

Markets for Migration and Development (M4MD): Trade and Labour Mobility Linkages – Prospects for Development?

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Background Paper¹

I. INTRODUCTION, CONTEXT AND BACKGROUND

This paper has been drafted to guide the participants of this Global Forum on Migration and Development (GFMD) thematic meeting by providing a short introduction to the various issues on the table. The ‘M4MD’ is held in the context of Cluster I on ‘Labour Mobility and Development: Engaging the Private Sector in Labour Market Planning’ of the 2011 GFMD Thematic Work Plan. The overall objective is to explore the links between international labour mobility, trade and development against the background of different labour market priorities and taking into account the concerns of states regarding international migration, including the related social, economic and human rights implications. The principal outcomes of this meeting will be reported back to the GFMD 2011 Concluding Debate on 1–2 December 2011.

Objectives of the “M4MD”

The 2010 GFMD in Puerto Vallarta, Mexico, addressed the challenges related to the labour mobility and development linkages by seeking to understand the potential role of recruitment agencies in temporary, circular and long-term migration, exploring the contribution of social and income security to development outcomes, and highlighting the challenges faced by migrant women from a gender-oriented perspective.

This year, the Swiss GFMD Chair-in-office has chosen to focus on challenges and opportunities for involving and strengthening the role of the Private Sector in managing labour mobility and improving human development. This thematic meeting offers a timely opportunity to involve several important actors as a way to address issues related to the elaboration and implementation of labour market planning and migration policies.

¹ **Disclaimer:** This background paper has been drafted by the World Trade Institute in consultation with the Swiss Federal Office for Migration; it does not purport to represent the views or the official policy of any of the meeting organizers.

Keeping in mind the focus on practical outcomes set by the Swiss GFMD Chair, this meeting will explore some of the following questions:

- How can the private sector in countries of origin and destination be more effectively involved in labour market planning for sustainable development? What are the key challenges to the adoption of public–private partnership in this context?
- What are the benefits and/or risks of maintaining the divide between trade and migration agreements, laws and policies?
- When defining government policies, how can the private sector and diasporas be brought in to share the responsibility for maximising the positive effects of labour migration for markets and development?

In an attempt to review existing policy and set directions for more effective and comprehensive policy in the field of migration, development and international trade, the meeting will bring together a variety of stakeholders to share experiences and identify effective practices. Government authorities, private sector stakeholders and migrants themselves will inform discussions and strengthen the evidence-base for future policy.

I.1. Labour mobility, trade and development: understanding the linkages

Bringing the most qualified migrants to the most productive markets has risen to become a high-profile area of public-policy making in an increasingly interconnected global economy. Countries of destination² are gradually responding to employers' demands for fast-tracking and facilitating access to labour markets for individuals with skills lacking in the local economy.³ Simultaneously governments in countries of origin have made efforts to implement skills standardisation policies that quicken the pace of labour mobility. Nevertheless, employers' calls to liberalise migration, particularly from less-developed regions of the globe, have not been greeted with the same enthusiasm as liberalisation efforts in other policy areas.

States have been more reluctant to liberalise barriers to human mobility than to reduce tariffs and other hurdles to the trade in goods and services. In practice this hesitance often translates into 'skills-biases', which manifest in the form of highly skill-selective admission policies at the national level. The liberalisation of cross-border mobility of highly-skilled labour, facilitated by fast-tracked visa application procedures, multiple entry schemes, elimination of economic needs tests without consequential policies to minimise the cost and risk of poaching talents for countries of origin, is not paralleled at the lower skills level.

Nonetheless, long-term demographic decline in various countries of destination and an acute global skills-mismatch among the host country population open the door for discussions on all types of labour mobility.

² Throughout this background paper a distinction is made between countries of *destination* and *origin*, although the authors are well aware that this distinction is never this clear-cut.

³ An example for this is the 2009 List of Preferred Areas of Training by the government of Quebec.

II. MIGRATION POLICY-MAKING IN CONTEXT: THE MARKET VS. THE STATE

Migration policy-making has to a large extent remained excluded from global liberalisation processes taking place in other policy areas.⁴ In the early 21st century no coherent international institution or multilateral agreement to manage international labour migration, which would be equivalent to the structures created in the area of global capital and goods, exists. Instead, different migratory processes are governed by a vast variety of sometimes overlapping agreements and bodies.

The relationship between labour mobility and development is complex and multifaceted. Simplistic economic equations, asserting a rapid growth of world gross domestic product (GDP) once all barriers to migration were removed⁵ are highly speculative and obscure the complexities of international labour migration.⁶ In order to promote sustainable development in countries of origin and destination, stakeholders need to consider the real-life effects of labour migration, which depend on domestic labour market regulation as much as on national policies governing education, health care and social welfare.

II.1. Migration and state sovereignty

States' traditional hesitance to surrender their authority over migration management is linked to matters of sovereignty⁷ and national identity (Bauböck 1996; Biersteker 2002). Cross-border mobility challenges established values and political constellations, thus impacting on domestic politics as well as inter-state relations. The potential disruptive effects of large-scale, low-skilled, and therefore low-paid, migration on social stability in countries of destination combined with the potentially devastating consequences of permanent migration of the highly-skilled on national development in countries of origin have further delayed international collaboration in this area.

To date, the debate around states' reluctance to submit to the control of an international institution that regulates labour migration has predominantly focused on countries of destination. However, countries of origin have their own policy preferences. The effects of migration on countries of origin are highly dependent on the respective domestic context. Remittances and the knowledge transfer which occurs through the return of those working abroad are widely considered vital contributors to the national economy. Furthermore, countries of origin have lobbied for a worldwide liberalisation of the remittance market, hoping that lower costs will increase the total amount of remittance money received. However, government efforts to maximise the economic potential of remittances for sustainable development have met with mixed success.

Migrant workers' own concerns generally centre on questions of rights and welfare of their families and communities rather than on national development. Overseas employment is

⁴ This has been regretted by Straubhaar (2002/03) and others.

⁵ This was famously argued by Hamilton and Whalley (1984), who grouped 179 countries into seven world regions, and estimated that if enough workers moved between these regions to equalise wages, global GDP, which was \$8 trillion in 1977, could rise by \$5 trillion to \$16 trillion.

⁶ The positive effects of labour migration are greater in countries of origin than in countries of destination and are highly dependent on migrants' skills level. Furthermore, equating GDP growth with personal well-being can be problematic. The Migration Observatory provides a useful overview of different studies assessing the impact of migration on the UK labour market. For more information see <http://migrationobservatory.ox.ac.uk/briefings/fiscal-impact-immigration-uk>.

⁷ A common travel area such as the EU is thus not seen as weakening the nation-state but coalitions with like-minded states are a way to fortify their external borders. See Geddes (2001) and Favell and Geddes (1999).

commonly regarded as a way to escape unemployment at home while gaining valuable capital and experience that might improve their own lives and that of their families upon their return. However, return is not something desired by all, thereby necessitating a discussion on access to settlement, as well as family reunification.

More recently, countries of origin have called for negotiations to be held within multilateral forums rather than at the bilateral level. These efforts are driven by concerns over concessions in the form of readmission agreements for irregular migrants in order to gain access to labour markets in destination countries, which are elements commonly included in bilateral agreements.⁸ However, major destination countries' willingness to give up traditional bilateral 'forum shopping' (Betts 2008:2) in favour of a coherent global migration regime will depend on careful cost–benefit analysis.

Distributional effects of labour migration on job markets

The policy debate around migration in countries of destination is shaped predominantly by public perceptions of an unequal cost–benefit distribution (Martin 2005). While economic data supports the argument that labour migration is generally beneficial to national development, most gains are reaped by employers and by the migrants themselves rather than the host country population. This is particularly the case for the lower-spectrum of the labour force that actively competes with migrants over jobs (Martin 2005: 13).

Large-scale migration at lower skill levels can translate into a slower rise of wages within a particular sub-sector and cause higher unemployment among the comparatively less-qualified host population (Martin 2005).⁹ Research into the care sector in the UK and the US has shown that a ready supply of labour enables employers to resist pressure to raise wages.¹⁰ Furthermore, in many skilled professions, access to trained migrant labour has sustained unprofitable enterprises by allowing them to evade the costs of providing training opportunities for the native population (Ruhs and Anderson 2010). In states with a wide-ranging social welfare system, an inadequate migration policy can lead to overstretched public services. Real or perceived escalating costs of integration support and medical treatment for migrant workers, access to social housing and schooling for family members are seen to be at the root of the recent backlashes against migration among populations in countries of destination (Borjas 1999; Motomura 2006).¹¹

Restricting access for the low-skilled vs. prioritising the highly-skilled

Countries of origin request a general opening of labour markets in major countries of destination for persons at a lower skills level, who cannot easily be absorbed by their domestic economies. In some countries, overseas employment opportunities can form an integral part of government labour force planning as is the case in the Philippines and Indonesia, which have industrialised labour mobility. However, beyond shared views on

⁸ These diverging positions are attributed to the belief that multilateral institutions allow smaller, less powerful states more bartering power in the form of legal instruments that allow for more equal power distribution (Grieco 1997; Keohane 1971).

⁹ This has been disputed by Dustmann et al. (2005) based on evidence from the UK's labour market and by Friedberg and Hunt (1995).

¹⁰ See Cangiano et al. (2009).

¹¹ See Borjas (1999). However, others have rejected the notion that economic self-interest sufficiently explains anti-immigration sentiments (Hainmueller and Hiscox 2007).

basic access criteria, national interests can diverge and are determined by specific domestic policy considerations.

Countries of destination on the other hand have identified migration of the highly-skilled as a priority to enhance their competitiveness. One example of this is the European Union's *Blue Card* scheme, which offers a fast-track option for highly-skilled migrants wishing to work in the EU. Similar initiatives exist at the national level, for example, the UK's recently launched Exceptional Talent category (UK Border Agency 2011) or France's 'skill and talent' admission category targeting the highly skilled, including the creative class of non-formally trained, but talented persons, such as artists or writers, who are encouraged to move to France to maximise the exposure of French culture worldwide, upon successful submission of a 'project', which is to be realised during their stay in France (Panizzon 2011). Lower skilled migration is only promoted for sectors facing significant shortages, notably through so-called occupation shortage lists (France, UK), while progress has been slowest in the area of unskilled migration.

Preferences as to rules regarding settlement and family reunification also differ widely. Whereas governments in countries of origin generally welcome the opportunity for their low-and medium-skilled workers to settle abroad, extending such rights to highly-skilled professionals, whose absence affects economic development, is sometimes viewed with scepticism. Meanwhile, countries of destination are generally prepared to grant the right to settle to specialists, investors and high earners, but prefer to admit low-skilled migrants only within temporary migration programmes. Similar discrepancies can be observed in the case for family reunification.¹²

III. MANAGING LABOUR MOBILITY: BRINGING DOWN COSTS AND RISKS

III.1. Outsourcing migration management to the private sector

Policies governing recruitment and admission are increasingly characterised by selection and testing, with clear differences between the processes in place for the highly-skilled and the lower skilled. During this phase of determining how quickly a labour migrant can be employed for a job that matches his or her profile, the private sector has an important role to play.

As part of a general drive towards lowering the costs of labour mobility, as well as reducing the risk of irregular entry or overstay – often, unjustly, associated with migration of lower-skilled workers – governments are passing on responsibilities for recruitment, visa application and migration control to private sector agents: airlines, shipping carriers, transport companies, security services, employers, universities, schools, hotels, healthcare service providers and civic actors, such as churches, families and trade unions (Lahav 1998; Lahav and Guiraudon 2000).

¹² The reluctance of destination countries to allow for family reunification is generally to do with concerns about chain migration. In the context of liberal democracies where liberal notions, such as the right to family and decent living are seen as having to be extended to migrant workers this can form the basis of the decision on whether or not to admit migrant workers at all (see Ruhs 2010; 2011). Experiences of the Bracero programme, which managed the migration of Mexican workers to the US to work in the agricultural sector as well as the guestworker programmes for Turkish workers in Germany during the late 1960s have formed the basis of family migration to those countries up to now. The perceived failure to successfully integrate Turkish migrants in Germany has hampered an open debate on labour migration to Germany up to now.

Box. 1 Memorandum of Understanding between the Government of Vietnam and Manpower Inc. (2008)

This agreement illustrates the potential scope of public–private sector partnership in the area of international labour migration. Under a three-year memorandum the two parties agree to combine their efforts to better link the supply of migrant labour with the demand from global job markets and contribute to regional development of the Vietnamese labour market. Specific leading practices of candidate assessment will be explored to identify the successful reintegration of returnees into the Vietnamese job market:

- skills profiling;
- job matching;
- pre-migration training and briefing;
- job introductions; and
- skills upgrading while overseas.

Special attention is also paid to procedures for skills recognition and ensuring special job placements. A full-scale evaluation of the project will take place upon ending of the pilot phase later this year and is expected to generate lessons for similar initiatives in other countries.

Source: Manpower 2008.

Matching demand and supply

Effective labour market planning requires a committed dialogue between major public and private sector stakeholders if the relationship between supply and demand in the area of international labour migration is to be optimised. Not only can employers’ views on their specific requirements help to prevent a potential skills mismatch in the labour market, consultations with trade unions and civil society organisations can help to prevent side-effects such as wage dumping in specific sectors due to an oversupply of labour and the impacts of an influx of labour migrants on local communities.

The work of the Migration Advisory Committee in the UK has shown the value of independent expert bodies that bridge the gap between governments and employer organizations.¹³ However, their remit is often purely economic, with little or no room given to non-economic criteria such as social impacts at the local level. The new French bilateral migration agreements establish so-called migrant observatories, which will have a similar function, but are purely state-driven with no involvement of the private sector.

Recruitment

A rise in public–private partnerships (PPPs) at the recruitment stage has been seen. At a time when increasing cross-border movement has made it cost-effective for governments to outsource the administrative and non-judicial tasks of the visa application process to the private sector, the market for visa application and immigration support providers has grown considerably. India, Russia and Switzerland are examples of countries whose governments are utilising service providers, such as VFS Global, to process visa applications and provide customer support (VFS Global 2010). PPPs are concluded by the French Ministry of the Interior with employers or employer unions in order to facilitate ‘the recruitment of foreign workforce according to business needs’ (EMN France 2010: 22). A primary goal of these PPPs is to fast-track the work authorisation process for certain economic sectors with

¹³ The MAC is made up of a chair and four other independent economists, who have been appointed under rules relating to public appointments, laid down by the Office of the Commissioner for Public Appointments (OCPA) of the UK. Additionally, the Commission for Employment and Skills and the UK Border Agency are represented on the committee. The MAC is supported by a secretariat made up of economists, policy and administrative staff. For more information on the MAC see <http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/aboutthamac/>

recruitment difficulties and thus an acute need for foreign workers. Tunisia has actively pursued PPPs between its research and training facilities and French multinationals in the context of its bilateral migration agreement with France of April 28, 2008, which entered into force July 1, 2009 (Panizzon 2011).

Similar trends can be observed in the recruitment process at the lower skills level, which is increasingly handled by specialised sector-based private agencies. These agencies are government-accredited and therefore able to benefit from fast-track immigration procedures. The remit of such agencies ranges from the identification of the migrant worker to his or her eventual return. For many migrants at lower skill levels, who know little about specific migration policy requirements, such agencies often provide the only road to overseas employment.

However, leaving recruitment to the market requires legal mechanisms to ensure that the system works efficiently and migrants' rights are protected. To date, the regulation of the recruitment market has mostly been driven by countries of origin. Migrant organisations frequently criticise the excessive fees charged by manpower agencies, fraud and inhumane employment conditions. Even traditional countries of destination, such as the US, suffer from underdeveloped regulatory mechanisms due to a lack of experience in dealing with private recruiters.

Box. 2 Philippines Overseas Recruitment Programmes

In the Philippines, labour recruitment is highly standardised. The Philippines Overseas Employment Administration (POEA) manages a list of private recruitment agencies, which is available at consulates and embassies. Recruitment agencies are classified as land-based or manning agencies and listed according to their performance with 'top performers' being indicated as such.

The protection of migrant workers is legally ensured in the "The Migrant Workers and Overseas Filipinos Act" (1995).¹⁴

Legal instruments such as the *ILO Convention No. 181 on Private Employment Agencies* can provide guidelines for governments seeking to clarify the responsibilities of private sector agencies. The Convention asks governments to ensure that private recruitment agencies provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private recruitment agencies. It also recommends abolishing recruitment fees. However, the effectiveness of such provisions will always depend on implementation efforts.

Admission and Control

Language testing market

With the ability to communicate in the language of the host country becoming an ever more important prerequisite for cross-border mobility, the market for language tests offers further potential for highly profitable public-private sector collaboration. Two testing systems, the Test of English as a Foreign Language (TOEFL) and the International English Language Testing System (IELTS), dominate the English-language testing market. Ownership of the testing system at the international level does not always correspond to ownership at

¹⁴ For more information see <http://www.poea.gov.ph/rules/ra8042.html> The Migrant Workers and Overseas Filipinos Act (1995) also inspired the ILO's Guide to private employment agencies: Regulation, monitoring and enforcement (2007: 68).

country-level. Worldwide, IELTS is based on a PPP between Cambridge University, IDP International, an education broker, and the British Council, whereas at country level, for example in Australia, testing systems are in the hands of private enterprise and partner companies compete against one another.¹⁵

The ongoing liberalisation of the language testing market in major English-speaking destination countries is expected to boost competition thereby reducing waiting times for applicants. However, in line with an increase in the quantity of providers, worldwide efforts need to be stepped up to ensure that the growth of the industry does not result in deteriorating testing standards. Concerns have been raised over a rise in fraudsters hiring third parties to take tests for them and over test scores being falsified (World News Australia 2011a; 2011b). More consultation between government and companies is needed to clarify matters of liability in this highly profitable industry.

Competition and 'up-skilling'

Another relatively unexplored area of public-private sector collaboration is the development of sector-based collective recruitment policies. Major destination countries do not usually allow migrant workers to switch between employers, thereby opening the door for exploitation and limiting the potential economic benefits resulting from a more competitive job offer.

Competition over talent within a particular sector could also encourage employers to take an active role in providing skills training for their employees, thus benefiting economic development in countries of origin and destination. Evidence indicates a positive relationship between migrant workers' skills level and their fiscal contribution to the host country economy (Rowthorn 2008).¹⁶ Furthermore, higher wages are likely to translate into higher remittances, and knowledge gained can be transferred upon migrants' return to their home country.

For example, the annex to the French bilateral migration agreement with Tunisia lists professional and vocational training centres that France will establish, or modernize, and fund in Tunisia. These centres cater for occupations for which Tunisia has stated a development need. The flexibility of the new treaty structure facilitates non-state actors' implementation of migration control and of development strategies listed in the framework agreement as goals or priorities. On this basis, memoranda of understanding are concluded by departments, agencies, and other sub-ministerial entities corresponding to Tunisian government entities and the employer unions, professional associations, and industry associations (Panizzon 2011).

A continuous dialogue between trade unions, employer lobbies and government could help avoid potential backlashes against migration by ensuring that workers in the host country do not feel neglected.

¹⁵ Education broker IDP paid \$28.7 million in 2008 to become sole owner of IELTS Australia. With the acceptance of the Cambridge Advanced Certificate (CAE) as the valid language test the two international partners become competitors in a domestic market.

¹⁶ However, this is only the case if migrants work in positions in line with their skills level, which is often not the case.

Box. 3 Protection of Migrant Workers: Model bilateral agreement between Trade Unions in origin and destination countries

The first three bilateral cooperation agreements for the protection of the rights of migrant workers were adopted between trade unions in Sri Lanka and their counterparts in the Gulf States (Bahrain, Jordan and Kuwait), in May 2009.¹⁷ In 2010, trade unions from Burkina Faso, Guinea, Ivory Coast, Niger and Togo became signatories to the model agreement.

Main elements of the Model bilateral agreement:

- strengthening labour inspection, legal cooperation in the case of human trafficking and abusive situations;
- strict control of the recruitment process; and
- promoting cooperation between countries of origin and destination.

Source: Wickramasekara (2011)

Returns: sanctions and incentives

Employer sanctions have been one way for countries to minimise immigration fraud.¹⁸ Efforts to involve the private sector in migration control have also been made at the regional level; since June 2011, the EU has required its Member States to take action against illegal employment of third country nationals.¹⁹

Within such systems, employers become ‘sponsors’ of their international staff. Their duties range from familiarising themselves with the immigration rules to verifying the authenticity of their employees’ immigration status and submitting regular reports to the government.²⁰ The Highly-Trusted Sponsor scheme for education providers in the UK offers colleges more freedom with regard to the course choices for international students as well as additional support.²¹ In the Netherlands, companies seeking to recruit highly-skilled migrants can avail themselves of a similar sponsor status, which exempts them from labour market tests (de Lange 2011: 190).

Employer sanctions and highly-trusted sponsor schemes have been criticised for allegedly encouraging discrimination against foreigners and turning private citizens into agents of the state, thereby raising crucial questions of accountability. In the Netherlands, families are classified as employers if they allow another family member to undertake paid work in the household (de Lange 2011: 189).²² Another risk of highly-trusted sponsor schemes is their tendency to favour bigger companies, which are able to meet the complex and often costly requirements.²³ Holding employers responsible for their employees’ immigration status poses a challenge to owners of small- and medium-sized enterprises, whose budget will be additionally strained by having to familiarise themselves with continuous rule changes.

¹⁷ See the ILO good practice database entry on the Sri Lanka–Arab trade union agreements. http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32.

¹⁸ The US institutionalised these measures through the Immigration Reform and Control Act (IRCA) (See INA § 274A(a)(1), 8 U.S.C. §1324a(a)(1) (2007). The UK, introduced them as part of the 1996/97 Asylum and Immigration Act, which went into effect January 27, 1997. Australia criminalised illegal work under the Migration Act of 1958.

¹⁹ Directive 2009/52/EC had to be transposed into national laws by June 20, 2011.

²⁰ See UK Border Agency (2011).

²¹ See UK Border Agency (2011).

²² De Lange argues that Dutch law has gone beyond the requirements of Directive 2009/52/EC by penalising not only the direct employer of migrant workers, but the entire chain of employment.

²³ Among the requirements a highly-trusted sponsor has to meet is the ability to shoulder the potential costs of repatriation.

While contested, such public–private collaborations can provide cost-effective remedies to some of the problems faced by overstretched immigration systems. Employer sanctions are useful as part of a general government strategy against illegal work, and might even ameliorate the conditions of migrant workers by protecting them from exploitation in the informal sector. Finally, sanctions can also restore public faith in the government’s ability to manage labour mobility for the benefit of the population as a whole.

Nevertheless, governments should also consider the use of incentives to ensure return. Refunding taxes for migrant workers on temporary contracts, who will never reap the long-term benefits, would be one alternative. This could be done in the form of a cash payment upon workers’ return to their country of origin. The expected benefits of this scheme are two-fold. First, it would discourage overstaying and second, the additional capital would allow migrant workers to avail themselves of an additional part of their earnings without the risk of it being spent by family members.

International portability of social security benefits represents another form of incentive. Evidence suggests that this can indirectly contribute to development in countries of origin as migrant workers are seen to remit larger amounts if they have this extra source of income (Avato, Koettl and Sabates-Wheeler, 2009; Holzmann and Koettl 2011). Furthermore, portability of social security rights across borders can be important to social security institutions out of concerns of actuarial fairness and may act as a disincentive to overstaying.

Liberalisation of the money transfer market

Public–private sector collaboration has been effective in the area of international money transfers. Migrant organizations and government efforts have played a significant role in encouraging money transfer agencies or remittance operators, such as Western Union, to lower their fees thereby indirectly increasing the amount available to migrants’ families in countries of origin. Further liberalisation can be encouraged in the commercial banking sector. Another incentive, which France is currently experimenting with is to encourage migrants to ‘bancarise’ their savings, which has the triple goals of offering interest rates to migrants, thus additional income, secondly, building up the available financial resources for home country banks, and thirdly, encouraging these banks to set up subsidiaries in host countries and to participate in the global financial market. As an incentive for migrants to put their earnings into a bank, the amount of savings invested in a development project in the migrant’s country of origin is de-fiscalised (Panizzon 2011).

III.2. Current forms of labour mobility

The globalisation of trade and capital, and the growing role of regional economic constellations are likely to affect international migratory flows. Progress has been made in understanding the potential of trade, migration, and development linkages, but the various dynamics, the segmentation of labour markets and the heterogeneity of origin and destination countries has clouded the picture. The missing international migration regime and the substitutes that have emerged in response, including embedded governance in the fields of travel, trade and the rise of bilateral migration agreements, highlight the need for improved understanding of this relationship in order to inform and impact on future migration policy-making.

Labour mobility and trade agreements

Free trade agreements (FTAs), which have liberalised the trade in goods and services, can be seen as an alternative route for cross-border mobility based on a market-driven logic. The focus in this area has been on the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS), and its fourth mode of service supply for the temporary movement of natural persons (GATS Mode 4). For various reasons, however, GATS cannot substitute for the absence of a universal treaty on labour migration or for coherent international action.

The reasons are manifold. GATS is built on commitments, which WTO Members establish at a bilateral level. It thus resembles a bilateral agreement rather than a multilateral treaty. In addition, it does not explicitly stipulate an obligation for signatories to open their services sector. Instead, signatories are encouraged to progressively liberalise all four modes of service supply, including Mode 4.

So-called developing and least-developed countries are granted the flexibility not to make such commitments in order not to hamper their national development efforts. Finally, the jurisdictional scope carves out any attempt to multilateralise visa requirements and other immigration law.

Few WTO Members have liberalised labour mobility for lower-skilled workers under GATS Mode 4, even though the framework encourages the temporary movement of persons at all skill levels. The Japan-Philippines Economic Partnership Agreement (JPEPA), which is currently awaiting ratification, provides for a quota for Filipino nurses and caretakers only and does not make reference to other sectors. If liberalised in a free trade setting at all, the mobility of low-skilled workers is constrained by entry visa requirements and behind-the-border barriers. These take the form of labour market tests, the lack of mutual recognition of qualifications or the absence of skill-testing mechanisms, which GATS, in contrast to the ILO Conventions admits, even if these measures discriminate between native workers and foreign workers. However, despite this regulatory vacuum of GATS, which leaves much flexibility to WTO Members, one of the reasons for destination countries' reluctance to utilise GATS further is paradoxically its overly flexible structure, translating into the absence of a regulatory mandate in another area, namely to address exploitation, brain drain and overstayers (Panizzon 2010).

Areas where the private sector in countries of origin can take an active lead range from education to recruitment of individuals. In some countries such as the Philippines, the majority of nurses are privately educated and the schools themselves have built close relationships with healthcare institutions abroad thereby facilitating the placement process. The recruitment process can be private sector-steered, take the form of a PPP, or be entirely privatised depending on government capabilities and the liberalisation of the sector.

GATS Mode 4 reflects the WTO's commitments to trade liberalisation rather than supporting sustainable development. The benefits for migrants and sustainable development in countries of origin are difficult to assess and depend on the degree of liberalisation of services under a particular agreement, as much as the policy environment in countries of origin. International experience and the acquisition of new skills can advance individuals' careers upon their return to their country of origin. However, this is highly dependent on the ability of labour markets to accommodate returnees' expectations. Evidence has shown that movement under GATS Mode 4 often becomes the first step in the search for permanent employment abroad, which can lead to a loss in human capital and

hamper national development efforts. Engaging the private sector in the education process helps to minimise the loss of government revenue from training professionals for international job markets.

Closer coordination between governments in countries of origin and destination, and with the private sector, as well as the inclusion of development cooperation efforts as part of individual agreements can help maximise the mutual benefits of such agreements.

Bilateral labour agreements

Whereas most trade agreements cater to the demand for highly-skilled foreign workers, there is no equivalent to regulate the mobility of the lower-skilled ones. If liberalised at all, labour migration in the lower-skilled segment of occupations often takes place as part of bilateral labour agreements.²⁴ These were first used at the end of the Second World War ‘when large emerging economies in “New World” countries decided to meet their considerable labour market need through large-scale immigration programme’ (IOM 2008). The main principle behind those agreements was the privileged information and access to a particular country’s labour market, often based on fixed quotas.

The old-style, first generation of bilateral labour migration agreements did not feature development as an explicit objective and countries of origin were regarded as mere providers of manpower. Whether or not the migratory flows encouraged by the agreements contributed to development in countries of origin remains disputable due to the role of public policy in countries of origin. Furthermore, the paradoxical relationship of governments in countries of origin with their overseas citizens, whose loyalty to the nation-state was questioned while their economic contributions were welcomed, inhibited the potential impact of remittances on national development.

Recently, a new generation of bilateral labour agreements to manage labour mobility have started to replace the old-style guest worker programmes. The innovative feature of these ‘second-generation’ bilateral agreements is that they replace the tailor-made, nationality-specific preferences of their precursors by applying a one-size-fits-all solution (de Lary 2005) which puts all migrant source countries onto a level playing field. These new agreements vary greatly and address different categories of migrant workers, ranging from seasonal workers to trainees to contract workers, and, unlike GATS Mode 4, they therefore open markets to temporary movement of low-skilled migrants and can thereby prevent irregular migration (Panizzon 2011). The legally binding character of such agreements diverges vastly, some of them acting merely as a regulatory framework for private sector recruitment operators while others specify government responsibilities.

Bilateral labour agreements are generally characterised by stringent return obligations, linguistic and professional requirements, the exclusion of family reunification, the prohibition of employer switching, and limitations to geographical mobility (Friedman and Ahmed Zafar 2008). While they make provisions for the protection of migrant workers’ rights and the fight against human trafficking, bilateral labour agreements focus on temporary forms of mobility. Only in exceptional cases, notably the bilateral agreement between Spain and Ecuador, do such agreements also facilitate ‘permanent employed-based immigration’ (IOM 2008).

²⁴ ILO defines bilateral agreements as ‘formal agreements or memoranda of association to ensure that temporary migratory flows take place in accordance with agreed principles and procedure’ (ILO 2010).

Private sector agencies can play a major role in handling the recruitment of migrants, particularly short-term seasonal workers. However, provisions need to be developed that define the relationship between government departments and the private sector and existing policy needs to be enforced to ensure accountability of private actors, to protect migrants' rights within such agreements.

Development and cooperation agreements

As part of its Global Approach to Migration, the EU recently started to promote so-called Mobility Partnership Agreements to enhance development-friendly migration between Member States and certain third countries.²⁵ Concerns have been raised about the perceived one-sidedness of such agreements, since participating governments can choose the specific initiatives they prefer to participate in. Thus, many EU governments have, in practice, favoured control aspects in the form of readmission clauses and skills-recognition over the identification of mechanisms to address concerns over brain drain.

Box. 4 French Migration Pacts and Co-development Strategy

The new Migration Pacts developed by the French government aim to generate co-development strategies in an attempt to regulate migratory movements in a way that supports sustainable development in countries of origin. Under these agreements, country of origin governments, various non-governmental stakeholders (non-governmental organisations (NGOs) and immigrants themselves become active stakeholders in policy formation.

The French government is currently in the process of finalising the pacts with francophone countries of origin in West and North Africa (Benin, Burkina Faso, Cameroon, Cape Verde, Congo, Mauritius, Senegal and Tunisia).

The main elements of the co-development policies under the French Migration Pacts are:

- stimulating migrants individually and collectively (diaspora) to invest in their countries of origin
- de-fiscalisation of migrants' savings through a co-development bank savings account;
- reducing the costs of transferring remittances;
- access to microcredit facilities; and
- co-development prizes.

In terms of labour migration, the bilateral agreements France concluded with Benin, Congo, and Gabon give preferential access to the French labour market in shortage occupations requiring high-level skills, while the ones with Senegal and Tunisia (and potentially Mali) include occupations requiring lower-level skills, perhaps because these countries were better negotiators or had access to EU block formation (CIMADE 2009: 6).

France and Senegal: co-development strategies

While with Senegal, the co-development projects are defined in the agreement itself, the one with Congo delegates the definition of specific modalities and actions in the field of co-development to a French-Congolese committee tasked with the implementation of the agreement (Tasca 2008 Report: 36). The co-development strategy developed by France has been replicated by the Senegalese government, which has launched efforts to encourage its diaspora to invest in the country and supports national initiatives facilitating the reintegration of returning migrants.

Various information strategies were adopted by the Senegalese government, which also established new ministries to deal with the migration issue. These information strategies, while modest in terms of effect, have become such a popular policy tool of the Senegalese government that its ministries and agencies now compete against one another for migrants' private capital inflows. In Senegal, the French co-development projects are more diversified and are in the tertiary sector (law, environment, and commerce, especially e-commerce) than for the other signatories of such agreements, for example in Romania, the majority of projects are in pastoral agriculture; the rest are in textiles and production of construction materials (CICI

²⁵ To date Pilot Mobility Partnerships have been concluded with the governments of Georgia, Moldova and Cape Verde.

Report 2009: 210). For instance, France's agreement with Senegal seeks, as part of a co-development strategy, the voluntary return of medical doctors and other health professionals in France by offering research equipment or the prospect of joint university appointments. Even if "modest in numbers and scale" (Katseli and Dalton-Johnson 2008: 349), France's co-development projects have helped improve migration governance structures in source countries, both directly and indirectly.

Source: Panizzon (2011)

Existing initiatives at regional or national level and the specific role the private sector can play in contributing to development are still too recent to create a clear picture of their potential to address the flaws of previous programmes.

III.3. Introducing the Development Dimension to Markets for Migrant Labour

Involving the diaspora and migrant organisations more closely in development efforts is another way of enhancing the positive impact of labour mobility on development in countries of origin. Diaspora as a term is not limited to migrant workers but extends to expatriate populations born abroad to foreign parents, who may be citizens of the state they reside in (Ionescu 2006).

The potential of migrant workers to make a positive impact on the welfare of their families back home is evident in the amount of remittances sent each year.²⁶ However, the heterogeneity of the diaspora or migrant communities, and the lack of a comprehensive policy framework and infrastructure in countries of origin can hamper their contribution to sustainable development. Diasporas can contribute to trade and development directly and indirectly; first, by promoting their country abroad as an investment- and tourism-destination, and second, by becoming private investors. Unlike migrant workers, established diasporas are generally in possession of the economic and social capital necessary to enable them to make greater contributions. Some countries of origin, among them India, the Philippines, Taiwan and Cuba, use their diaspora as a cost-effective form of advertisement. The Philippines' tourism strategy has moved from an exclusive focus on 'balikbayan' tourism, meaning the return of overseas Filipinos for vacation, towards encouraging its diaspora to advertise their home country as a destination for medical tourism, education and retirement (Newland 2011).

Some migrant organisations have experimented with initiatives that encourage diaspora members to buy shares in cooperatives or small enterprises. At the micro-level this strategy has seen some success. However, its overall effect on national development remains small.

Box. 5 Engaging Diaspora in a sustainable business relationship with countries of origin

Teampro brings together European businesses with entrepreneurs from East Africa thereby stimulating private sector growth and national development in East Africa. The company is owned by individuals from the Ethiopian diaspora in the Netherlands and has offices in the Netherlands, Ethiopia and Kenya. Its activities, which range from organising trade missions and producing feasibility studies to match-making of Dutch and East-African companies and bringing know-how to East African entrepreneurs, are supported by EU and Dutch government funds.

Source: Teampro (2011)

²⁶ See López-Córdova (2004/06) for health outcomes and Cox-Edwards and Ureta (2003) for impact on education.

PPPs can help bring the private sector into migration and development efforts. The African Diaspora Marketplace, a USAID-initiated platform to support links between business and development in countries of origin, hosts a regular competition which diaspora-owned companies can enter. The winners are granted access to technical assistance, capacity-building and information on a range of follow-on financing, as well as a network of government and private sectors on the ground in countries of origin. PPPs are seen as the most promising way to involve private sector stakeholders in countries of origin and destination and generate mutual benefits. However, due to its relative novelty the evidence base for policy in the area remains weak. Examples of best practices are needed to broaden the scope of such approaches and strengthen their developmental impact.

Finally, the potential of individuals from the diaspora to act as private large-scale investors in countries of origin remains underexplored despite evidence from China indicating that Overseas Chinese play an important role within the country's investment sector (Smart and Hsu 2004).²⁷

IV. CONCLUSION

This background paper has attempted to highlight the possibilities offered and challenges posed by international labour mobility and the need to meet them with multilevel responses by involving multiple stakeholders in countries of origin and destination. The inextricable linkage of migration with other policy areas, particularly international trade and development, means that states use a complex mix of education, trade, visa, fiscal and monetary policies to manage migration, whose full impact has not yet been understood. There is an urgent need to review, reinforce and better coordinate existing policies in the fields of labour mobility, international development and trade to avoid duplication and potential inconsistencies and to maximise mutual benefits.

This GFMD thematic meeting 'M4MD' represents a timely opportunity to explore different avenues for governments in countries of origin and destination to collaborate in order to increase the efficiency and effectiveness of existing approaches and set directions for future policy cooperation. The prevalent use of different policy tools for different forms of labour mobility and skill levels carries the risk of discriminating against lower-skilled workers, often providing them with only minimal protection standards. As part of a comprehensive approach towards international labour mobility, the existing legal mechanisms need to be reviewed and strengthened to clarify the rights and responsibilities of private sector agents vis-à-vis public sector bodies and ensure the protection of migrant workers, particularly at lower skills levels.

By illustrating the added value of involving the business community, civil society organisations and migrants themselves in policy formation, the meeting aims to encourage non-state actors to become stakeholders in the process of managing international mobility and development efforts. Case studies from around the world show different ways in which private enterprise can support migration management and economic development in countries of origin and destination, ranging from recruitment to skills testing and investment. Diasporas in particular have an important role to play through their social and

²⁷ Roy and Banajee (2007) investigate the potential of the Indian diaspora to play a similar role in India's national development.

economic capital. Although the distinction between diasporic and non-diasporic business is questionable, their special status allows diasporas to claim a unique stake in their home country's development efforts. Their contributions range from generating new trade links and strengthening existing ones, to acting as private investors, to assisting their home country government with attracting overseas investment. These are areas that merit further investigation.

PPPs can help to facilitate private sector involvement in countries of origin and destination, defuse concerns over possible risks and increase the effectiveness of development capital. However, efforts continue to be relatively new and as in other policy areas room should be allowed to explore and learn from best practices and inform future policy options that will address concerns over development as well as migrant welfare, for the mutual benefit of governments, private sector agents and migrants themselves.

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