February 2018

Assessment on the Zero Draft of the
Global Compact for safe, orderly and regular migration

Background

In September 2016 United Nations (UN) member states decided in the New York Declaration to develop a global compact for safe, orderly and regular migration (GCM) for the purpose of agreeing on an international framework to manage international migration. The process started in April 2017 with multi-stakeholder consultations. The IOE and the GFMD Business Mechanism, housed at the IOE, provided written and oral submissions, based on input received from IOE members and partners. The IOE also opined on the GCM through a joint letter co-signed by IOE, ICC and BIAC sent to the United Nations Secretary-General.

This year will be dedicated to the State-led negotiations of the GCM. 192 UN member states (all except the USA) will negotiate the document during six one-week sessions at the UN headquarters in New York until July 2018 (schedule). The UN General Assembly will hold an intergovernmental conference on international migration in December with a view to adopting the GCM.

Assessment of the zero-draft

The initial draft put forward by the Swiss and Mexican co-facilitators is meant to present a non-legally binding cooperative framework to improving cooperation on international migration. It is structured around a set of 22 broad objectives with numerous actionable commitments for governments to implement on a voluntary basis. At the outset it outlines guiding principles, as agreed by governments during the 2017 consultations. It finally sets forth suggestions for implementation, follow-up and review mechanisms.

A positive initial draft...

Business can welcome the zero draft which recognizes labour market needs, and which refers to skills and mobility; this proves to be innovative language for a UN document. In particular the draft reflects the recommendations as set forth by the IOE and the Business Mechanism in:

- Objective 5 on enhancing availability and flexibility of pathways for regular migration;
- Objective 6 on facilitating fair and ethical recruitment and safeguard conditions that ensure decent work;
- Objective 18 on investing in skills development and facilitating recognition of skills, qualifications and competences.

The reference to “whole-of-society approach” (p.4), emphasizing multi-stakeholder partnerships as a key to the success of the GCM, should be highlighted.
The language is particularly innovative on skills development (Objective 18), specifically with regards to skills programmes, including trainee and apprenticeship (32 f). Some actions align also with B20 recommendations, including on promotion of skills development programme with a view to reducing youth unemployment and compensating brain drain (16h) and on access to education (29 g).

These provisions, provided some technical changes highlighted below, should stay throughout the negotiations phase.

…yet there are some missing points.

There are numerous proposed actions for governments to “pick and choose” from the list, which dilutes the potential impact of the instrument, which may be impossible to implement in some national legislations and which leads to a missing question: who will finance the implementation? If partnerships with the private sector are called for, it is important that they are not for the sole purpose of financing the GCM.

Also, an acknowledgement of the fact that the world of work is changing would be welcomed. Globalization, new forms of work including online work, demographic developments, a trend towards shorter assignments/gigs, and the impact of all these developments on areas like labour market dynamics, skills needs, and social protection are missing.

Although there is a strong component to skills in the instrument (promote skills recognition, qualification and competency, vocation training), the skills matching demand-driven component could be strengthened. Skills should match employment opportunities and respond to specific needs.

Also, special attention should be paid to the specific provision on ending the practice of tying work visa to a single employer (Objective 6,10.h). Employers select the applicant with the desired skill set to fill a specific position and assure there is a genuine job opportunity. Labour migration would be seriously undermined and rarely utilized if work visas were not tied to a single employer. The employer also assumes responsibility for terms and conditions of employment which should be specified in the process of the application for employment, constituting the legal pathway. There should be liberal provision for portability allowing for facilitated change of employer where the new employer assumes the responsibilities of employment.

Finally, attention should be paid to the provision on supply chain transparency (Objective 6, 20 f). We need to be very careful that this is not expanded to supply chain liability. Even if employers do due diligence, they cannot be held accountable for what happens several steps down the supply chain.

Political context/assessment after the first round of negotiations

While the consultations last year went smoothly and enabled a good exchange of information and data between Governments and other stakeholders in a trusted environment, the negotiations of the instrument per se will certainly be more controversial. The various positions and red lines will be outlined in the coming months.
Virtually all governments welcome the zero draft as a balanced text and good basis for negotiations. Australia, as well as countries based in Asia, express serious concern about the strong languages used for the purpose of a legally non-binding instrument.

The joint voice of the European Union is currently weakened by the anti-immigration positions of Hungary. The 27 other governments are revising their strategy to ensure that their national positions are heard. The EU also calls for a clearer distinction between regular and irregular migrants, as well as migrants and refugees.

The African countries are united and expose balanced and well-constructed arguments, paying special attention to the creation of employment opportunities in countries of origin to stop the brain drain/waste.

Russia and China are looking at the economic perspectives of migration and try to water down all human rights references, as well as climate change provisions.

**Next steps**

The co-facilitators have identified areas that will be raised at the next negotiation round (12-15 March).

- Differentiation between irregular and regular
- Differentiation between migrants and refugees
- Implementation and capacity building
- Follow-up and review

**IOE action**

This is a State-led and negotiated process in which business has the opportunity through the Business Mechanism to the GFMD to observe. An informal channel of information sharing was created for businesses to provide comments to the co-facilitators. Business can play an advocacy role, by ensuring that the text, as it evolves, does reflect business realities.

How can business influence the GCM?

- By using informal channels developed by the Business Mechanism to propose new language to the co-facilitators as well as to the governments,
- Through meetings with governments at the United Nations in New York, and
- Through outreach and lobby to governments at national level.

Members of the Business Mechanism, including Fragomen and USCIB, partner and member of the IOE, will attend each of the negotiations sessions. We will report back to the members of the IOE working group on developments including subsequent drafts. IOE members are welcome to join the process and share their views.