

Executive Summary

Introduction

Over the last 45 years, the number of persons living outside their country of birth has more than doubled, from an estimated 75 million in 1960 to nearly 191 million in 2005. Almost half of the 191 million migrants in the world today are women. Estimates put the number of migrant workers at over 86 million. The management of migration flows is therefore crucial given this magnitude and that international labour migration is likely to increase in the future. Labour migration, or the movement of people across borders for employment, has moved to the top of the policy agendas in many countries of origin, transit and destination. Governments at both ends of the migration spectrum are increasing their regulatory capacities to manage labour mobility to the mutual benefit of society, migrants and the State.

The *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination* is a follow-up to the recommendation made by the Slovenian Chair at the 2005 Economic Forum of the Organization on Security and Cooperation in Europe (OSCE) to prepare a handbook on migration management policies based on good practices in the OSCE area. The *Handbook* is also the result of work undertaken by IOM and ILO to prepare training curricula, operational guidelines, and tools for its constituents in the effective management of labour migration. The *Handbook* has been prepared by the International Organization for Migration (IOM)'s Labour Migration Division, with the assistance of a number of depart-

ments in the International Labour Organization (ILO), and OSCE and external experts.

The OSCE countries span a number of regions displaying quite different characteristics in terms of labour migration. It includes two traditional countries of immigration, Canada and the United States, both of which operate systems of employment-based immigration. The OSCE also encompasses the whole of the European Union (EU), which constitutes the quintessential labour migration system, with its free movement of workers regime. All EU Member States as well as OSCE participating States to the east of the EU are Members of the Council of Europe, which has developed its own approach to migration, including the adoption of a number of multilateral legal instruments aimed at regulating the lawful movement of migrant workers within the region and guaranteeing their fair treatment. Another region, which is rapidly gaining in importance as far as labour migration is concerned, is the Commonwealth of Independent States (CIS). The largest country in this region, the Russian Federation, is home to the second largest number of migrants after the United States; Ukraine is fourth after Germany and Kazakhstan is ninth. Moreover, CIS countries are among the top ten countries of origin in the world. Finally, labour migration in the Balkans is also moving up the political agenda.

The principal objective of this *Handbook* is to assist States, particularly those in the OSCE area, in their efforts to develop new policy solutions and approaches for better management of labour migration and labour

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migration flows in countries of origin and destination. It has been prepared primarily for use by decision-makers and labour migration practitioners in the OSCE area and in countries served by the IOM and ILO, and contains analysis of effective labour migration policies and practices, drawing upon examples from OSCE participating States as well as other countries. Another important objective is to emphasize that successful management of labour migration requires a deliberate approach to address the complex range of policy issues and choices involved. Countries that have achieved relative success in managing labour migration have done so, because they have been prepared to admit past policy failures and to experiment with new approaches.

I. International Legal Framework for the Protection of Migrant Workers

The rights and freedoms stipulated in international human rights law developed under the auspices of the UN system apply equally to migrant men and women as to any other individual, as do the provisions of international labour law developed by the ILO, including those in the eight core ILO Conventions. Concern for migrant workers has also been expressed through the insertion of specific provisions targeting migrants in Declarations and Plan of Actions of UN World Conferences held over the past decade, such as the 2001 Durban Declaration and Programme of Action against

Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the appointment of a UN Special Rapporteur on the human rights of migrants in 1997.

The first specific international instruments aimed at finding solutions to the problems facing migrant workers include the Migration for Employment Convention, 1949 (Revised) (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) as well as their accompanying Recommendations. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in December 1990, embodies most of the substantive provisions of the ILO instruments, and in some ways goes beyond them. The UN Convention and the specific ILO Conventions may therefore be considered as complementary.

At the heart of the protection of the rights of men and women migrant workers lies their potential vulnerability to discrimination, exploitation and abuse, especially in marginal, low status and inadequately regulated sectors of employment. In addition, migrants without an authorization for entry and/or employment are at the margins of protection by safety and health, minimum wage and other standards as they are most often employed in sectors where those standards are either not applicable, or not respected or enforced. It is therefore imperative that, as a complement to the formulation of appropriate policies to curb irregular migration and illegal employment, countries ensure minimum standards of protection, including basic human rights, for all migrants workers, *whatever their status*.

Regional standards for the protection of migrant workers have also been elaborated in Europe and North America. Relevant Council of Europe instruments cover general human rights as well as more specific agreements relating to migrants and migrant workers. With regard to the EU framework, while differences exist in terms of rights and benefits granted to migrant workers coming from within the EU, from future accession countries, and from third countries, the EU Charter of Fundamental Rights of 2000, though not a legally binding instrument, is a major point of reference in this context because most of its provisions are applicable to all persons irrespective of their nationality. Migrant workers enjoy general protection under the inter-American human rights system as provided by the 1948 American Declaration on the Rights and Duties of Man and the 1969 American Convention on Human Rights, which both guarantee freedom from discrimination. Certain important principles applicable to migrants and their families have also been developed on the basis of the case law of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

II. Issues Underlying Policy Responses in Countries of Origin and Destination

Policy-makers in both countries of origin and of destination have to devote careful attention to a number of underlying broader issues when crafting appropriate policies. While these issues necessarily differ because of the different labour migration dynamics taking place in origin and destination countries, some are common to both sets of countries, such as the concerns relating to the protection of migrant workers and the need for inter-state cooperation, particularly with a view to preventing or reducing irregular migration. The differential and often discriminatory impacts of legislation, policies and programmes on different groups of women and men migrant workers also need to be addressed to ensure mutual gains from migration.

Countries of origin, while diverse in terms of stages of economic development, also face other common is-

ssues, namely the challenges in optimizing the benefits of organized labour migration, particularly the development of new markets (where applicable), and increasing remittance flows through formal channels, as well as enhancing the development impact of labour migration, while at the same time mitigating the adverse impact of the emigration of skilled human resources. They also have to build institutional capacity and inter-ministerial coordination to meet labour migration challenges.

The issues underlying policy responses in destination countries regarding the admission of migrant workers relate to the detection, assessment and prediction of labour shortages at the national level for both skilled and less-skilled employment and protection for the national workforce in the event that more labour migrants are admitted into the country. Policy-makers in destination countries also need to conduct an analysis of the national labour market in order to understand whether labour migration can provide a solution, at least partially, for adverse demographic trends, particularly the decline in working populations, and the subsequent impact on the availability of social welfare benefits for future generations. Measures also have to be put into place to avoid exploitation of migrant workers in the workplace and society in general, and to combat discrimination and xenophobia amongst the host population. In this regard, politicians and policy-makers also face a sensitive and challenging task in convincing and educating national populations on the need for foreign labour.

III. Developing Policies in Countries of Origin to Protect Migrant Workers

A priority concern for all labour-sending governments is to ensure the well-being of migrant workers and to secure the payment of decent wages and basic provisions. Countries of origin have two main policy options to achieve this: regulatory measures and the provision of support services. While there are no perfect systems for regulation of labour migration, countries of origin do have a range of policy strategies which

can extend the scope and improve the efficiency of their regulatory mechanisms and support services, including: regulation of recruitment; developing and enforcing minimum standards in employment contracts; information dissemination to migrants; assistance in the country of destination and promoting inter-state cooperation.

IV. Optimizing the Benefits of Organized Labour Migration

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 and generate remittances, while providing safeguards to protect migrants. While job creation at home is the first best option, an increasing number of countries see overseas employment as a part of a national development strategy for taking advantage of global employment opportunities and bring in foreign exchange. For countries seeking to promote foreign employment, labour migration policy necessitates adequate emphasis on the promotion and facilitation of managed external labour flows and should not be limited to the State's regulation and protection functions. This chapter looks at policies to optimise the benefits of organised labour migration, including marketing and the expansion of labour migration, enhancing the development benefits of remittances, skills development and the mitigation of the adverse impact of the emigration of skilled human resources.

V. Administration of Labour Migration

To meet the policy objectives of protecting citizens working abroad and of optimizing the benefits of labour migration, it is essential that there is adequate institutional capacity and inter-ministerial coordination. This includes giving the management of labour migration due priority in overall development and foreign

policy and in the allocation of resources. Administration of labour migration is usually governed by an Emigration Act or Decree. Implementation of the relevant legislation is usually the responsibility of the Ministry of Labour, but in some cases a separate Ministry has been created for overseas affairs. Within the Ministry, most advanced labour-sending countries have a foreign employment bureau or its equivalent responsible for protection, welfare and promotion.

Managing migration successfully requires close cooperation and coordination of almost the entire Ministerial Cabinet, including the Ministries of Labour, Foreign Affairs and Interior. Links among agencies need to be strengthened, or established, where they have not yet been created.

Crafting a policy for labour migration needs to take into account the international labour migration environment and should be directed towards meeting the overall objectives of protection, development and inter-state cooperation and capacity building. In addition, the policy should be gender sensitive, consistent with the national development plan and comprehensive.

Administrative structures need to be monitored and their performance assessed through the introduction of parameters for monitoring and evaluation. Collection of data on labour migration is essential for producing statistical reports and for providing supporting information for policy-making and planning.

VI. Foreign Labour Admission Policies

When devising admission policies for foreign labour, in addition to the application of methodologies for assessing labour shortages, policy-makers also have to put in place mechanisms to gauge to what extent such shortages should be filled by foreign labour and how this labour should be channelled into the employment sector or region in question. Further, they have to decide whether to prioritize temporary labour migration, increasingly an interesting option for many destination countries, or migration channels which

lead to a secure residence status or permanent settlement. The *Handbook* focuses on temporary labour migration, since it is prevalent in many countries and is considered to be the best solution in terms of meeting labour market shortages in countries of destination, while ensuring that countries of origin are not deprived of valuable human resources, particularly skilled workers. However, given the extent of demographic and welfare imbalances, employment-based immigration is increasingly a serious option being explored in a number of European countries.

Globalization has fuelled the growth in temporary migrant worker programmes in many destination industrialized countries, which is one of the consequences of the growth in “flexible” labour markets. Given the increasing dependence of employers on temporary migrant labour, particularly in low-skilled sectors such as agriculture, construction, the food industry and services, these programmes are likely to grow in number and complexity as policy-makers attempt to devise innovative ways to channel the lawful admission of migrant workers, on a short-term basis, into the sectors concerned. There is also a renewed interest in the concept of temporary circular labour migration.

The principal policy questions in designing viable temporary migrant worker schemes are how to ensure that the programmes offer the benefits identified and that workers are treated in a decent and equitable manner. Care must also be taken when discussing the concept of “temporary” labour migration. It is important to make a distinction between government policies which admit migrant workers for a limited period with the clear objective that they will return to their country of origin at the end of that period; and more open labour migration schemes which allow for the possibility of settlement.

Many migrant workers, especially those with higher than average skills, are admitted through more regular admission channels, which can be described as the ‘ordinary work permit system’. While most work permit procedures foresee temporary employment, their application may lead eventually to free access to the labour market for migrant workers and a secure or permanent residence. Thus, in practice, they may operate as an employment-based immigration system.

A number of important questions arise regarding the work permit system, which impact on its operation in practice and the treatment migrant workers receive. If the employer holds too much authority over the worker, this may lead to abusive situations. Furthermore, excessively bureaucratic procedures impair the efficiency of the work permit system.

Common temporary labour migration programmes concern seasonal labour migration schemes and arrangements to channel migrant workers into specific sectors of the economy where labour shortages are prevalent. Protection of migrant workers, close and careful cooperation between pertinent stakeholders in both origin and destination countries, and assistance with return are distinct, but related, issues that need to be carefully addressed in order to successfully design such schemes. Trainee worker schemes are also a source of temporary migrant labour. If properly and fairly organized, these schemes may offer personal benefits to participating migrant workers because they can gain important skills and on-the-job training in the destination country. Such schemes may also benefit countries of origin, thanks to the transfer of skills and know-how on the migrant workers’ return home.

Domestic work has been a significant element of the growing phenomenon of migration, particularly in respect of women. While, labour migration has had a generally empowering influence on women in terms of higher self-esteem and increased economic independence, there are many undocumented women migrants in informal, unprotected, hidden and unregulated labour markets, including domestic workers, whose situation provides cause for concern. In many countries, domestic workers are excluded from labour legislation and their working conditions remain unregulated. Therefore, it is very important for countries of destination to recognize the high level of demand for foreign domestic workers and the significance of introducing clear policies. Effective policies have really made a difference to the situation of women migrant workers.

While temporary labour migration, if appropriately managed, can potentially benefit all parties involved in the process (origin and destination countries and migrant workers themselves), there are a number of important policy issues administrators and officials in

destination countries should attempt to address before proceeding to design temporary labour migration programmes. Firstly, they need to consider the advantages of this type of migration vis-à-vis employment-based immigration and the circumstances under which it might be promoted, while at the same time attempting to ensure, in cooperation with developing countries of origin, that the latter are not deprived of their best talent. Secondly, while the concept of temporary and circular labour migration appears sound in theory, increasingly questions are being asked about the design of these programmes in order to operate successfully in the future, in the light of past policy failures of such schemes. In particular, two issues need to be resolved: ensuring temporary migrant workers return to their country of origin, and guaranteeing their fair treatment in the destination country, given their less secure employment and residence status.

VII. Post-Admission Policies: Rights of Migrant Workers

Post-admissions policies are concerned with a number of inter-related elements for regulating the labour market, ensuring protection of workers, and supporting community welfare. Important measures are generally required in five areas:

- labour market regulation;
- protection of migrant (and national) workers in the employment context;
- facilitation of social cohesion;
- improvements in social welfare; and
- social security provision.

Most of these measures are also found in the minimum standards in international human rights and international labour law structures in which OSCE countries participate. In some instances, national legislative measures of countries of origin can also contribute greatly to the protection of their workers while working abroad.

Labour market regulation is concerned with access to employment and occupation in the destination country, whether this entails the migrant worker's first

employment or a second job if he or she becomes unemployed. The rules relating to recognition of diplomas and qualifications can also greatly affect the skill level of employment migrant workers are permitted to access, thus having a significant impact on the degree of their economic and social contribution to the destination country as well as in terms of their remittances and potential means to enhance development of their countries of origin.

While States retain sovereign rights over their migration policies, international law has established a number of principles providing for equality of treatment between regular migrant workers and nationals in the realm of employment and occupation, including monitoring of terms and conditions of employment, access to vocational training, language and integration courses, allowing for freedom of association, and protection against discrimination. Core universal human rights apply to all migrants, regardless of their status, and a broad array of international labour standards provide for protection in treatment and conditions at work.

Social cohesion in destination countries will be facilitated considerably if discrimination against migrant workers and their families can be addressed and eliminated. Moreover, appropriate measures assisting the integration of migrants in society and providing possibilities for family reunification also play an important role in preventing the marginalization of migrants and promoting social cohesion.

The social welfare of migrant workers and their families in destination countries is enhanced by proper access to health care, housing and education on equal terms to those afforded nationals. These areas are also manifested strongly in important social rights protected in international human rights and labour law and to which nearly all OSCE participating States are committed.

Migrant workers are confronted with particular difficulties in the field of social security, as social security rights are usually related to periods of employment, contributions or residency. Migrant workers risk the loss of entitlements to social security benefits in their country of origin due to their absence, and may at the same time encounter restrictive conditions in the host

country with regard to their coverage by the national social security system. Therefore, migrant workers have specific interests in obtaining equal access to coverage and entitlement to benefits as national workers; maintaining acquired rights when leaving the country (including the export of benefits); and benefiting from the accumulation of rights acquired in different countries.

VIII. Measures to Prevent or Reduce Irregular Labour Migration

There are a number of good reasons explaining why irregular labour migration should be prevented or reduced, such as the need to ensure the credibility of legal immigration policies, protect irregular migrant workers from exploitative and abusive situations, and maintain good relations among origin, transit and destination countries.

By and large irregular migrants comprise two groups of persons. First, there are those who arrive clandestinely, sometimes with tragic consequences. The second group comprises those persons who arrive legally (for example, with tourist or student visas) and then overstay the period for which their visas are valid. It is widely acknowledged that the majority of irregular migrants fall into the second group.

Concerns over widespread abuses relating to irregular migration have resulted in a number of responses by the international community focusing on the prevention of these abuses by requiring States to take measures to detect, eliminate and apply sanctions for the clandestine movements of migrants in abusive conditions and illegal employment, including labour trafficking, and on protecting the rights of irregular migrant workers, particularly their fundamental human rights as well as their rights arising out of past employment (unpaid wages, etc.).

A comprehensive or holistic approach is necessary to address the problem of irregular labour migration. Four governing principles should underpin action to prevent or reduce irregular migration:

1. An isolationist approach is bound to fail, and strengthening dialogue, cooperation and partnerships between all countries affected by irregular migration is critical;
2. It is necessary to adopt a set of measures that are both comprehensive and complementary;
3. Control or restrictive measures alone are insufficient; and
4. A cross- or multi-sectoral approach is essential, engaging not merely the participation of governments, but also the social partners and civil society. In particular, the problems of the informal labour market cannot be adequately addressed without the participation of employers and unions.

A series of comprehensive measures to prevent or reduce irregular labour migration can therefore be envisaged at all stages of the migration process encompassing activities in countries of origin; border controls and the articulation of a viable visa policy; measures and sanctions against those who facilitate irregular migration, including traffickers, smugglers and exploitative employers; safeguards for irregular migrant workers; regularization or legalization programmes; return measures with an emphasis on promoting voluntary departure; opening up more legal channels for labour migration; and inter-state cooperation.

IX. Inter-State Cooperation

Dialogue and cooperation among States involved in labour migration processes is essential if international labour migration is to benefit all the stakeholders involved (i.e. destination and origin countries, migrant workers, employers, trade unions, recruitment agencies, civil society, etc.). There are different levels of inter-state cooperation, both formal and informal, in which States are involved at the bilateral, regional and global level.

Formal mechanisms of inter-state cooperation are essentially legally binding treaty commitments relating to cooperation on labour migration, which States have concluded. These agreements may take the form of treaties solely concerned with this subject, as is the case with bilateral labour agreements, or broader

agreements, such as the specific regional and international conventions relating to the protection of migrant workers, which include provisions on inter-state cooperation. States have also entered into important formal commitments on international trade relevant in the context of the movement of persons as service providers.

Bilateral labour migration agreements (BLAs) formalize each side's commitment to ensure that migration takes place in accordance with agreed principles and procedures. BLAs can set up procedures for regulating the whole labour migration process from entry to return, with advantages for both destination and origin countries. For countries of origin, in particular, they ensure their nationals obtain employment and are adequately protected in the destination country.

The principal purposes of BLAs are: economic, with a view to filling temporary shortages in the domestic labour market, such as those in the agricultural sector, while at the same time enabling the migrant and the country of origin to benefit from increased earnings; political, whether to confirm friendly relations or reinforce cooperation in managing irregular migration; and development, with a view, for example, to preventing indiscriminate international recruitment in sectors, such as health services, which have a direct bearing on development in poorer countries.

While some disadvantages have been identified with BLAs, in the absence of a global regime for international labour migration they remain an important mechanism for inter-state cooperation in protecting migrant workers, matching labour demand and supply, managing irregular migration, and regulating recruitment. Where BLAs have worked as a mechanism for the temporary employment of foreign workers, the main reasons seem to be that they target specific sectors with a severe labour shortage; there is a quota or ceiling; recruitment is organized; employers are engaged; and, above all, there is circulation of labour. Moreover, the involvement of employers and their organizations in the implementation of BLAs contributes significantly to their efficiency.

Regional cooperation for the management of labour migration can be divided into formal mechanisms

of regional integration, including free movement of labour initiatives and state obligations to cooperate in regional treaties, and less formal mechanisms, such as regional consultative processes and other informal arrangements.

Labour migration is facilitated to a greater or lesser degree by regional integration processes, which are usually driven by economic factors, such as the establishment of free trade arrangements between countries in the region, with a view to optimizing the potential of markets and economic opportunities. They normally include provisions for the facilitation of the movement of nationals from participating Member States for the purposes of employment and residence. Such arrangements may range from extensive free movement regimes applicable to all categories of persons, including workers, as in the EU, to more limited provisions focusing on the movement of business visitors, professionals, other highly-skilled persons, and service providers, which is the position under the North American Free Trade Agreement. Regional integration in the CIS has also been pursued at various levels, although the results have been mixed.

At the global level, there is no comprehensive international migration regime currently in operation. The admission of persons to States for the purpose of employment is regulated principally by national laws and policies. However, a number of formal mechanisms have been developed at the global level, under the auspices of international human rights and labour treaties or international trade arrangements, such as the 1994 General Agreement on Trade in Services (GATS) which contains globally applicable rules of relevance to the mobility of workers in the context of the trade in services. These rules are found in Mode IV of the Agreement and enable "natural persons" to cross an international border for the purpose of providing a service, although, for the moment, these rules are limited in practice to a narrow category of migrants. In the context of recent WTO trade negotiations, however, delegations from developing and least developed countries have sought greater access for their nationals to labour markets in developed countries.

Reaching formal commitments in focused bilateral labour agreements, regional integration mechanisms,

and regional and international conventions is important for facilitating orderly labour migration and protecting migrant workers. When these agreements are difficult to achieve, as is sometimes the case, other solutions can prove an effective tool for interstate cooperation. These include non-binding consultative mechanisms such as regional consultative processes, joint commissions on labour, and working groups.

Regional consultative processes (RCPs) are an example of non-binding fora bringing together migration officials of States of origin and destination to discuss migration-related issues in a cooperative way. There are two basic characteristics common to RCPs. They are informal and the results, though consensual, are non-binding. Although the focus of such processes depends on the interests of the parties involved, a key in the successful functioning of an RCP is the basic acknowledgement of a shared interest in migration management, despite national interests and experiences. While few RCPs focus exclusively on labour migration, this topic is becoming an increasingly important agenda item. Other formats for non-binding consultations between countries of origin and destination are joint commissions of labour, round tables and study committees or working groups.

On the global level, the Berne Initiative is a state-owned consultation process with the objective of obtaining better management of migration at the national, regional and global levels through enhanced cooperation between States. The process assists governments in sharing their different policy priorities and identifying their longer-term interests in migration with a view to developing a common orientation to migration management. The most important outcome of the Berne Initiative has been the development of the International Agenda for Migration Management (IAMM), a non-binding source and broad policy framework on migration management at the international level. IAMM sets out a number of common understandings and effective practices for a planned, balanced and comprehensive approach to the management of migration, including labour migration and the human rights of migrants.

In June 2004, the 92nd Session of the International Labour Conference held a general discussion on migrant workers based on an “integrated approach”. The Conference adopted by consensus a Resolution concerning a fair deal for migrant workers in a global economy, which called upon ILO and its constituents to implement, in partnership with other relevant international organizations, a plan of action on labour migration. A major element in this plan was the development of a non-binding multilateral framework for a rights-based approach to labour migration which takes account of labour market needs. This Framework approved by the Tripartite Meeting of Experts in November 2005 and submitted to the ILO Governing Body in March 2006, underlines the importance of international cooperation in dealing with labour migration. The Framework contains four broad themes: decent work for all; management and governance of labour migration; promotion and protection of migrant rights; and labour migration and development. Because the Framework is non-binding, the text focuses on the principles and guidelines that should assist Member States in formulating labour migration policy measures and in implementing them.

Inter-state cooperation is vital to an orderly and managed labour migration system. In the absence of a widely accepted international migration system for labour migration (i.e., expansion of GATS to encompass broader categories of service providers and increased ratification of international human rights and labour standards protecting migrant workers), the need to expand and develop international, regional and bilateral cooperation, through formal and informal means, and on the basis of existing best practices, is particularly relevant.

X. Conclusion

The *Handbook* attempts to provide direction for policy-makers in countries of origin and of destination by providing information on effective policies and practices which have evolved in countries with substantial experience in this field, taking account of the local context.

Both countries of origin and destination face common and different priorities and issues, in terms of emphasis, in formulating labour migration policy. The primary concern for countries of origin is to ensure as far as possible the protection and welfare of their migrant workers, particularly those more vulnerable to abuse such as women household employees. An equally important concern of countries of origin is optimizing the development benefits from organized labour migration. These policy objectives can only be met, however, if there is adequate institutional capacity and inter-ministerial coordination to carry them out, as well as inter-state cooperation.

With regard to destination countries, observations and assessments of recent policy-making on labour migration at the national level indicate that, given demographic and welfare imbalances in most European countries, serious consideration has to be given increasingly to certain forms of permanent employment-based immigration. At the same time, a considerable majority of migrant workers, who are lawfully employed in European countries, have been admitted in the context of temporary labour migration schemes, sometimes facilitated by bilateral labour arrangements. Policy-makers face challenges in making these programmes work, while simultaneously protecting the interests of their national workforce (both nationals and lawfully resident migrants) and providing sufficient safeguards for migrant workers admitted under these schemes.

However, given the transnational nature of labour migration, a policy framework developed solely at the national level, irrespective of how innovative or meticulously crafted, will be insufficient to meet all the challenges posed. Consequently, such a framework should be firmly rooted in bilateral, regional and multilateral mechanisms, both of a formal and informal co-operative nature, which inform and supplement national approaches. In this regard, it is important to underline the role of the international legal framework.

Governments, employers' and workers' organizations, parliamentarians, and civil society organizations in all countries, which are participating States of the OSCE, and ILO and IOM Member States, have a fundamental role to play in assuring a regulated and effective approach to international labour migration. Such an approach offers the best route to ensuring that labour migration becomes truly an instrument of development, regional integration, and social welfare in home and host countries, as well as for migrants themselves.

Intro

Introduction

Of the estimated 191 million migrants worldwide, more than 86 million are thought to be labour migrants. This figure is much higher, if one takes into account accompanying dependents. The management of migration flows is crucial, given this magnitude and the likelihood that international labour migration will increase in the future. Labour migration, or the movement of people across borders for employment, has moved to the top of the policy agendas in many countries of origin, transit and destination. Governments at both ends of the migration spectrum are increasing their regulatory capacities to manage labour mobility

for the mutual benefit of society, migrants, and the state. At the same time, by its very nature, migration for the purpose of employment is a cross-border or a transnational phenomenon, and cannot therefore 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 (i.e. countries of origin, transit and destination) at all levels of government, together with other key stakeholders, namely social partners (employers and trade unions) and civil society organizations.

International labour migration is an unavoidable yet necessary reality for most countries, including Member States of the International Organization for Migration (IOM), the International Labour Organization (ILO) and participating States of the Organization for Security and Co-operation in Europe (OSCE),¹ will be facing in the coming decades. While states can be categorized as origin and destination countries, or sending and receiving countries, and indeed face both common and different priorities and issues, in terms of emphasis, in formulating labour migration policy, migration is a dynamic process and today's countries of origin may be tomorrow's countries of destination.² The experience of central and southern European countries is a particularly good example of the changing dynamics of migration. Moreover, to a certain degree, many countries are also both countries of origin and destination.

Given that the mobility of persons for reasons of employment is here to stay in our globalizing world and likely to increase, comprehensive, efficient and eq-

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uitable management of labour migration is needed to maximize its positive impact and minimize any negative effects for both countries of origin and destination as well as for migrant workers and their families.³

Background

Migrants generally, and migrant workers in particular, are actors in development, in both destination and origin countries. They contribute skills, labour, knowledge and initiative to the progress of host countries. They also make major contributions to home countries with their remittances and the return of talent, which contribute to improving human capital and local economies. Labour migration has become a key feature in enabling industrialized countries to meet economic, labour market and productivity challenges in a globalized economy. Migration today serves as an instrument for adjusting the skills, age and sectoral composition of national and regional labour markets. It provides responses to fast-changing needs for skills and personnel due to technological advances, changes in market conditions, and industrial transformations. In countries with aging populations, migration offers a potential for replenishing a declining work force, as well as injecting younger workers, and increasing dynamism, innovation and mobility in the labour force.

A growing body of knowledge amply demonstrates that both male and female migrants make large contributions to economic and social development in both their host and home countries. Numerous studies show that migrants fill vital jobs unwanted by natives,

and that their presence, activity and initiative create additional employment. Migrant contributions to social security systems are helping balance national accounts in a number of countries, even though many will never benefit from their own contributions. By working at low or sub-standard wages, migrants contribute significant subsidies which ensure cheap farm produce, accessible services, affordable buildings, and available health care for example, although they challenge, sometimes involuntarily, prevailing wage and conditions levels in host countries (ILO, 2004a).

Migrant contributions to scientific, social, cultural and sports accomplishments are legend in the histories and identities of many immigration countries.

By volume, with official transfers to developing countries estimated at over US\$160 billion in 2005, migrant remittances are the largest international exchange value after petroleum, and far above current levels of international development aid. While it is often stated that migrant remittances to their home countries, usually developing nations, are expended primarily on consumption, much of this spending is apparently invested in improving housing, nutrition, healthcare and educational levels for families back home. These expenditures clearly have a substantial positive impact on improving human capital, which is the most basic component of development, and have multiplier effects on expanding local activity in construction, food production, and health care and educational facilities.

An urgent priority today is to reduce the cost of remittance transfers, so that the largest proportion pos-

sible arrives for the beneficiary family and community, rather than being paid to financial intermediaries in the form of transfer costs and fees, sometimes reported at rates of 20 per cent or more.

The social and labour conditions of migrant workers and the degree of migrants' integration determine the levels and degree of economic and social contributions they make to social and economic welfare in host countries. Specifically, the conditions of migrant workers directly affect both their abilities to remit part of their earnings and to acquire skills and knowledge which will be useful on their return or during permanent settlement elsewhere. Thus, these conditions have a direct bearing on the level and nature of migrant contributions to social welfare, human capital formation, and development, especially in their countries of origin. For example, employment earnings denied to migrants in exploitative conditions or which deported migrants are unable to obtain prior to departure are economic resources not only stolen from the affected workers, but in effect expropriated from the countries of origin to which a significant part would have been remitted.

While protection of the human rights of all migrants is a legal, political and ethical imperative in its own right, regardless of economic, financial or other considerations, protection of migrant workers, campaigns against discrimination, equality of treatment, and encouragement of integration are demonstrably essential measures for ensuring that migration indeed contributes substantially and positively to development, economic and social, in host and home countries alike.

Labour migration, a phenomenon involving human beings in situations of potential exploitability and inadequate protections, is not one that can be left to market mechanisms alone to regulate. Deliberate policies and practices by states and concerned stakeholders are required to ensure that migration benefits both host and origin countries and the migrants themselves.

In recent years, international dialogue and consultation on migration has increasingly focused on identifying common approaches and means for cooperation

among states in regulating what is by definition a phenomenon requiring international cooperation. A decade ago, delegates of some 160 countries agreed upon a comprehensive common agenda in the chapter on migration of the Plan of Action adopted by the 1994 International Conference on Population and Development (ICPD) in Cairo (UNFPA, 1994). In 2001, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance adopted the Durban Declaration and Programme of Action with specific elements to address treatment and integration of foreigners (UN, 2002).

Over the last several years, regional migration dialogues, in Africa, the Americas, in the Caucasus-Central Asia region and South-east Asia, have continued discussions and elaborated common approaches. At the global level, the Berne Initiative, for which the IOM provided the Secretariat, resulted in the International Agenda for Migration Management (Swiss Federal Office for Migration, 2005a; IOM 2005d), which sets out a number of common understandings and effective practices for a planned, balanced and comprehensive approach to the management of migration, including labour migration.

Another important contribution was the adoption of Conclusions and a Plan of Action for migrant workers at the 2004 International Labour Conference in Geneva. These Conclusions outline a rights-based approach to regulating labour migration in the context of labour market and employment considerations. They were adopted unanimously by ministerial level government representatives and leaders of trade union and employer federations from the 177 ILO Member countries. Following this Plan of Action, the ILO subsequently elaborated a non-binding Multilateral Policy Framework for Labour Migration from a rights' based approach that takes into account labour market concerns and the sovereignty of states (ILO, 2005a). These developments are presented in more detail in Chapter IX of the *Handbook* on Inter-state Cooperation.

Migration policies and practices can only be viable and effective when they are based on a firm foundation of legal norms, and thus operate under the rule of law. As such, therefore, they must conform to the minimum standards accepted by all OSCE participating

States, and IOM and ILO Member States in international human rights and international labour law. Many of these standards are reiterated at the regional level. There are also specific international standards relating to the protection of migrant workers and members of their families. The two ILO Conventions on Migration, the Migration for Employment Convention 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 (ICRMW), provide a broad legal framework for the development of migration policies and practices with respect to the treatment of migrant workers. Together, these three instruments comprise an “international charter” for the protection of migrant workers and provide a normative framework covering most issues concerning their treatment and related inter-state cooperation. Seventy-six countries have now ratified one or more of these three instruments, including a significant number of OSCE participating States, and ILO and IOM Member States. This international legal framework is elaborated in Chapter I.

At the same time, labour migration policy can only be credible and sustainable to the extent it takes into account the interests, concerns and experience of the most directly affected stakeholders. Key stakeholders are the many ministries and agencies within government with responsibility for labour migration, including of course labour ministries. Consultation and policy-making must also take into account the other stakeholders: employers’ organizations and businesses that provide employment; workers’ organizations representing the interests of both migrant and national workers; civil society bodies; and certainly men and women migrants themselves.

Migration policies and practices have to respond to measured and legitimate needs, which also take into account domestic labour concerns. Such a system must rely on regular labour market assessments to identify and respond to current and emerging needs for workers, both high- and low-skilled. Policy and practice will need to address such areas as awareness raising, supervision of recruitment, administration of admissions, training of public service and law enforce-

ment officials, recognition of educational equivalencies, provision of social and health services, labour inspection, rights restoration and recovery for victims of trafficking, as well as many other areas.

Why a Handbook on Labour Migration?

Labour migration, or the movement of people across borders for employment, has moved to the top of the policy agendas in many countries of origin, transit and destination. Governments at both ends of the migration spectrum are increasing their regulatory capacities to manage labour mobility to the mutual benefit of society, migrants and the State. Many are turning more and more to IOM and ILO and other relevant organizations for expert support in the formulation of effective labour migration policies. An increasing number of developing countries and countries with economies in transition seek to adopt policies to promote foreign employment for a part of their workforce and thus generate remittances, while providing safeguards to protect their citizens abroad. Some middle-income countries are also destination countries and are seeking ways to improve management of their labour inflows. Many high income countries, while having long-standing migration policies, must continually adjust to meet labour market needs, attract skilled migrants, reduce irregular migration and mitigate brain-drain.

Migration was placed on OSCE’s agenda in 1975, with the adoption of the Helsinki Final Act (1975), which identified freedom of movement as one of its founding commitments,⁴ and which addressed directly the international migration of workers (Textbox 1).

Due to recent labour migration trends in the OSCE area, a number of OSCE participating States have accommodated significant numbers of migrants, while sometimes lacking the policy and legal frameworks for migrants’ protection. Issues related to the human rights of migrants and migrant workers, in particular, have been receiving increasing attention from OSCE over the last few years. OSCE has developed several

Final Act of the Conference on Security and Co-operation in Europe – Helsinki 1975

Economic and social aspects of migrant labour

The participating States ... are of the opinion that the problems arising bilaterally from the migration of workers in Europe as well as between participating States should be dealt with by the parties directly concerned, in order to resolve these problems in their mutual interest, in the light of the concern of each State involved to take due account of the requirements resulting from its socio-economic situation, having regard to the obligation of each State to comply with the bilateral and multilateral agreements to which it is party, and with the following aims in view: ...

- to ensure, through collaboration between the host country and the country of origin, the conditions under which the orderly movement of workers might take place, while at the same time protecting their personal and social welfare, and, if appropriate, to organize the recruitment of migrant workers and the provision of elementary language and vocational training;
- to ensure equality of rights between migrant workers and nationals of the host country with regard to conditions of employment and work and to social security, and to endeavour to ensure that migrant workers may enjoy satisfactory living conditions, especially housing conditions;
- to endeavour to ensure, as far as possible, that migrant workers may enjoy the same opportunities as nationals of the host countries of finding other suitable employment in the event of unemployment;
- to regard with favour the provision of vocational training to migrant workers and, as far as possible, free instruction in the language of the host country, in the framework of their employment; ...
- to ensure that the children of migrant workers established in the host country have access to the education usually given there, under the same conditions as the children of that country ...
- to bear in mind that migrant workers, particularly those who have acquired qualifications, can by returning to their countries after a certain period of time help to remedy any deficiency of skilled labour in their country of origin;
- to facilitate, as far as possible, the reuniting of migrant workers with their families;
- to regard with favour the efforts of the countries of origin to attract the savings of migrant workers, with a view to increasing, within the framework of their economic development, appropriate opportunities for employment, thereby facilitating the reintegration of these workers on their return home.

important commitments to facilitate the movement of people across borders, as well as within their own countries. There are also specific commitments related to the treatment of migrant workers.⁵

The year 2005 saw unprecedented attention devoted to migration issues by the OSCE, as the Slovenian Chair of the OSCE selected the issue of migration and integration as a priority theme of the year. Moreover, the Slovenian Chairmanship decided to make full use of the unique three-dimensional nature of the OSCE to look at this complex topic in a comprehensive manner: from the political and security, economic and environmental, and human dimension perspectives.

The Slovenian Chair also introduced the subject of (labour) migration management into OSCE's Economic and Environmental Dimension (see Annex 2). The demographic reality in the OSCE area and neighbouring countries constituted the background for discussions on migration during the preparatory process and at the OSCE 13th Economic Forum on "*Demographic Trends, Migration and Integrating Persons belonging to National Minorities: Ensuring Security and Sustainable Development in the OSCE area*", held in Prague on 23-27 May 2005 (OSCE, 2005a). During this discussion, it became even more obvious that migration would continue to represent a growing challenge for the OSCE participating States and that effective mechanisms to improve the management of migration

TEXTBOX 2

13th OSCE Ministerial Council Decision No. 2/05 Migration

The Ministerial Council,

Reaffirming the commitments related to migration, and in particular regarding migrant workers, and other relevant commitments, especially those recognized in the Helsinki Final Act (1975), the Madrid Document (1983), the Vienna Final Document (1989), the Copenhagen Document (1990), the Charter of Paris for a New Europe (1990), the Moscow Document (1991), the Helsinki Document (1992), the Budapest Document (1994) and documents adopted by the Ministerial Council in Maastricht (2003) and Sofia (2004),

Recognizing the increasing importance of migration, as well as the challenges and opportunities that it presents to participating States,

Further recognizing that migration is becoming a more diverse and complex phenomenon, which needs to be addressed in a comprehensive manner and therefore requires a cross dimensional approach at the national, regional and international levels,

Recognizing that all States should adopt effective national frameworks in order to manage migration,

Underlining that migration is inherently a transnational issue requiring co-operation between States,

Acknowledging that migration constitutes an important economic, social and human factor for host countries as well as for countries of origin,

Acknowledging also that successful integration policies that include respect for cultural and religious diversity and promotion and protection of human rights and fundamental freedoms are a factor in promoting stability and cohesion within our societies,

Determined to fight illegal migration and to address its root causes,

Bearing in mind the different approaches to migration issues by the OSCE participating States, and drawing on their experience and best practices,

Taking into account the initiatives taken and the work done by the OSCE during 2005 in addressing the issue of migration and integration, in particular, the Human Dimension Seminar on Migration and Integration, the Thirteenth OSCE Economic Forum and the 2005 Mediterranean Seminar,

Welcoming the existing co-operation between the OSCE, in particular, the Office for Democratic Institutions and Human Rights (ODIHR) and the Office of the Co ordinator of OSCE Economic and Environmental Activities (OCEEA), and relevant international organizations and institutions,

Considering that the OSCE, within its comprehensive approach to security, could contribute, *inter alia*, by:

- Working in synergy and developing a stronger partnership with international bodies having a specific focus on migration,
- Facilitating dialogue and co-operation between participating States, including countries of origin, transit and destination in the OSCE area, as well as the OSCE Partners for Co-operation and Mediterranean Partners for Co-operation,
- Assisting the participating States, upon their request, to develop effective migration policies and to implement their relevant OSCE commitments,
- Inviting participating States to consider becoming parties to relevant international instruments,

Tasks the Permanent Council to follow up the work initiated in 2005 and to report to the Fourteenth Meeting of the Ministerial Council;

Tasks the Secretary General as well as relevant OSCE institutions and structures, to continue their work on migration issues in all three dimensions.

Source: OSCE (MC. DEC/2/05).

should be put in place (including legislation and policy development, institutions and structures, enhanced dialogue and co-operation at both national, regional and international levels, capacity building, training of personnel and more attention paid to sustainable development). At the Economic Forum, management of labour migration was thoroughly discussed. The Forum and its preparatory process highlighted the links between migration and such factors as economic development through remittances and skills transfer, the environment, security and stability, human rights, organized crime, including trafficking and smuggling of persons, and human capital and brain drain, to mention just a few examples.

Consequently, the work on migration was firmly placed on OSCE's agenda of political priorities and this was reiterated at the 13th OSCE Ministerial Council held in Ljubljana in December 2005, where Decision No. 2/05 on Migration was adopted. This Decision reaffirmed previous OSCE commitments related to migration and in particular those regarding migrant workers. Importantly, the Decision recognized that "migration is becoming a more diverse and complex phenomenon, which needs to be addressed in a comprehensive manner and therefore requires a cross-dimensional approach at the national, regional and international levels", and that "all States should adopt effective national frameworks in order to manage migration" (OSCE, 2005b). It also encouraged OSCE to contribute by "facilitating dialogue and co-operation between participating States, including countries of origin, transit and destination in the OSCE area" and "assisting the participating States ... to develop effective migration policies and to implement their relevant OSCE commitments" (OSCE, 2005b) (Textbox2).

The development of this *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination* is, on one hand, a direct follow-up to the recommendation made by the Slovenian Chair at the Economic Forum to prepare a handbook on migration management policies based on good practices in the OSCE area and beyond. This idea received broad support at the Forum and later meetings of the Economic and Environmental Sub-Committee of the Permanent Council.

The *Handbook* is also the result of work undertaken by IOM and ILO to prepare training curricula, operational guidelines, and tools for its constituents in the effective management of labour migration. It has been prepared by IOM's Labour Migration Division, with the assistance of ILO and OSCE, and external experts.

Both IOM and ILO offer considerable experience in the field of migration. Established in 1951, IOM is the principal intergovernmental organization in the field of migration and is dedicated to promoting humane and orderly migration for the benefit of all. IOM's purpose in labour migration is to facilitate the development of policies and programmes that can individually and mutually benefit concerned migrants, governments and societies. IOM's activities in the field of labour migration have increased significantly in recent years, with several active programmes on labour migration in most regions of the world. These programmes comprise broadly: government capacity-building; assisting with pre-departure orientation for, and the provision of information to, migrant workers; facilitating the establishment and implementation of bilateral labour migration arrangements; enhancing the development impact of remittances; and supporting inter-state dialogue and cooperation on labour migration. ILO has a long-standing mandate to protect persons in their working environment, including those who are outside their own countries (i.e., migrant workers), and to promote decent work for all persons. Its unique tripartite structure, recognized role in setting and supervising international labour standards aimed at protecting the rights of all workers, and its expertise in promoting productive employment allows it to play a distinctive role in the field of international labour migration. The activities of the three organizations on labour migration are elaborated in Annex 1 of this *Handbook*. Individual contributors to the *Handbook* from the three international organizations involved in this project, together with outside experts, are identified in the Acknowledgements.

The objective of this *Handbook* is to assist states, particularly those in the OSCE area, in their efforts to develop new policy solutions and approaches for better management of labour migration and labour migration flows in countries of origin and of destination. It has been prepared primarily for use by decision-makers

and labour migration practitioners in the OSCE area and countries served by IOM and ILO and contains analysis of effective labour migration policies and practices, drawing upon examples from OSCE participating States as well as other countries, particularly in Asia, which have considerable experience in this field and have developed numerous innovative policies and good practices.

The purpose of the *Handbook* is twofold:

- to provide current and useful information on labour migration policies in both origin and destination countries as well as recent pertinent developments;
- to assist policy-makers in OSCE countries in the task of designing or revising their policies by providing examples of good and effective policies and practices.

It will also be useful to policy-makers in non-OSCE states, as well as to social partners, the media, non-governmental organizations (NGOs), academia and the general public by providing accurate and reliable information on labour migration policies and practices.

After the launch of the *Handbook* in May 2006, it is proposed that two specialized regional and/or national workshops will be organized to allow decision-makers and practitioners from interested countries to discuss specific areas of the *Handbook* in more detail. The aim will be to assist participants in these workshops not only in familiarizing themselves with effective practices carried out in other countries, but also in discussing how particular policies presented in the *Handbook* might be adapted or developed to suit their specific migration management situations and in identifying key steps to be undertaken by their respective governments to address specific labour migration needs.

The *Handbook* and subsequent workshops will also help to create a basis for future dialogue and co-operation among various national authorities and other stakeholders, and directly facilitate the exchange of information among states in the OSCE area on effective (as well as less effective) policies and practices related to labour migration management.

Labour Migration Trends and Characteristics

Trends in labour migration

Over the last 45 years, the number of persons living outside their country of birth has more than doubled, from an estimated 75 million in 1960 to nearly 191 million in 2005 (UN, 2006a: 1). Worldwide, one in every 35 persons is a migrant. This trend of increasing international migration and migrants in absolute terms can be expected to continue in the coming decades. Nevertheless, it should be borne in mind that, during the same period, the world's population also grew two-fold and the proportion of migrants in the total population remains about 3 per cent (IOM, 2003b). Estimates put the number of migrant workers at over 86 million (ILO, 2004a: 7, para.9) and, although there has been an increase, migrant workers represented no more than 4.2 per cent of the industrialized countries' total work-force in 1998 (ILO, 2004a: 5, para.17).

While the majority of international migrants originate from developing countries, it is not only a "South-North" or "East-West" phenomenon. Nearly half of all reported migrants move from one developing country to another (ILO, 2004a: 15, para.18). Intra-regional flows are also significant.

Driving forces

Three key determining factors will continue to fuel international labour migration;

- the "pull" of changing demographics and labour market needs in high income countries;
- the "push" of wage differentials and crisis pressures in less developed countries;
- established inter-country networks based on family, culture and history.

From the migrant's point of view, migration is often a livelihood strategy, since most migration is for economic purposes. It is an outcome of decisions made by individuals and families that are seeking the best solution, given the opportunities and constraints they face.

Type of flows

A large proportion of labour migration is unauthorized. This is a negative feature of the phenomenon and measures for preventing or reducing irregular labour migration are discussed in the *Handbook* (see Chapter VIII below). The labour market needs both skilled and lower skilled workers. While destination countries are now competing for highly skilled workers, many host societies are becoming more hesitant about admitting lower skilled workers. Nevertheless, there are frequently acute shortages of labour in lower skilled sectors in some countries, given that these are jobs that nationals are reluctant to take and that, consequently, governments are designing temporary worker programmes to meet labour needs in these sectors. Examples of such programmes and how they work are provided in the *Handbook* (see Section VI.4 below).

Feminization of labour migration

Almost half of the 191 million migrants in the world today are women (UN, 2006: 3) (see Table 1). While women have always migrated as spouses and family members, they are increasingly migrating independ-

ently. Women migrants take up both skilled and less-skilled employment in destination countries, although in both cases, these tend to be gender-specific jobs or jobs in sectors where women predominate. As skilled migrants, women frequently work in the welfare and social professions, as teachers, social workers and nurses. As less-skilled migrants, they are mainly employed as domestic or care workers, as “entertainers”, in the garment manufacturing industry and, to a lesser extent, in agriculture (Piper and Satherthwaite, 2006). In a number of European countries (particularly in France, Italy and Spain), the Gulf States, and in some countries in the Middle East (e.g. Jordan and Lebanon), the domestic service sector remains the most important employment category for migrant women (Piper and Satherthwaite, 2006).

However, when international labour migration is discussed from a gender perspective, women are too often portrayed as victims of trafficking and other exploitative practices, largely because of the gender-segregated sectors in which many migrant women tend to work, such as domestic services, and due to the fact that they are much more prone to suffer discrimination on account of their gender than their male coun-

TABLE 1

Percentage of Female Migrants among the Total Number of International Migrants, by major area, 1960-2000

Major Area	1960	1970	1980	1990	2000
World	46.6	47.2	47.4	47.9	48.8
More developed regions	47.9	48.2	49.4	50.8	50.9
Less developed regions	45.7	46.3	45.5	44.7	45.7
Europe	48.5	48.0	48.5	51.7	52.4
Northern America	49.8	51.1	52.6	51.0	51.0
Oceania	44.4	46.5	47.9	49.1	50.5
Northern Africa	49.5	47.7	45.8	44.9	42.8
Sub-Saharan Africa	40.6	42.1	43.8	46.0	47.2
Southern Asia	46.3	46.9	45.9	44.4	44.4
Eastern and South-eastern Asia	46.1	47.6	47.0	48.5	50.1
Western Asia	45.2	46.6	47.2	47.9	48.3
Caribbean	45.3	46.1	46.5	47.7	48.9
Latin America	44.7	46.9	48.4	50.2	50.5

Source: Zlotnik (2002).

TEXTBOX 3

Women Migrant Workers and the Need for Gender Sensitive Policies

“Times have changed, and today more and more women migrate not to join their partner, but in search of employment in places where they will be better paid than in their home country.”

“[M]any female migrants are more vulnerable to human rights abuses since they work in gender-segregated sectors of the economy, such as domestic work, entertainment and the sex industry, unprotected by labour legislation or policy. Many women are in unskilled jobs with limited prospects for upward mobility; they earn low wages, work long hours, and have little or no job security or rights to social benefits. They are frequently unaware of their rights and obligations, and hesitate to lodge formal complaints against employers or others, preferring to suffer harassment and violence. ...

Despite these difficulties and constraints, migration can empower and help to emancipate migrant women. It offers new opportunities and financial independence abroad as well as status within their family and home community. ...

Female migrant workers are major contributors to their home country’s foreign revenue through remittances. ... [W]omen... have [also] forged effective infor-

mal trade links between their home and host countries. Women migrants are becoming agents of economic change.”

“The factors leading to female migration and those conditioning the outcome are likely to differ from those relating to male migration. Immigration and emigration policies and regulations are often gender-insensitive and not gender-neutral in intent or impact. Policies and regulations often reproduce and intensify existing social, economic and cultural inequalities between men and women [...]. The over-generalization/misperception that “men migrate; women are trafficked” can lead to additional biases in migration policies.

It is not only emigration and immigration policies that should be gender-sensitive. Broader economic and social policies and legal provisions that perpetuate or reinforce gender inequality or discrimination in a country should also be addressed.”

Sources: IOM (2003c: 7, Textbox 1.1), ILO (2003c – *Booklet 1: Why the focus on women international migrant workers*, pp. 11, 13 and 50).

terparts. In this respect, they often suffer ‘double’ discrimination, as women and as migrants. While these abuses and exploitation are certainly widespread, the migration of women can also bring numerous benefits to themselves and their families and also to the development of their countries of origin. Therefore, women migrants are increasingly becoming important actors in the economic transformations taking place in their home societies. Consequently, it is important that policy-makers become more aware of the significant role that women play in labour migration and the specific issues their migration raises. They should also ensure that gender aspects of labour migration are mainstreamed into the relevant policies developed both in countries of origin and destination.

The OSCE Area

The OSCE countries span a number of regions displaying quite different characteristics in terms of migration. Firstly, the OSCE area includes two traditional countries of immigration, Canada and the United States, both of which receive immigrants for permanent settlement, including those who come for employment-related reasons. However, these countries have also established and increasingly utilize temporary labour migration programmes, particularly for less-skilled jobs.

Secondly, OSCE encompasses the whole of the European Union (EU), which constitutes the quintessential labour migration system, with its free movement of

Labour Migration to the Russian Federation

The Russian Federation has become a significant destination country for migrants. Labour migration to Russia, mainly from CIS countries and East Asia, is by far the most substantial and dynamic migration inflow in the region. According to data from the Russian Federal Migration Service, employment of regular foreign workers in the national economy has increased over the last 15 years. The number of work permits issued to foreign citizens rose from 129,000 in 1994 to 460,000 in 2004, and to 670,000 in 2005. Regardless of this growth, however, regular labour migration constitutes only 0.5 per cent of the country's economically active population. The majority of migrant workers entering the country avoid official channels and the total number of irregular migrants is estimated at approximately 3 to 5.5 million persons, which comprises 5 to 7 per cent of the active workforce in Russia. This figure is comparable with the percentage of lawfully employed migrant workers in Ireland (5.6%), France (6.2%) and Sweden (4.6%).

The development of labour migration to the Russian Federation today is determined by numerous factors, relating to both the migration pressure on Russia from the poorer neighbouring countries and those with a surplus of labour (CIS countries in the first instance) and Russia's demand for foreign labour. The principal reason for the increase of labour migration in the region is the unfavourable economic situation that has affected nearly all of the CIS countries and resulted in a considerable deterioration in living standards for the majority of the population, poverty, unemployment, and a reduction in economic opportunities and perspectives in countries of origin.

The second reason for the growth in labour migration is the increased differentiation in the level of economic development and standard of living between countries and between particular regions. Despite its own domestic social and economic problems, Russia today has a far higher level of economic development, remuneration of labour, and opportunities for effective employment than almost all the CIS countries. Average salaries in Russia are 10 or more times higher than those in many CIS countries. These factors collectively, together with the cultural and historical similarities between Russia and the CIS countries still in place to this day, explain the *inevitability* of large scale labour migration to Russia.

In addition to demographic factors (discussed in Section II.2.2 below), several economic factors also determine the Russian economy's need for migrant workers. Firstly, the national economic growth, planned by the government for the near and intermediate future, lacks the necessary labour. Though, in late 2005, there were 5.7 million persons unemployed (or 7.7 per cent of the economically active population) in Russia, this level of unemployment is structural in nature and varies unequally from region to region. Labour shortages exist in several regions and are expected to deepen. For example, in Moscow, where the inflow of migrants is significant, there were 32,000 registered unemployed persons against 160,000 announced vacancies at the end of 2005. A considerable number of these vacancies require skilled or qualified professionals (e.g. vehicle drivers) as well as unskilled workers in the area of services, municipal services, etc., yet Muscovites do not want to take these jobs. Consequently, either visitors from other regions, or migrants from other countries, the CIS in the first instance, are required to take these jobs.

The Russian labour market is structured in the same way as those of many host countries. The economic sectors, where foreign workers are mostly in demand, are construction, retail, catering, transport, municipal services, industry, seasonal agricultural employment, domestic work, leisure, and the entertainment industry. The segmentation of the labour market is growing and gradually becoming a structural element of the Russian economy and its regions. The economies of many Russian regions today would not function without the inflow of foreign workers.

In Russia, there is practically no research evaluating migrants' contribution to the Russian economy. However, it is indisputable that:

- foreign workers produce a certain share of GDP;
- they enable many Russian companies, especially small and mid-size enterprises, to compete because of the low cost of foreign labour;
- they improve access to goods and services for a relatively poor section of the Russian population.

TEXTBOX 4

Labour Migration to the Russian Federation (continued)

The stability of “the migrant element” in the Russian economy is confirmed by the fact that a certain segment of the labour market, focusing wholly on foreign workers, has been formed. These employment sectors are likely to reproduce and maintain the demand for new migrants and, therefore in the near future, the Russian economy will depend more strongly on the inflow of foreign labour.

The lack of skilled labour represents a serious problem for Russia. To date, Russia has not yet developed any mechanism to attract highly qualified workers, either professionals for production processes or intellectuals. This remains a serious challenge to migration policy for the near future. One such mechanism might be the creation of favourable migration conditions for the admis-

sion of students of higher and vocational educational centres with a view to their future employment in Russia.

Russia is the largest centre of admission in the Euro-Asian migration system, including the CIS countries. Every third household in Tajikistan and Moldova has a migrant working in the Russian Federation. Migrants with dependents in their motherland send home an average amount of US\$100 per month. This money is spent on food, medical treatment and education (i.e. for the purpose of country development). For approximately one quarter of families, this money is the unique source of subsistence. Thus, migration is a powerful factor maintaining social stability in the region.

Source: IOM Moscow (March 2006).

workers regime. This regime has been in operation since the late 1960s and is also supported by a generous framework of social provisions. The enlargement of the EU to 25 Member States in May 2004 increases considerably the geographic space in which free movement of labour occurs, although only a few of the old Member States have opened up their labour markets to workers from the new Member States. As a result, the enlarged regime will probably not be fully operational until May 2011 due to transitional arrangements agreed at the time of the accession of the new Members (Section IX.1.3.2 below).

The EU also serves as a major destination region for migrant workers from outside the EU (third countries). To date, individual EU Member States, in the exercise of their sovereignty, have largely conducted their own admission policies, a number of which are discussed in the *Handbook*. Indeed, within the EU, significant policy differences are discernible at the national level between EU Member States in the north and those in the south, such as Italy and Spain, which have a more recent experience of labour immigration, including significant irregular movements due to the adoption of numerous regularization programmes. However, since the entry into force of the Amsterdam Treaty in 1999 amending the EC Treaty, the EU has obtained a man-

date to develop a common policy on the admission and treatment of third-country nationals arriving in the EU, including persons entering for the purpose of taking up employment or self-employed activities. In this regard, in December 2005, the European Commission advanced a policy plan for legal migration, which lays down a roadmap for EU common policy-making in this area for the next four years (Textbox IX.5) (EU, 2005h).

Thirdly, all the EU Member States as well as OSCE participating States to the east of the EU are Members of the Council of Europe, which has developed its own approach to migration, including the adoption of a number of multilateral legal instruments aimed at regulating the lawful movement of migrant workers within the region and guaranteeing their fair treatment as well as a recent Convention on Action against Trafficking in Human Beings (EU, 2005a). The Council of Europe is also home to the European Convention on Human Rights, discussed in Section I.4 below, which is applicable to its 46 Member States,⁶ all of which are also OSCE participating States, and which protects all persons, including non-nationals, present within their borders.

A fourth region, which is rapidly gaining in importance as far as labour migration is concerned, is the

Commonwealth of Independent States (CIS). The largest country in this region, the Russian Federation, is home to the second largest number of migrants after the United States; Ukraine is fourth after Germany and Kazakhstan is ninth.⁷ CIS countries are also among the top ten countries of origin in the world. Emigration from CIS countries is dominated by flows to the CIS (80%) with the Russian Federation the principal destination, followed by Kazakhstan and Ukraine. Studies have estimated that there are 3-5.5 million irregular migrants in Russia, but only 300,000 migrant workers with proper documentation in 2005 (Textbox 4). An estimated 2 million of these undocumented workers are from Central Asia, including some 600,000 from Tajikistan, about 10 per cent of the Tajik population, and up to 500,000 from Kyrgyzstan. Many of these migrants are filling a niche in the Russian labour market by doing jobs that Russians do not want. At the same time, labour migration and remittances sent to families have become a survival strategy and a financial safety net. Remittances are estimated at some 4-7 per cent of GDP in Armenia, Georgia and Tajikistan and over 20 per cent of GDP in Moldova. Labour migrants often work in the informal sector in Russia, where the lack of legal protection and insufficient information about workers' rights make them vulnerable to exploitation and abuse from recruiters, employers, and officials (Textbox VIII.1). They are also exposed to abuses resulting from xenophobia and racism.

Labour migration in the Balkans is also moving up the political agenda. Since the early 1990s, Albania has been a significant sending country of migrant workers to neighbouring countries in the region, such as Greece and Italy, but, with the break-up of the former Yugoslavia and the subsequent conflicts, labour migration was not thought to be a matter for serious discussion in most of these countries. However, once the conflicts were settled, the region has, facilitated by the EU, launched a few migration management initiatives. The Albanian government has drafted a migration policy with the assistance of IOM. In February 2006, the IOM and MARRI (Migration, Asylum, Refugees Regional Initiative), with financial support from the United Kingdom government, organized a regional seminar focusing on labour migration in the Western Balkans, attended by senior officials from Ministries of Labour and Interior, as well as independent labour migration

experts.⁸ This was one of the first regional meetings of its kind and, having identified the principal issues and problems relating to labour migration of concern to policy-makers in the region, a number of broad conclusions were adopted.

Regulation of Migration: The Need for a Deliberate Policy Approach

States regulate migration in order to attract and manage inflows and, in some cases, to promote and manage outflows. The challenge for states is to manage migration for the benefit of countries of origin and of destination, and of migrants and their families. It is impossible to realise this objective, however, without the establishment of a robust policy approach, which is also sufficiently flexible to respond to the changing dynamics of the labour migration phenomenon.

An important objective of this *Handbook* is to emphasize that successful management of labour migration requires a deliberate approach to address the complex range of policy issues and choices involved. Later sections in the *Handbook* elaborate the parameters of such an approach and advance policy responses that appear to work, while also discussing those which have been less successful. Countries that have achieved relative success in managing labour migration have done so, because they have been prepared to admit past policy failures and to experiment with new approaches.

Countries of origin and destination face common priorities and issues, yet different in terms of emphasis, in formulating labour migration policy. In Chapter II, the *Handbook* looks at the issues underlying policy responses. This is followed by national policy responses from the perspective of countries of origin and destination in Chapters III to VII.

However, given the transnational nature of labour migration, a policy framework developed solely at the national level, no matter how innovatively or meticulously crafted, will be insufficient to meet all the challenges posed. Consequently, a framework should be

firmly rooted in bilateral, regional and multilateral mechanisms, in terms of both formal and informal cooperation, which inform and supplement national approaches. In this regard, it is important to underline the role of the international legal framework, located in international and human rights and labour law (Chapter I), since it presents a model for the development of national legislative structures protecting the rights of migrant workers, which is discussed in Chapter VI below. In addition, Chapter IX of the *Handbook*, on inter-state cooperation, examines bilateral arrangements regulating labour migration movements, largely on a temporary basis, between countries of origin and destination (Section IX.1.1); regional integration mechanisms and regional agreements (Sections IX.1.2-IX.1.6):

global level agreements (Section IX.1.7); and the development of fora at all levels (global, regional and bilateral) where government policy-makers and other pertinent stakeholders can discuss, consult and exchange information, experiences and best practices on labour migration (Section IX.2). The important issue relating to the global regulation of the mobility of workers in the context of the provision of services is also discussed in this Chapter of the *Handbook*.

ENDNOTES

- 1 There are 55 participating States in the OSCE: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan. With the exception of Andorra, Holy See, Liechtenstein, Monaco and Uzbekistan (as of December 2005), these countries are also IOM Member or Observer States (the Russian Federation, San Marino, Spain, the former Yugoslav Republic of Macedonia and Turkmenistan are Observers). Similarly, with the exception of Andorra, Holy See, Liechtenstein, and Monaco, the above countries are ILO Member States (as of 10 November 2005).
- 2 The terminology “origin” and “destination” countries is used in the Handbook interchangeably with “home” and “host” countries or “sending” and “receiving” countries, although it is acknowledged that a preference may exist for using the first set of terms.
- 3 For the purpose of the Handbook, the terms “migrant worker”, “foreign worker” or “labour migrant” are synonymous.
- 4 “[P]articipating States... make it their aim to facilitate freer movement and contacts individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States” (Cooperation in Humanitarian and Other Fields, Section I (Human Contacts), Recital 5), (OSCE, 1975).
- 5 At the request of a number of OSCE participating States, at the 2003 Human Dimension Implementation Meeting, a special session was dedicated to the issue of protecting the human rights of migrant workers. Moreover, the issue of tolerance towards, and non-discrimination of, migrant workers was a topic of a special session at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination that took place in Brussels on 13-14 September 2004. Additional emphasis on the rights of migrants was put at the Maastricht Ministerial Council in December 2003. In accordance with the OSCE Maastricht Ministerial Council Decision No. 4/03 on Tolerance and Non-Discrimination (para. 11), the OSCE was called on to reinforce its activities aimed at “combating discrimination against migrant workers ... [and] to facilitate the integration of migrant workers into the societies in which they are legally residing”.
- 6 Indeed, the only OSCE participating states not members of the Council of Europe are the European states of Belarus and the Holy See, and the Central Asian Republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, and Canada and the United States.
- 7 Data on the CIS from discussion on the forthcoming World Bank report on Labour Migration in Europe and Central Asia, Geneva, October, 2005 (World Bank, 2005).
- 8 Labour Migration for Integration and Development in the Western Balkans, Zagreb, 22 February 2006.