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**Background Paper**  
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**Roundtable 1:** Human Capital Development and Labor Mobility: Maximizing Opportunities and Minimizing Risks

**Session 1.3:** The role of other-than government partners in strengthening the developmental contribution of temporary labor migration

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## **Executive summary**

Temporary labor migration can have positive impacts on households and communities at source.<sup>i</sup> But it can also bring uncertainty and risk, especially when migrants and their families face high migration costs and poor social welfare protection, or are abused or exploited in the process of crossing borders and working abroad. Females, who make up the greater part of temporary labor migration in regions like South Asia, can be particularly vulnerable in domestic service and other poorly regulated jobs.

In many parts of the world, labor migration is largely managed by the private sector – including employers and recruitment agencies - which can play an important role in supporting and protecting migrants. But their efforts to maximize profit can also harm the interests and rights of migrant workers and their families. Many other key players in the foreign labor market - labor unions, international organizations, NGOs and migrant associations - also provide valuable supportive services to migrants. The challenge for governments is how to assume their primary responsibility for ensuring legal migration and protection of migrants' human rights, while working with non-state actors to minimize the risks and maximize the benefits for migrants, their families and home communities.

This paper will look at the global migration industry, including the roles of its major stakeholders – governments, private sector and other non-state agencies – and how these can better ensure that migrants are well informed, protected from abusive and malevolent practices (e.g. at the hands of smugglers or traffickers), and empowered socially and economically, both abroad and after they return. These elements are essential to ensuring that the migration occurs legally, and that regardless of their status, migrants' human rights are protected. It will examine how governments can balance facilitation and control of these players to help them support beneficial and protective migration without further driving the agencies underground.

The paper explores some workable policies and programs for effective engagement of private sector and other non-state actors at origin and destination to ensure legal and protected temporary labor migration, and to maximize the benefits from the work abroad. Drawing on these, it will propose some market-based and multi-partner initiatives for policy makers to pursue further.

### **1. Introduction and Context:**

Compared with trade, international migration is still largely unregulated, or inconsistently regulated, in many regions of the world. Key non-state players in the global labor market that deal with migrant workers - such as private recruiters, contractors and employers - are also under-regulated or unregulated. This can encourage irregular forms of migration and unprotected work for migrants. The prospect of higher wages in other countries encourages many job seekers to take risks, such as giving up their current employment and incurring large upfront costs (agency fees, airfares etc) to work abroad. They accept the risks if they believe they can recoup their investment within a reasonable time. But studies show that recovering initial migration costs can take as much as a year or more<sup>ii</sup>.

The indirect costs of temporary labor migration can in some cases have far-reaching and adverse developmental consequences. If a migrant worker cannot recoup his/her investment, and returns prematurely, the household may face deprivation. A chronic lack of access to national social security systems for migrants in many destination countries, and for their families back home, also exacts high social costs, which can become a financial liability for poor households. Even if migration leads to a steady flow of remittances, and these help reduce consumption poverty, they may not necessarily promote human development. And where they do increase the returns on education or e.g. the health of children, remittances cannot be a longer term substitute for good statutory social security systems.

The market for migrant workers is highly imperfect, characterized by high transaction costs, information gaps and often misplaced expectations, which can open the way for biased and unfair labor practices, often also to unscrupulous recruitment and job placement agencies, middle men and even smugglers and traffickers violating the fundamental human rights of the migrant workers. Employers in many countries, both developed and developing, are often insufficiently monitored and penalized for exploiting contracted labor. Many recruiting agents reap abnormal profits at the expense of the migrant workers. Such practices go unpunished largely because of the difficulties for migrant workers to seek legal remedies in the host country, due to language barriers and a lack of knowledge of the local legal system; but also because of a lack of enforcement by governments.

Even when there are policies and regulations in place, the private sector may have little incentive to promote the interests of the migrant workers; and some destination governments have little political will or insufficient resources to enforce sanctions against offending employers. Yet non-state players such as recruiters, labor unions, banks, NGOs or international organizations are well placed, and in many instances already do, provide crucial and cost-effective support and protection to migrants.

Many of these stakeholders – particularly recruitment agencies in countries of origin, and employers in countries of destination - remain largely disconnected due to language barriers (important, e.g. for recognition of skills) and geographical distance, and fail to establish a fully functional market with free flow of information, transparency and fair competition. Existing market mechanisms are thus generally inadequate to mitigate migration-related risks. The urgency to address this issue is particularly apparent for medium and less-skilled migrant workers working on contracts abroad.

To stimulate discussion, this background paper looks at the need for better information, social security (for migrants and their families), lower up-front costs of migration and new forms of public-private partnerships to achieve these. It explores some alternative, practical market and non-market solutions to minimize migration risks and maximize the developmental impacts of temporary labor migration through multi-partner cooperation.

**I. Reducing the information gap: The first step towards protecting and promoting the well-being of the migrant workers**

*The need for **pre-departure and pre-employment orientation** to sensitize migrant workers about host country work ethics, job culture, employer attitudes, labor laws, gender-specific issues, migrants' rights and obligations etc; and to educate employers and recruiting agencies about incentives – legal and financial – to ensuring that migrants work legally and in a protected way.*

The most practical and direct approach to minimizing the risks of temporary labor migration is to provide migrant workers and potential migrants with two types of information i) **pre-departure orientation** to prepare the migrants for travel, cultural, linguistic and legal reorientation, and to make their stay overseas safe, and ii) **pre-employment orientation** on the employment opportunities abroad, the risks of engaging with illegal recruiters, legal systems, migrants' rights and obligations, to help potential migrants make informed choices. Information to migrants already in destination countries is also critical to ensuring better access to public services, legal aid and other assistance.

Most migrant source countries in Asia have some kind of pre-departure orientation program for workers leaving the country within organized deployment schemes, in many cases mandatory for all workers. The challenge is how to expand such orientation programs and improve their quality and effectiveness for reducing migration related risks and thereby promoting development. The ILO Migration for Employment Convention (Revised), 1949 (No.97) recommends free and adequate services to migrants, including the provision of accurate information (Articles 2 and 3).<sup>iii</sup> Migrants

should be informed about regular migration channels and procedures; employment opportunities abroad and the skills required; conditions of employment; rights and duties in the country of employment, and the return and reintegration process.

For *pre-departure orientation*, the Bangladesh government has, with an international partner, introduced destination-specific, pocket-size handbooks containing key information about the law, culture, language, emergency contacts, remittance transfer method etc. of the destination country.<sup>iv</sup> A special pre-departure orientation program for female nurses and domestic workers is being developed to equip them with information and protective measures against gender-specific exploitation. The Philippines and Sri Lankan Governments provide special orientation courses for domestic workers, mostly women, heading for Hong Kong and the Middle East. In Guatemala, an international organization advises the temporary agricultural workers going to Canada” on travel documents and procedures, conditions in Canada, banking and return arrangements. The Italian Ministry of Labor also funds an international organization to do language training and cultural orientation of its immigrants.

For *pre-employment orientation* the Philippines Government allows 5 accredited NGOs to offer courses on entrepreneurship, business and finance management. The NGOs promote and protect migrant workers’ rights, as stipulated in the Migrant Workers and Overseas Filipino Act of 1995.<sup>v</sup> In Bangladesh, pre-employment orientation on overseas employment is offered as an outreach program by an international organization with government and non-government stakeholders, including migrants and media outlets.<sup>vi</sup> Other stakeholders like banks, telecommunication companies, and private skills training institutes also provide orientation (e.g. on remittance management). These all follow the standard curricula, modules and training approaches set by the Overseas Workers’ Welfare Association (OWWA).<sup>vii</sup> Collaboration with non-governmental actors is a particularly effective way of helping migrants to avoid gender-specific exploitation and abuse.

In many countries, information on the real costs of migration is not available to potential migrants, leaving a space to overcharge and raise the expectations of potential migrants. Migration costs range widely and involve many collectors: recruitment fee to agents, processing fee to governments of origin and destination, health assessment fee to hospitals, travel costs, passport issuance fee etc. Knowing these costs can be critical for the decision to migrate and how to migrate (e.g. legally or illegally).

Regarding information and support to migrants while abroad, the Philippines and Sri Lanka have a large network of labor attachés to provide critical out-reach services, skills upgrading, legal advice and advocacy, particularly for women migrants, who tend to be in the majority for these countries. The Maghreb countries support the migrant-empowering activities of non-governmental “Amicales” in many European host countries.<sup>viii</sup>

Migration resource (or information) centres in countries of origin are one useful one-stop facility to disseminate information to potential and departing migrants. Such centres have been established in the Philippines, Bangladesh, Tajikistan, Georgia, and Albania by IOM in partnership with governments and NGOs. The pre-employment information these offer is also available to the agencies that help prepare migrants for work abroad.<sup>ix</sup> The feasibility of establishing a “job centre” in Mali to better inform migrants about legal opportunities abroad is also being studied by the European Commission.

Destination countries can also help address the information gaps of migrant workers. Often, the authorities of the host country know little about the working and living conditions of migrants unless a serious violation comes to light. Since 2005, Singapore offers an “introduction seminar for the employers of foreign domestic workers” and follow-up visits<sup>x</sup>. In Malaysia, a labor union is establishing a similar facility supported by ILO. In France, two trade union confederations, along with employers and local governments jointly operate a seasonal work centre for migrant workers.<sup>xi</sup> Few

host governments or employers offer any orientation courses in countries of origin. Canada and Italy conduct pre-orientation and language courses for foreign workers, e.g. in the Philippines to prospective live-in caregivers, together with an international organization. Similarly, few destination countries in many parts of the world inform migrants already on their soil about their rights and obligations, or provide them with special assistance, e.g. through helplines (see the extensive resettlement support services of e.g. Australia and Canada, including for aged, single parents and children).

NGOs, labor unions and migrant associations are already providing effective support and advocacy for migrants in many destination countries in Europe, North America and Australasia. This grass-roots support can particularly help vulnerable migrants in illegal situations to better access vital public services and to regularize their status where possible. These can provide some useful models for governments seeking partnership approaches to migrant services in destination countries.

A continuous dialogue between stakeholders of countries of origin and destination could help to address and redress issues of rights, responsibilities and obligations of all stakeholders. To facilitate such dialogue, one option could be to establish Migration Resource Centres in destination and origin countries and link them up to create an information corridor. In addition to strengthening cooperation among government, NGOs, migrants, international organizations and private sector, in delivering migrant services, they can offer free helpline services and gender-specific referrals.

**II. Providing safety nets to the migrants and their families: The second step towards minimizing migration costs and protecting the well-being of migrant workers.**

*The desirability and practicability of an insurance market to safeguard migrant workers against sickness, disability, unemployment risks and premature return to their home country. The possibility of engaging financial intermediaries, banks, NGOs and small insurance providers to protect the interest of migrant workers and their families, especially their children.*

Social Security was recognized as a basic human right at the General Discussion on Social Security at the International Labour Conference in 2001 (ILO, 2001). Yet many countries globally still have no national social security systems. ILO estimates that fewer than 8% of people in Africa are covered by statutory social security schemes.<sup>xii</sup> While most immigrant-receiving countries in Europe, North America and Australasia provide universal health care for legal migrants, and emergency care for irregular migrants, most migrants do not enjoy social security abroad or for their families back home.<sup>xiii</sup> This is in part due to the high numbers of migrants in irregular status, with no legal right of access to welfare.

The World Bank also estimates that only 20% of migrants globally are covered by bilateral social security agreements; and fewer than 10% of Latin American, Asian and African migrants abroad were covered by portable social security schemes in 2000.

Without effective healthcare for the family left behind, migrant workers can suffer from anxiety and stress, which adversely affects their productivity in the workplace. This can result in an inordinate dependency on remittances. While it may be in the best interest of the employers to provide healthcare coverage for the whole family, they seldom do so.

This scenario can also be influenced by migration policies: World Bank data show that Africans enjoy better social security in Europe, because there is a higher number of bilateral labor agreements with African partners.<sup>xiv</sup> The European Union is also moving towards a more inclusive welfare system with EC Directive 109/2003, which calls for member states to grant permanent status and full “social

denizenship” after 5 years of residence. Spain exceptionally offers the possibility for irregular migrants to register locally for a Health Card, without compromising their situation as illegal residents.

There is huge potential for international development programs to focus on capacity building of social security systems in developing countries, and linked-up systems within global regions, which could also cover migrants abroad, their families left behind and their security upon return.

### **Welfare Funds – Insurance Schemes**

Some governments and agencies at the migrant origin end are trying to fill the social security gap. The Governments of Pakistan, the Philippines and Sri Lanka offer a self-paying insurance scheme, or “Welfare Funds”, to their labor migrants, at a registration/membership fee of USD25 per migrant. This covers on-site protection and pre-departure/ family protection services and death insurance, and in the case of the Philippines disability and ill health. These Funds have had varying success on e.g. home loans and death insurance; and notably do not cover the loss of lifetime income. The Sri Lankan Welfare Fund offers insurances, scholarships for children at primary and college/University level and loans schemes with partner banks to cover migrants’ pre-departure costs and start-up of self-employment schemes. It would be useful to know more about how effective this scheme is.<sup>xv</sup>

The Guatemalan Government, in cooperation with an international organization, offers a workable health care scheme for migrant families as part of its broader Policy for the Protection, Assistance and Care of Guatemalans Abroad. A safe and efficient mechanism has been created with reasonable prices via a strategic alliance with a reputable private health care provider.<sup>xvi</sup> This scheme is publicised through remittance transfer companies and Guatemalan consulates in the US. Migrants using the services of remittance transfer companies are offered the health care scheme for their families, with IOM acting as the facilitator between the remittance transfer company and the health care provider in Guatemala. The Guatemalan temporary seasonal worker program to Canada is a good model, as it provides both Canadian insurance to the migrant and private Guatemalan insurance to the family. The program has been assessed as development-friendly in terms of the impact on the wellbeing of households of migrants’ net earnings when they return home after each tour in Canada.<sup>xvii</sup>

*Labor unions* can also offer vital social welfare packages. The Associated Marine Officers and Seafarers Union of the Philippines (AMOSUP), the largest seafarer union in the world, provides a roster of services to its members, including hospitalization and medical benefits to the seafarers, their spouses and families under a broad preventive, diagnostic and curative program. A half-way house in Manila services both out-bound and in-bound seafarers waiting for flights to join their vessels or to go home to their families. AMOSUP also provides legal representation, pension plans, life insurance and burial benefits for its members covered by Collective Bargaining Agreements between workers and ship operators. These services are increasingly being regionalized by AMOSUP in the Philippines.<sup>xviii</sup>

The Philippine Government regards AMOSUP’s role highly; and in the ILO tripartite forum, AMOSUP always represents seafarers in the policy-making process and other program development activities. It may be worth exploring if the AMOSUP model could be replicated for land-based workers, who are more dispersed, with more diverse skills. One starting point could be to tap existing informal migrant networks and explore the possibility of consolidating available services to migrants and their families in a customer-friendly one-stop-service.

Safety nets can also be provided through *credit schemes* for migrant families. One such example is the Livelihood Development Program (PDL) for Filipino migrants. This is a lending program in the Philippines for Overseas Filipino Workers and/or their family, who plan to open a business or improve an existing business. The loan is sourced out through a conduit partner accredited by the National

Livelihood Support Program (NLSP); the acceptable collateral includes real estate and other properties such as movable properties, stock inventories, receivables, insurance/ pre-need policies; and .the interest rates and fees are manageable.<sup>xix</sup>

Where there are good statutory social security systems in place, migrants themselves can also take the initiative. In Belgium, for example, Moroccan migrants have founded and funded a hospital in Tangiers, Morocco, which is certified by the Belgian “Mutuelles” health care system. Migrants or returnees covered by the Belgian social security system can receive through the Belgian “Mutuelles” a reimbursement of their medical treatment there. As costs are lower in Morocco, this is a useful service both to the migrants abroad and to those who have returned. This kind of good practice warrants further study for potential application elsewhere.

### **Reducing the costs of migration**

#### *Can banks play a stronger role?*

It is worth noting that none of the origin countries reviewed in the background paper involve financial intermediaries – especially commercial banks – to specifically address the needs arising from existing migration schemes.<sup>xx</sup> But some schemes do exist, for example in Ecuador a local bank, “Banco Solidario”, loans migrants to Spain a small amount of money to cover the costs of their flight, their first days in Spain and family support until the migrant receives his/her first pay.<sup>xxi</sup> The involvement of *commercial banks* may solve a number of problems discussed in the previous sections.

Under specially developed schemes, a migrant worker could approach a commercial bank for loans to pay for agency fees and other migration-related costs. A bank loan, providing liquidity, would also help the migrant workers and their families to smooth consumption during the transition period, especially until the remittance income flows. Initial migration costs vary depending on the routes, but travel documentation, airfare and nominal recruitment fee can amount to a few thousand US dollars on top of often exorbitant recruitment fees charged by brokers at origin and destination.

The option of banks providing credit to migrant workers and their families could be further explored to ascertain its feasibility. If a bank agrees to give a loan to a prospective migrant, then it would be in the best interest of the bank to ensure that the worker receives the best possible employment contract and his/her rights are respected. Fearing loss on the loan given to a migrant worker, the bank would exercise due diligence to reduce contractual imperfections. It could be less risky for the bank if the loan agreement stipulated that the worker would remit his/her income through the bank.

Banks could also play a stronger role in keeping transfer fees low through the creation of special services with features that aid migrant’s remittance transfers. An example of such a service are the joint checking accounts offered by the Moroccan Banque Populaire. Through their own branches and agreements with banks in European countries, migrants in Europe can make deposits into the account which can then be accessed by family members in Morocco.<sup>xxii</sup> The use of the bank as the default conduit to send money back would also increase official remittances, which in turn can increase foreign exchange reserves – another positive externality for the workers and the national economy.

But for many illegal migrants, or asylum seekers, these options are not available because of the lack of access to banking. This has been resolved in the US, where commercial banks permit illegal Mexicans to bank their money on the basis of an ID card issued by the local Consulate (so-called “matricula consular”). However, for this to serve as a useful model to other countries, there may need to be a more flexible approach by banks, as some migrants, such as asylum seekers, may not comfortably rely on their Consulates for ID documentation.



To date the involvement of banks in the migration chain remains limited - largely because transaction costs can be too high for the bank to act as an intermediary, especially to review employment contracts and monitor remittance flows for an extended period of time. But the banks could charge the migrants a transaction fee for such a service. The government could give tax incentives on these fees and on interest earned on the loans to the migrant workers to encourage banks' involvement in the overseas employment market. The government or a development partner could also offer loans on concessional terms to finance such a scheme.

Where banks are reluctant to make direct loans on a small scale to thousands of migrants, **it may make sense to operate up-front migration loans via the recruiters.** These agents, who already collect data on migrants, could be mandated/encouraged to give bank loans to migrants for a small fee, with the government setting the terms of the loan. If the loans are organized through agencies, this could be an incentive for recruitment agencies to find employers with a good track record. This proposal would warrant further research and analysis.

*Can governments cut the costs of migration more directly?*

In addition to private lending schemes, governments in some destination countries are becoming more active in the recruitment and placement of labour migrants, which by design or accident can help reduce exploitation of the workers and the costs of migration. Cost analysis carried out by the Philippines shows that by offering free public placement services the government recruitment arm could cut down as much as 50% on initial migration costs shouldered by the migrants, compared to the costs charged by private agencies. The South Korean Employment Permit System adopts a government-to-government placement approach to minimize exploitation of temporary migrant workers, notably the excessive recruitment fee. Recruitment and deployment under its MOUs with countries like Bangladesh and the Philippines will thus be via the government recruitment arms. This could reduce the costs of migrating to nominal cost-recovery level<sup>xxiii</sup>.

Another alternative scheme to cut the cost of migration is offered by the government-to-employer association agreement underlying the Seasonal Agricultural Workers Project between Canada and Guatemala. The agreement is between the Government of Guatemala and the *Fondation des entreprises en recrutement de main-d'œuvre agricole étrangère* or FERME, a Canadian association dealing with the recruitment of foreign agricultural labor. Technical assistance is provided by an international organization. Because of the direct involvement of employers, an international agency and the country of origin, the cost of migration under this scheme is approximately US\$1400 including documentation processing, airfare and cost of recruitment, compared with potentially many thousands of dollars under private or illicit arrangements.

**III. Co-managing temporary labor migration with the involvement of all stakeholders – the third step towards protecting and promoting the well-being of migrant workers**

*The feasibility of co-management of temporary migrations and effective collaboration among source and host governments, recruiting agents, employers, NGOs and other private sector participants to optimize the benefits of temporary labor migration.*

As seen above, the number of stakeholders involved in cross-border labor movement is large: migrants, formal and informal recruitment service providers, employers, unions, banks, international organizations, NGOs and governments, each with different priorities and the potential to influence the nature and volume of the migration. This section looks at innovative yet viable ways for governments to engage with some of the key agencies – particularly recruiters, employers and international organizations - in multi-partnership ways to ensure cost effective and safe temporary migration.

### *Engaging recruitment agencies:*

In countries of origin, the relationship between government and private recruitment agencies is often a vertical one: the government licenses, monitors and supervises the employment agencies. It is the responsibility, under the ILO Convention 181, Private Employment Agencies Convention 1997, of both origin and destination countries to ensure that recruitment agencies do not engage in exploitative or hazardous activities in their work with migrants. Also the UN Protocol against Trafficking<sup>xxiv</sup> compels governments to criminalize the actions of agencies that exploit vulnerable migrants such as women and children for slave labor or the sex industry. But prosecutions against traffickers have been rare, in part because of the difficulties in legally interpreting the Protocol and of amassing relevant evidence against the perpetrators. Migration policy can play a critical role here, since victims of trafficking may generally be more willing to give evidence against perpetrators if they are permitted to remain in the host country at least temporarily. Too few governments offer such an option. Italy being one of the few also allows the possibility of longer term/permanent residence where the victim has found a job. In general, unilateral regulatory action against recruitment agencies has not eradicated abuses and exploitation of migrant workers by both legal and illegal recruitment agencies.<sup>xxv</sup>

An important benchmark is the extent to which over-regulation or failure to regulate can drive recruiters or other private sector players to engage in unfair practices or go underground. One reason for failure of government regulation of the industry is the inability to keep pace with market realities, for example setting limits on recruitment fees which are unrealistic<sup>xxvi</sup> given domestic market prices (the Philippines has set a reasonable limit of 1 months' salary for the recruitment fee). Recruitment agencies can only be expected to follow rules if they are reasonable and profitable. How can governments best balance market realities with the need to regulate?

Creating incentives for recruitment agencies to minimize the risks and maximize the benefits to migrants is one way to successfully engage the private sector. Overseas recruitment services depend on the wage-differentials between countries of origin and destination. The reputation of private recruiters can suffer from negative reports, either because of poor performance of the workers or because of non-fulfilment of the promises made by the recruitment agents. Governments suffer if the migration flow is adversely affected because of failures by the recruitment agents. It is thus mutually beneficial for government and recruitment agencies to protect the integrity of the overseas recruitment business. Governments can consider giving rewards to well-performing agencies (e.g. devolving authority in labor migration administration, tax incentives etc.), while taking strict measures against offenders (e.g. blacklisting agencies with complaints against them, as the Philippines does).

The Philippines has a "co-management" framework where a) the government initiates dialogue and sets the regulatory frame based on that dialogue, and b) private sector entities coordinate with each other, develop a product or service, test the market and operate independently within that framework. The government regulates this by imposing a "joint and solidarity liability" (JSL) on recruitment agencies and their foreign principals. As a result, where foreign employers, laws and standards are below Philippine standards, the recruiters run the risk of assuming liability for the difference or losing their license. If a Filipino worker accepts foreign standards inferior to those stipulated in his/her POEA-approved contract, the recruiters bear the legal risks.

Ethical recruitment practices are increasingly being pursued by governments in dialogue with recruitment agencies, along with efforts to ensure transparency and promote healthy competition among the agencies. Under the initiative of the Colombo Process,<sup>xxvii</sup> IOM is helping to consolidate the recruitment business entities at national level and establish a regional association of employment agencies in Asia, which hopes to adopt a code of ethics on recruitment and introduce the concept of

socially responsible business.<sup>xxviii</sup> Some destination countries have already set codes of ethical practice for recruiters: Ireland has established a private employment agencies regulatory framework, based on ILO Convention 181, which includes a statutory Code of Best Practices. The UK has set standards for licensing, monitoring and sanctioning recruitment agencies in its Gangmasters Licensing Authority (GLA) legislation of 2005.<sup>xxix</sup>

UNIFEM under its Regional Programme on Empowering Women Migrant Workers in Asia also partners with recruiting/placement agency associations in some Asian countries to negotiate favorable contracts, benefits and working conditions for women; and to inform them of their rights. UNIFEM's work with national associations of recruiting/placement agencies in Southeast Asia, South Asia and the Arab States on better protecting women migrant workers in the migration cycle has resulted in a Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers (2005). The Covenant identifies actions to be taken at regional and national levels to build capacities of recruitment and placement agencies to provide worker protection, information/resource centers, media campaigns and advocacy with governments. Recruiting/placement agencies in each selected country are following up on these with technical assistance from UNIFEM.

Ownership is a key strategy in productively partnering with recruiting/placement agencies. Regulations and control mechanisms are likely to have a limited impact. UNIFEM's partnership with service providers respects their interests and roles, which helps to implement the Covenant of Ethical Conduct and Good Practices.

***Engaging Employers in the temporary labor migration scheme and cycle:*** With the potential migrants and recruitment agencies based in the country of origin, employers at many destinations have limited knowledge about available labor supply or the migration schemes to access the supply. This invites exploitation through misinformation and deceit. There is evidence that in some regions employers illegally sell their work permit quotas to recruitment agencies, which compete among themselves for employment opportunities or 'vacancies' in destination countries. The price for a "vacancy" could be exorbitant, and the costs are likely to be added to the recruitment fee paid by the workers.

Monitoring and enforcing compliance by employers with national and international standards of decent work and human rights is mixed across destination countries, and mostly inadequate, even in countries with otherwise solid labor regulatory frameworks.<sup>xxx</sup> The UK Gangmasters Licensing Authority (GLA) legislation of 2005, is a sharp instrument to license, monitor and sanction recruitment agencies, but also to levy penalties against employers using non-licensed recruiters. Regulatory schemes of this kind, including the Irish legislation against private recruiters, are innovative, but very new. They would warrant further assessment of their costs and benefits to the governments, and their effectiveness in stemming illicit practices against migrant workers.<sup>xxxi</sup>

Employer associations or unions can be a helpful conduit for negotiating fair deals for the migrants and protecting their rights: the seasonal agricultural workers project between Guatemala and Canada is based on direct negotiations between the Guatemalan Government and the employing farmers association "FERME" in Quebec. It works in part because of the technical assistance provided by an "honest broker" international organization in recruiting, preparing and transporting the workers according to Canadian immigration law.<sup>xxxii</sup> With a return rate of almost 100%, the project is seen as a successful model<sup>xxxiii</sup> of temporary migration and a viable alternative to irregular migration.

In Spain, the Farmers' Union of Catalonia (Unió de Pagesos), together with the farmers' unions of Valencia and Mallorca, hires farm workers from Colombia, Morocco and Romania during the harvest period under the "Agricultores Solidarios" program.<sup>xxxiv</sup> The Farmers Union also supports those

migrants who wish to contribute to the development of their communities of origin through collective projects such as small businesses or the establishment of women's information centres.

More direct engagement of employers in the recruitment and placement of migrants could also benefit the employers. Governments in countries with longstanding immigration programs, like Australia and Canada, where there is reasonable general welfare cover for migrants, jointly plan their foreign labor needs with their private sector.<sup>xxxv</sup> These offer useful models for other destination countries.

*Use of standard contracts to protect the welfare of the migrant workers.*

Standard contracts for overseas employment are increasingly being sought by many countries of origin in Asia (Philippines, Pakistan, and Thailand), also as a means of regulating the behavior and cost of recruiters and employers. Apart from the typical provisions for wage, working hours, benefits, welfare, termination, repatriation and dispute settlements, standard contracts can provide important legal evidence in case of disputes and human rights abuse. Standard contracts can also be introduced by the destination country, as in the case of Jordan, which recently introduced a standard contract for foreign domestic workers. This contract ensures special protections also against exploitation and abuse by employers, and sets the obligations and responsibilities of recruitment agencies at origin (standard contracts will be addressed in Roundtable 1.2).

The Philippines and Sri Lanka are the only countries to enforce **'benchmark' or minimum wages** for their migrant workers, which prohibit the placement of their migrants in those positions where wages and age requirements are less than the pre-defined standards. Benchmarks for domestic workers relate to the particular vulnerabilities of, for example, women working in under-regulated domestic jobs, high dependency on employers or long working hours, which labor markets largely fail to address. The government of the origin country needs to negotiate on behalf of its migrants in a sector characterized by low education, skills and pay. In the case of women, who comprise more than 90% of the domestic worker sector, these characteristics combine with gender to make them vulnerable to special forms of abuse. Given these high risks, the Philippine Government has recently set a higher minimum wage for its domestic workers abroad.<sup>xxxvi</sup>

Alongside protection, achieving cost effectiveness in the overseas employment scheme is key to maximizing its developmental impact. Since the private employment industry dominates much of the global migrant labor market, it collectively invests vast human and financial resources in the search for overseas markets and recruitment opportunities, within government regulatory frameworks. Governments can seldom match these resources, and so need to find the optimal co-management frameworks, which can strike a balance between the interests of the migrants, the recruitment agents and the employers. In many temporary labor movements, migrant workers bear most of the costs and risks, with little commensurate return. Co-management mechanisms can best meet the complementary interests in keeping migration free from malpractice, abuse, discrimination and under-payment.

As seen above, international organizations like ILO, IOM and UNICEF can help boost such co-management through technical support to both origin and destination countries and migrants.<sup>xxxvii</sup>

#### **IV. The way forward; and some possible outcomes**

Drawing from the case studies and discussions, the Roundtable panel may propose the following market-based and multi-partner solutions based on a "co-management" approach to minimize migration-related risks and maximize the developmental impacts of temporary labor migration:

##### **1. Reduce the information gap:**

- Establish regional strategies to set up Migrant Resource Centres (MRC) in key origin and destination countries, to serve as information clearing houses and service providers, based on good practices to date. These could be linked to each other to ensure timely information at both ends. They could offer a free helpline for migrants and gender-specific outreach services. International organizations, NGOs, banks, financial institutions, Consulates, migrant associations could all play a role in providing expert advice and technical support.

## 2. Co-manage temporary labor migration with the involvement of all stakeholders:

- Replicate on a pilot basis the Guatemala-Canada seasonal worker model for non-agricultural sector employments in another set of countries forming key temporary migration corridors. The adopted process could involve government, private sector and international organizations. In doing so, a set of guidelines to engage multi-stakeholders in dialogue could be developed. The panel may identify, with the help of international experts, a country-pair for such a pilot.

## 3. Reduce the cost of migrating and provide safety nets to migrants and their families:

- Undertake a **feasibility study** of banks and/or other financial institutions, including microfinance institutions, providing loans to migrant workers to pay for initial migration costs (recruitment fees, airfares and documentation fees). These could be offered via recruitment agencies. The study would be conducted in several countries to explore a range of models, including loans using employment contracts or recruitment agency guarantees as collateral.

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<sup>i</sup> Bangladesh, for example, has 4.5 million of its citizens working abroad, and in fiscal year 2005-06 received US\$4.8 billion - approximately 7.6% of its GDP - in remittance from its citizens working overseas. Remittance transfers that year were approximately four times higher than net aid flows to Bangladesh and more than nine times larger than foreign direct investment. The Philippines, one of the top remittance recipients of all developing countries, has some 8 million workers abroad, and receives remittances that are 25 times higher than aid flows. In the case of Guatemala, according to the Survey on Remittances 2006, approximately 1.4 million Guatemalan workers live abroad, which accounts for 11 per cent of the total population of the country. In 2006 Guatemalan emigrants sent more than US\$ 3.4 billion in remittances to their families back home, an amount that is equivalent to 10 percent of the GDP of Guatemala.

<sup>ii</sup> Grass-roots case studies in Thailand and Bangladesh and other information collected from IOM regional offices.

<sup>iii</sup> The Convention states that “each Member for which this Convention is in force undertakes to maintain, or satisfy itself that there is maintained, an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information” (Article 2); and “undertakes that it will as far as national laws and regulations permit, take all appropriate steps against misleading propaganda relating to emigration and immigration”(Article 3).

<sup>iv</sup> This initiative is jointly implemented by the Bureau of Manpower, Employment and Training and IOM.

<sup>v</sup> See the OSCE/IOM/ILO Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination, Vienna, “ 2006.

<sup>vi</sup> The first phase of the outreach was completed in 2005. The second phase of the information outreach program - launched in 2006 - diversified to involve 1,000 Imams (religious leaders), nominated by the Bangladesh Islamic Foundation. The program covered over 15,000 potential migrants and was recently assessed as successful. It has been recommended for replication within a larger program. Information was disseminated via bazaar meetings, courtyard meetings and workshops. Information materials and radio spots were developed and distributed/broadcasted by NGO partners and District Employment and Manpower Office (DEMO) in collaboration with IOM.

<sup>vii</sup> This collaboration addresses the orientation needs of some 3,000 daily departures of workers from the Philippines.

<sup>viii</sup> See *World Migration 2005*, IOM, Geneva.

<sup>ix</sup> OSCE has supported the Government of Tajikistan and IOM in establishing the first Information Resource Centre for Labour Migrants in Dushanbe in 2004, which led to the establishment of four additional migrant information centres in Khujand, Kurghontepa, Kulob and Shahritus. These provide potential labor migrants with accurate, up-to-date information and personal counseling services. In 2004, at least 5,000 intending migrants availed themselves of the centre’s services, over 100 inquiries received per month and more than 100 thousand information materials have been published for dissemination among potential labour migrants,

<sup>x</sup> In order to raise awareness about safe working conditions and legal obligations, the Ministry of Manpower (MOM) of Singapore has published a guide for employers of migrant domestic workers. It has introduced two compulsory programs: an

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orientation for new employers, known as the Employer Orientation Program (EOP), and a safety awareness seminar for all new migrant domestic workers.

<sup>xi</sup> See the “ILO Multilateral Framework on Labour Migration, ILO, Geneva, 2006.

<sup>xii</sup> See the *Report of the ILO Director General: The Decent work Agenda in Africa, 2007-2015* (11<sup>th</sup> African Regional Meeting, Addis Ababa, April 2007).

<sup>xiii</sup> Ursula Kulke, ILO, 2006

<sup>xiv</sup> See Robert Holzmann, Johannes Koettl and Taras Kernetzky, “Portability regimes of pension and health care benefits for international migrants: an analysis of issues and good practices”, a paper prepared for the Global Commission on International Migration, 2005; separate information was also provided by Johannes Koettl, Social Protection, Human Development Network, World Bank.

<sup>xv</sup> See the IOM/DFID/ADB report “Labour Migration in Asia: Protection of Migrant Workers, Support Services and Enhancing Development Benefits”, 2005, Geneva.

<sup>xvi</sup> The provider is Empresa Promotora de Servicios de Salud, S.A. (EPSS).

<sup>xvii</sup> See the Working Notebooks on Migration 22: Project Evaluation. Temporary Agricultural Workers to Canada, by the Guatemalan Ministry of Foreign Affairs, Guatemalan Ministry of labor and Social Provision and IOM, February 2006.

<sup>xviii</sup> The life insurance that AMOSUP provides to its members is over and above the compulsory Overseas Workers Welfare Fund Contribution, where the seafarer contributes US\$10 per employment contract and his employer contributes US\$15. The contribution is also over and above the life insurance stipulated in the Seafarers' Standard Employment Contract, set up following ILO regulations. Programs for seafarer village, loans to families, livelihood programs are all in place and working because ship-manning agencies in the Philippines link up their seafarers to these private cooperators and entities who develop products and services.

<sup>xix</sup> For an individual borrower, the maximum lending amount is P200,000.00 (about \$4,340) collateralized. For the group of five or more OFWs legally organized and registered, the maximum loanable amount is P1 million (about \$21,700). The conduit charges the OFW 9% interest per annum, service fee of 2%, and facilitation fee of 3%.

<sup>xx</sup> Government-owned loan scheme is available for departing migrants in Philippines. Filipino migrant workers (OFWs) can avail of the Pre- Departure Loan (PDL) before they leave. The loan facility is open for ready- to- leave newly hired OFWs whose employers or agents have already paid the compulsory membership contribution to OWWA. PDL may be availed of to pay for placement fees, buy clothes, keep as pocket money and other pre-departure expenses. Maximum loanable amount is P40,000 (about \$ 800) with interest rate of 7.5% per annum. Minimum repayment term is six months, and maximum term, one year.

<sup>xxi</sup> This is largely possible due to the existence of a Technical Selection Unit for Migratory Workers operated by IOM under a cooperation agreement with the Government of Ecuador (input from IOM Ecuador).

<sup>xxii</sup> Gallina, Andrea. The Impact of International Migration on the Economic Development of Countries in the Mediterranean Basin. United Nations Expert Group Meeting on International Migration and Development in the Arab Region, Population Division, Dept. of Economic and Social Affairs. (2006) p. 17

<sup>xxiii</sup> Manual for Sending Countries (2004), Ministry of Labor Republic of Korea (which states that placement fee be kept free and initial training costs at minimum charge while workers are responsible for paying for issuance of passports and visas, airplane tickets, charge for airport tax

<sup>xxiv</sup> See the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

<sup>xxv</sup> For example, one of the most prevalent abuses involves charging of excess recruitment fee, despite legal requirement and calls from the governments for the workers to obtain receipts from recruitment agencies for payment (Thailand and Bangladesh). This recruitment agencies only issue the receipts for an amount equal to legal recruitment fee. It is also often the case that the middlemen are relatives or friends who the workers could not press to issue such receipts.

<sup>xxvi</sup> Recruitment agents naturally expect a fee exceeding their transaction cost plus a return, including a risk premia, on their investment. A regulatory ceiling on recruitment fees must take these factors into account.

<sup>xxvii</sup> **‘The Colombo Process’** or Regional Consultative Process on the Management of Overseas Employment and Contractual Labour for Countries of Origins in Asia is led and governed by the annual Ministerial Consultation in which recommendations and action plans are discussed and adopted by the Ministers of the participating countries (Afghanistan, Bangladesh, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam). As a part of follow-actions, recruitment agencies of the regions have agreed to jointly pursue ethical recruitment practice and to draft the guideline in February 2007.

<sup>xxviii</sup> Socially responsible business may include, legal compliance, ethical practices and social contributions.

<sup>xxix</sup> See the OSCE, IOM, ILO Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination, Vienna, “ 2006.

<sup>xxx</sup> See the OSCE, IOM, ILO Handbook for references to low employer prosecution rates in countries like the UK.

<sup>xxxi</sup> See also ILO Convention No. 143 (Part 1) on employer sanctions; and the OSCE, IOM, ILO Handbook, 2006.

<sup>xxxii</sup> The agreement stipulates that all migrants must return to their country of origin at the end of their contracts and provides full coverage under Canadian labor laws. The wages earned by temporary migrant workers are higher than the minimum

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salary in Canada. The migrants benefit by acquiring new skills, ranging from new planting and harvesting techniques to classifying and packing the produce.

<sup>xxxiii</sup> The data on temporary labour migration between Guatemala-Canada: 85% of the migrant workers of have received employment offers again in 2007. 93% of the employers of 2006 have requested for workers for 2007. One employer has been excluded from the program due to bad behavior to workers. The number of employers has increased from 108 in 2006 to 154 in 2007; a further increase is expected during the rest of this year. In order to foster team work among the migrant workers, the Canadian employers try to place the Guatemalan workers from the same region together.

<sup>xxxiv</sup> The program, initiated in 1992, has involved some 20,000 foreign migrant workers over the last three years

<sup>xxxv</sup> The Australian Immigration Department, for example, has placed senior immigration officers in industry groups, conducted recruitment expos in Australia and overseas, and delivered employer awareness seminars and workshops. Regional Outreach Officers also work closely with state and territory governments and employers on immigration programs: <http://www.immi.gov.au> In Canada, employers hiring the Mexican seasonal agricultural workers from Mexico have set up a non-profit corporation with representatives from the government on their Board of Directors.

<sup>xxxvi</sup> As of December 2006, the minimum monthly wage to be paid to Filipino migrant workers has been doubled to USD400. The objective is to ensure access to higher niche jobs. This has led to some delay in the certification process.

<sup>xxxvii</sup> Countries initially covered included Indonesia, Nepal, the Philippines and, Jordan as a destination site, drawing experiences from Sri Lanka, and has been expanded to Bangladesh, Cambodia, Lao PDR and Thailand, applying lessons from Hong Kong SAR.