Module 5: International cooperation in the context of labour migration

Learning objectives
1. Introduction
2. Regional/International Cooperation and Integration
3. Key Actors/Stakeholders
4. Labour Migration in the context of Cooperation and Integration Agreements
5. Bilateral Labour Migration Agreements (BLMAs)

Key Messages
Knowledge Assessment
Individual/Group Exercise
Learning Objectives

At the end of this module, participants will have an:

1. Understanding of difference between the concepts of international cooperation and international integration and how it is related to labour migration

2. An overview of the different types of Inter-State Consultations on Migration (ISCMs)

3. An overview of different type of Regional Integration Agreements (RIAs)

4. Understanding of how ISCMs and RIAs have contributed to shaping migration governance at regional and international levels

5. Overview of the role of key actors/stakeholders in migration management governance

6. Understanding of the need for coherence, cooperation and coordination between States and non-State actors to enhance and facilitate the management and governance of labour migration
Introduction

By its very nature, international labour migration is a phenomenon that affects at least two countries. However, individual States have the sovereign authority to determine their national migration laws and policies, including their laws and policies pertaining to labour migration. For the successful management and governance of labour migration, however, it is inevitable that States work together, whether it is on a bilateral (between two countries) or multilateral (three or more countries) basis.

In Module 3, we reflected on achieving Coherence, Coordination and Cooperation (3 C’s) as fundamental to the management and governance of labour migration. This has been reflected in multiple documents and initiatives and notably:

- The report of the Global Commission on International Migration published in 2005;
- The International Agenda for Migration Management (Berne Initiative, 2005);
- The UN High Level Dialogues of 2006 and 2013;
- Goal 17 of the sustainable development goals (SDGs), that is dedicated to partnerships and aims to enhance cooperation to achieve the other 16 goals; and,
- The Global Compact for Safe, Orderly and Regular Migration (GCM), which has as one of its objectives, the need to “Strengthen international cooperation and global partnerships for safe, orderly and regular migration”.

We have already discussed the concepts of vertical and horizontal coherence in Modules 1 and 3 and noted the need for coordination and cooperation between States. In this module, we explore these concepts in the context of ISCMs and RIAs. We also discuss the need for coherence, cooperation and coordination between States and non-State actors to enhance and facilitate the management and governance of labour migration.

2. Regional/International Cooperation and Integration

In Module 3, we focused on the need for Coordination, Cooperation and Coherence (3 C’s) within countries. We noted, however, given the cross-border nature of labour migration, that it is also important to look at the potential for, and challenges related to achieving the 3 C’s between countries. In this section of Module 5, we explore the concepts of regional and international cooperation and integration and how it potentially could contribute to enhancing and facilitating labour mobility.

(a) Defining Cooperation

The concept of Regional Cooperation (or International Cooperation) generally refers to the willingness of states to work together to develop and implement policies and programmes, usually related to specific themes or technical areas e.g. transport, HIV and AIDS and labour migration. For this level of cooperation to be achieved, it is assumed that states have identified a mutually beneficial set of interests and that they are willing and able to collaborate with, and to provide support to each other. In general, this type of cooperation usually takes place within a defined geographic area or region (intra-regional), though it is not uncommon for this type of cooperation to also take place between regions (inter-regional cooperation).

However, the extent and level of cooperation remain subject to the principle of sovereignty, meaning that national policies and laws take precedence and that individual States cannot be compelled to implement measures or take actions that are inconsistent with their national laws and policies. Thus, while
States are encouraged to adopt new policies and laws, or to modify existing policies and laws that are consistent with the provisions of specific cooperation agreements, there are usually no substantive mechanisms to enforce agreements. Cooperation is generally based on an agreed and desired set of outcomes and may include mechanisms for implementation, but these are not legally binding. The successful implementation of the provisions of a Cooperation Agreement ultimately depends on the willingness and goodwill of participating States—sometimes referred to as ‘political will’.

(b) Defining Integration
Regional integration is usually defined as the formal processes undertaken to enhance and achieve economic, social, political, cultural and security cohesion between states in a particular geographic territory. More broadly, it is also seen as a means for state and non-state actors to co-operate and coordinate their activities through formally established mechanisms and procedures. Specifically, regional integration refers to the harmonisation of policies and procedures between and among states to promote development and to enable them to respond collectively to the economic, political, and social and security challenges within a geographic territory.

Integration, in the fullest sense of the word, requires that States are willing to subject their individual sovereignty to the collective will (or at least be prepared to consider doing so). It is one step beyond cooperation, and is usually characterised by supranational institutions or structures that take precedence and have authority over national institutions and that provide for inter-governmental decision-making and agreement. When such decisions are made and ratified by State Parties, they become legally binding, and States are required to implement the provisions of such agreements (see Module 2 for an explanation of these concepts).

Integration is generally a gradual process, often starting with agreements regarding free trade areas, customs unions and mutual security concerns to becoming fully fledged regional blocs that will eventually incorporate not only economic integration, but also political and social integration.

(c) Inter-State Consultations on Migration (ISCMs)
The IOM defines Inter-State Consultations on Migration as follows:

State-led, ongoing information-sharing and policy dialogues on the regional, inter-regional or global level for States with an interest in promoting cooperation in the field of migration. Inter-State Consultation Mechanisms on migration comprise of global processes on migration, interregional forums on migration (bridging two or more regions) and regional consultative processes on migration (covering one region).

In broad terms, ISCMs
- provide opportunities for informal, non-binding dialogue between States pertaining to migration laws, policies and practices and facilitate a coherent and coordinated approach to the management and governance of migration
- facilitate the establishment of network and relationships between officials of different States, which in turn, enhances cooperation
- offer training and capacity building for officials through technical workshops that usually involve multiple countries.

We will discuss ISCMs at three levels; namely, Global Processes, Interregional Forums on Migration (IRF’s) and Regional Consultative Processes (RCP’s)
(i) **Global Processes on Migration**

Global processes on migration are international forums that provide opportunities for States from different regions to engage in dialogue about migration, often focusing on specific thematic areas. Some examples of these global processes include:

- **The Berne Initiative (2001)**
  The Berne Initiative was a States-owned consultative process with the goal of obtaining better management of migration at the national, regional and global level through enhanced cooperation between States. As a process, the Berne Initiative enabled governments from all world regions to share their different policy priorities and, together with relevant stakeholders, identify a common orientation to migration management, based on notions of co-operation, partnership, comprehensiveness, balance and predictability. IOM served as the Berne Initiative’s Secretariat.

  The most important outcome of the Berne Initiative process is the International Agenda for Migration Management (IAMM), a reference system and non-binding policy framework aimed at facilitating cooperation between States in planning and managing the movement of people in a humane and orderly way.

  For more information, see [https://www.iom.int/berne-initiative](https://www.iom.int/berne-initiative)

- **The International Dialogue on Migration**
  The International Dialogue on Migration (IDM) is IOM’s principal forum for migration policy dialogue. Founded in 2001, the IDM is open to IOM Member and Observer States, as well as international and non-governmental organizations, migrants, and partners from media, academia or the private sector. The IDM provides a space to analyse current and emerging issues in migration governance and to exchange experiences, policy approaches and effective practices.

  For more information, see [https://www.iom.int/international-dialogue-migration](https://www.iom.int/international-dialogue-migration)

- **The Global Commission on International Migration (2005)**
  The Global Commission on International Migration, the first-ever global panel addressing international migration, was officially launched by the United Nations Secretary-General and a number of governments on 9 December 2003 in Geneva. It was composed of 19 members, drawn from all regions and bringing together a wide range of migration perspectives and expertise. The Global Commission on International Migration finished its work on 31 December 2005 and published a report titled Migration in an interconnected world: New Directions for Action.

  For more information, see [https://www.un.org/en/development/desa/population/migration/events/coordination/4/docs/P09_GCIM.pdf](https://www.un.org/en/development/desa/population/migration/events/coordination/4/docs/P09_GCIM.pdf)

- **The UN High Level Dialogues on Migration (2006 and 2013)**
  The First HLD (226) examined the relationship and synergies between international migration and development. It was composed of four plenary meetings and four interactive round tables on such themes as migrant’s right, human trafficking and migrant smuggling, remittances, partnerships at the bilateral and regional levels.

  The Second HLD(2013) discussed the post- 2015 development framework and integrating migration into development policies, labour migration, migrant’s rights, safe migration, among other topics. The Second HLD’s result was the eight-point agenda for action on making migration work. Informal interactive hearings were held with the representatives of civil society organizations and the private sector.
The Global Forum on Migration and Development (GFMD)
Created in 2007 after the first UN High Level Dialogue, the Global Forum on Migration and Development (GFMD) is a state-led, informal and non-binding process, which helps shape the global debate on migration and development. It provides a flexible, multi-stakeholder space where governments can discuss the multi-dimensional aspects, opportunities and challenges related to migration, development, and the link between these two areas. The GFMD process allows governments - in partnership with civil society, the private sector, the UN system, and other relevant stakeholders – to analyse and discuss sensitive issues, create consensus, pose innovative solutions, and share policy and practices.

For more information, see https://www.gfmd.org/

The Global Consultations of Chairs and Secretariats of Principal Consultative Processes on Migration (GRCP)
The global meeting of consultative processes on migration (known as GRCP) periodically brings together the Chairs and Secretariats of the main inter-State consultation mechanisms on migration or ISCMs – regional consultative processes on migration (RCPs), interregional forums on migration (IRFs) and global processes on migration – to foster exchanges and synergies on various migration topics and contribute to improved policy coherence at regional, intra-regional and global levels.
For more information, see https://publications.iom.int/books/eighth-global-meeting-chairs-and-secretariats-consultative-processes-migration-grcp-8

Given their status as consultative processes, these global forums generally result in agreements that are non-binding, but nevertheless provide important principles and parameters in terms of migration management and governance, including specific principles pertaining to the management and governance of labour migration. For example, the Global Compact for Safe, Orderly and Regular Migration (GCM) is often described as one of the accumulated outcomes of ongoing consultations between States at a global level.

The International Labour Conference
The broad policies of the ILO are set by the International Labour Conference, which meets once a year in June, in Geneva, Switzerland. This annual Conference brings together governments’, workers’ and employer’s delegates of the ILO member States.

Do you want to know more?
Module 2 provides information about Legal, Institutional and Policy Frameworks on Labour Migration, which includes agreements that have emerged from global processes/consultations on migration.
Often called an international parliament of labour, the Conference establishes and adopts international labour standards and is a forum for discussion of key social and labour questions.

For more information, see https://www.ilo.org/ilc/AbouttheILC/lang--en/index.htm

(ii) Inter-Regional Forums on Migration (IRFs)

IRFs provide opportunities for States from different regions to share information and experiences and to find common solutions in the area of migration management and governance. Countries that participate in specific IRFs usually already have some form of interaction in terms of migration management and governance, often with regard to specific thematic concerns.

Examples of IRFs in different parts of the world include:

- **Africa – Europe**
  - 5 + 5 Dialogue on Migration in the Western Mediterranean EU-Horn of Africa Migration Route Initiative (Khartoum Process)
  - Euro-African Dialogue on Migration and Development (Rabat Process)

- **Americas – Europe**
  - Ibero-American Forum on Migration and Development (FIBEMYD)
  - Ibero-American Network of Migration Authorities (RIAM)

- **Asia – Europe**
  - Budapest Process

- **Asia - Middle East**
  - Ministerial Consultations on Overseas Employment and Contractual Ministerial Consultations on Overseas Employment RCP (Abu Dhabi Dialogue)

- **Europe - Asia – Americas**
  - Inter-Governmental Consultations on Migration, Asylum and Refugees (IGC)

- **Europe - Asia - Americas - the Middle East**
  - Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

- **Intra-African**
  - Pan-African Forum on Migration (formerly Intra-Regional Forum on Migration in Africa)

(iii) Regional Consultative Processes (RCPs)

States that are members of a specific RCPs are usually within a defined geographic region (West Africa, Southern Africa, for example), though in some cases, ‘region’ may be more loosely defined to incorporate States that are located in different geographic regions, but who face similar migration-related challenges. Not all RCPs have the same structure or regularity in terms of meetings and the extent to which they are ‘driven’ by States also vary. Many RCPs are facilitated by international organisations, particularly in their early stages of establishment and development. RCP meetings often agree on conclusions and recommendations, but these are non-binding, though States are encouraged to incorporate these conclusions and recommendations in their national policies, legislation and administrative frameworks.
RCPs usually engage with formal regional institutions, either through inviting representatives of the formal institutions to RCP meetings, or through submitting the conclusions and recommendations of the RCP meetings to the formal regional institutions.

Some examples of RCPs are:
- African Union Horn of Africa Initiative on Human Trafficking and Migrant Smuggling (AU HoAI)
- Migration Dialogue for Southern Africa (MIDSA)
- Migration Dialogue for the Intergovernmental Authority on Development Region (MID-IGAD or IGAD-RCP)
- Migration Dialogue for West Africa (MIDWA)
- Migration Dialogue from COMESA Member States (MIDCOM, formerly COMESA RCP)
- Regional Conference on Migration (RCM or Puebla Process)
- Regional Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia (Colombo Process)
- South American Conference on Migration (SACM)

Example from the SADC Region

In July 2013, the Migration Dialogue for Southern Africa (MIDSA) RCP convened a Ministerial meeting in Maputo, Mozambique with the theme Enhancing Labour Migration and Migration Management in the SADC Region. The following is an extract from the report that was published following the Ministerial meeting.

Briefing Note on the 2013-2015 SADC Labour Migration Action Plan

1. Ministers are invited to note that in recognition of the potentially important role the link between migration and development can play in contributing to social and economic development of the Region, the SADC Secretariat and the International Organisation for Migration (IOM) jointly convened a Migration Dialogue for Southern Africa (MIDSA) meeting at Senior Officials level from 27 to 29 August 2012 in Balaclava, Mauritius under the Theme: Enhancing Intraregional Labour Migration toward Social and Economic Development in the SADC Region.

2. Ministers are also invited to note that the MIDSA meeting in Mauritius made recommendations on key actions to be undertaken in thematic areas on: i) policy and legal framework; ii) data collection and information; ii) rights of migrant workers; iii) migration and health; iv) portability of benefits and remittances; and MIDSA Governance. The recommendations took into account the recommendations of the MIDSA Ministerial meeting held in Namibia in November 2010.
3. Ministers are further invited to note that as a follow up to the recommendations, a stakeholders meeting was convened in October 2012 in Pretoria, South Africa, which constituted a Technical Working Group (TWG) comprising Ministries responsible for labour and those responsible for home affairs together with social partners from Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe. The TWG convened in December 2012 in Pretoria and developed a draft SADC Labour Migration Action Plan based on the MIDSA recommendations. The draft Action Plan was considered by a joint tripartite technical subcommittees meeting which recommended the Draft Action Plan to SADC Ministers and Social Partners responsible for employment and labour for approval.

4. Ministers are invited to note that the Ministers and Social Partners responsible for employment and labour at their meeting held on 17 May 2013 in Maputo, Mozambique, approved the SADC Labour Migration Action Plan.

5. Ministers are also invited to note that the Action Plan is premised on several considerations including the following:

   i) The interests of sending and receiving countries and those of migrant workers are compatible,

   ii) Migrant workers have human and labour rights in line with the 1998 ILO Declaration of Fundamental Principles and Rights at Work and that the eight core conventions, which have been ratified by all SADC Member States, call for protection for all workers, including migrant workers, and also promotes their contribution to social and economic development.

6. Ministers are invited to note that the main purpose of the Action Plan is to enhance the social and economic benefits of labour migration to the sending, and receiving countries and the migrant workers within the context of Regional integration. These include for sending countries alleviating pressure on the labour market, facilitating remittances, acquiring increased skills. For receiving countries: meeting demand for workers/skills gap, increasing demand for goods and services and contributing entrepreneurial skills.

7. Ministers are also invited to note that the Action Plan on Labour Migration is giving effect to a number of recommendations made at the MIDSA Ministerial meeting held in November 2010 in Namibia.

For more information, see https://publications.iom.int/system/files/pdf/mrs_38.pdf
(d) Regional Integration Agreements (RIAs)
As defined above, RIAs are based on the legal treaties between States that define the common goals and objectives to enhance and achieve economic, social, political, cultural and security cohesion between states in a particular geographic territory. Over time, RIAs require the harmonisation of policies and procedures between and among states to promote development and to enable them to respond collectively to the economic, political, and social and security challenges within a geographic territory. The treaties governing RIAs are intended to be legally binding instruments, but only come into effect when State Parties have ratified and domesticated such agreements.

Examples of RIAs include:

- African Union
- Arab League
- ASEAN (Assoc of Southeast Nations - Asia)
- CARICOM (Caribbean)
- European Union
- MERCUSOR (Latin America)
- NAFTA (North America)

In the African context, RIAs also include the eight Regional Economic Communities (RECs), as follows:

- Arab Maghreb Union (UMA)
- Common Market for East and Southern Africa (COMESA)
- Community of Sahel-Saharan States (CEN-SAD)
- East African Community (EAC)
- Economic Community of Central African States (ECCAS)
- Economic Community of West African States (ECOWAS)
- Inter-Governmental Authority on Development (IGAD)
- Southern African Development Community (SADC)

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**Example: African Union**

Member States of the African Union (AU) have adopted the following treaties and frameworks that are of relevance to (labour) migration management and governance:

- The Treaty Establishing the African Economic Community (“Abuja Treaty” - 1994) that makes provisions for the progressive achievement of the free movement of persons throughout the African region
- Regional Economic Communities (AU RECs) that represent sub-regions of the African continent, almost all have protocols or other instruments related to ‘the progressive elimination of obstacles to achieve the free movement of capital, goods and persons’.
- The African Union Agenda 2063, which envisions an integrated continent with the free movement of people, goods and services.
3. Labour Migration in the context of Cooperation and Integration Agreements

Inter-Regional Forums (IRFs) and Regional Consultative Processes (RCPs) are not specifically established to focus on issues pertaining to labour migration management and governance. Generally, they focus on a wide range of migration-related issues (border management, trafficking in persons, migration and development) but many of the forums do have labour migration as a specific theme. Similarly, RIAs are not specific to labour migration but are intended to achieve economic, political and social integration. However, almost all RIAs have a clause that provides for the free movement of goods, services and persons, as part of the process of achieving integration. However, while some regions have made significant progress in relation to the free movement of goods and services, in other regions, the free movement of persons remains largely contentious.

In this section, we discuss the concept of ‘free movement of persons’ and the obstacles and challenges that States have to contend with in the process of achieving such free movement.

Reflection
Why do you think generally, so little progress has been made with regard to achieving the free movement of persons and specifically, labour mobility, despite the general commitment of States to work towards achieving this?

(a) Understanding the concept of ‘free movement’

There is a common misconception that ‘free’ movement means ‘uncontrolled’ movement and that when free movement is achieved, that persons can cross borders as they please without any restrictions or checks. In reality, however, the concept of free movement refers to the fact that states have in place, legislative, policy and regulatory frameworks that facilitate the movement of (‘desirable’) persons for the purpose of residence and establishment, while restricting or preventing the movement of ‘undesirable’ persons. In essence, it does not mean the absence of the regulation and management of the movement of persons, but that legislative, policy and regulatory mechanisms to achieve this, are not unduly restrictive.

Free movement is thus about the development of transparent, clear and objective policies and procedures that encourage and facilitate the movement of persons, while preventing/limiting undesirable movement. When we apply this concept of free movement to labour migration/mobility, it is apparent that States individually and collectively need to have robust and well-developed labour migration policies and mechanisms for the implementation of such policies, and that there is harmonisation/consistency between the policies of different States.

However, even where free movement protocols have been agreed to, in terms of the concept of State sovereignty, it remains the prerogative of states to determine who may enter their territory, under what conditions and for which purpose. This is specifically provided for in many of the RIAs with a clause that prescribes that the free movement of persons is subject to the domestic policies and legislation of State Parties.

Reflection
RIAs in general have a provision that support and promote the free movement of persons. However, this provision is subject to domestic policies and legislation, which means that despite the fact that State Parties have ratified the relevant RIA, they still have the sovereign right to determine who may enter their territory, under what conditions and for which purpose. Is this a contradiction? What are your views on this?
(b) Obstacles to free movement and labour mobility

States have raised a variety of concerns regarding the free movement of persons and these concerns may explain why in many regions, so little progress has been achieved. The concerns and obstacles to the free movement of persons are broad, but apply equally to labour migration (migration for the purpose of employment). These include:

- Undermining of respect for national sovereignty, the integrity of borders, legal channels of border crossing and the right of states to determine who will enter their territory;
- Trafficking in persons and human smuggling across borders that leads to significant abuse and exploitation of desperate migrants;
- Cross-border criminal syndicates that may exploit less restrictive border control mechanisms to engage in criminal activities such as drug-smuggling and gun-running;
- Alleged widespread corruption at borders and amongst enforcement agents;
- Exploitation by employers of vulnerable migrants who are afraid of reporting violations of their rights to the authorities;
- Undermining labour legislation as undocumented migrants are used to undercut local workers and collective agreements
- Growing hostility and resentment towards migrants leading to violence against migrants, including those who are legally in a country;
- Protecting the rights of migrant workers, including social protection and the portability of benefits, without causing resentment amongst local workers

Reflection

Many of these concerns and obstacles arise because of the misconception that free movement means uncontrolled movement. For example, if there were increased legal channels and opportunities for migrant workers, they are unlikely to be undocumented and the potential that they could undercut decent working conditions and wages for local workers and undermine collective agreements would be reduced.

4. Bilateral Labour Migration Agreements (BLMAs) and Memoranda of Understanding (MOUs)

a) Why are Bilateral Labour Migration Agreements (BLMAs) important?

The search for decent work constitutes one of the main drivers of African labour migration. Migrating for employment can open up opportunities for migrants and their families and can bring about significant economic and development benefits to countries of origin and destination by redressing imbalances, providing sources of remittances, diversifying skills, providing positive contributions to the economy and fostering innovation. However, if not well governed, labour migration can pose a number of significant policy challenges:

- Few regular migration pathways
- Multiple Forms of Discrimination
- Lack of equality of treatment
- Risk of abuse and exploitation
- Policies insufficiently aligned with labour market needs
- Unscrupulous recruitment agencies

In Africa, as in other parts of the world, we have seen a resurgence of BLAs and MOUs since the 1990s. These agreements vary widely in their objectives, scope, and level of formality, but recent agreements can be broadly categorized as follows:
Broad framework cooperation agreements with European countries, covering a range of issues in addition to labour migration, including readmission, return, technical cooperation and development;

MOUs or BLAs, with Arab States to meet demand in low-skilled sectors such as domestic work and construction; and

Labour agreements between African countries to fill specific skills gaps, such as in education and health, as well as in labour intensive sectors such as mining.

BLAs and MOUs are good examples of cooperation within and between States, as well as between States and non-State actors. The table below demonstrates how BLAs and MOUs can be used to address the concerns of both countries of origin and countries of destination.

Furthermore, depending on the context, both public employment services and private recruitment agencies can participate in pre-selection, selection and placement of workers. Working closely

<table>
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<tr>
<th>Countries of origin</th>
<th>Countries of destination</th>
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<tbody>
<tr>
<td>Ensure the protection of their workers’ rights and welfare while abroad</td>
<td>Meet demand for labour by responding to skills shortages and more efficient matching of labour supply and demand</td>
<td>Formalise shared responsibility between origin and destination countries for ensuring adequate recruitment, working and living conditions, as well as monitoring and actively managing pre- and post-migration processes</td>
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<td>Target the specific protection of needs of migrant workers in vulnerable occupations</td>
<td>Prevent or reduce irregular migration by offering regular migration opportunities and ensuring readmission</td>
<td>Add transparency and clear rules for recruitment processes, which can translate to better skills matching, leave less room for unfair and unethical recruitment practices, and reduce social and financial costs of migration for workers and businesses alike</td>
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<td>Provide workers with access to higher-paying jobs and opportunities for gaining new skills</td>
<td>Strengthen economic, political and cultural ties with selected countries of origin</td>
<td>Contribute to reducing violations of fundamental principles and rights at work and protecting women and men from unacceptable forms of work</td>
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<td>Facilitate continued access to foreign labour markets, including for low skilled workers</td>
<td>Regulate or formalize existing labour flows for more orderly admission of migrants</td>
<td>Encourage social dialogue on migration by implicating employers’ and workers’ organisations in the design and implementation of agreements</td>
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<td>Increase inflows of foreign currency through remittances</td>
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<td>Reduce incentives for irregular migration by creating regular migration channels</td>
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<td>Improve governance of and knowledge on labour migration country in the migration corridor</td>
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<td>Elicit changes in national laws and policies to align with international labour and human rights standards and good practices</td>
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<td>Improve data collection on labour migration</td>
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<td>Strengthen a multi-stakeholder approach to labour migration, which will facilitate better awareness of rights and obligations as well as their implementation</td>
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with public and private job intermediaries to improve existing processes, and if needed, investing in building their capacity, can lead to better labour market outcomes by:

- Facilitating coordination and data exchange of standardized indicators on job seekers and vacancies between origin and destination country intermediaries can also improve international recruitment processes.
- Providing access to training, including general skills such as language skills and vocational or technical skills, both before departure and while abroad can improve workers employability and promote human resource development.
- Recognition of skills and qualifications in both the country of destination country and upon return for reintegration facilitates job matching, and also ensures that migrant workers do not end up in jobs requiring less skills than they actually have.

b) The role of BLMAs in preparing for and responding to crisis situations

Situations of crisis, including those caused by conflict, disasters, or pandemics, can severely affect migrant workers’ safety, wellbeing and ability to carry out their jobs. The global COVID-19 pandemic illustrates the far-reaching consequences a crisis can have on workers worldwide, and the specific protection needs of migrant workers. The ILO Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), encourages States to strengthen cooperation in preparing for and responding to crisis situations, including through bilateral arrangements. Well-designed BLMAs should therefore include provisions that take into account the onset of crises which could require additional protection measures for migrant workers. The

Policy Brief Protecting migrant workers during the COVID-19 pandemic provides information and identifies a number of key recommendations to assist governments and other stakeholders in designing COVID-19 policy responses that can help to ensure the protection of migrant workers.

c) Types of BLMAs in Africa today

Bilateral labour migration agreements are flexible tools for governing migratory flows, used to meet a broad range of recruitment needs and labour shortages, in various socio-economic contexts and labour market conditions. As such, they can take different forms, with varying objectives, scopes, and legal implications.

Bilateral labour agreements are the most common form of BLMA used by African countries. It refers to an international treaty between two States which describes in detail the specific responsibilities and actions to be taken by each of the parties in order to accomplish its goals. These types of agreements create legally binding rights and obligations for the signatory States. A Memorandum of Understanding (MOU) is a less formal instrument setting out general principles and intent of cooperation and broad concepts of mutual understanding, goals and plans shared by the two States. It is a softer, usually non-binding form of agreement. Framework Agreements are a broad bilateral or multilateral cooperation instrument covering broader issues. It could be focusing on e.g. trade or migration, and can include provisions on the regulation of labour migration, such as irregular migration, readmission, and the nexus between migration and development. Finally, protocols are an instrument used to amend, supplement or clarify a previously existing agreement between the same parties.
Examples from the region: BLMAs among SADC member states

BLMAs have seen limited use in the SADC corridor. Involving South Africa as the country of destination, five comprehensive agreements were concluded under the previous political regime, primarily to provide labour for South African mines: these countries are Botswana, Eswatini (Swaziland), Lesotho, Malawi and Mozambique. One was concluded in the 1960s (Malawi) and three in the 1970s (Botswana, Eswatini (Swaziland) and Lesotho). The remaining agreement, with Mozambique, was concluded in 1964, but had been preceded by a range of earlier agreements with the Portuguese colonial government regulating the provision of temporary labour from Mozambique, initially dating back to the 19th century. The agreements specify conditions and obligations on issues such as recruitment, contracts, remittances and deferred pay, taxation, required documentation, unemployment insurance and appointment of labour officials to be stationed in South Africa.

The appropriateness of the current bilateral labour agreements regime has been questioned by government authorities in both sending and receiving countries. For instance, many of the older agreements were concluded in a previous political dispensation, primarily with a view to provide “cheap labour” to South African mines and partly also South African farms, with little regard to the protection needed by the migrant workers. Also, the relevance of the agreements has over the years diminished due to the rapidly declining number of foreign mineworkers employed in South African mines, the restructuring of mining operations leading to large-scale retrenchments, and the fact that many mining companies use recruitment avenues outside the agreement framework to procure the services of (migrant) mineworkers and ex-mineworkers. Moreover, return and repatriation regulation is dealt with a view to the reintegration of those affected in the countries of origin, but as a measure of removal of unwanted migrant workers. Furthermore, social security and related agreements, in particular portability issues, have received limited attention in the agreements. Finally, health and safety guarantees and protection are largely absent from the agreements.

Since the mid-1990s, increasing use has been made of MoUs or other cooperation agreements by South Africa. South Africa have concluded such agreements with Lesotho, Mozambique and Zimbabwe. The focus of these agreements is on cooperation in the fields of employment and labour. Included areas of relevance to labour migration are often social security issues, including compensation in respect of occupational injuries and diseases and pension portability; occupational safety and health; and public employment services. In the case of the Zimbabwe-South Africa MoU labour migration management is also specifically indicated. Furthermore, some of the bilateral agreements relating to the regulation of movement across borders (e.g., with Lesotho in 2007) have subsequently been subsumed in special permit regimes established by South Africa with Lesotho (2016) and Zimbabwe (2017). The primary focus of these permit types that have been issued to considerable numbers of Lesotho and Zimbabwean citizens irregularly in South Africa, was to regularise their stay in the country.

Similarly, Zimbabwe has concluded MoUs with Malawi and Mozambique; re-negotiating a lapsed bilateral (labour) MoU with Namibia and considering the conclusion of MoUs with Botswana and Zambia are some of the priorities of the Zimbabwean government. A Mauritius-Seychelles MoU of 2017 concerns the recruitment of Mauritian teachers and other professionals to meet the needs of the Seychelles labour
market. In fact, sectoral (labour exchange) agreements have generally been concluded by individual Ministries in several SADC countries in order to procure much-needed skilled professionals.

However, MoUs have a restricted scope from a labour migration perspective, as their overarching focus is on bilateral labour relations. Also, clearly stipulated obligations imposed on the parties are insufficient, as little is said in terms of concrete undertakings. Furthermore, there is limited reflection on measures protecting the rights and interests of migrant workers in these MoUs. Finally, stakeholders indicated several problems, which are experienced with implementing the MoUs.

More information is available in the ILO/IOM Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region.

Good practices and challenges to achieving Positive Impacts with Bilateral Labour Migration Agreements

A global review of 144 BLMAs and MOUs from Asia, Africa, Europe, and the Americas identified a number of factors that can affect the impact of agreements:

- Openness and transparency in design, negotiation, implementation and follow up
- Strong commitment of both States parties
- The existence of a democratic political regime, and good labour market institutions compliant with international norms, at least in the country of destination
- Guided by normative foundation and good practices
- Willingness to address problem issues (e.g. recruitment system, wage protection)
- New programmes based on strong knowledge about the specific migration corridor in question
- Agreements developed through and containing provisions for social dialogue
- Clear and Limited objectives
- Addressing specific labour needs of destination countries: quotas and specific sectors
- Good data facilitates the preparation, design and implementation as well as proper alignment with labour market needs

On the other hand, factors limiting positive impacts include:

- Access to multiple sources of labour on the part of destination countries
- Reluctance to address inbuilt exploitative systems (such as unethical recruitment practices) or introduce innovative features
- Agreements entered into as diplomatic instruments with little evident to suggest serious intent to implement
- Lack of prior information on labour migration flows and working conditions
- Agreements with too many objectives
- Weak labour market institutions
- Lack of Transparency
d) Getting BLMAs right on paper

Preparing for a BLMA
Preparation is crucial to ensuring that the agreement accurately reflects the priorities and needs of each party:

- Establish a coordinating unit within the lead Ministry and identify other competent ministries to involve
- Collect baseline information on the current migration situation
- Conduct a needs assessment, taking into account specific gender concerns
- Integrating gender analysis into a needs assessment
- Carry out national consultations to reach common understanding on the objectives and scope of the agreement

Negotiating balanced BLMAs
Negotiations should be conducted on an equal partnership basis. Please take a look at the checklist for preparing negotiations:

- Select a gender-balanced negotiation team with a mix of relevant experience and skills including in labour and employment, migration, gender, social security, and diplomacy.
- Provide the negotiation team with a clear mandate to make decisions on behalf of the government

- Initiate informal exchanges between key ministries in both countries to verify mutual interest of entering into an agreement
- Identify areas of common interest and possible areas of disagreement
- Define ‘red lines’: what are the compromises that are not acceptable to make? Remember, the contents of bilateral labour arrangements should not weaken the protection afforded by relevant international standards or national laws, in particular regarding fundamental rights at work
- Determine the appropriate format for the agreement, whether a bilateral labour agreement, MOU, or other type of arrangement
- Agree on a reasonable time frame for negotiations

Drafting: Key elements to include in a comprehensive BLMA
BLMAs should take a holistic approach, covering each phase of the migration cycle, from pre-departure to return and reintegration. A holistic approach recognizes that there are risks of abuse at each phase, and ensures that each country assumes its respective responsibilities.

The ILO Model Agreement on Temporary and Permanent Migration for Employment provides relevant provisions to guide States in drafting and negotiating bilateral labour migration agreements. Key elements are presented below by migration cycle phase:
**Point for reflection:**

- Can you identify some risks for migrant workers in your country? Please think about how risks differ at each phase of the migration cycle (pre-departure and recruitment, transit and employment at destination).

<table>
<thead>
<tr>
<th>Pre-departure and recruitment</th>
<th>Employment and residence at destination</th>
<th>Return and reintegration</th>
<th>Cooperation</th>
<th>Implementation, monitoring and follow-up</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notification of job opportunities and skills needs;</td>
<td>Equality of treatment;</td>
<td>Conditions of return;</td>
<td>Identification of the competent government authorities in both countries of origin and destination;</td>
<td>Establishment of a joint commission/committee to:</td>
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<td>Pre-selection and final selection of candidates;</td>
<td>Contracts of employment;</td>
<td>Return transportation and conditions of transport;</td>
<td>Exchange of information between the competent authorities;</td>
<td>Monitor the implementation of the agreement, including resolution of disputes between the parties,</td>
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<tr>
<td>Recruitment process;</td>
<td>Terms of employment, including possibility to change employment;</td>
<td>Reintegration into the labour market.</td>
<td>Agreement on applicable law and place of jurisdiction;</td>
<td>Propose amendments, and discuss follow-up.</td>
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<td>Medical examination;</td>
<td>Working conditions, including wages and occupational safety and health;</td>
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<td>Entry visas;</td>
<td>Trade union rights;</td>
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<td>Residence and work permits;</td>
<td>Social security;</td>
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<td>Outgoing transportation and conditions of transport</td>
<td>Taxation, including measures addressing double taxation;</td>
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<td>Supply of food;</td>
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<td>Family reunification;</td>
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<td>Education and vocational training;</td>
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<td></td>
<td>Skills recognition;</td>
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<td>Activities of social and religious associations;</td>
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<td>Supervision of living and working conditions, including through labour inspection;</td>
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<td>Transfer of remittances;</td>
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<td></td>
<td>Access to dispute settlement procedures and courts, and effective remedies.</td>
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</table>
Integrating gender-responsive elements into agreements

Increasing global demand for domestic workers and other “care workers” such as child care, nursing, and care for the elderly, has created new opportunities for African women to migrate for employment. In response to these new trends and the protection challenges they raise, countries of origin are increasingly using bilateral labour migration agreements or standard employment contracts that are specifically dedicated to domestic work, or which integrate gender-responsive elements. These can be useful to address specific gender-related issues, formalize employment relationships, and promote equality of treatment.

- Be used in compliment to effective national labour legislation; they do not constitute adequate legal protection on their own.
- Provide for both general protection measures and gender-specific provisions that acknowledge the different experiences between women and men.
- Include a model employment contract with provisions covering specific employment sectors.
- Create protective provisions for sectors not covered by national labour law, such as domestic service, by introducing minimum standards.
- Establish protection measures concerning violence against women during the migration process, and in the workplace and workers’ accommodations.
- Implement a complaint mechanism for harassment and discrimination, including the possibility to pursue legal civil and criminal remedies.
- Provide for appropriate healthcare and social security benefits, and consider including portability of these benefits.

To Learn More: The Domestic Workers Convention, 2011 (No. 189) provides specific guidance on what to include in employment contracts for domestic workers, which can be annexed to bilateral labour migration agreements.

Examples of good practice provisions: Philippines-Saudi Arabia migrant domestic worker BLMA

The 2013 Saudi Arabia-Philippines BLMA includes a number of good practice provisions in its standard employment contract:

- Determination of the contract period;
- Payment of wages into the employee’s bank account;
- Prohibition of salary deductions;
- Provision for continuous rest of at least 8 hours per day and at least one rest day per week, suitable and sanitary living conditions, adequate food or monetary allowance and rest for acceptable medical reasons;
- Transportation to the destination country and return home, covered by the employer 30 days paid leave for every two years of service;
- Stipulation that work is to be performed only for the employer and the immediate family;
- The employee’s passport and work permit is to remain in the employee’s custody;
- The employee is free to communicate with family members in their country or origin.
e) Making bilateral labour migration agreements work better in practice

**Implementation measures**

Next, we will look at some concrete implementation measures to achieve good results from BLMAs.

First, coordination among relevant ministries, as well as broad consultation with stakeholders and other partners, contributes to more coherent and effective implementation:

- **Focal unit:** In the lead ministry, a focal unit can be useful to establish to centralize information and coordinate consultations.

- **Inter-ministerial structure:** A small inter-ministerial structure responsible for direct implementation can be set up, with representatives from Ministries of Labour, Foreign Affairs, Migration, and others.

- **Steering committee:** A separate consultative monitoring or steering committee with broader representation, including from employers’ and workers’ organizations, the private recruitment sector, and civil society can provide inputs and monitor progress.

- **Focal point in the destination country:** In the destination country, a focal point or labour attaché can be assigned within the Embassy or Consulate to monitor the situation of nationals abroad.

Second, establishing a functional joint monitoring commission is essential to ensuring joint follow-up and shared responsibility between countries of origin and destination. The main functions of the commission should be laid out clearly, and can include:

- **Periodic Review:** Conduct periodic review, monitoring and assessment of implementation of the BLMA

- **Employment opportunity:** Identify employment opportunities and the availability of skills and workers

- **Resolving disputes:** Interpret provisions of the agreement and resolving any disputes arising from implementation

- **Recommend amendments to better achieve the objectives of the BLMA**

**Good practice:** develop terms of reference for the joint monitoring commission, and annex them to the bilateral agreement. These should cover the composition, functions, frequency of meetings and cost sharing arrangements for the commission. Click [here for an example of terms of reference](#).

Third, all stakeholders should be informed on their rights and obligations. As a formal agreement between two State parties, bilateral labour migration agreements should be made public and readily accessible to all those interested. Both governments should make efforts to disseminate the agreement widely in local languages. Briefing major stakeholders on the contents of agreement is also essential. Employers, workers, private recruitment agencies and NGOs working in migrant welfare should be informed of the provisions and how they affect them, as well as their rights and obligations.

During pre-departure trainings, migrant workers should be briefed on the core provisions of bilateral agreements and how they can benefit from them once in the country of destination. **Good practice:** Publish the texts of all concluded bilateral labour migration agreements on government websites, such as public employment services, Ministry of Labour or Ministry of Foreign Affairs websites.

Keep in mind that during the implementation phase, a number of potential challenges can arise:
Different set of priorities between two Parties: Origin countries are often motivated to enter into a BLMA as a means to both maximize employment opportunities and protect their workers abroad. Destination countries may be more interested in ensuring a flexible labour supply, enhancing cooperation on broader migration-related issues such as controlling irregular migration, or improving their public image by signing a BLMA.

Insufficient resources: One or both countries may lack the necessary human or financial resources necessary for implementation and follow up measures.

Key stakeholders are unaware of rights and obligations: Employers and workers may not be aware of their rights and obligations under BLMA. Likewise, recruitment agencies and public employment services can lack information on how the provisions of the bilateral agreement affect them.

Non-binding agreements: BLMA may be non-binding, which can potentially weaken the level of commitment to follow up.

Changing economic and employment conditions: BLMAS can take several years to be concluded and enter into force. In the meantime, economic conditions as well as supply and demand for labour can change significantly.

Lack of reforms of recruitment procedures or regulations: Following the conclusion of a BLMA, recruitment may continue to be largely in the hands of an unregulated private sector, or recruitment procedures may remain unclear, making it difficult to conduct effective oversight and protect workers from unfair practices.

Protecting workers through fair recruitment practices
Private recruitment agencies are key to mediating between job offers and job seekers. Many have a good track record in providing accurate information to workers and employers. However, unscrupulous agencies can make enormous profits through abusive and exploitative recruitment practices. Many countries regulate the recruitment industry through registration systems or licencing schemes, specifying which recruitment actors are authorised to undertake recruitment and placement activities and under what conditions. To be effective, mechanisms for monitoring and applying sanctions should be developed in tandem with these regulations. Introducing or strengthening legislation to regulate recruitment practices in line with international standards is key to improving recruitment processes under bilateral labour arrangements. The ILO Private Employment Agency Convention, 1997 (No. 181) and its Recommendation can provide useful guidance for drafting or revising legislation. Finally, setting up complaints mechanisms in case of abusive recruitment fees or practices in both countries of origin and destination can also be an effective measure to fight recruitment malpractice and provide redress.

The International Labour Organization and the International Organization for Migration have specific programs to promote Fair and Ethical Recruitment. The ILO's General principles and operational guidelines for fair recruitment, adopted in 2016, outlines the respective responsibilities of governments, employers, recruiters and public employment services in achieving fair recruitment. Further information is provided on the IOM's International Recruitment Integrity System (IRIS).

Monitoring migrant workers’ living and working conditions
While the primary responsibility for supervising living and working conditions of migrant workers lies with the country of destination, a number of actions can also be taken jointly or by the country of origin to better protect migrant workers.

Before departure: Information is key. Ensure that migrant workers have signed a valid contract in a language they understand before they leave. In some countries, recruiters...
are obligated to explain the terms and conditions of the contract to the worker. Pre-departure trainings can also ensure that migrant workers are well-informed of their rights and obligations. A good practice is to develop a pre-departure training curriculum and ensure free or affordable rights-based pre-departure orientation and training programmes, as well as post-arrival orientation.

**In the destination country:** The terms and conditions of employment should be well-defined in an individual labour contract that is in line with national labour laws. Mechanisms for joint verification of contracts by authorities of both origin and destination countries can be useful to ensure that the terms offered to the worker are in line with legislation and respected in the contract. Effective labour inspection is essential for supervising working conditions. While primarily carried out by destination country authorities, diplomatic or consular officials from the origin country should also have access to workplaces and living areas of migrant workers to assess the conditions, and to ensure that migrant workers are in possession of their travel and identity documents. Diplomatic or consular officials should receive training on the protection of the rights of migrant workers, including on how to protect and assist migrant women who are possible victims of trauma, trafficking, and sexual and gender-based violence.

**Providing access to complaints mechanisms and justice**

- **Free or affordable channels to lodge complaints:** Migrant workers who face abuse should have access to free or affordable channels to lodge complaints, as well as dispute resolution mechanisms, and justice without fear of retaliation.
- **Attention to low skilled workers:** In practice, migrant workers, particularly low skilled workers, including women in domestic work or other home-based care work, may have difficulty access these channels due to lack of information, language barriers, or legal costs.
- **Accessible information on how to complain:** Clear and accessible, information on complaints channels, including for harassment and discrimination, dispute settlement procedures, and judicial services, should be made available in the destination country.
- **Diplomatic support:** Consular or diplomatic support is also essential, including through timely provision of interpreters, counselling, medical care, legal aid and shelter.
- **Confidential complaint mechanisms:** Safe and confidential complaints mechanisms for harassment and discrimination, including information gender-specific support, such as through a hotline, can also be useful.

**Improving skills matching for better labour market outcomes at home and abroad**

Often, one of the primary objectives of bilateral labour arrangements is to better match demand for workers with a supply of appropriately qualified workers. Depending on the context, both public employment services and private recruitment agencies can participate in pre-selection, selection and placement of workers. Working closely with public and private job intermediaries to improve existing processes, and if needed, investing in building their capacity, can lead to better labour market outcomes:

- Facilitating coordination and data exchange of standardized indicators on job seekers and vacancies between origin and destination country intermediaries can also improve international recruitment processes.
- Access to training, including general skills such as language skills and vocational or technical skills, both before departure and while abroad can improve workers employability and promote human resource development.
Recognition of skills and qualifications in both the country of destination country and upon return for reintegration facilitates job matching, and also ensures that migrant workers do not end up in jobs requiring less skills than they actually have.

**Costing arrangements**

The various implementation and complimentary measures described above imply financial and human resource allocation. Realizing a budgeting exercise is critical to ensure that arrangements are actually implemented. Costs to consider include:

- Training and capacity building of staff from relevant ministries and agencies such as public employment services and embassy or consular officials
- Costs of developing and disseminating information (pre-departure training sessions, briefings of social partners and private recruitment agencies, printed materials for migrant workers, etc)
- Bilateral meeting costs and costs associated with the functioning of the joint monitoring commission
- Additional human resources, for example, adding labour attachés positions in destination country embassies
- Costs of direct support services to migrant workers, such as emergency shelter, legal services, repatriation support

### The role of social partners in implementing bilateral labour migration agreements

<table>
<thead>
<tr>
<th>Employers organization</th>
<th>Trade unions</th>
<th>Civil society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide labour market information and participate in identification of shortages of skills and workers</td>
<td>Organize training on the rights of migrant workers to address exploitation and abuse</td>
<td>Provide services such as legal assistance, counselling, information</td>
</tr>
<tr>
<td>Ensure better compliance with national laws and in the treatment of migrant workers</td>
<td>Help identify victims of trafficking</td>
<td>Give voice and representation to men and women migrants to ensure their grievances are heard</td>
</tr>
<tr>
<td>Promote skills recognition of foreign workers</td>
<td>Cooperate with authorities in identifying abusive employers or recruitment agencies</td>
<td>Promote public education and awareness-raising campaigns</td>
</tr>
<tr>
<td>Demand fair recruitment services and implementation of recruitment regulations</td>
<td>Establish migrant workers rights’ committees to reach out to workers excluded from coverage by labour laws, such as domestic workers</td>
<td>Strengthen training for migrant workers in legal literacy, financial education</td>
</tr>
<tr>
<td>Ensure all workers have written employment contracts</td>
<td>Provide information and assistance to migrant workers in lodging complaints or accessing justice</td>
<td>Create and reinforce community support networks for migrant workers.</td>
</tr>
<tr>
<td></td>
<td>Make links with trade unions in countries of origin to ensure continuity of protection</td>
<td>Advocate for social integration of migrant workers, respect for cultural diversity, prevention of discrimination and measures against racism, xenophobia and discrimination</td>
</tr>
</tbody>
</table>
The ILO Model Trade Union Agreement on Migrant Workers’ Rights can serve as a basis for developing an agreement between unions in countries of origin and destination to protect migrant workers.

Monitoring and evaluating BLMAs
Monitoring of implementation should be on a continuous and routine basis in order to keep track of progress and achievement of objectives. Proper monitoring also serves to quickly detect problems needing attention and formulate corrective actions. Areas to look into for monitoring include:

- Are targets being met in terms of numbers of migrants recruited, the number of complaints received, living and working conditions abroad?
- Have changes been made to policy, legal and regulatory frameworks in the country of origin or destination since the agreement was concluded?
- Are procedures being followed according to those established by the agreement?
- Are joint monitoring committee meetings being held as planned and their recommendations being followed?

Evaluation should be conducted periodically to assess whether the BLMA has fulfilled its objectives and had the desired impact. It requires more in-depth analysis, and often more resources than monitoring, but is essential to demonstrate accountability, to improve arrangements, and to identify successful strategies to be extended or replicated elsewhere. Evaluation of agreements should assess:

- What has changed since the agreement was implemented? Use baseline data to assess changes.
- How successful was the BLMA in reaching its objectives? For instance, has it increased regular migration flows? Have cases of abuse against migrant workers reduced? Has the cost of transferring remittances reduced? Have migrant workers gained new skills?

For effective monitoring and evaluation, countries of origin and destination should regularly collect and share data from the start of the BLMA. Key areas for data collection include labour market information; migratory flows and their profiles disaggregated by gender; recruitment channels and their relative importance; undocumented numbers and repatriations/deportations; migration and recruitment costs; wage trends by occupations; conditions of work; living conditions; complaints and redress; remittances received; number of returnees and their profiles; and patterns of reintegration.
1. The successful development and implementation of labour migration management and governance systems are best achieved through high levels of cooperation within and between States, and between States and non-State actors, such as trade unions, employers and civil society organisations.

2. When we use the term ‘Regional Cooperation’ we define it as agreements between States (and other actors) to collaborate for the purpose of achieving common objectives and outcomes. However, such agreements are not legally binding, and the implementation of such agreements is dependent on the willingness and goodwill of States.

3. The term ‘Regional Integration’ refers to the long-term vision of States (usually within a specific region) to achieve full economic, political and social integration, reflected in the harmonisation of policies, laws and administrative frameworks.

4. The process of regional integration is usually accompanied by the establishment of supranational institutions that take precedence and have authority over national institutions and that provide for inter-governmental decision-making and agreement.
5. The issue of migration, including labour migration, has gained prominence at a global level over the last two decades and this has been reflected in the number and variety of global processes that have focused on achieving migration policy coherence between States.

6. The achievements at global levels (such as the adoption of the GCM) can be linked to the accumulation of progress made through several regional and inter-regional initiatives (RCPs and IRFs).

7. There are still many obstacles and challenges related to achieving higher levels of labour migration and mobility, as well as ensuring the ongoing protection of migrant workers. However, through the multiple initiatives that promote cooperation between States, we have seen the emergence of more coherent policy frameworks (as discussed in more detail Module 2), even if many of these frameworks and policy directives are not legally binding.

8. While States (governments) are the primary actors in the development and implementation of labour migration policy and governance frameworks at global, regional and national levels, the involvement of other stakeholders is critical if successful outcomes are to be achieved.
Knowledge Assessment

Question 1
Select the correct answer
Regional Cooperation Agreements:
(a) Reflect the willingness of States to work together to achieve common objectives
(b) Are subject to the principle of sovereignty
(c) Are not legally binding
(d) All of the above
(e) None of the above

Question 2
Select the correct answer
Regional Integration Agreements:
(a) Are formal processes undertaken to enhance and achieve economic, social, political, cultural and security cohesion between states in a particular geographic territory
(b) Are legally binding once ratified and domesticated in national law
(c) Are characterised by the creation of supranational institutions that take precedence and have authority over national institutions and that provide for inter-governmental decision-making and agreement
(d) All of the above
(e) None of the above

Question 3
Select the most correct answer
The following are examples of Regional Integration Agreements:
(a) African Union, European Union, FIFA, ILO
(b) African Union, European Union, MERCUSOR, ILO
(c) African Union, European Union, ASEAN, CARICOM
(d) African Union, European Union, ASEAN, IOM

Question 4
The outcomes of IRFs and RCPs are binding on participating States
(a) True
(b) False

Question 5
Which definition is more correct?
(a) Free movement means that persons can cross borders as they please without any restrictions or checks
(b) Free movement means the development of transparent, clear and objective policies and procedures that encourage and facilitate the movement of persons, while preventing/limiting undesirable movement

Question 6
BLAs and MOUs can be used to achieve effective cooperation within and between States, as well as between States and non-State actors
(a) True
(b) False
Question 7
The Treaties that established COMESA, ECOWAS and SADC are examples of Regional Integration Agreements (RIAs)
(a) True
(b) False

Question 8
The principle of State sovereignty means that:
(a) States have to work together
(b) States cannot be compelled to implement policy frameworks and directives that have been agreed to at global and regional levels, but are contradictory to their national policies and laws
(c) States have the right to intervene in the internal affairs of another State

Question 9
The concerns raised about implementing provisions relating to the free movement of persons include:
(a) Undermining of respect for national sovereignty, the integrity of borders, legal channels of border crossing and the right of states to determine who will enter their territory
(b) Trafficking in persons and human smuggling across borders that leads to significant abuse and exploitation of desperate migrants
(c) Cross-border criminal syndicates that may exploit less restrictive border control mechanisms to engage in criminal activities such as drug-smuggling and gun-running
(d) All of the above
(e) None of the above

Correct answers: 1d, 2d, 3c, 4b, 5b, 6b, 7a, 8b, 9d, 10a.

Question 10
While there are many different definitions, the term ‘civil society’ usually refers to a wide range of organisations that operate at local, national and international levels. This includes self-help groups, human rights organisations, migrant associations, diaspora associations, research and policy groups, media institutions and lobby/advocacy groups.
(a) True
(b) False
Individual / Group Exercise

Your government has been invited to become a member of a newly established Regional Consultative Process (RCP) that will specifically address issues pertaining to labour migration in your geographic region. There are some concerns, however, that participation in such a forum will be a waste of time and resources and may not be beneficial.

Write a short briefing paper (using bullet points) in which you explain the value and benefits of participating in an Inter-State Consultation on Migration (ISCM) such as an Inter-Regional Forum (IRF) or a Regional Consultative Process (RCP). In your briefing paper, give examples of achievements and progress being made in terms of labour migration management and governance as a consequence of governments participating in ISCMs.