



Global Forum on
MIGRATION & DEVELOPMENT

GFMD Bangladesh 2016



**Ninth GFMD
Bangladesh 2016
Towards a Global
Compact on Migration**

New York - November 14, 2016



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Migration does not happen in vacuum. Migration is a geo-political issue. It is a complex, market driven issue and an integral component of sustainable development.

Md. Shahidul Haque
Foreign Secretary &
Chair, Ninth GFMD 2016



GFMD Dialogue on the Global Compact on Migration

New York, 14 November 2016

INTRODUCTION

- 1 A key focus of the Ninth GFMD has been to deliberate on improvement to migration governance. Noting the commitments secured in the 2030 Agenda to cooperate internationally to ensure safe, orderly and regular migration, this international dialogue comes to further a gradual build up towards a new Global Compact. It particularly builds on the outcome of the New York Declaration that was adopted by consensus at the UN Summit for Refugees and Migrants (19 September 2016), which includes an explicit commitment to strengthening global governance of migration (A/RES/71/1, paragraph 49). The New York Summit marks a turning point in the history of international cooperation on migration. It was the first of its kind at the UN and eventually generated a consensus to hold an inter-governmental Conference in 2018, which, in turn, will be the first of its kind, with an exclusive focus on adopting a Global Compact on safe, orderly and regular migration by the Member States. The Declaration (paragraph 55) recognizes the valuable contribution of GFMD to the progress made on enhancing global dialogue and collaboration on migration. It further envisages for GFMD to contribute to the inter-governmental negotiations leading to the global compact for safe, orderly and regular migration (Annex II, paragraph 13).
- 2 In such a backdrop, the Bangladesh Chair decided to convene a dialogue on the global compact on migration at the United Nations HQs in New York on 14 November 2016.
- 3 Since its inception, GFMD has built trust, nurtured global dialogue and contribute to sharing of experiences among states, international organizations, civil society and (more recently also) the private sector. It was, therefore, an opportune time to engage substantively with what the Global Compact on Migration (GCM) might entail, as this Dialogue


was the first event organized by GFMD in New York i.e. just in less than two months after the adoption of the New York Declaration. The Dialogue Participants noted that the event was not a negotiation, rather a free-wheeling exploratory event that could seek to elaborate the issues, dimensions and perspectives which would need to be addressed by the Global Compact. And, a summary out of the Dialogue discussions would constitute an input to the discussion at the GFMD Summit in Dhaka, on 10 - 12 December 2016.

- 4 The full-day discussions included a brief inaugural session with the Troika of the GFMD as well as high-level representatives from the UN system. This session set the scene by elaborating on the opportunities generated by the New York Declaration and the commitment to negotiate a global compact; the need for improved migration governance; possible 'general objectives' of the Global Compact, its 'nature' as well as the 'process' for developing the Global Compact. The session was followed by three thematic sessions, looking at social, economic and legal aspects of the global compact, respectively. These sessions had panels made up of member states, international organizations as well as civil society (*Ref. Agenda in Annex 1*). The Dialogue brought together approximately 100 participants from over 40 member states as well as international organizations and civil society.

INAUGURAL SESSION


Significance of the New York Declaration, the need for improved migration governance

- 5 In the inaugural session, The Deputy Secretary General of the United Nations underlined that the adoption of the New York Declaration was a major achievement as it commits member states to assist and receive people in distress, thus contributing to responsibility sharing. He highlighted four key accomplishments: first, member states demonstrated their commitment to fulfil the promise of the 2030 Agenda for Sustainable Development, "to leave no one behind"; second, Member States reaffirmed that they will protect the human rights of all refugees and all migrants, regardless of status; third, concrete pledges were made towards refugees' admissions, humanitarian assistance, conflict prevention and resolution and access to health and education; and, fourth, the topic for the Dialogue – the Declaration offers a roadmap for developing a Global Compact on Migration for adoption in 2018. He further reaffirmed the United



Nations' pledge to assist Member States in carrying out all the commitments in of the New York Declaration – a topic to which the Special Adviser ad interim on the Follow-up to the Summit on Addressing Large Movements of Refugees and Migrants also spoke.

- 6 It was iterated that the commitment to develop a GCM is a significant advancement since the international community has been struggling with a sub-optimal governance of migration for far too long. The Dialogue also noted that the idea of a Global Compact on Migration was first initiated by Bangladesh in the spring of 2016.
- 7 In fact, as one would look at the history of the United Nations, it took seventy years to get to the stage where migration could be discussed more substantively. Nonetheless, it was highlighted that the GCM comes after ten years of gradual progress on migration in the United Nations and at the broader multilateral level. Only in 2006, the first UN High-level Dialogue on Migration and Development was convened. And, in the following year (2007), GFMD was formed. The Second UN High-level Dialogue (HLD) on Migration and Development came in 2013; and in 2015, migration was included in the 2030 Agenda, including the SDGs, and integrated in the Addis Ababa Action Agenda.
- 8 In this context, the commitment expressed in the 2030 Agenda to “cooperate internationally to ensure safe, orderly and regular migration, involving full respect for human rights and the humane treatment of migration regardless of migration status” was highlighted as particularly important. Indeed, international cooperation lies at the heart of global governance.
- 9 The GFMD Chair outlined the forces driving migration in contemporary times and that that expose the need for improved governance. He referred to what he called a time of ‘unprecedented transformations’, with radical and cataclysmic changes; a world in which a large number of people have been pushed to the margins of society and been alienated in their own societies, as globalization has failed to benefit all people and the system of production adds to inequality. In the midst of this, traditional powers at the national as well as global levels have failed to address these processes of marginalization.
- 10 Meanwhile, he noted, the systems set up in the wake of the World War II have failed to establish an order within which migration could take place in a safe and orderly manner. As spelt out in the concept note of




the Dialogue, rather than being able to rely on institutions and legal frameworks for international cooperation, states have often resorted to unilateral approaches to ‘manage’ migration at a less-than required level and scale. In this context, migration was said to have the potential to shape or shake societies, to make or break any order. Speakers made reference to the current situation in the Mediterranean. They underlined that only traffickers and smugglers benefit from the disorderly situation, while migrants and states lose out. The Chair characterized migration as ‘simultaneously disruptive and potentially beneficial’. Similarly, Germany, as the incoming Co-Chair and member of the GFMD Troika, suggested that migration is a global challenge and a global chance at the same time.

- 11 Facing such situation, the Chair highlighted how some States have sought to ‘stop’ migration altogether, whereas others have tried to ‘control’ it. However, he outlined a third, more rational option: to recognize migration as a force of change, and seek to establish a new, liberal, value based order to govern it. He indicated this would require addressing inequalities, uncertainties and vulnerabilities.
- 12 In such context, he suggested for the global community to aim for a Global Compact that is ambitious, beneficial, yet deliverable and balanced. Subsequent speakers noted that the negotiations on the Global Compact are beginning at a time when political forces are challenging multilateralism, universal values and globalization. Participants expressed concern whether it would be realistic to expect an ambitious Global Compact under such challenging circumstances. While it was acknowledged that these challenging forces make it particularly hard to accomplish a Global Compact, they also make it evermore important to do so.

Objectives of the Compact

- 13 There were calls for the Global Compact to be holistic, comprehensive and to promote mainstreaming of migration in national, regional and global development and humanitarian response policies, strategies and plans. Participants suggested: it should encompass issues of human rights, climate change, humanitarian and crisis prevention and response, human development as well as peace and security. Furthermore, a number of speakers stressed the importance of the Global Compact to contribute to implementation of the 2030 Agenda, the Sustainable Development Goals and the Addis Ababa Action Agenda.



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- 14 The concept note spelt out three dimensions of migration: enhancing migration and development, reducing irregular migration and addressing forced migration and displacement. These were echoed by the Germany and Turkey (members of GFMD Troika), and elaborated by the Director General of IOM: (i) facilitating safe, orderly and regular migration – the migration we wish to have, (ii) reducing the incidence and impacts of forced and irregular migration – the migration we do not wish to have, and (iii) responding to the mobility impacts of natural and human-made disasters – the migration that occurs whether we want to or not.
- 15 It was suggested that by combining these three elements, the global Compact could become a truly comprehensive global framework for governance of migration.
- 16 Numerous speakers outlined what they saw as key policy objectives for the global Compact. There was a strong consensus around these, which largely asserted the ones outlined in the concept paper for the event. While there were slight nuances to what was presented, they could largely be summarized as follows:
- a. Making it easier for migrants to move, including inter alia, for purposes of labour migration at all skills levels, education and family reunification purposes¹;
 - b. Reducing the incidence and impacts of irregular migration, including trafficking and smuggling inter alia through border management carried out with full respect for the human rights of migrants and facilitating return and reintegration²;
 - c. Enhancing socio-economic development of migration, including by reducing the costs and risks for migrants³;
 - d. Ensuring that migrants' human rights are protected, including in situations of vulnerability and transit, with particular attention to women and children and those subject to exploitation and abuse, especially victims of trafficking⁴;

1 Key paragraphs on making it easier for migrants/refugees to move: (54), 57, 77, 78, 79


2 Key paragraphs on ensuring migrants move in an orderly and legal/regular manner: 24, (25), 27, 34, 35, 36, (41), (42), 58, (73), (76)

3 Key paragraphs on ensuring migrants keep what they earn: 46, 47, (57)

4 Key paragraphs on the human rights and protection of migrants: 22, 23, (24), (25), 26, (27), 28, 29, 30, 31, 32, 33, (34), 35, (36), 38, 39, 41, 42, 48, 50, 51, 52, 53, 56, (58), 59, 60 + all commitments on refugees

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- e. Addressing crisis related movements, including in relation to conflict, natural disasters and climate change;
 - f. Promoting migrant integration and social inclusion, including efforts to counter discrimination and xenophobia as well as through access, especially health and education; and
 - g. Improving governance of migration, at local, national, regional and global levels; and strengthening the UN capacity to manage this.
- 17 Several speakers maintained that the Global Compact on Migration has to be about operationalizing commitments. In order to do so successfully, it would need to 'prioritize' i.e. not try to do everything. Taking note of the forthcoming report by the Special Representative of the Secretary-General for International Migration, Mr. Peter Sutherland, the participants suggested that the Report could help the deliberations of the Global Compact. This report was said to reconfirm the objectives outlined in the Dialogue concept note as well as spell out how the UN capacity could be strengthened to manage migration. On this last point, the report was said to outline a UN system that is better at anticipating and reacting to quickly to movements and in crisis; that speaks in one voice to deliver political messages; that supports and monitors realization of the SDG commitments; that support soft law developments and the formation of common standards; and that works towards the conclusion of new issue-specific treaties.
- 18 Participants stressed that the GCM should be rooted in existing human rights and labour rights instruments as well as inter-governmentally negotiated agreements, including, but not limited to, the 2030 Agenda, the Addis Ababa Action Agenda and the Declaration of the 2013 High-level Dialogue on International Migration and Development, the Sendai Framework (2015),⁵ the Paris Agreement (2015). It should re-think the approach to these commitments and the way they relate to each other, but not venture into re-stating or re-negotiating existing commitments. Instead, it must be geared towards making further progress, operationalizing existing obligations and establishing the institutional and legal conditions for doing so. Some speakers specifically called for the ratification of the 1990 Convention on the Rights of All Migrant Workers and Members of their Families.

5 Other important inter-governmentally negotiated reference points noted in the concept note for the Dialogue include the International Conference on Population and Development (1994) as well as Resolutions in the UN General Assembly on migration and development and migrants rights.

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- 19 Importantly, the Global Compact should reconcile the interests of migrants, countries of origin and countries of destination to their mutual benefit.

Nature of the Global Compact


- 20 Over and above, on the actual objectives of the Global Compact, a number of participants raised the issue of the nature of the compact. In that regard, reference was made to a presentation by the Chair of the GFMD (Geneva, 21 October 2016), where three options were laid out:
- a. A legally binding convention or, treaty regulating the conduct of states;
 - b. A political declaration with guiding principles guiding the behaviour of states; and
 - c. Concrete operational commitments with clear goals, targets and indicators of accomplishment as well as a robust monitoring framework with an evaluation process
- 21 It was suggested that while treaties are important, on their own, they do not meet the criterion of urgency as migrants are dying by the thousands in transit. And, while guiding principles and guidelines can help influence the conduct of states and other actors, they fall short in that they are non-binding. The option of operational commitments with a robust follow-up mechanism was seen as a favoured option from the perspective of urgency. Nonetheless, during the course of the discussions, it was proposed that a combination of the three might be the preferable option, possibly including a framework agreement with legally binding elements on issues ripe for this, political commitments on areas where there is a consensus of a more general nature; and commitments to concrete action with a follow-up mechanism where governments are ready to take action now. In addition to these options, one participant raised the possibility of a more institutional outcome of the Global Compact, asking if it could result in something like the World Trade Organization for migration i.e. a world migration organization.
- 22 An important question was raised: if the Global Compact would be adopted for an indefinite period or, if it would be time-bound. One delegate suggested the Global Compact would need to address short, medium and long-term issues.

Process of developing the Global Compact on Migration

- 23 There were suggestions to have a sustained period of open and inclusive consultations to generate innovation and constructive ideas and begin to identify areas for consensus and action before moving on to the substantive negotiations. In this regard, references were made to the similarities in respect of the modalities of the Open Working Group on the Sustainable Development Goals. Conducting regional and thematic consultations were also suggested.
- 24 A number of speakers called for an inclusive process i.e. to ensure that the voices of all stakeholders are heard, including Member States, international and UN Agencies, regional bodies, private sector employers and recruiters of migrants; unions, academia and civil society (including migrants and diaspora members). Some speakers also stressed on the State-led nature of the process, but as pointedly noted by the NGO Committee on Migration, it should be a 'state-led', not 'state-only' process; and thus stressed the importance of having civil society represented throughout the process. Overall, participants emphasized the value of partnerships and cooperation in developing the Global Compact on Migration.
- 25 Referring to the scene-setting remarks made in the inaugural session (i.e. where it was suggested that globalization, universal values and multilateralism are being challenged), the need for leadership and personal commitment by all involved was emphasized. Some speakers also maintained that the Global Compact on Migration and that for Refugees should not be artificially separated as the issues are highly related. Instead, they suggested, both should be dealt with together. One participant maintained that while there could be coordination, the two Compacts would need to be distinguished since there are different legal provisions for the two categories.
- 26 In order to promote an ambitious outcome, build on what has already been achieved and avoid reinventing the wheel, there were calls for using existing platforms where to the extent possible, in particular GFMD, IOM and the regional consultative processes, as well as to build on the existing tools.

Role of GFMD

- 27 It was noted that the Ninth GFMD Summit would be the first high-level discussion about the Global Compact on Migration, thus giving it an



opportunity to provide input to the GCM process. It was further suggested that GFMD should be utilized, as an informal platform to exchange good practices and explore innovative ways to deepen cooperation. Some referred to it as a “guiding mechanism” in the Global Compact preparations. Others referred to existing GFMD recommendations as important inputs to the Global Compact and suggested that the GFMD was the most adequate platform in terms of expertise and ability on migration issues. The Deputy-Secretary General reconfirmed the importance of GFMD contributing to the GCM and he characterized Ninth GFMD Summit as a “milestone” in the preparatory process leading to the 2018 Conference on migration. These points were also reiterated by the Special Adviser ad interim on Follow-up to the Summit on Addressing Large Movements of Refugees and Migrants, who maintained the significance of the role envisaged for GFMD to contribute to the GCM (ref. paragraph 13, Annex II of NYD). In the deliberations, the contribution of GFMD to the development of the Global Compact preparations, was seen as important, not only to make it as comprehensive and inclusive as possible, but also for the future of the GFMD itself.

- 28 The GFMD Troika strongly supported that GFMD should engage actively and contribute to the development of the Global Compact on Migration. The incoming co-chairs Germany and Morocco committed to make use of GFMD as a platform for informal exchange to explore innovative ways to deepen cooperation in order to contribute to the development of the Global Compact on Migration. One participant suggested that this would also require that GFMD change its own way of work and take the elements of the Global Compact and discuss those in a coordinated and focused way i.e. rather than holding the conventional Round-Tables.
- 29 As an example of the multi-stakeholder engagement with the Global Compact, some participants suggested that the GFMD Business Mechanism could potentially also feed into the Global Compact preparations. In addition, drawing on its experience in placing migration in the G20 Agenda (as it chaired both GFMD and G20 at the same time), Turkey (GFMD Chair 2014-2015), suggested that the issue of the Global Compact on Migration could also be placed on the G20 agenda and for the GFMD Troika to assume a leading role for this at the G20 Summit, especially in view of Germany's Chairmanship of G20 coinciding with its co-Chairmanship of GFMD.

IOM

- 30 All members of the GFMD Troika suggested IOM, as the lead agency on migration with appropriate expertise, should play an important role in the development of the Global Compact on Migration. Others also suggested for IOM to coordinate the consultations for the elaboration of the Global Compact. IOM's Migration Governance Framework and the associated Migration Governance Index were cited as important points of reference.

Regional consultative processes

- 31 Regional Consultative Processes and other regional initiatives e.g. Rabat Process, Colombo Process, the 5+5 Mediterranean Dialogue, the Valletta Summit Declaration were also noted as important existing fora and commitments to draw upon in the preparation of the Global Compact on Migration. Through the experience and best practices of these Processes, capacity building is carried out on a plethora of migration issues including, inter alia skills recognition, pre-departure orientation, reduction the costs of remittance costs, ethical recruitment practices, migrants' health, etc. It was highlighted that these collective approaches raise awareness and help enhance migration governance in participating countries. These regional efforts should therefore be harnessed for shaping up the Global Compact on Migration. In this context, specific regional thematic initiatives were also mentioned e.g. the Global Consultation on Migration Health (Colombo, February 2017).

Existing tools in the area of migration governance

- 32 Building on the existing tools in the area of governance of migration e.g. IOM's Migration Governance Framework (adopted by IOM Council, November 2015) and its related Migration Governance Index; the Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (MICIC Guidelines); the Nansen Initiative and the Platform on Disaster Displacement; the GMG non-binding guiding principles and guidelines on migrants in vulnerable situations and UNHCR's 10 Point Action Plan were suggested. Civil society also offered its own tools for consideration e.g. 2013 High-level Dialogue 8-point five year plan, the 2014 Stockholm Agenda with goals and targets, the 2015 GFMD recommendations with benchmarks, and the 2016 "ACT NOW" call with a scorecard as a response to the New York Declaration.

Importance of other levels of governance


- 33 While the Global Compact is set to improve global governance of migration, many also pointed to the importance of improving national migration policy and regional level cooperation, including operationalizing existing commitments and cooperating (rather than competing) to use collective strength to improve the conditions of migrant workers. The Colombo Process was cited as an example of the latter.
- 34 In terms of improving national migration policy, Morocco shared how they had overhauled their immigration and asylum policy, based on a humanist approach and based on its human rights commitments. This included a national strategy for immigration and asylum, which aims to facilitate migrants' integration in Morocco, upgrade the country's regulatory framework, setting up a suitable institutional framework, and to manage migration flows with full respect for human rights. To date, an exceptional regularization campaign has been carried out that led to the regularization of more than 23,000 irregular migrants (i.e. over 85% of the received applications). In addition, new laws have been adopted on tackling trafficking; and new laws on immigration and asylum are in development.

Social aspects of the Global Compact on Migration

- 35 In the session on social aspects of GCM, the participants were asked to reflect on the social aspects of GCM i.e. why people decide to migrate, which social factors both in the country of origin and country of destination influence migration, how the family relationships suffer during the migration cycle, and how the social encounters between migrants and their host societies play out, including different lifestyles, cultures, languages and religious encounters.
- 36 Many suggested to take into consideration major push and pull factors, including political dimensions, while devising the Global Compact e.g. demand and supply of labour, socio-economic instability, demographic developments, income disparities, inequalities of resources and opportunities, access to education and health, difficulties in creating and accessing decent jobs in the domestic market as well as conflicts, etc. One other issue that was raised was the manner in which technology and transportation is transforming the way people relate to migration - suggesting that migration is likely to increase as a result of such connectivity.

- 37 Migration has a huge impact on social, cultural and economic aspects of both the country of origin and country of destination. While it is positive that migrants have been recognized as enablers of economic development, yet some of the social costs and challenges related to migration have not been addressed properly in international discussions and commitments. It was emphasized that these would have to be addressed by the Global Compact. It was further suggested that they should be addressed throughout the migration cycle - starting with pre-departure and recruitment - and that they required concerted efforts by governments, private sector and civil society. In view of these costs, and the broader push and pull factors, governments need to be encouraged to ensure that migration and overseas employment progressively becomes a free choice, through developing a strong and robust domestic economy and addressing the root causes of irregular and forced migration.
- 38 In the keynote address⁶, participants were reminded that migrants are first and foremost human beings, and as such social beings. They are not a “disembodied cogwheel in a globalized socio-economic system”; and hence any treatment of migration that does not take account of this reality is bound to be, at best, incomplete; at worst, fundamentally wrong. Participants noted that it was precisely because migrants are first and foremost human beings that the social costs would have to be addressed.
- 39 The keynote address further emphasized the importance of human relations. This notion of relationship is of relevance throughout the migration cycle, from pre-departure phase through departure, arrival and settlement in the country of destination and eventual return to the country of origin. It was suggested that the process leading to the GCM had to bear in mind the evolving webs of relationship that bind the migrant to all those who play a part (whether positive or negative) in determination of the nature of his/her migrant experience, including what could be done to better inform the decision-making process to ensure that the best choices are made. A number of such relations were listed:
- 40 First, family relationships were highlighted as particularly important, both for considering family reunification options and the conditions of families left behind. The availability or, as the case may be, the non-


6 by Mr. Gervais Appave, Senior Policy Adviser to the Ninth GFMD Chair.



availability of family reunification options are of immediate interest to migrants e.g. under what conditions are family reunion entitlements desirable, necessary or even essential? Following on, what obligations may States (or, may they not) reasonably require a migrant to fulfil to enable family reunion to take place?

- 41 Attention needs to be given to families left behind, especially in cases where family reunification is not desired or possible. Provisions for them may need to be considered. Some of the impacts of migration on family members who remain in the country of departure include the changing nature of the relationship between the absent migrant “provider” and the spouse “receiver of support”; the impact of an absentee parent on growing children; the mutations in care-giving chains and modalities; and the corporate impact on communities of origin of families living unplanned but nonetheless very real trans-national existences.
- 42 The Philippines cited examples of challenges for family relations. Extended separation of family members affect maternal and parents-children relationships and can threaten the stability of the family as a social unit, with risks of alienated children, and problems e.g. juvenile delinquency, drug addiction, absenteeism and dropping out of school, teenage pregnancies and early marriage. The breakdown of marital relationships may also lead to “dual families” whereby migrants may seek emotional support and develop long-term relationships abroad. In addition to these psychosocial challenges and protection needs, others brought up the nutritional and physical health challenges that absent parents could bring about. They also listed the needs of and pressure on elderly people who are left behind. With feminization of migration and the migration of mothers, who are mostly the traditional caregivers in the families, some of these problems have intensified.
- 43 Sri Lanka equally stressed, however, that while an increasing feminization of migration may pose challenges as women have been the traditional caregivers, policies and the GCM should not be tied to strict stereotypes and that conservative approaches to gender roles must be avoided. In this context, Sri Lanka shared how they were taking steps to overcome such challenges by deploying migration development officers throughout the country. These officers support with identifying the needs of family members left behind and connecting them to relevant service providers to address these needs.

- 44 It was also noted, with regard to family relations, that migrants are often expected to deliver regular flows of remittances to families left behind; and that this can generate a dual pressure to keep up with hardships in the country of destination and the increasing demands from families left behind. In some cases, this can pressurize them into taking double jobs or extensive working hours, which in turn can have negative physical and psycho-social effects.
- 45 While remittances have many positive recorded effects, participants raised that in some cases, a sense of dependency had been generated, with recipients losing the initiative to work and developing materialistic values with the expectation that additional resources will come to pay for these demands.
- 46 Possible solutions discussed included: promoting an involvement of the family in the decision to migrate, promoting access to information and management of expectations and facilitated communications. This can be promoted through pre-departure orientation - not only for migrants, but also for their family members as well as increasing financial literacy for family members. The Philippines highlighted how they were reducing the social costs of migration by working closely with communities and families of Filipino workers overseas to provide social welfare services such as counselling and pre-departure orientation seminars as well as by strengthening community-based support groups for families of overseas Filipino workers. Ideally, avenues for regular reunion and, or the possibility of reunification was highlighted. Another policy measure was suggested i.e. promoting financial literacy for more productive use of remittances, ideally in combination with promotion of sound investment opportunities, training and entrepreneur-friendly policies.
- 47 A second category of relations that was highlighted was the diaspora. This group is traditionally recognized to contribute to development through remittances, technical expertise, knowledge transfers, trade, investments and entrepreneurship. But, it was also highlighted that their contribution to societies is broader than that. In fact, in terms of inter-linkages, diaspora constitute a space of human interaction comparable to large urban settlements. Participants urged that the contributions made by the diaspora as well as migrants, should be fully acknowledged even if these are, at times, difficult to quantify.
- 48 A third set of relationships discussed was the interface between migrants




and their host societies. This generates an integration process in this meeting of different lifestyles, cultures, languages and religions. It was underlined that in the best of cases, while this leads to a process of observation, communication and exchange and a learning of how-to-live-together, in the worst cases, it can result in mutual suspicion, mistrust and alienation. Three prevailing approaches of handling these encounters would be: integration, assimilation or, multiculturalism. The keynote address raised three notable policy issues:

- a) on whom does the onus for change lie - on the newcomer or, the host society?
 - b) in the globalized world, are there universal values that can serve as a common foundation for life-in-societies characterized by migrants' diversity?
 - c) given that all countries have their own unique, defining myths, traditions and customs, how can a 'migrant' or, (to use older but perhaps more descriptive terms) a 'wayfarer' or, 'nomad' be given the opportunity to add his/her contribution to that tapestry?
- 49 In the pursuing discussion, it was suggested that migrants themselves could make a difference by making conscious efforts to adapt to the local situation and by striving to become contributors to their host societies. Indeed, participants highlighted the responsibility on part of migrants to make efforts to know, understand and respect social, cultural and legal practices and norms in host societies.
- 50 All the same, host nations can facilitate their inclusion, by providing access to basic services, as much as including health and education and also by promoting social dialogue and engagement between the host society and migrants. The link to SDG 4 on education was highlighted, in particular target 4.10, which asks for promotion of a culture of peace and non-violence and global citizenship in all education systems so that all can live in harmony with diversity. A key challenge identified was how to manage growing diversity in societies with individuals with multiple identities, fight exclusions and marginalization, create a sense of belonging and promote trust. Key to this would be efforts to counter populism, racism and xenophobia through highlighting the positive role of migration.
- 51 Issues related to access to health and education for migrants (and their families) were also highlighted as key components of broader social aspects of migration that would need to be considered in the

preparation of the Global Compact. While importance of addressing the physical illnesses of migrants has long been recognized, there is a growing recognition that psycho-social health, including mental, social and emotional dimensions, also needs to be addressed. Common problems includes: not having access to healthcare at the destination and in transit countries, fake health assessments in countries of origin, poorly administered health screening of migrants on return. Effective consular services and facilities were also highlighted as important for migrants' wellbeing.

- 52 A question was raised as to role of religion and religious leaders for finding solutions to migration challenges. It was suggested that they (religious leaders) have a key role to play in terms of psychosocial counselling for migrants-left-behind as well as proving a support network for migrants abroad. A large share of civil society providing assistance to migrants, whether in transit or in countries of destination, are also faith-based. In addition, political leaders e.g. Pope Francis are playing an important role in terms of putting moral pressure on political leaders to treat migrants in a more humane manner.
- 53 The issue of 'brain drain' i.e. migration of highly-skilled workers was highlighted as problematic, especially from small economies and from skills shortage sectors like health and education. This could mean both a loss of public resources invested in their education and a reduction in the productive capacity of countries of origin. This could be countered, however, by negotiating ethical recruitment in bilateral and/or multilateral agreements and through reintegration measures for returning qualified nationals. For instance: the Philippines has reintegration programmes for returning migrants to harness their skills and knowledge. This could be promoted through mainstreaming migration into development plans, including issues like acquired skills, knowledge and experiences as well as remittances.
- 54 There was a general call for the Global Compact to include measures to prevent irregular migration, including human trafficking and smuggling in persons. as an overarching point, it was noted with caution that all social costs discussed are exacerbated when the migrants involved are in irregular situations. Nonetheless, when dealing with reducing irregular migration, most of the current efforts, including the trend to give funds to developing countries to take their migrants back, do not sufficiently take the aspirations and



expectations of migrants into consideration. This mismatch needs to be addressed.

- 55 The session on the social aspects of the Global Compact was closed by reminding participants that existing legal frameworks have important provisions to address some of the social costs of migration. It was, therefore, suggested that the process leading to the Global Compact on Migration should consider why certain aspects of these frameworks have not been implemented and then seek to identify gaps where there might be need for further legal instruments. These issues were dealt with in further detail in the session on the legal aspects of the Global Compact on Migration.
- 56 In conclusion, it was emphasized that the approach to migration needs to be more dynamic: not merely considering it as a person moving from point A to point B, rather looking at it as mobility where people and skills move back and forth seamlessly between places with connections and loyalties to different parts of the world; and to acknowledge the changes that occur within societies as a result of these movements and connections.

Economic aspects of the Global Compact on Migration

- 57 The session opened by establishing that there are severe market imperfections when it comes to migration. While economic rationale demands greater movement, mobility of people is quite often restricted. This is observed at a time when the world is quietly moving towards the “fourth industrial revolution”⁷ which needs to factor in people into wealth creation in a manner that is beneficial and equitable for all. It is increasingly imperative for all economies to look for new goods, new services, new ideas and new ways of wealth creation. A bold proposal was made to consider the prospect of creating a global order – where the aspirations of people, industry and entrepreneurs and global powers would converge – and it should then be seen what this would mean for the Global Compact on Migration.
- 58 From an economic perspective, across economies, migrants are primarily approached as ‘labour’. However, (as was emphasized in the previous session) migrants are nonetheless first and foremost ‘human beings’. Apart from all the social needs that this brings, from an economic perspective, being human beings also means migrants can

7 Ref. World Economic Forum


be industrialists or, entrepreneurs. In this context, participants reflected on people's mobility keeping in view the need for new, bold and balanced ways of producing and sustaining wealth.

- 59 The participants reflected on broader issues beyond remittance e.g. economics of integration of migrants in an effort to explore and generate space for a long-term approach to integration - rather than rising short-term populism. If this could be accomplished, then perhaps it would be easier to create the crucial 'political buy-in'. It could also form the basis of public outreach (public information and public education) efforts.
- 60 The keynote address established three quick facts: that around 92% of international migrants are driven by some elements of economic considerations (i.e. they are non-refugees); that South-South migration⁸ is larger than South-North migration; and that migration pressure will increase in the future due to numerous drivers of migration. These drivers inter alia include income gaps, demographic changes, environmental changes (whether slow or rapid onset) as well as fragility, conflict and violence.
- 61 At present, income gap ratio⁹ between rich and poor countries is 70 to 1. It would take around 118 years at current growth rates for that gap to bridge, if at all. Ironically, while inequalities drive migration, restrictions of migration in turn generate inequalities. That is why, the Agenda 2030 agreed to particularly target on safe, orderly, regular and responsible migration in the SDGs (10.7), under the goal on reducing inequality. In some countries, this urgency of addressing inequality emanates from the realization that it is the main driver of migration; and it has led those countries to embark upon specific initiatives. It was also underlined that the GDP gap between developed and the Least Developed Countries is growing¹⁰ exponentially. Nonetheless, it was maintained that income gaps alone would not produce migration: other factors also need to be taken into consideration e.g. greater awareness of these income gaps.

8 It means, intra-regional migration is extremely important. For instance, in sub-Saharan Africa, two-third of international migration is actually within Africa.

9 Whereas average annual income in rich countries is about US\$ 43,000, the same in poor countries is approximately US\$ 600.

10 To exemplify: GDP gap between the US and Madagascar had risen from 10 to 1 in 1960 to 50 to 1 today. In some of the African countries, Per Capita GDP is lower than it was at the time of their independence.


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- 62 Demographic projections and changes suggest, around 2.1 billion people will join global workforce by 2050. Assuming the current employment rate prevailing in 2050, only 1.2 billion jobs will be created – which means, about 900 million people will not have jobs by 2050. Clearly, migration will increase, as one put it aptly, “..*these will they be created in the South or the North. If in the North, we will be following those jobs*”. And, most of those jobs were projected to be created in the South. As an additional demographic driver, there will be an aging population in the north and a fast-growing, young population in Africa and Asia.
- 63 The keynote address further stressed that the elements of the Global Compact should take into cognizance these drivers. Two of them were more easily addressed through the Migration Compact than the others: addressing income gaps, creating incomes and opportunities in poor countries on the one hand; and fragility, conflict and violence on the other. Demographic changes and environmental changes were considered less conducive to being addressed by a Global Compact dedicated to migration.

Benefits and challenges of migration

- 64 The keynote address also provided an overview of the key benefits and challenges for migrants, countries of origin and countries of destination; and, suggested that the global migration Compact should be geared towards addressing some of these.
- 65 For migrants, the benefits should include higher incomes, school enrolment increases, child-mortality reductions, empowerment of women as well as better access to health, education and services. In respect of challenges, migrants are sometimes trafficked, exploited by abusive employers, often subject to paying very high recruitment fees to recruitment agents (which is sometimes illegal and runs contrary to international labour conventions). The under-utilization of skills e.g. doctors driving taxis presents another challenge for migrants. Exclusion, discrimination, xenophobic attacks on migrants are rampant; and, as elaborated in the preceding session on social dimensions, the other big challenge that migrants face is the care for the families left behind.
- 66 Measures to addressing these challenges through the Global Compact could include: promoting better access to health and education

services, addressing the challenges of trafficking and abusive employers' recruitment, under-utilization of skills and exclusion, etc.

- 67 For the origin countries, benefits should include: reduced unemployment; reduced poverty owing to migration of people, especially unemployed and poorer people; remittances amounting to approximately US\$ 440 billion to developing countries (in other terms, more than three times the size of official development assistance); and as diaspora investment. In addition, migrants promote trade and foreign direct investment; and they also facilitate transfer of skills, technology and enhanced living experience. Challenges that were raised for countries of origin again included, for instance, families left behind, for whom there is a loss of caregivers. In addition, loss of skills or, brain-drain e.g. of doctors, nurses, teachers was also flagged. A case was refereed where such skills-loss is more worrisome in situations where countries experience a rapid downward trend and it often leads to a sizable skilled population leaving which in turn exacerbates fragility. This poses significant challenges to the economy and society as a whole to reconstruct and recover because of the absence of people with skills and required abilities.
- 68 Measures for consideration in the Global Compact included: mobilization of diaspora resources, including remittances and diaspora investments, to facilitate trade and foreign direct investment; skills and technology transfers; address the challenges of families left behind and the loss of skills; political void that is created by migration of abled people of society at origin.
- 69 However, there was a caution on an over emphasis on looking at diaspora as a major source of economic contribution to origin /home countries. This was not because of concern over its validity, but because members of the diaspora often tend to be narrowly defined just through a development lens, with a more and more narrow perspective. Too often, this perspective limits the contributions made by the diaspora. As diaspora members return home, they are often labelled for other young people who are told, "you need to leave home. That is how you earn an income and earn respect in your own community and your country".
- 70 For destination countries, the benefits mentioned includes: an increase of income and labour supply, acquisition of skills, entrepreneurship and innovation. In addition, migration of younger



people helps address ageing problems. Overall, migrants' payments of taxes lead to positive fiscal contributions. In general, the diversity brought by migrants is found to benefit host/destination societies. In the process, a key challenge cited is job competition for the native (host country) workers. It was suggested, that often even if the country as a whole has benefited tremendously out of migration, if there are a few native workers who have lost their jobs and they are not taken care of, this spurs anti-migration rhetoric and lead to potentially huge electoral implications. Other challenges mentioned include: fiscal costs of providing social services to migrants and worries among the native population about the loss of the national identity and about crime and national security. This links to the problems of negative public perceptions¹¹ of migrants.

- 71 Measures suggested for consideration in the Global Compact included addressing job competition for native workers; congestion and fiscal costs of social services at the city and local level. It was also suggested that further thinking would be needed on ways to address the loss of national identity.

- 72 In some countries e.g. Spain, migration is approached as a political matter and part of the political discourse. Of late, the trend in Europe and elsewhere suggest, migration is a sensitive matter that has guided and driven elections and policies on a given theme. As such, migration may need to be addressed comprehensively, including by keeping in view the concerns over national identity. This would need to involve creation of opportunities for all, regardless of capacities and skills. In this regard, with some of the African countries, Spain had agreed to approach it as a shared responsibility. This had resulted in discussion on low-skilled jobs and a law that promotes entrepreneurs among higher skilled workers. Spain had also partnered with countries in Latin America to create space for Iberico-American mobility and to enable them to remain in Spain. This had come with efforts to fully integrate immigrants into Spain. Regardless of if they seek Spanish citizenship or not, they can be granted the same rights, including the right to vote in general elections. There are also efforts to integrate immigrants and their families, through cultural events – so that they are aware of Spanish values, and can adapt their skills to market. While this has had budgetary implications, it was judged as an investment. Spain

11 This was eminently exemplified by opinion polls which show respondents in places like the US, UK and France often believing that there are many times more migrants in the population than the actual fact.

suggested that it is essential for the Global Compact on Migration to address these broader issues, not just the economic factor.


73 In summary, the following points surfaced *inter alia* as possible elements of the Global Compact:

- Income and job creation in poor countries;
- National identity issues and integration of migrants in host countries;
- Job competition for native workers in host countries;
- Addressing trafficking, abusive employers and recruitment practices, and enhance skills recognition of migrant workers;
- Addressing migrant rights as also issues of exclusion, discrimination and xenophobic attacks on migrants
- Mobilization of remittances and diaspora resources. Mobilization of remittances and diaspora resources is the sixth element.

74 A number of these issues are already covered in the 2030 Agenda and the SDGs e.g. income and job creation, reducing the costs of remittances and recruitment as well as combatting trafficking. Indeed, all SDGs touch on migration in one way or another, and thus most of the issues that need to be addressed are already in the SDGs. However, there is a value in tailoring responses under the Global Migration Compact in order to truly address the drivers of migration.

75 In this context, civil society observed that while it was commendable that 2030 Agenda and the New York Declaration included determined commitments to safe, orderly and regular migration, in the short-term and years to come, chaotic, unsafe and irregular migration would continue. And, might increase even. As a consequence, many would come from Africa, but not all will move to Europe. This is borne by the fact that, even today, seventy per cent of African migrants remain within the continent.

76 In the ensuing discussion on south-south migration, many noted that while South–South migration is greater, the global focus remains on South–North migration. The politics behind this were questioned. It was noted that many of the challenges are similar. Countries of destination in South – South migration also need to address return and determine if people arriving are economic migrants or, in need of international protection in situations of mixed migrants. Private sector



noted that multinational companies expanding operations in Africa are having a harder time to bring inter-African transfers than external to Africa, suggesting that this form of South–South migration needed more focus and work. For instance, there were parts of Africa that are particularly hard to control e.g. in the Sahel; while in some other parts of Africa, legislation has facilitated free movement among countries in the sub-region, thus contributing to South–South migration. Furthermore, some transit countries have become countries of destination e.g. many going through Niger to Libya are not going to Libya as a final destination, but may remain there for many years. Such experiences demonstrate the value of a global and comprehensive approach involving a permanent dialogue with countries of transit and countries of origin. And, such dialogue also needs to include trade and investment elements to generate a vision for the future, and efforts to address root causes e.g. wars, conflicts, poverty and climate change.

- 77 In this context, World Bank shared some ideas as for possible role for the IFIs e.g. financing development projects and migration programs, addressing the fundamental drivers like income gaps and other drivers, maximizing benefits of migration, creating knowledge for informed policy making and for countering negative public perceptions, improving data on migration and migration status.
- 78 A number of issues clearly would need further appreciation and clarity: what determines return migration - when people do return, when they don't return?; how emigration behaves as income level rise and employment increases? If one create jobs in countries of origin, will migration slow down? Will it stop? At what level, will migration stop? Available indications/evidences/research suggest, that as income rises, emigration rises in the beginning and then begins to fall only after income levels reach a level like US\$ 6,000 to 9,000. If this were the case, it would take a country like Bangladesh another thirty years and India twenty-five years to get to the downward curve, whereas a country like Mexico might already be on the tipping point of the migration curve.
- 79 A presentation from the International Organization of Employers – offering private sector perspective on the Global Compact on Migration – offered an overview of the business case for improved governance of migration as well as some of the challenges global business faces as it corresponds to migration. The business sector was calling first and foremost for an employment-based migration policy. The case for this had been made a decade back in the works of the Global Commission


on International Migration (GCIM). A key aspect in this regard is that employers cannot find the skills they need. While this may be difficult to explain in situations of high unemployment, it remains true that many jobs go unfilled due to skills shortages. Another issue facing private sector is inter-company transfers i.e. employees travel abroad for a short period of time, sometimes on a more permanent basis. However, such movement is different from international recruitment of workers to fill skills shortages. In the latter case, there will be different pay issues, family issues and competition with local workers.

- 80 In the build-up to the Global Migration Compact, it was suggested that private sector should sustain their engagement with policy makers. The GFMD Business Mechanism was highlighted as an optional platform for such engagement. This engagement was seen as particularly important in relation to issues such as developing principles and systems for fair and efficient migration recruitment while ensuring migrants' and local workers' conditions; how to counter the negative rhetoric against migrants.
- 81 One challenge for business sector is to grasp ways to engage with the Global Migration Compact and link it to what they are doing in other areas. Migration is one piece of a complex web of employers' engagement with the fourth industrial revolution. Examples of other issues listed were: diversity, inclusion, life-long learning, respect for human rights, etc. Another challenge is how to coordinate efforts in relation to existing mechanisms (e.g. IRIS, ILO's Fair Recruitment Mechanism, MICIC, SDGs, G20, etc.).
- 82 In that context, civil society inquired as to what private sector can do for undocumented migrants and what they can do to help reduce recruitment costs. IOE explained that are advocating for legalization and more legal paths for migration. Furthermore, when engaging private actors in fair recruitment initiatives, IOE try to distinguish between the vast majority trying to do the right thing and those that are trying to take advantages. The key is to end abusive practices without imposing burdens on everyone else.
- 83 A general observation towards the end of the session was: the focus had been much on skills and skilled people, while the real challenge is for irregular and vast majority of low-skilled migrants (at the bottom). This aspect needs further attention in the lead up to development of the Global Compact on Migration.

Legal aspects of the Global Compact on Migration

- 84 The keynote address outlined the aims of the Global Compact with reference to the provisions of the New York Declaration and offered a brief overview of international law related on migration, which needs to underpin the Compact. Subsequently, it raised some questions related to the role of soft law. And, finally, it provided some reflections on the legal issues that will be hard to avoid if the Global Compact is to achieve its purpose whilst remaining realistic.
- 85 New York Declaration stipulates that the Global Compact should set out a range of principles, commitments and understanding on international migration in all its dimensions. It needs to contribute to global governance and enhanced coordination on migration, and make a difference to the lives of migrants. It needs to present a framework for comprehensive international cooperation on migration and human mobility; it has to do with all the aspects of migration; and it should be guided by the 2030 Agenda and informed by the Declaration from the 2013 High-level Dialogue on Migration.
- 86 One other point underlined was: rule of law. Paragraph 21 of the NY Declaration spells out that the Declaration and its Annexes should be implemented in a manner that is consistent with the rights and obligations of states under international law. However, as yet there is no guidance on the legal nature of the Compact itself. It is, therefore, not clear if the Global Compact will be a legally binding instrument or not. Some earlier interventions implied that this might be a possibility. As indicated by previous speakers, the alternative could be a non-binding declaration, or some enhanced policy framework that leads to actions and operations on the ground with a robust follow-up. That is to be determined during the negotiations and consultations.
- 87 With regard to the elements of the Global Compact, the New York Declaration has a non-exhaustive listing providing some guidance [Ref. paragraph 8, Annex 2]. The keynote presentation grouped those into five clusters, largely corresponding to those outlined in the concept paper of the Dialogue:
1. Migration and development
 2. Migrant and rights and non-discrimination
 3. Migration governance
 4. Addressing irregular migration
 5. Labour migration and mobility

- 88 It was observed, however, that the Annex of the Declaration contains many elements which are cross-cutting e.g. “cooperation at the national, bilateral, regional and global level” which would apply to all clusters.
- 89 The New York Declaration specifically refers to international human rights law and also notes that migrants enjoy rights and protection on various provisions of international law implying that all the principle branches of international law would apply i.e. human rights law, criminal law, humanitarian law, refugee law, maritime law consular law and labour law.
- 90 In addition to those, international customary law is there. Human rights law and international labour standards are informed by the views of the supervisory bodies - whether it is the ILO committee of experts or the various human rights treaty bodies, under the human rights instruments, that adopt concluding observations, when examining state reports, or general comments. Examples of these include thematic procedures mandates and UN Special Rapporteurs in the context of the Human Rights Council. In this regard, Special Rapporteur on the Human Rights of Migrants, who often makes pronouncements on various areas of law relating to migration, and in particular the human rights of migrants was noted as particularly relevant. Beyond these, there are sources at the regional level, coming from, for example regional human rights treaties, and the Courts like the European Court of Human Rights and the Inter-American Court on Human Rights. It means, applicability of international law to migrants is not limited to the specific instruments relating to migration, but the broader instruments as well as those bodies responsible, sometimes under the treaties themselves, for interpreting those instruments are also relevant.
- 91 The keynote presentation also noted that, soft law is playing an increasingly important role; and that it is abundant when it comes to international migration. Additionally, the forthcoming Report by the SRSG for International Migration would support the development of additional soft law on international migration.
- 92 While there is no agreed definition as to what soft law actually is, the keynote presentation offered some selective definitions, suggesting that it should appear in written form and that it includes “soft rules” in treaties (i.e. weak provisions in international agreements not entailing obligations) and non-binding or, voluntary resolutions,



recommendations, and codes of conduct. Another definition quoted read as, “normative provisions contained in non-binding texts”.

- 93 The keynote presentation further maintained that while some would argue that there is no hierarchy of soft law as there is a lack of agreement what it actually means, whereas others would argue that the soft law developed in the context of interpreting the legal treaties is more important.
- 94 A non-exhaustive list of migration policy frameworks were referenced in relation to soft law e.g. IOM’s Migration Governance Framework; ILO Multilateral Framework on Labour Migration; OHCHR Principles and Guidelines on Human Rights at International Borders; UNHCR Refugee Protection and Mixed Migration: a 10-point Plan of Action; Nansen Initiative Protection Agenda and Platform for Disaster Displacement; International Agenda for Migration Management. It was highlighted that such a listing focuses more on the inter-governmental frameworks, with the exception of the multilateral framework¹² on labour migration. He further reminded the participants of the many Civil Society frameworks referenced earlier.
- 95 The keynote speaker noted that there is some scepticism with regards to soft law, which should be kept in view when considering whether the Global Compact should be geared towards developing further soft law. A key reservation holds that this proliferation of soft law has fragmented and dispersed the established legal roles, to the point of undermining the role of law itself.
- 96 Finally, many look at the Global Compact to translate the promise of commitments in the New York Declaration into reality on-the-ground in terms of fairer, safer migration and of improving the lives of migrants. Therefore, tough questions needed to be addressed e.g. whether the stand-alone commitments in the New York Declaration should be considered in the Global Compact, the ones dealing with immigration detention and the development of non-binding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations. The keynote speaker argued in favour of this, by referencing the commitments in the 2030 Agenda “to leave no one behind” and “to reach the furthest behind first”, a category in which migrants who are in vulnerable situations undoubtedly would fall into.

12 It was adopted by tripartite consensus, including workers, employers and governments

- 97 Other legal issues raised included the areas of protection, reduction of migration costs, as well as cooperation on migration and human mobility. The New York Declaration contains a lot of references to ensuring the protection of the rights of all migrants, including those in irregular status. It was questioned as to how this would be operationalized on the ground. Note was taken of work currently under way on the issue of establishing firewalls between immigration enforcement and the enjoyment by migrants of labour and social rights. The Compact refers to regularization, which traditionally has been a very sensitive issue, especially in some regions. Another area was access of migrants to social protection: rights to health, social security are universal human rights. These are also recognized in the 2030 Agenda.
- 98 Reduction of migration costs is included in the 2030 Agenda. The Addis Ababa Action Agenda makes reference to recruitment, ensuring fair and ethical recruitment, recognition of skills, qualification at all skill levels, qualification and diplomas, and coordination or, portability of social security. The question raised was therefore how the Global Compact would address these issues and whether the efforts could be informed by the general principles and operational guidelines on fair recruitment which are rooted in international human rights and labour law and were approved in the ILO governmental body (November 2016).
- 99 Finally, it was emphasised whether there can be rules relating to coordination, cooperation and participation. In some of the migration instruments e.g. the Convention on Migrant Workers and the ILO instruments, there are obligations on governments to cooperate and to coordinate as well as to have inclusive participation. The ILO instruments contain specific references and provision to the social partners. The NGO Committee on Migration underlined to the possibility of an institutional role for civil society in the development of the Global Compact as well as in its implementation and follow-up. In this regard, member states were encouraged to consider some innovative commitments. Support could be found in the New York Declaration (ref. paragraph 54), which speaks about the commitments to build on existing bilateral, regional and global cooperation and partnerships, in accordance with international law, by facilitating migration in line with the 2030 Agenda.
- 100 The subsequent presentations that followed, emphasis was laid on implementing existing international human rights instruments, by enshrining them into national law. This is how Canada, for instance,



had built regulations and policies to implement such commitments. Noting that there are a lot of legal frameworks to which the international community has agreed, Canada recommended that the process leading to the Global Compact on Migration first reviews what exists in terms of legal obligations, take steps to implement them and then look at what the gaps are.

In focus: Southern Africa - a regional approach to governance of migration


- 101 Zambia gave a presentation focussing on SADC region; and maintained that a very comprehensive legal framework has been put together in the region. The contribution of civil society towards this effort was recognized. This complements the African Union Abuja Treaty through which AU Member States commit to take necessary steps to promote free movement of people to ensure rights of residence equal to their nationals within their national territory.
- 102 The regional approach to migration can be found in two overarching documents: the African Common Position on Migration and Development (2006) and the Migration Policy Framework for Africa (2006). The latter covers nine areas: labour migration; border management; irregular migration; forced displacement; internal migration; migration data; migration, inter-state and inter-regional cooperation and other social issues deserving attention. These documents emphasise the positive role of migration and the protection of economic, social and cultural rights of migrants, including the right to development.
- 103 While these overarching documents are very comprehensive, it was acknowledged that there are some challenges, including the institutional requirements. For example, since there is no monitoring and guidance of Member States by the AU, it was suggested that the next step should be for the AU to establish the institutions to provide guidance and monitoring to support implementation of the frameworks. Much of cooperation relies on soft law, meaning enforcement is rather difficult.
- 104 In SADC, there are also a number of documents that refer to the need to better address migration, including the SADC Treaty and the SADC Protocol on the Facilitation of Movement of Persons. It states that the objective of Member States is to work towards a relaxation and eventual removal of migration formalities. However, again, this code is

non-binding. Furthermore, it does not recognize the rights of migrants should be equally protected as those of nationals. Most importantly, there is a poor ratification of agreements, a lack of financial and technical expertise for implementation and a lack of harmonization in the region. Through the Migration Dialogue for Southern Africa (MIDSA), work is undergoing towards the ratification and implementation of the SADC protocol.

- 105 In view of these regional mechanisms, the Global Compact should not be seen as a new phenomenon, rather a complementary effort. It could prove useful to promote a situation wherein intra-regional efforts take place within a context of harmonized, rather than contradictory frameworks.
- 106 Finally, there are a number of security tensions on the African continent and that free movement is often perceived as a security threat. Against this background, the Global Compact should address legal aspects as also accommodate the regional frameworks so that it builds on partnerships, especially the key African States to remove potential security concerns, and in order to move ahead in a comprehensive manner, it was recommended that IOM be given the formal mandate to take the Global Compact on Migration forward.

A human rights analysis of the New York Declaration

- 107 UNHCR highlighted the human rights dimensions in the New York Declaration and issues to keep in view the work towards the Global Compact on Migration.
- 108 The New York Declaration was recognized ground-breaking in that:
- 1) it takes a human rights-based approach
 - 2) it takes a law-based approach
 - 3) it takes a whole-of-system approach
 - 4) it is inclusive - both of civil society and migrants
 - 5) it embraces a UN System wide approach.
- 109 In respect of the human rights based approach, the New York Declaration has over 100 references to human rights. These references tie the Declaration to international human rights law and standards, from the first paragraph to last of the second paragraph. In contrast to traditional perambulation, it states that everything that comes after has to be implemented in accordance with international human rights.




It affirms the applicability of human rights to all migrants regardless of status. In addition, there are specific human rights references, including those in relation to de-criminalization, due process, alternatives to detention, access to justice, and although imperfect language, to child detention. There are also specific references to GMG's work on Guiding principles and Guidance for migrants in vulnerable situations and for a supportive role for UNHCR, OHCHR, SRSG and IOM to the State-led process to carry these guiding principles forward.

- 110 In regard to decidedly law-based approach, this approach removes the framing of migration from politics with lowest denomination. It moves the agenda from a militarized approach to one of international law, specifically international human rights law and labour law. It requires the application of human rights in national and international law.
- 111 With regard to the whole-of-system approach, migration was portrayed as a complex phenomenon that cannot be reduced to a single entity. Instead, it lists a number of agencies to carry forward the commitments in the Declaration. In so doing, it mentions five rights-based agencies to take on issues. The system is charged with coming together around human rights principles. It includes reference to at least fifteen different categories of stakeholders, with an emphasis on participation.
- 112 following years of discussions, the New York Declaration brings the migration discussions back to the United Nations. This marks a strong signal that the UN has, and is ready to pick up, responsibility for a transformative global phenomenon as migration and apply all its Agencies, bodies and mechanisms. The Summit recognizes this and consolidates this.
- 113 In making concrete recommendations on the Global Compact on Migration, OHCHR reasoned that it should have a dedicated human rights pillar.


The Committee on Migrant Workers

- 114 The Vice-Chair, the Committee on Migrant Workers characterized the commitment to hold an international conference as a historic opportunity enabling the international community to agree on a plan of action to address migration comprehensively.

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- 115 The presentation highlighted the plight of migrant workers and members of their families. It pointed to the lack of protection of basic human rights and the exploitation being carried out. Particular vulnerability of migrant women and children and issues of detention of children were highlighted.
- 116 It was seen as crucial to have migration at the core of the Global Compact on Migration. These rights are crucial for access to health and education, etc. Recognition of the contribution of migrants to the destination countries was also stressed.
- 117 As for the process, the centrality of participation of a broad range of stakeholders was emphasized. In addition to Member States, it should include civil society, UN agencies, children, youth, women, trade unions, religious leaders, etc.
- 118 The Global compact could also lead to an affirmation of a commitment that mobility of persons is a matter of security, family, protection of future of children. It should promote gender equality and address labour exploitation and also promote peaceful societies, including through inter cultural dialogue.

Open Interactions

- 119 There were questions on how to carry protection of migrants forward. Noting a lack of political will to promote the rights of migrants, there was also a question on the best value the Global Compact on Migration could bring aside harmonizing migration law. The need for a legally-binding instrument was flagged as a non-binding agreement would not advance the migration agenda. On value of a binding agreement, some noted that while the limits of a non-binding agreement is that States will not be bound to implement, it also might take longer to agree to a binding agreement. So, it was important to move on with the process and have the outcome to be consensual. One suggestion was to have broad consultations to sort through the soft laws, treaties and conventions; and that IOM be called upon to lead the process of reviewing soft laws. Furthermore, recognizing IOM's lead role in migration, the UN Secretary-General could appoint the Director General, IOM to serve as the Secretary-General of the Conference in 2018. OHCHR noted that they traditionally avoid soft-law as this is often hard law reduced to guidelines to assist with implantation. The nature of the outcome would depend on Member States. At a minimum, it should be based on existing legal



obligations. In this regard, the role of UN is to promote progressive expansion of human rights, not to negotiating down existing commitments. In closing, OHCHR reminded participants of the complexity of the issue and suggested that all partners be involved.

120 In this context, the security challenges in Africa was recognized. It was noted that this makes it hard to overcome the visa barrier. IOM's support for harmonizing national and regional legislation was welcomed as well as for assisting African States on border management to remove security concerns.

121 On the substantive focus of the Global Compact, one view was to prioritize and reflect on the notion of a comprehensive Compact. It was reasoned that while the New York Declaration is pretty wide in terms of coverage of issues and aims to cover almost everything, such an approach risk not delving deeper into issues enough. The clustering approach was seen rather useful to identify priority issues. There was another call for IOM to lead the process of the Global Compact. There was also a suggestion for IOM to provide a roadmap for future consultations.

CONCLUSION

122 The Dialogue stressed the urgency and desirability of successfully negotiating an ambitious and realistic Global Migration Compact. The three sessions on social, economic and legal aspects of migration contributed to explore the complexities of migration and the need for a comprehensive Global Compact.

123 There was a general appreciation that the Global Compact should be about: (i) facilitating safe, orderly and regular migration, (ii) reducing incidence and impacts of forced and irregular migration; and (iii) responding to the mobility impacts of natural and human-made disasters. There appeared to be a broad consensus around the following policy objectives:

- a. Making it easier for migrants to move inter alia for labour migration at all skills levels, education and family reunification purposes;
- b. Reducing incidence and impacts of irregular migration, including trafficking and smuggling inter alia through border management carried out with full respect for human rights of migrants and facilitating return and reintegration;

- c. Enhancing socio-economic development of migration, including by reducing the costs and risks for migrants;
- d. Ensuring that migrants' human rights are protected, including in situations of vulnerability and transit, with particular attention to women and children and those subject to exploitation and abuse, especially victims of trafficking;
- e. Addressing crisis related movements, including in relation to conflict, natural disasters and climate change;
- f. Promoting migrants integration and social inclusion, including efforts to counter discrimination and xenophobia as well as through access, especially health and education; and
- g. Improving governance of migration, at local, national, regional and global levels, and strengthening the UN capacity to manage this issue.

124 All stressed that the Global Compact on Migration should be rooted in existing human rights and labour rights instruments as well as inter-governmentally negotiated agreements. They stressed that it must be geared towards making further progress, operationalizing existing obligations and commitments rather than renegotiating these.

125 In terms of the nature of the Compact, preference was more either for a framework for operational commitments with a robust follow-up mechanism or, a hybrid form which combines a framework agreement with legally binding elements on issues ripe for this; political commitments on areas where there is a consensus of a more general nature; and commitments to concrete action with a follow-up mechanism where governments are ready to take action now.

126 The Dialogue throughout highlighted for the process to be State-led, yet inclusive and that it builds on existing fora and initiatives. In this regard, GFMD, IOM and Regional Consultative Processes were listed as also a number of existing tools that could be drawn upon.

127 Participants thanked the Ninth GFMD Chair (Bangladesh) for firmly putting the issue of governance on the agenda and for engaging GFMD in the discussion on the Global Compact on Migration. The Troika and the incoming GFMD Co-Chairs voiced their commitment to continue the discussions within GFMD on the Global Compact and for the GFMD to contribute to the process.

ANNEX 1

A Dialogue on Global Migration Compact

Under Ninth Global Forum on Migration and Development (GFMD) Chairmanship

Conference Room 12, UN HQ, New York; 14 November 2016

Final Programme

- Moderator **H.E. Ambassador Shahidul Haque**, Foreign Secretary of Bangladesh and GFMD 2016 Chair
- 10.00 Introductory Remarks by **H.E. Ambassador Masud Bin Momen**, Permanent Representative of Bangladesh to the UN in New York
- 10.05 Remarks by **Mr. Sönke Lorenz**, Head of Unit of Migration Issues, Ministry of Foreign Affairs, Germany
- 10.10 Remarks by **Mr. Ahmed Skim**, Director of Migration Affairs, Ministry in charge of Moroccans Residing Abroad and Migration Affairs, Morocco
- 10.15 Remarks by **H.E. Ambassador Mr. Mehmet Samsar**, Director General for Consular Affairs, Turkey
- 10.20 Remarks by **Mr. Gregory A. Maniatis**, Senior Adviser to Mr. Peter Sutherland, the UN Special Representative for International Migration
- 10.25 Remarks by **Ms. Izumi Nakamitsu**, Special Adviser ad interim on Follow-up to the Summit on Addressing Large Movements of Refugees and Migrants
- 10.30 Video Message by **Mr. Jan Eliasson**, Deputy Secretary General, United Nations
- 10.35 Remarks by **H.E. Ambassador William Lacy Swing**, Director General, International Organization for Migration

Session I Social aspects of the Global Migration Compact

1045–12.15 Moderator: **Ms. Sadia Faizunnesa**, Director General (UN), Ministry of Foreign Affairs, Bangladesh

Keynote presentation: **Mr. Gervais Appave**, Senior Policy Adviser, International Organization for Migration

Designated discussants:

Mr. Enrico Fos, Minister, Permanent Mission of the Philippines to the UN in Geneva

Mrs. Samantha Jayasuriya, Deputy Permanent Representative, Permanent Mission of Sri Lanka to the UN in Geneva

Ms. Eva Sandis, NGO Committee on Migration

Interactive discussions

12.15-13.15 Lunch*

Session II Economic aspects of the Global Migration Compact

13.15-14.45 Moderator: **H.E. Ambassador Mr. Riaz Hamidullah**, High Commissioner of Bangladesh to Sri Lanka

Keynote presentation: **Mr. Dilip Ratha, Lead Economist**, Development Prospects Group and Manager DEC-PREM Migration and Remittances Unit, World Bank

Designated discussants:

Mr. Arturo Cabrera, Former Deputy Minister for Migration, Ecuador

H.E. Ambassador Javier Carbajosa Sánchez, Ambassador at Large for Migration Issues, Ministry of Foreign Affairs and Cooperation, Spain

Ms. Megdelawit Kidane, Global Coalition on Migration (GCM)

Ms. Lynn Shotwell, Executive Director at Council for Global Immigration

Interactive discussions

* Light lunch to be provided, courtesy of the Permanent Mission of Bangladesh in New York.

Session III **Legal aspects of the Global Migration Compact**

14.45-16.15 Moderator: **Ms. Nahida Sobhan**, Minister, Permanent Mission to the UN in Geneva, Bangladesh

Keynote presentation: **Mr. Ryszard Cholewinski**, Migration Policy Specialist, International Labour Organization

Designated discussants:

Ms. Erica Usher, Senior Director at Immigration, Refugees and Citizenship, Canada

Mr. Samson Lungo, First Secretary, Permanent Mission of Zambia to the UN in Geneva

Mr. Craig Mokhiber, Chief, Development, Economic and Social Issues Branch, Office of the High Commissioner for Human Rights

Mr. Pablo Ceriani Cernadas, Vice-chairperson, Committee on Migrant Workers (by video)

Interactive discussions

16.15-17.00 **Concluding Session**

Moderator: **H.E. Ambassador M. Shameem Ahsan**, Permanent Representative of Bangladesh to the UN in Geneva

Reflections on moving forward by **Mr. Thomas Gass**, Assistant Secretary General, UN; Department of Economic and Social Affairs

Remarks by **Prof. Michael Doyle**, University of Columbia, New York

Remarks by **Mr. Christian Leffler**, EU Deputy Secretary General in charge of Economic and Global Issues in the European External Action Service and in charge of migration issues

Concluding Remarks by **H.E. Ambassador Shahidul Haque**, Foreign Secretary of Bangladesh and GFMD 2016 Chair

ANNEX 2

Foreign Secretary – Intro Remarks

GFMD Dialogue on Global Migration Compact

UNHQs, New York; 14 Nov 2016


Today, we live and work in a different, fast evolving, uncertain world. It's a world that is passing through unprecedented transformation. Recent radical and cataclysmic changes have shaken the politico-economic order that was established in the wake of WW II. This fluidity is eminently captured by this year's UNHCR Report – World at War! Question is how to manage this fluid situation.

First, the factors and forces that forced these cataclysmic changes are globalisation. To be precise, failure of globalization in benefiting all walks of people led to increased inequality, pushed a rather large group of people worldwide in every society to the margins and alienated them in their own societies and economies.

Second, contemporary production systems, instead of benefitting all, added to the level of inequality – both within and among States. In the midst of these, traditional “powers” – at national and global levels – failed to effectively address these inequality and marginalization, resulting in irreversible vulnerabilities.

This global system and concomitant governance mechanisms failed to stabilize fast evolving migration and mobility systems along with bridging a balance between dynamic societal system changes and state-centric order. That resulted in a process in which a group of pursue more State-centric approach to “control” social, political and economic aspects of the phenomenon of ‘people-on-the-move’. This proved to be utterly wrong. Ignorance of the role of migration in human progress over centuries made fatal mistakes in governing migration for good.

On the other hand, there is another set of countries that better understood the complexities and diversity of migration. These countries try to create a new, more contemporarily relevant migration management system. But that also fails because of global disruptive and chaotic forces.



Strongly enough we continue to recognize migration as a globalizing development phenomenon. They failed to see people's desire and aspirations to move as well as new rationale of market forces within the transformative and evolving world order.

Let me risk of being repetitive, and yet say: migration is in no way a simple, apolitical affair. It is not devoid of geo-politics either. Migration is as much as an integral component of sustainable development as also has been a most crucial component of global production and consumption order – at any point of time in history. It has a huge potential to shape, to shake, to make or break any order. We have seen how human desire or disruption, combined with market necessities and political disorder, led to changing nature of border, State and eventually threatening broader peace – stability – growth.

So, comes the question: what do we do with this simultaneously disruptive and potentially beneficial phenomenon?

Question is, what options do we have.

First, stop migration, altogether, and close borders! Some even like the idea. I have nothing to say to them at this stage.

Second, 'control' migration, using border and State forces and apparatus; and, if possible, intervene with order and institutions. An abysmally selective approach - I wish them luck!

Third, recognize migration as a force of change that continue to establish a new liberal, value-based order. It has the potential to simultaneously address inequality, exclusion, uncertainty and vulnerabilities. Over and above it can act as a decisive force of the emerging "Fourth Industrial Revolution", as articulated by Mr Klaus Schwab.

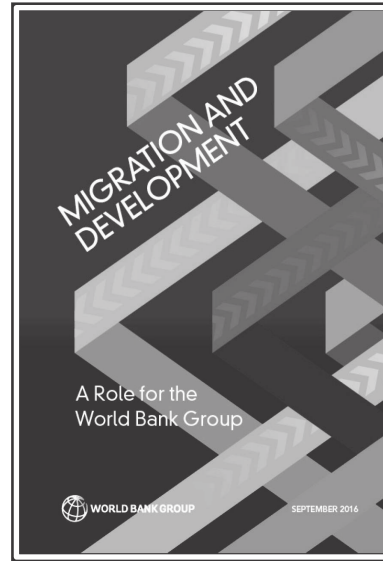
Of these three options, the third one is highly complex and dynamic. Yet, it is most rationale path to walk, what Director General, IOM often refers as "the highroad scenario".

Now, the last question is: whether our understanding would allow us to converge on some fundamentals of migration which could help us in dialoging for a desired global compact - an ambitious, beneficial yet deliverable and balanced Migration Order.

ANNEX 3

Global Compact on Migration: Roadmap from A Development Viewpoint

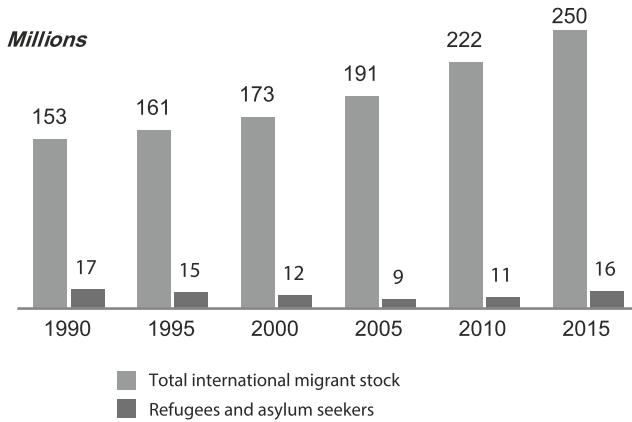
Dilip Ratha
November 14, 2016



Outline

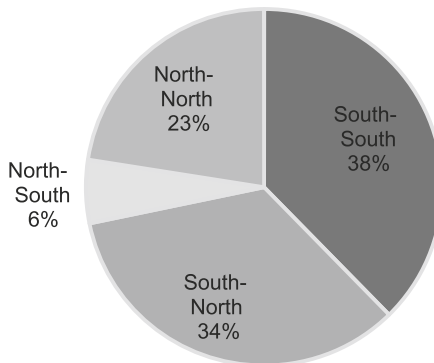
- Data and drivers of migration
- Benefits and challenges of migration
- Roadmap to a global compact on migration

Data: International Refugees and Migrants

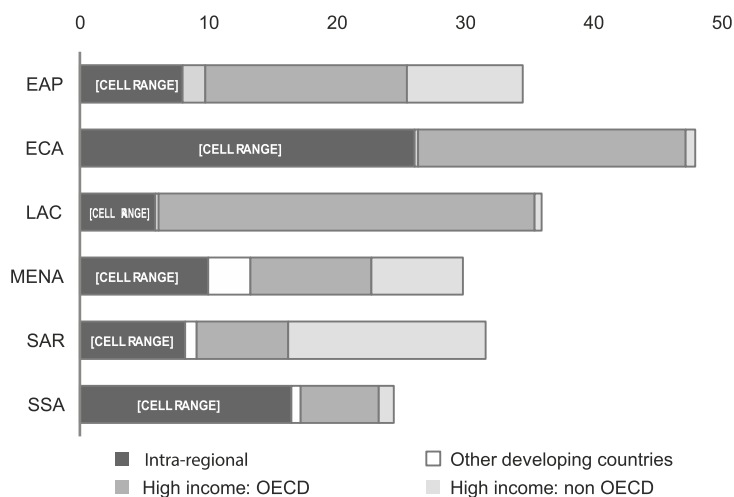


Refugee data excludes 5.2 million Palestinian refugees reported by UNRWA
 Source: World Bank, Migration and Remittances Factbook 2016

South-South vs. South-North Migration



Intra-regional migration is substantial in Africa, Europe and Central Asia, and MENA



Migration pressures will increase in future

	Change in working age population, 2015-2050 (million)	Change in employment needed to keep employment rates at 2015 level (million)	"Migration pressure" created by the unemployed (million)
	(A)	(B)	(A-B)
Developing countries	2,119	1,243	875
East Asia & Pacific	200	135	65
Europe & Central Asia	8	4	4
Latin America & Carib,	179	109	70
Middle East & N. Africa	204	84	120
South Asia	600	317	283
Sub-Saharan Africa	928	595	333
High income OECD	78	44	35

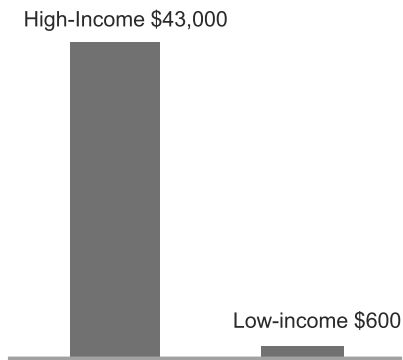
Source: International Labour Organization calculations based on ILO Trends Econometric Models and UN World Population Prospects (2015 Revision).

Challenges: Sending Countries

- Income gaps
- Demographic changes
- Environmental Change
- [Fragility, Conflict, Violence]

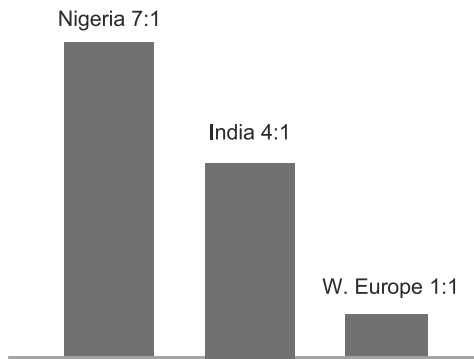
Challenges: Sending Countries

Per capita income, 2015



Demographic Divergence

Ratio of # of 20-year olds to # of 65-year old



Benefits and Costs to Migrants

Benefits after migration

- Migrants' income increased by 15-fold
- School enrollment doubled
- Child mortality reduced by 16-fold
- Women are empowered
- Better access to health, education, services

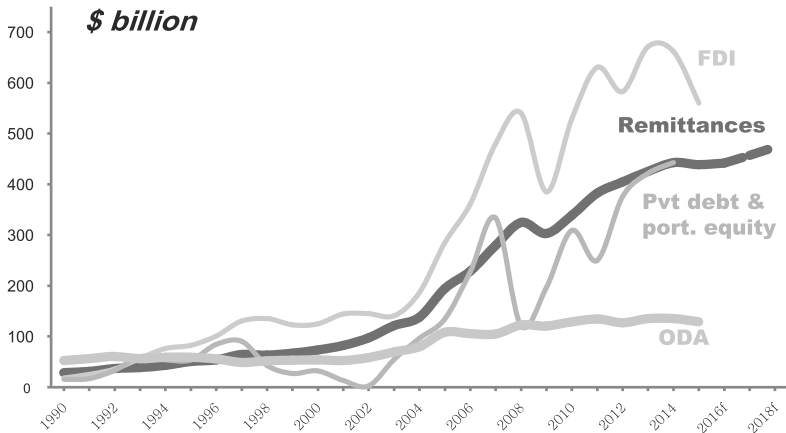
Costs

- Risks: health, trafficking, abusive employers and recruiters
- Exclusion, discrimination, xenophobic attacks
- Family left behind (children and old parents)

Benefits: Sending Countries

- Reduced unemployment, reduced poverty
- Remittances and diaspora investments
- Trade and FDI
- Skill and technology transfer

Remittance flows to developing countries to reach \$442 billion in 2016



Challenges: Sending Countries

- Family left behind
- Loss of skills
- Dutch disease

Benefits: Receiving Countries

- Increased incomes
- Increases in labor supply
- Increases in skills, entrepreneurship and innovation
- Alleviates aging problem
- Fiscal contributions often positive
- Diversity

Challenges: Receiving Countries

- Job competition for native workers
- Congestion and fiscal costs of social services
- Crime
- [National security]
- [National identity]
- Negative public perceptions

Public Perceptions: Myth vs Reality

Perception of share of migrants in population

	Perception	Reality
United States	32%	13%
France	28%	10%
Spain	24%	12%
United Kingdom	24%	13%

Source: German Marshall Fund 2015

Ten challenges – elements for the Global Compact

Migrants

1. Risks: health, trafficking, abusive employers and recruiters
2. Exclusion, discrimination, xenophobic attacks
3. Family left behind (children and old parents)

Origin countries

1. Family left behind
2. Loss of skills

Receiving countries

1. Job competition for native workers
2. Congestion and fiscal costs of social services
3. [National security]
4. Integration of migrants [National identity]
5. Negative public perceptions

A Role for IFIs

1. Financing development projects
2. Addressing fundamental drivers
3. Maximizing benefits in line with the SDGS
 - Reducing recruitment costs
 - Reducing remittance costs
 - Improve data by migratory status
4. Knowledge for policy making and countering negative public perceptions

Roadmap for the Global Compact on Migration –for IFIs

- Migration diagnostic tool
- Knowledge and data
- Financing –p ilots
- Convening –f acilitate dialogue among states
- Need for innovative, game-changing solutions
- World Development Report?

Roadmap – for States

- Leverage Global Forum on Migration and Development, and Regional Communities and Processes
- Different, Coordinated, and Accelerated approach
- Game-changing ideas needed




Core Elements for the Global Compact

- Migrants safety, trafficking, abusive employers and recruiters
- Exclusion, discrimination, xenophobic attacks on migrants; Integration in host community; National identity
- Family left behind (especially children and old parents)

Core Elements for the Global Compact

- Loss of skills in origin countries
- Job competition for native workers in receiving countries
- Congestion and fiscal costs of social services



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