



# IOE Position Paper on labour migration

December 2018



A powerful  
and balanced  
voice for business

## Introduction

Migration policy issues have moved to the forefront of national and multilateral agendas in recent times. Countries of origin, transit and destination face a range of humanitarian and development issues as they manage increased movements of both economic migrants and refugees, through both regular and irregular channels. In some countries there is a sense of crisis. Almost everywhere, an increasingly politicized climate of emotion and negativity is affecting public discourse and policymaking surrounding all aspects of migration, including legal labour migration, which, when properly governed, is essential to the needs of enterprises and the long-term success of economies.

This paper will focus on the role and importance of the ability to hire and recruit across borders in the course of companies' regular business operations. It addresses the employers' perspective on international labour migration; reviews recent developments; and sets out IOE positions on international migration policy, particularly as it relates to combating abusive and unscrupulous practices in the recruitment of low skilled workers, and to facilitating the development of skills and the migration of skilled personnel.

## The employer perspective

Labour migration can raise complex and sensitive political, economic and/or social concerns, as well as an array of legal and regulatory challenges. There is reliable evidence<sup>1</sup> that, over the long term, regular migration not only provides economic opportunities for migrants and their families, but also fuels economic growth, and that regular migrants make a positive net contribution to the economies and societies in which they live and work. Yet governments must respond to the perceptions that foreign workers undercut wages and job opportunities for native workers, and that migration is associated with unacceptable labour conditions and abuses.

On the other hand, widespread movements of refugees in some parts of the world are straining public resources, creating social and political discord. Many companies have responded to the recent challenges posed by movements of refugees through their philanthropic and social responsibility programs. We applaud and encourage these efforts. However, this paper will focus on the role and importance of the ability to hire and recruit across borders in companies' regular business operations.

“ Companies report that they cannot find skills locally, as they open new markets. Predictability and agility are needed to maintain compliance. ”

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<sup>1</sup> See OECD/ILO report “How Immigrants contribute to developing countries' economies”, 2018

Employers regard regular migration as a necessary and positive phenomenon. When well-managed, it is a vehicle for fulfilling personal aspirations, for balancing labour supply and demand, for sparking innovation, and for transferring and spreading skills. The closing of borders to migrants is detrimental to business needs at differing skills levels. Labour-market protectionism can have devastating consequences for businesses, as it becomes increasingly difficult for employers to hire cross-border talent.

Of course, the labour market needs and migration policy interests of the private sector vary greatly among companies, industries, countries and regions. But all employers – as well as their employees – benefit from clear, transparent, and efficient national immigration laws and policies that permit the movement of workers when and where they are needed. Overly complex and sometimes frequently changing systems hinder compliance with

national laws and threaten labour market protections. They also make it difficult for businesses to recruit necessary skills and for migrants to pursue their careers and support their families.

Moreover, clear and well implemented migration policies are an integral part of the legal and regulatory framework necessary to support business environments that are conducive to economic growth and development.

This means not only that governments should be sensitive to the role of migration and skills mobility in fostering innovation, productivity, and entrepreneurship, it also means that internal coherence, communication, and cooperation between government ministries and departments is essential if labour policies are to work as intended to serve the needs of business and society.

### **Some of the challenges faced by a company in Bangladesh in managing inter-country skills mobility and technology transfer:**

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**1) Skills Mobility Challenges:** Skilled foreign personnel can work in Bangladesh upon receiving a work permit from the Bangladesh Investment Development Authority (BIDA) and an employee visa. The length of the visa is one year and it requires renewal every year. Hence, this whole process calls for a significant amount of documentation and processing time. In addition, a foreign individual can work in Bangladesh for a maximum of 5 years, which hampers long-term human resource planning of the organization.

**2) Sending Remittance:** Expats working in Bangladesh can remit a maximum of 75% of their basic salary. They are required to spend the rest of their salary within the country. Thus, expats face difficulty in sending money to their family in their home country.

**3) Expense Disbursement:** The company is required to disburse royalty, tech-know-how fees and software development costs and many other costs to an Indian company. Expense disbursement in foreign countries requires lengthy processing and lots of documentation. In addition, the company needs to receive approval for each transaction individually in most cases.

If proper regulations are not in place, it becomes very costly for employers to hire workers from outside the country. These additional costs are particularly difficult to bear for SMEs and for employers in developing countries, who are also suffering from increasing skills shortage. They need the ability to move talent. As part of the structure and business of many companies, frequent movement of personnel, information, and transaction between countries is required.

For these reasons, the business community has an important stake in working with governments in the development of coherent and consistent migration policies that facilitate the safe and orderly movement of labour across the entire skills spectrum.

### **Balco Australia:**

Balco Australia is a leading oaten hay exporter, founded by four local farmers and businessmen and situated at Balaklava and Bowmans. The business is now in the top 2 to 3 hay exporters in Australia in any given year, predominantly supplying Japan and China. The business began as a diversification play back in 1990, and as a means to retain young people in the area. Like many other regional industrial businesses, Balco was finding it hard to attract enough local staff to support its growth back in the 2000s and successfully applied to bring 6 skilled Filipino workers out on 457 visas. All of those first batch of migrant workers remained with the business for at least 7 years, with some still there today. Many of the migrants' friends and family members have also since joined Balco. The management at Balco firmly believe the additional support provided by these migrants, and their enthusiasm, has been a critical part of maintaining and growing their business, particularly during peak operational times. Balco has also helped to get the pre-existing trade skills of their migrant workers recognised in Australia and believe they have been a very welcome addition to the local community.

### **The South-Australian context:**

- "From accountants to architects, bakers to bricklayers, there are a range of skills shortages across South Australia, exacerbated in regional areas."
- "71% of regional South Australian businesses face skills shortages thereby requiring a targeted, demand driven migration policy that enables these businesses to be sustainable and ultimately grow."
- "68% of regional South Australian businesses support a government led policy to specifically promote population growth in the regions that inherently includes migration policy."
- "As the entire state of South Australia transitions away from traditional manufacturing, including automotive and the related supply chain, to advanced manufacturing, health and biotech, defence and other industries requiring highly skilled workers, it is imperative that migration policy allows for international skills mobility to fertilise the industries of the future."

## Business and the governance of international migration

Businesses are frequent and, in some cases, heavy users of national migration systems. Their experience with the practical workings of immigration laws, procedures, and policies, as well as knowledge of emerging market and staffing trends, can be a source of important information to governments and international organisations. Thus, the participation of the private sector is not only essential to the development of well-regulated migration systems, but as a major stakeholder its involvement is also highly legitimate.

### The Business Mechanism to the GFMD

Until recently, there has been little opportunity for organized private sector participation at the international level – in part because there is no modern comprehensive framework for the governance of international migration. Governments have tried to fill this gap in part through establishing the Global Forum on Migration and Development (GFMD). While it has no governance or policymaking role, the GFMD has been a useful intergovernmental platform for the sharing of experience and good practice. In 2015, the GFMD participating States created an avenue for businesses to engage: the GFMD Business Mechanism. The IOE was instrumental in setting up the Business Mechanism, through which employers' organizations and their members can contribute their expertise and advise governments on aspects of labour migration policy. The overarching goal of the Business Mechanism, which is housed at IOE headquarters in Geneva, is a regulatory

environment in which labour migration policies support business development to create job opportunities and economic prosperity.

### The importance of a regional mobility system for businesses from a Malaysian employer's perspective:

Active interaction between businesses and government in planning reforms is needed. Borderless migration with proper monitoring is recommended. The main problem is not the labour but the government system, which is not effective and transparent, making way for labour exploitation. A one-window operation and less paperwork could help facilitate the labour and talent mobility migration movement, hence enabling businesses to fulfil their needs in time which will result in a more productive economy. Furthermore, the borderless mobility of talent will help to build stronger bilateral ties between the countries as it would enhance the trust level and more responsible monitoring to maintain the trust.

### The Global Compact for safe, orderly and regular migration (GCM)

The Business Mechanism has also been an effective channel for private sector participation in ongoing UN efforts to address governance gaps in migration policy. In 2016, the UN Secretary-General convened a High-Level Summit, urging member States to work toward a Global Compact for Migration (GCM)<sup>2</sup>. In July 2018, following six intense

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<sup>2</sup> The GCM is a non-legally binding instrument covering all dimensions of international migration in a holistic and comprehensive manner. Its aim is to facilitate safe, orderly and regular migration, while reducing the incidence and negative impact of irregular/illegal migration through international cooperation. The GCM process ran in parallel to the negotiation of a global compact for refugees in which the IOE did not take part.

rounds of negotiations at UN headquarters in New York, member States agreed on such a text, which was formally adopted at a global conference in Marrakech, Morocco in December 2018.

Through the Business Mechanism, the IOE had observer status throughout the negotiation process and represented employers' interests. While heavily focused on the protection of migrant rights, the GCM includes language recognizing the importance of labour-market needs, predictable labour-mobility schemes, and appreciation of the role and expertise of the private sector, in particular in identifying skills needs.

Most of the IOE's suggestions specifically relating to skills mobility and skills development were adopted in Chapters 5 and 18 of the text, including:

- Language on the need for predictable and transparent migration policies that reflect demographic realities and labour-market needs;
- Specific language on flexible labour-mobility schemes;
- Numerous references to the need to cooperate with the private sector and employers, to benefit from their technical expertise and on-the-ground experience, one of which makes special reference to the GFMD Business Mechanism; and
- A focus on skills development and recognition of foreign qualifications.

The GCM is a non-binding compendium of good practice and recommended actions. Not all provisions will necessarily apply to every national circumstance. Not all governments, nor all companies, will agree with every provision. But given the important respect in which the document addresses the concerns and priorities of the private sector

and recognizing the symbolic as well as practical importance of improving migration governance, the IOE supports the adoption by governments of the GCM. But such adoption is only the beginning.

## Regional integration and skills mobility – what do businesses need?

The free movement of people, coupled with a right to work, is at different stages of development across regions in the world. The EU has the most advanced system, whereas other regions are in the process of identifying the most suitable solutions. The EU may allow free mobility, but immigration policy remains one of the most important issues straining the relations and driving politics within the EU.

In Asia, employers acknowledge the mutual skills recognition agreements. However, work permits are still needed for virtually all occupations, which leaves much room for improvement from an employers' perspective. The visa-free regime in ASEAN is promising but needs to be implemented.

As for SADC in Africa, employers do see the added value of continuing the dialogue and call for more engagement of employers' organisations to ensure that labour-market realities are reflected in any planned mobility programme.

## Migration drivers

The demographic impetus for labour migration is clear. Developed economies are rapidly aging. It will be difficult to replace the workers who will retire over the coming years and talent managers all over the world are reporting significant skills gaps. At the same time, access to better education at home and abroad by citizens of developing countries has created a new cadre of skilled workers. Many OECD countries already rely upon sizeable numbers of highly skilled migrants to fuel their economies. Developing countries, on the other hand, are predicted to have more workers at all skills levels than their economies can absorb. In many cases, migration is the result of poor domestic labour-market prospects.

Therefore, a key part of managing global labour migration for governments should be improving the functioning of labour markets and the quality of job offerings, as well as tackling informality. The challenge applies globally to all skills categories, as developed

and developing countries alike are expected to face skills gaps as education and training fail to keep pace with business needs. In this regard, opportunities to study, train and work abroad are important. Global mobility can enhance opportunity for domestic labour by providing the expertise that will permit companies to expand their business in country or provide a chance for work experience abroad for a local worker who can, through circular migration, return and contribute to the home country's economic development. In both cases, better mobility schemes globally can help developing countries. These broad demographic trends of course belie significant regional differences. IOE outreach to governments and employers in Africa, Latin America, Europe and Asia has identified a variety of bilateral and regional programs, mobility schemes and arrangements designed to address circumstances specific to groups of countries.

As a practical matter, business advice will be most useful to the extent that it focuses on regional circumstances.

### Experience from Canada:

The Information and Communications Technology Council of Canada offers a program that connects newcomers with business leaders to support labour market integration. These employers become coaches for ICT newcomers. Below is a testimonial from one of the employers:

*“ I've been working with new Canadians for a number of years now. I can say without a doubt that the coaching has made me a better leader. I more deeply understand people with diverse backgrounds, and I can see a little bit better through their lens. And, I get to be there to share their experiences, with the ultimate reward of seeing them become a contributing member of our society. I have recruited a number of personal contacts to become coaches, and they all loved the experience. Not only do they benefit personally as mentioned above, but it's a clear path to give back in a very intimate, rewarding 1:1 way. I highly HIGHLY recommend more people get involved and become coaches. The value for your time is priceless. Bringing more internationally educated people to Canada increases our competitiveness globally. Diverse teams are innovative teams.*

Chris Hamoen, Founder and CEO, Account HQ (Canadian tech employer)

Equally important as drivers and challenges are the accelerating changes in the world of work itself, namely the increasing diversification of forms of work, and the myriad social, technological and economic changes that together are being characterized as “the future of work”. With new and affordable capabilities made possible by automation, new jobs and new markets are being created. At the same time, existing jobs or tasks are disappearing or being re-designed. Increasingly, individuals have opportunities to become part of the “global cloud” and seek jobs that may not exist at home. Such transformations impact an array of institutional and legal frameworks, but a common theme is the premium they place on skills development, labour mobility, speed and flexibility.

For these reasons, the IOE and the Business Mechanism concentrated their attention on those GCM chapters that dealt with skills development and mobility, and with fair and ethical recruitment of lower skilled personnel.

## Challenges for employers

### Skills Development and Migration of Skilled Personnel

Changes in business models and markets, coupled with demographic realities, increasingly require businesses to hire, train and transfer professionals across borders.

Surveys consistently find that chief executives regard having the right talent as the most critical factor for their business growth. Thus, business leaders must look decades ahead to align skills availability with innovation and market opportunities.

Human resource specialists tasked with meeting enterprise requirements recognise that new solutions will be needed to attract, retain, and deploy key talent globally. Many companies now support training from pre-school through graduate education. They seek diverse workforces comprised of individuals from all segments of society. And they consider not only the social, political, regulatory, infrastructure and market environments, but also the availability of an appropriately trained workforce, in order to determine where to locate new facilities. This calculation includes the ease with which talent can be moved either internally or across borders.

*“ Within governments there are often inconsistencies or differing rules/policies that have the effect of preventing effective migration of workers. Oftentimes the interests of ministries of labour and ministries of immigration conflict thereby effectively preventing entry of foreign workers into a country. ”*

*Employers’ experience*



## **Migrant Skilling: The India Model**

India runs the world's largest skilling programme (400 million over 10 years). As part of this initiative the Indian Ministry of Skill Development & Entrepreneurship under the "Skill India" mission is setting up India International Skill Centres (IISC) to provide skill trainings and certification benchmarked to International Standards. 50 centres are to be established (15 have already been set up in sectors such as Retail, Tourism & Hospitality, Healthcare, Automotive and Security). These centres are run mostly by private sector organisations. The initiative has already placed over 15,000 candidates from 2016-2018 in over 17 countries in 16 sectors across 150+ job roles. The training capsule is in Domain and Language skills; International Country specific orientation skill and has a Digital Literacy module. This is matched with reciprocal 'mutual recognition' of skills with other governments as an on-going exercise across sectors and job roles. This is happening with the UK, Singapore, UAE, Sweden, Canada and Australia at the moment and other countries will follow.

The idea is to bridge the global shortage of labour force in the coming years by reaping the demographic dividend of the young Indian labour force.

Most governments are aware of the need to attract skilled migrants (and the enterprises that employ them) and have migration laws that provide for the entry of skilled foreign workers. Problems of implementation persist, however. Too often, cumbersome, unclear, or continuously changing procedures and regulations, often adopted in response to protectionist demands from domestic constituencies, make it difficult for enterprises to hire or to transfer skilled workers into their jurisdictions in a predictable and cost-effective way.

### **Fair and ethical recruitment**

When regulated appropriately, private employment and recruitment services improve labour-market functioning by matching jobseekers to a decent job, inside and across borders. Today many countries have inadequate regulatory frameworks for these services, and/or simply do not enforce them. This allows for illegal, unethical and/or rogue players to deceive and trap (overseas) jobseekers and workers into indecent jobs,

debt bondage and dangerous working conditions.

Appropriate and effective national regulation is required to balance the interest of (international) jobseekers, workers and

In South Africa, the Federation of African Staffing Association has the APSO Member complaints policy and procedure and a member grievance policy and procedures. The Code of Ethics proves to be important incentive for user companies to request APSO membership from their suppliers. The highly formalized complaints policy and procedure overseen by an ethics committee that is mandated to propose sanctions. There is also a right to appeal and to request arbitration.

Their flow chart provides a visual aid to better understand the process and further information can be seen at: <http://www.apso.co.za/?page=ethics>

businesses on private labour-market allocation. This regulatory framework should be conducive to an ethical recruitment business case that serves as an alternative to rogue providers for both domestic and cross-border jobseekers. Such a business case depends on the cost of deliberately breaking the law. At national level, tripartite dialogue should take place to put the right regulations in place targeted at the recruitment industry.

Making sure that jobseekers in vulnerable situations do not have to pay for a job placement is one crucial element in promoting

Fair and Ethical Recruitment, in particular for cross-border recruitment.

The global business community is prepared to support the work of governments in implementing and enforcing the regulatory frameworks needed to fight rogue providers.

Through a vast variety of national, regional and international initiatives, quality schemes and certification systems businesses and private employment services promote professional and ethical private employment services that create a decent alternative to unscrupulous and unethical recruiters.

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The **SNCU** (Foundation for Compliance with CLA for Temporary Agency Workers) is a bi-partite initiative in the Netherlands that supervises compliance with the CLAs. The “CLA Police” (SNC) is a bipartite enforcement initiative which is part of the SNCU. There is tripartite cooperation to educate workers about their rights under the collective labour agreement for agency workers, and to monitor user companies by looking for violations. The CLA Police have the power to start legal procedures against rogue agencies which infringe upon workers’ rights, or which hinder its supervisory role. The results of the investigation can amount to significantly high monetary fines for the agency involved. It is important to note that there is good cooperation between the private and public enforcers in the Netherlands. If private inspectors see the signs of trafficking, they will immediately contact public enforcement.

For user companies, it is very important to do business with bona fide companies and since registration is publicly known, it is easier for user companies and public enforcement to identify rogue companies. <http://www.sncu.nl/nl>

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The **Swedish Staffing Association** membership authorization scheme ensures legitimate businesses who meet high standards of professionalism. They carry out thorough checks in order to make the staffing industry in Sweden safe and sound. Companies are also required, according to the bylaws, to comply with Swedish law, to provide the Swedish Staffing Agencies and the Confederation of Swedish Enterprise with statistics needed by the association to do the best job possible. Authorization and membership require that the business is conducted as a legal entity.

All companies undergo checks upon joining the federation, and thereafter once a year. Companies who, upon check, do not meet the conditions of authorization will not be able to retain membership with the Swedish Staffing Agencies. The checks are done by the authorization board and the decisions are made by the board of the Swedish Staffing Agencies Association. There is a bi-partite commission to recommend on applications and national federation board final decision. Conditions of authorization can be seen at: [www.kompetensforetagen.se/in-english](http://www.kompetensforetagen.se/in-english)

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## Next steps

Attention now turns to the implementation of the GCM, including the role of stakeholders. Among the challenges will be ensuring coordination and complementarity among the numerous international and regional agencies and processes operating in the migration space, including defining the roles of the GFMD, ILO and the IOM and other relevant UN agencies. The IOM is slated to coordinate and lead the GCM implementation.

Employers bring extensive experience and expertise on labour-migration issues to the table. Thus, they should be fully involved in migration discussions and debates at regional, national and international levels. To this end, the IOE will continue to participate in the Business Mechanism to the GFMD and will continue to strengthen its own engagement with the IOM as well as of course the ILO on migration related issues.

For example, an important dimension of the migration debate centres on how to evaluate and recognise credentials and skills in a wide range of regulated and unregulated professions.

The ILO has recognised expertise in the area of skills and training, and it should contribute to this discussion. Similarly, given its role as the centre of expertise on labour and employment issues, the IOE will continue to urge the ILO to promote recognition of labour mobility as a factor in sustainable economic growth in engagement with the UN Sustainable Development Goals process.

The IOE will also continue to participate in work on fair recruitment. It will assist its members in advocating for appropriate and effective national regulation that balances the interests of job seekers, workers and businesses on private labour-market allocation.

## Conclusion

Demographic realities and business imperatives are driving the need for greater mobility of skilled workers. At the same time, the abuses associated with unethical recruitment practices are bringing attention to gaps in governance and failures of enforcement affecting large numbers of vulnerable people. Employers have a vital interest in the development and promulgation of clear and consistent migration policies and practices that address both issues. They also bring to the table essential experience and expertise. The IOE is working to inform the migration debate at the international level, and to enable and assist its members to engage with it constructively at the national and regional level.



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