume of migration in a given region, the proximity of places of origin and destination, the permeability of borders and the strength of migration networks
- Irregular migrants do not have a single prime motivation
 - Nonetheless, employment is a preoccupation common to virtually all of them


SLIDE 12

Session 2: Causes and measurements of irregular migration

Causes of irregular migration (cont.)

- Mismatch between supply and demand in labour markets of countries of destination
 - As immigration policies usually favour the entry of high-skilled workers rather than low-skilled workers, the existence of work opportunities for low-skilled migrant workers is an important incentive for irregular migrants.
- Factors influencing the choice of regular or irregular migration
 - Availability of regular channels
 - Bureaucratic difficulties in the process
 - Excessive conditions and requirements
 - Preference for immediate profit over long-term benefits
 - Lack of or difficulty of access to available alternatives
- The role of social networks and the migrant-recruiting industry


SLIDE 13

Session 2: Causes and measurements of irregular migration 

Measuring irregular migration

- Estimates differ significantly according to the messenger (government, media)
- By its very nature, irregular migration eludes established data-collection systems
- Methods of measurement
 - Census data
 - Matching arrival and departure records
 - Data related to migrants apprehended trying to enter clandestinely and those detected and expelled
 - Estimates obtained from the number of applications submitted under a regularization programme

SLIDE 14

Session 2: Causes and measurements of irregular migration 

Measuring irregular migration (cont.)


At the global level, the ILO estimates refer to irregular migrants as representing 10 to 15 per cent of total migrant stocks and flows.

SLIDE 15



Session III Governing principles for addressing irregular migration

SLIDE 16

Session 3: Governing principles 

Governing principles for addressing irregular migration

- An isolationist approach is bound to fail
- Strengthening dialogue, cooperation and partnerships between all countries affected by irregular migration (origin, transit and destination countries) is critical
- A multi-sectoral approach is also essential
- Control or restrictive measures alone are insufficient
- A gender-sensitive approach to irregular migration is vital

SLIDE 17

Session 4: Measures to prevent or reduce irregular migration

Session IV

Developing best-practice policies to prevent or reduce irregular migration

SLIDE 18

Session 4: Measures to prevent or reduce irregular migration

Preventing entry - Border control and visa/work permit policy

- Border controls
 - Border controls need to be efficient, fair and non-discriminatory
 - Propensity to migrate in an irregular manner tends to increase in cases of corruption and other malpractices of border guards
 - Efficiency at the border is enhanced when there is cooperation among the border officials of all countries involved in the migration process
- Visa and work permit policy
 - Efficient visa and work-permit policy must contain the minimum possible number of bureaucratic obstacles
 - Visas issued other reasons (such as tourism or study) can often be abused for work purposes

SLIDE 19

Session 4: Measures to prevent or reduce irregular migration

Preventing facilitation of irregular migration

- The principal control/repressive measures are aimed at transport carriers, employers, labour migration intermediaries or agents and migrant smugglers and/or traffickers
- Alongside control and repressive activities, it is important to conduct information campaigns directed at potential migrants in countries of origin



SLIDE 20

Session 4: Measures to prevent or reduce irregular migration

Return

- Ensuring the return of those who are unlawfully in the territory is crucial to a credible policy for asylum and legal immigration
- Removal of migrants in a irregular situation depends on the willingness of countries of origin to accept them
- Readmission agreements
 - The principal beneficiaries of readmission agreements are destination countries
 - To encourage third countries to enter into readmission agreements, these agreements can include arrangements providing legal channels for labour migration



SLIDE 21

Session 4: Measures to prevent or reduce irregular migration  

Protection

- It is critical that measures to prevent or reduce irregular migration provide for the protection of irregular migrant workers
- Under international human rights instruments, fundamental human rights – including civil, economical, social and cultural rights – are conferred upon all persons without distinction

SLIDE 22

Session 4: Measures to prevent or reduce irregular migration  

Protection (cont.)

- Proclaiming the rights of irregular migrants in law, and securing these rights in practice, are two entirely different matters
- Legal and practical obstacles
 - Criminalization of the provision of assistance to irregular migrants
 - Legal duties imposed on public authorities to report irregular migrants to the immigration authorities
 - Inadequacy of information available to enable irregular migrants avail themselves of their rights
 - Migrants' reluctance to come forward to the authorities for fear of expulsion



SLIDE 23

Session 4: Measures to prevent or reduce irregular migration  

Opening more legal channels for labour migration

- Irregular migrants fill gaps in the labour markets of destination countries
- These needs of the labour markets should be addressed by opening up more legal channels for labour migration
- Policies establishing legal migration routes should be equitable and sufficiently attractive to deter potential migrants from travelling by irregular means

SLIDE 24

Session 4: Measures to prevent or reduce irregular migration  

Regularization

- Regularization: the granting of a residence permit to a foreigner residing without authorization within its territory
- The main different types of regularization
 - Permanent or one-off procedures
 - Individual or collective procedures
- The regularization dilemma

SLIDE 25