

# KEY ISSUES FOR THE UNITED NATIONS HIGH-LEVEL DIALOGUE ON INTERNATIONAL MIGRATION AND DEVELOPMENT, 2006

*International Labour Office*

The International Labour Office (ILO) welcomes the decision of the United Nations to hold a High-Level Dialogue (HLD) on International Migration and Development at the sixty-first session of the General Assembly in 2006. This Dialogue will be the next major multilateral discussion on migration at the global level following the ILO General Discussion on Migrant Workers at the ninety-second session of the International Labour Conference, June 2004—the largest international conference on the subject of migration since the ICPD in 1994. The complexity and the controversial nature of issues surrounding international migration will certainly benefit from high-level international consultations for narrowing down differences and reinforcing areas of convergence.

The ILO General Discussion on Migrant Workers will be of obvious interest to the United Nations High-Level Dialogue and the other forums working in the field. The Office report prepared for the discussion, *A fair deal for migrant workers in the global economy*, and the rich deliberations in the Committee of Migrant Workers have highlighted major issues which need further discussion and elaboration at international level.<sup>1</sup>

The Resolution concerning a fair deal for migrant workers in the global economy adopted by the International Labour Conference represented “*a major achievement that serves as a milestone for the future*” in the words, Mr. Juan Somavia, the ILO Director-General.

The purpose of the United Nations High-Level Dialogue is “to discuss the multidimensional aspects of international migration and development in order to identify appropriate ways and means to maximize its development benefits and minimize its negative impacts” with “a strong focus on policy issues”.<sup>2</sup> The theme of migration and development is now receiving greater attention internationally. Although there is still limited research on the subject, many international and regional agencies are now looking closely at the issues. The ILO is glad to note that the Secretary General’s annual reports to the General Assembly have played a pioneering role in promoting this debate. The ILO has identified several important issues to be considered by the High-Level Dialogue below.

## A. KEY ISSUES TO BE TAKEN UP AT THE HIGH-LEVEL DIALOGUE

### *1. Equitable sharing of gains of international labour migration*

ILO has consistently sought to forge an international consensus on international labour migration to ensure that it contributes to growth and development processes. There is now increasing global recognition of positive contributions of migration through remittance flows, transfer of investments, technology and critical skills, and transnational communities. Some perceive migration to be part of livelihood strategies for the poor. Nonetheless migration policy involves some trade-offs for source and host countries as well as for migrants themselves since it has both positive and negative consequences. The challenge is how to manage migration in such a way that the positive effects are maximized, making it a win-win phenomenon for all.

While fostering mobility may benefit all countries, it is important to ensure more equitable distribution of benefits. One perspective is to promote circular migration and transform unilateral flows into virtuous cycles which benefit all parties concerned. These processes cannot be left totally to the market, and state interventions are often necessary (e.g. to monitor recruitment, to promote investments in critical skills, ensure recognition of skills, reduce transactions costs, among others).

It is probably true that remittances can play a large role in the development process, but there are countries receiving large volumes of remittances year after year which are yet to achieve sustained growth. It has often been pointed out in the literature that remittances are now a bigger flow than development aid. However it should clearly not be seen as an alternative to foreign aid. Another concern relates to the increasing flow of skilled migration, primarily from South to North. Starting initially with IT and knowledge workers, the latest concern is about the exodus of health workers, particularly nurses. The ILO has carried out important research on the impact and policy responses to skilled migration.<sup>3</sup> An ILO-OECD technical workshop on the problem<sup>4</sup> concluded that only comprehensive solutions can have an impact on equitable sharing of gains from skilled migration based on four principles: efficiency, equity, sustainability and ethical considerations. Sending countries should focus on upgrading working conditions and living environments and on better managing human resources, while receiving countries should focus on policy coherence, especially between migration policies and policies on development co-operation.

## *2. Policies for orderly migration recognising labour market needs and protecting migrant workers*

Current international migration movements are complex, and do not represent a simple South to North flow. There is a considerable movement within the South between low income countries and middle income countries in Africa, Asia and Latin America. This reflects the fact that at every level of development, there are some segments of the labour market where domestic supply does not always expand, or respond inadequately to demand. Close to half of the 86 million estimated number of economically-active migrants are in developing countries. Many middle income developing countries are already significant host countries, but this fact is often not recognized in their legislation or in their policies. Even least developed countries such as Nepal and Mongolia receive migrant workers though they are primarily labour-sending countries.

Migration is often a response to labour market disequilibrium which happens in all countries irrespective of level of development. Given projected demographic trends such as population decline and ageing, the indications are that there will be a continuing demand for migrant workers in developed countries. The Plan of Action adopted by the International Labour Conference highlighted the need for opening up more regular labour migration avenues to meet foreseeable short and long term labour market shortages, and to minimise irregular migration.

Many economists have argued that large benefits can accrue to the world economy through liberalising movements of people. The same is of course true at regional levels when greater freedom of movement of labour is allowed in the context of economic integration. Yet labour mobility is still limited in many regions due to poor harmonization of policies and regulations.

Trade, especially trade in services, presents a vast untapped potential, especially under GATS Mode 4: movement of natural persons.<sup>5</sup> Since the latter involves the temporary movement of labour, it should not result in permanent loss of critical skills and could also allay fears in receiving countries about more permanent settlement. However it is only with respect to the skilled that there is willingness among States to liberalise admissions, whereas the biggest gains can come from the movement of the less skilled. Acceptable rules have yet to be negotiated concerning these movements given their implications for labour rights and standards, among others. The High-Level Dialogue could address the gap between migration and trade policies, and consider how trade in services under Mode 4 can be made the subject of greater agreement among states.

Rescuing migration policies from the demands of street politics will require an informed debate that can reach a broad social consensus—reaching agreement among representatives of those who stand to gain and those who stand to lose from migration. These are the employers, the workers, and the Government representing the larger society, and also the broader civil society. Social dialogue among all these stakeholders can help form a sound approach that commands broad support.

### *3. Protection and integration of migrant workers: an unfinished agenda*

The 2003 ILO global survey of labour migration policies and practices<sup>6</sup> points clearly to the fact that sound policies in both origin and destination States make a difference to the protection of the workers, and to achieving gains from migration. Despite the positive experiences of many migrant workers, a significant number face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers' rights, discrimination and xenophobia, as well as social exclusion.<sup>7</sup> These developments erode the potential benefits of migration for all parties, and seriously undermine its development impact. ILO has identified the most vulnerable workers to abuse of human and labour rights to be: women migrant workers, especially domestic workers, migrant workers in irregular status, and trafficked persons. The UN Resolution also recognized the need to enhance international cooperation to ensure that "the human rights and dignity of all migrants and their families, in particular of women migrant workers, are respected and protected".

The ILO's Conventions and Recommendations still constitute the most important building blocks for the protection of migrant workers at the international level and they remain largely relevant, even if there are some gaps. The ILO core conventions apply to all migrant workers regardless of status. The two ILO Conventions on migration—the ILO Migration for Employment Convention of 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)—together with the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provide a broad legal framework for migration policy and practice covering most issues of treatment of migrants and of inter-State cooperation on regulating migration. However, for these standards to make a palpable impact on the conditions of migrant workers, and migration management, such principles must first of all be applied, and access to justice ensured and, secondly, migration processes must be amenable to management and regulation.

The High-Level Dialogue will be an opportunity to review ratification and implementation of these relevant international norms, and how support to States and stakeholders can be enhanced to ensure that legal norms are effectively applied, so that migration is indeed regulated under rule of law.

Integration is among the most difficult challenges raised by international migration today. ILO and other research have established poor integration of migrants in host societies reflected in high unemployment rates of migrant workers, lack of recognition of their skills and experience, serious employment problems faced by second generation migrants, and growing xenophobia. In the European countries, ILO research found net-discrimination rates of 35 per cent among the migrant workforce. The integration policy dilemmas faced by many States are rarely separable from more general debates on discrimination. Successful integration will also depend on success with curbing racism and xenophobia. The growth of temporary labour migration in many parts of the world poses special problems about integration since current state policies regarding temporary status prevents their integration. Many countries have yet to adopt effective approaches to integrating immigrant workers and their families; the High-Level Dialogue offers an opportunity to share effective practices and give impetus to implementation of the guidelines and programme of action adopted by the 2001 World Conference on Racism.<sup>8</sup>

### *4. A multilateral framework for governance on international migration*

Closely related to all the above issues is the role of a multilateral framework in promoting gains from cross border movements of people for all parties concerned. Indeed, in practically every region, the rising mobility of people in search of decent work and human security has been commanding the attention of policy makers and prompting dialogues for multilateral cooperation on how to harmonize policies on the movement of migrant workers and on the protection of their rights. The report of the World Commission on the Social Dimensions of Globalization has drawn attention to the rising significance of cross border movements of workers in the global economy, its potential for good, and the need for dialogue on the ground rules by which to insure that the gains from migration are shared more equitably with the workers and among nations.<sup>9</sup>

It is interesting to note the increasing convergence of ideas on the need for a multilateral framework. The activities of the Geneva Migration Group<sup>10</sup>, the Berne Initiative, and the Global Commission on International Migration further demonstrate that the ILO's own process of reflection is part of increasing international consideration of whether some form of framework is needed to maximize the potential benefits of cross-border movement of people for migrants and their families, and for their countries of origin and destination, while minimizing the drawbacks and costs.

The Plan of Action adopted by Government, employer and workers delegates at the 2004 ILO Conference also called for the development of a non binding multilateral framework for a rights based approach to labour migration and the establishment of an ILO dialogue on migration in partnership with international agencies. The ILO instruments mentioned above will provide the framework for a rights based approach.

By 2006 when the High-Level Dialogue takes place, some of the above processes would have been completed, and proposals elaborated. They will provide a solid and concrete basis for the High-Level Dialogue to consider options and deliberate on how to move forward.

## B. ILO RESPONSES

The majority of world's migrants are economically active (migrant workers), and therefore, the whole gamut of ILO activities in the world of work apply to them. The ILO approach to migrant worker issues consists of several aspects.

- Multidisciplinary and multisectoral approach

The ILO's broad mandate in labour issues and promotion of social justice has equipped it well to deal with multidisciplinary aspects of international migration covering diverse issues such labour markets and employment, poverty alleviation, gender concerns, social protection and social security, international labour standards, and social dialogue. ILO's overarching framework of 'decent work for all' embraces these diverse aspects, and can be applied to the issue of migrant workers. An example is the incorporation of migrant worker protection in the *Decent Work Pilot Programmes* in Bangladesh and in the Philippines. Similarly the Social Finance Unit works with MIGRANT in enhancing the developmental impact of remittances through means such as lowering transfer costs and their productive utilization.

- Tripartite approach

The ILO offers a unique tripartite framework for migration policy development and implementation since employers and workers have a direct stake in migration issues. The ILO Bureau of Workers is working closely with MIGRANT on the protection of workers.

- Normative approach based on ILO standards

Unless otherwise specified, most ILO instruments apply to migrant workers as well. The ILO core conventions relating to core labour standards apply to all migrant workers irrespective of their status. The ILO Migration Programme works in close collaboration with the Standards Department in matters relating to migrant worker instruments.

- Strategic partnerships

The ILO recognizes the complexity of the international migration scene today, which has moved far beyond migration for employment or migrant workers only. It is therefore, important to join hands with other agencies working on similar issues (IMP, IOM, UNCHR, UNHCR, among others). The ILO works closely with IOM at global, regional, and national levels in promoting more effective governance of labour migration. The ILO signed a MOU with the European Commission in July 2004 to reinforce their joint efforts to reduce poverty and improve labour conditions in developing countries. This partnership will foster close collaboration in the field of development including migration issues. The ILO is working closely with the Council of Europe in a number of areas dealing with migration from the social integration of immigrant workers to designing multilateral agreements on social security.

The following are main areas of ILO activity, which address the identified key issues.

- Building a global knowledge base on labour migration through research, information and an online international labour migration (ILM) database;
- Forging an international consensus on how to regulate migration;
- Provision of advisory services and technical cooperation to Governments and social partner organizations on legislation, policy and administration of labour migration and maximizing the developmental impact of migration.
- Capacity building for officials of Government agencies and social partners in all aspects of labour migration policy and administration, and strengthening social dialogue in the arena of migration;
- Advocacy, promotion and supervision of relevant International Labour Standards;
- Special action programmes to combat trafficking and forced labour, to protect groups at risk, and to promote integration and non-discrimination.

### *1. Building a knowledge base*

Building a knowledge base on international labour migration is the essential starting point for advisory services relating to migration policy and practice. Recognizing that constituent policy-makers and practitioners face constantly evolving realities, ILO research activity has focused on identifying and analyzing new phenomena, trends and issues related to all aspects of labour migration. Selection of research topics is demand driven, based on issues identified in consultations with Government and social partner experts, and in recommendations from specialized tripartite and other conferences and seminars. Recent research has focussed on impact of skilled migration and policy responses, the impact of globalization on labour migration, emigration pressures, regional integration and free movement of labour, irregular forms of migration, and productive use of remittances, patterns of labour market discrimination against migrant workers, and problems of women migrant domestic workers. The findings are regularly disseminated through working papers and the website (<http://www.ilo.org/migrant>).

Given that concrete statistical data is vital for national policy planning and administration, ILO maintains a unique International Labour Migration Database, providing on-line data from more than 80 countries on indicators of labour migration flows, stocks and employment characteristics. This database is coordinated with the EUROSTAT and UNSD to avoid duplication and improve quality. Limited resources and lack of capacity of responding countries has impeded its regular updating and wider participation by countries.

ILO carried out a General Survey on migration law and practice in Member States as part of preparatory work for the International Labour Conference General Discussion. Ninety-three countries responded, and the publication "ILO Migration Survey 2003: Country Summaries", has compiled detailed information on migration laws, policies and practices in these countries.

The ILC Plan of Action has renewed ILO's mandate in this area (see para 33): "*Together with its constituents and, as appropriate, in conjunction with other international organizations, the ILO should continue building a global knowledge base on international labour migration*". The ILO hopes that the United Nations Coordination Meeting will contribute to these efforts through involvement of concerned agencies.

## *2. Forging international consensus and promoting multilateral cooperation*

ILO has consistently made efforts to project a positive image of international labour migration by identifying mutual benefits to source and host countries. Information dissemination is a critical part of this message. The rising emphasis on migration as primarily a labour market and economic concern rather than a security concern in current international policy discourse certainly coincides with increased ILO activity on migration.

In working towards this consensus, ILO is working with regional and international agencies active in the field of migration. The ILO has played an active role in the Berne initiative, participating in its Steering Committee and in preparing documents. It cosponsors the inter-agency International Migration Policy Programme together with the IOM, UNFPA and UNITAR. It is a co-founder of the Geneva Migration Group of heads of international agencies established in 2003 to enhance dialogue and cooperation among the main United Nations and international agencies concerned with migration.

ILO contributes actively to United Nations forums and mechanisms addressing migration policy, including the Commission on Human Rights, the General Assembly, and the Special Rapporteurs on Human Rights of Migrants and on Rights of Non-Nationals.

The ILO Director General briefed his counterparts in the Geneva Migration Group on the conclusions of the International Labour Conference and sought and obtained their support and cooperation for the elaboration of the non-binding multilateral framework. The ILO has also obtained expression of support of the European Commission in carrying out the Plan of Action, in particular in developing the multilateral framework based on best practices, as well as in providing technical cooperation on labour migration management in third countries and in the EU.

The Office is continuing the work of identifying best practice models which can go into the framework and is working closely with other international organizations like IOM, UNHCHR, UNHCR, UNESCO and UNODC, with OECD and EC, migration research centres, and others which are also engaged in related efforts to evaluate and document the experience with various approaches to migration governance. MIGRANT is involved with overseeing some of the research commissioned by the Global Commission on International Migration, and the ILO's regional bureaus play an active part in the regional consultations organized under the auspices of the Global Commission and the Berne Initiative. The ILO believes the United Nations Third Coordination Meeting on International Migration will prove to an effective forum to solicit support of the participating organizations for ILO's Plan of Action, particularly the multilateral framework of guidelines and best practices.

## *3. Technical cooperation*

Technical cooperation is re-emerging as a core ILO service to members in the field of labour migration. Cooperation by the Office offers the comparative advantage of reinforcing a comprehensive and integrated approach in national policy, legislation and practice.

Two main approaches currently characterize ILO technical cooperation activity. One is conducting advisory missions, seminars and/or short-term expert projects at the request of member Governments to address specific needs and situations. Second, in the context of the growing importance of regional economic integration agreements, a new approach by the Office is to launch comprehensive sub-regional cooperation projects offering an integrated package of research, technical advice, capacity building and joint policy elaboration covering all countries within regional or sub-regional economic and political integration spaces. An important objective is to identify common policy approaches and cooperation to ensure that freer circulation of labour serves as a motor to regional integration and development.

An example of the second approach are projects related to migration and development in the African context. In the first phase, a project "Labour migration and development in West Africa" was completed in

2003 with support from the Netherlands. It focussed on migration and development linkages (remittances, diaspora, skilled migration), migration management and improvement of migration statistics. A more comprehensive project "Managing labour migration as an instrument of development" has been recently launched in partnership with the European Commission covering 22 countries in Eastern, Northern and Western Africa. It will undertake comprehensive reviews of legislation, research on migration-development linkages including remittances, the brain drain, and role of transnational communities, policy outcomes, evaluation and training, elaboration of mechanisms to facilitate labour circulation, and sub-regional meetings to promote cooperation.

#### *4. Capacity Building*

The Office has given renewed attention to building the competence and capacity of officials of Government agencies and social partner organizations to engage in labour migration policy and practice. The Office, in cooperation with the ILO International Training Centre in Turin, elaborated a specific tripartite training approach on labour migration. Sub-regional tripartite *capacity building* seminars using this approach were held in Southern Africa, Central Africa and Western Africa in 2002-2003.

ILO is a partner in the inter-agency (ILO-IOM-UNFPA-UNITAR) International Migration Policy Programme, and participated in a number of regional and sub-regional training programmes in Africa and Central Asia-Caucasus.

ILO produces training materials intended to reach much wider audiences as well. The *Information Guide on Women Migrant Workers* was issued in 2003 to enhance efforts of Government agencies, workers' and employers' organisations as well as NGOs in all countries to improve protection, reduce exploitation and abuse and prevent trafficking of female migrants. It includes case studies on good practices in eleven member countries.

The ILO compiled a compendium of anti-discrimination "good practice" measures by employers, unions, Government and NGOs from most European countries, available 'on line' as of September 2004. Evaluations of anti-discrimination legislation and training, a typology of anti-discrimination measures, and a practitioners' handbook will be published in 2004 to assist tripartite ILO constituents in conducting effective anti-discrimination work.

#### *5. Advocacy and promotion of ILO instruments for protection of migrant workers*

International Labour Standards remain the essential foundation for elaboration of national legislation and policy on migration. Recent contrasting experience between ILO and United Nations migrant worker standards demonstrates that active promotion by the Office is the prerequisite to wider ratification and implementation by Member States of its norms. Since 2001, tripartite seminars in Africa, IMP conferences in Africa and Central Asia, and international union consultations have consistently recommended renewed promotion of ILO Conventions 97 and 143. Attention is being given to these and other relevant instruments in ITC training courses and other activities in 2004.

The ILO Migration Survey in 2004 revealed that at least 14 Member States are considering ratification of either Convention 97 or 143. The Office shall give priority to supporting early ratification through such means as offering technical advice on legislation, organizing tripartite seminars to discuss ratification, and disseminating information.

#### *6. Special action programmes*

Another initiative by the Office is to launch special action programmes to target most vulnerable groups of workers such as child labour, trafficked persons and those working under forced labour, and to promote integration and non-discrimination. Effective responses to protection needs of groups especially at risk of abuse and exploitation require programmatic initiatives that international organizations are uniquely able to

implement. These programmes are enabling common understandings, cooperation and effective action across borders and they attract resources and attention that no national or regional effort has achieved.

Following earlier studies in Belgium, Germany, the Netherlands and Spain, research to measure discrimination in employment against migrant workers was conducted in Italy in 2003, supported by the Italian Ministry of Labour/Welfare. Its findings will assist the Government of Italy and social partners to better combat discrimination in employment and implement the EU Directive on racism. An ILO initiated project to enhance tripartite co-operation in facilitating integration and combating discrimination against migrant workers in Europe will be initiated in mid 2004 with support from the European Union INTI fund; a feature will be setting up European social partner forum on integration.

The Special Action Program on Forced Labour (DECL) has focused ILO attention on combating trafficking in migrants and identifying the extent to which migrants are relegated to situations of forced labour. A comprehensive ILO kit on trafficking was prepared in June 2003. To deal with the situation of domestic migrant workers, it has initiated a project on “Mobilizing action for the protection of domestic workers from forced labour and trafficking” in Hong Kong SAR, Indonesia, Malaysia and Philippines.

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#### NOTES

<sup>1</sup>ILO (2004). A fair deal for migrant workers in the global economy, Report VI, International Labour Conference 2004, 92nd Session. Geneva, International Labour Office, <http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf>.

ILO (2004). Report of the Committee on Migrant Workers, Provisional Record 22, International Labour Conference, Ninety-second Session. Geneva, International Labour Office, <http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/pr-22.pdf>.

<sup>2</sup>United Nations Resolution adopted by the General Assembly: 58:208 International migration and development, Fifty-eighth session, 13 February 2004, A/RES/58/208.

<sup>3</sup>see the following for a summary of this research: Lindsay B. Lowell and Alan Findlay. (2002). Migration of Highly Skilled Persons from Developing Countries: Impact and Policy Responses - Synthesis Report, International Migration Papers No. 44. Geneva, International Labour Office; Piyasiri Wickramasekara, Policy responses to skilled migration: retention, return and circulation, Perspectives on Migration: Paper 5e, ILO, Geneva.

<sup>4</sup>ILO-OECD, One step forward for the international mobility of highly skilled workers, Main issues discussed at the ILO/OECD brainstorming meeting on “Migration of the highly skilled. Practical proposals for a more equitable sharing of the gains and proposals for further research”, 26 and 27 May 2003, ILO, Geneva.

<sup>5</sup>Alan Winters, “The Economic Implications of Liberalising Mode 4 Trade.” In: Aaditya Mattoo and Antonia Carzaniga, eds., Moving People to Deliver Services. Oxford University Press and World Bank. New York.

<sup>6</sup>ILO (2004). Migration Survey 2003: Country Summaries, International Migration programme, Social Protection Sector, International Labour Office, Geneva.

<sup>7</sup>ILO (2004). A fair deal for migrant workers in the global economy, op.cit.

<sup>8</sup>United Nations, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Declaration and Programme of Action, Durban, South Africa, 31 August - 8 September 2001, United Nations.

<sup>9</sup>The report concluded that: “A major gap in the current institutional structure for the global economy is the absence of a multilateral framework for governing the cross-border movement of people.” ILO (2004). A fair globalization: Creating opportunities for all, Report of the World Commission on the Social Dimension of Globalization. Geneva, International Labour Office, <http://www.ilo.org/public/english/wcsdg/docs/report.pdf>.

<sup>10</sup>Informal group of heads of agencies dealing with migration –ILO, IOM, UNHCR, UNCTAD, UNHCHR and UNODC-meeting regularly in Geneva.





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