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**THE SOUTHERN
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MIGRATION MANAGEMENT
PROJECT

**Bilateral Labour Migration
Agreements (BLMAs)**



Bilateral labour migration agreements (BLMAs) and Memorandum of Understanding (MOU) can be useful migration governance tools to facilitate safe, regular and orderly labour migration between countries while addressing both labour market needs and the protection of migrant workers and can be more beneficial if they are based on social dialogue. They can be adapted to the particularities of specific groups of migrants, and both the sending and the receiving State can share the the responsibility of ensuring adequate living and working conditions as well as monitoring, and more actively managing, the pre- and post-migration processes.

It is first of all important to mention that there is a significant difference between Bilateral Labour Agreements (BLMAs) and Memoranda of Understanding (MOUs) on labour migration:

- Bilateral labour migration agreements (BLAs): refer to a format used when the migration agreements describe in detail the specific responsibilities of, and actions to be taken, by each of the parties, with a view to the accomplishment of their goals. BLAs create legally binding rights and obligations.
- Memoranda of understanding (MOUs): refer to a format entailing general principles of cooperation; they describe broad concepts of mutual understanding, goals and plans shared by the parties. MOUs are usually non-binding instruments.
- The value of such agreements has been recognized as facilitating and managing cross-border movement of temporary workers and protecting the rights of these migrant workers. However, the BLAs/MOUs can vary significantly in scope (in terms of the sectors and issues covered), the inclusion or lack of implementation and monitoring mechanisms, and their effectiveness which translates into different outcomes for the origin and destination countries and, very importantly, for migrant women and men. Currently available research/reviews indicate that only a small number of BLMAs/MOUs contain specific provisions concerning women or gender issues.

The UN Network's Thematic Working Group (TWG) on Bilateral Labour Migration Agreements co-led by the ILO and IOM produced **UN Guidance on Bilateral Labour Migration Agreements** in February 2022 to assist countries of origin and destination to design, negotiate, implement, monitor and evaluate rights-based and gender-responsive BLMAs, based on a cooperative and

multi-stakeholder approach. The TWG on BLMAs is comprised of representatives of UN agencies, employers' and workers' organizations, academia, and civil society organizations.

The BLMA guidance sets the criteria against which governments, workers' and employers' organizations, as well as other interested stakeholders, may assess existing practices. The guidance is based on the principles drawn from international human rights law and international labour law and standards, related UN and ILO instruments and other relevant sources and promising practices. As such, it could be used as technical guidance for the policy development and design of regulatory frameworks on BLMAs.

When BLMAs are developed, it is essential that they promote rights-based labour migration and give effect to workers' rights set out in international law and labour standards. The guidance contains a series of extracts from existing BLMAs. It should be noted that these examples are based on textual sources and do not necessarily constitute examples of good practices due to the lack of information and impact evaluations. Their inclusion should not be taken as an endorsement but are presented as practices used by governments as their means of addressing particular issues.

The African Union also produced **Guidelines on Developing Bilateral Labour Migration Agreements** in 2021 that includes a Standard Model Template for BLAs applicable to all African BLMAs and mentions the core content for rights-based and gender-responsive BLMAs.

The SAMM project has the objective of supporting SADC countries in the formulation and effective implementation of BLMAs and MOUs between countries of origin and countries of destination. Work will ensure the inclusion of labour protection provisions.

MAIN SAMM ACTIVITIES:

- **Technical assistance to MS on the development of rights-based and protection sensitive bilateral labour agreements and arrangements; Country case studies - Mauritius, Malawi, Namibia. Possible inclusion of Mozambique**
- **Bilateral exchanges between Member States to foster greater cooperation towards BLA and circular migration programmes; Country case studies - Mauritius, Malawi, Namibia. Possible inclusion of Mozambique**
- **Technical assistance to pilot MS on the development and implementation of repeated short-term labour migration programs (circular migration) with an ILO rights-based approach. SADC LMAP support and governance of LM at the SADC level - TCLM.**



Text Box 1: Criteria of BLMAs/MOUs that benefit both male and female migrant workers

Reviews of BLAs/MOUs have identified several criteria to benefit both male and female migrant workers:

- *Transparency and publicity:* Widely available access to and understanding of agreement texts is crucial for both male and female migrants and their employers as they list rights and obligations of both parties.¹ The provision of relevant information and avoidance of misleading propaganda is as important, if not more so, for women as for men.
- *Evidence of normative foundations and respect for migrant rights, based on international instruments:* Conformity with international norms relating to the human and labour rights of migrant workers. Universal values uphold equality of treatment and non-discrimination. Where there is specific reference in a BLA/MOU to the treatment of migrant workers no less favourable than that which applies to nationals of the destination country with respect to employment and working and living conditions, both male and female migrants can benefit.
- *Provision on commonly agreed criteria for the recognition of skills and qualifications and also for skills improvement.* Non-recognition almost inevitably leads to de-skilling and brain-waste for both male and female migrant workers. Processes for skills improvement are also important to prevent such deskilling and brain waste and also poor labour market integration and deterioration of working conditions for all workers.
- *Provision for free transfer of savings and remittances:* Both women and men benefit from provisions for migrant workers to freely remit their savings home.
- *Coverage of the complete migration cycle:* for both women and men migrants there are issues throughout the entire migration experience from pre-departure, transit, working abroad to return and reintegration that need to be taken into consideration and included in BLMAs or MoUs.

GCM RELATED PARAGRAPHS

GCM Objective 5 “Enhance availability and flexibility of pathways for regular migration” establishes that Member States commit to adopt options and pathways for regular migration in a manner that facilitates **labour mobility and decent work reflecting demographic and labour market realities**, optimizes education opportunities, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration.

To realize this commitment, Member States can draw from the following actions:

- (a) **Develop human rights-based and gender-responsive bilateral, regional and multilateral labour mobility agreements with sector-specific standard terms of employment in cooperation with relevant stakeholders, drawing on relevant International Labour Organization (ILO) standards, guidelines and principles, in compliance with international human rights and labour law;**
- (b) **Facilitate regional and cross-regional labour mobility through international and bilateral cooperation arrangements, such as free movement regimes, visa liberalization or multiple-country visas, and labour mobility cooperation frameworks, in accordance with national priorities, local market needs and skills supply;**
- (c) **Review and revise existing options and pathways for regular migration, with a view to optimizing skills-matching in labour markets and addressing demographic realities and development challenges and opportunities, in accordance with local and national labour market demands and skills supply, in consultation with the private sector and other relevant stakeholders;**

¹ It is not just a question of making the text of agreements accessible and understandable to the average migrant worker or the employer. The texts of the agreements should be disclosed publicly.



- (d) **Develop flexible, rights-based and gender-responsive labour mobility schemes for migrants, in accordance with local and national labour market needs and skills supply at all skills levels, including temporary, seasonal, circular and fast-track programmes in areas of labour shortages, by providing flexible, convertible and non-discriminatory visa and permit options, such as for permanent and temporary work, multiple-entry study, business, visit, investment and entrepreneurship;**
- (e) **Promote effective skills-matching in the national economy by involving local authorities and other relevant stakeholders, particularly the private sector and trade unions, in the analysis of the local labour market, identification of skills gaps, definition of required skills profiles, and evaluation of the efficacy of labour migration policies, in order to ensure market-responsive contractual labour mobility through regular pathways;**
- (f) **Foster efficient and effective skills-matching programmes by reducing visa and permit processing time frames for standard employment authorizations, and by offering accelerated and facilitated visa and permit processing for employers with a track record of compliance;**
- (g) Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin owing to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible;
- (h) Cooperate to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, such as desertification, land degradation, drought and sea level rise, including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible;
- (i) Facilitate access to procedures for family reunification for migrants at all skills levels through appropriate measures that promote the realization of the right to family life and the best interests of the child, including by reviewing and revising applicable requirements, such as on income, language proficiency, length of stay, work authorization, and access to social security and services;
- (j) Expand available options for academic mobility, including through bilateral and multilateral agreements that facilitate academic exchanges, such as scholarships for students and academic professionals, visiting professorships, joint training programmes and international research opportunities, in cooperation with academic institutions and other relevant stakeholders.

ILO AND IOM TOOLS:

1. ILO: **Bilateral Agreements and Memoranda of Understanding on Migration of Low-skilled workers: A Review**
2. ILO: **Gender sensitivity in labour migration-related agreements and MoUs.**
3. ILO Guidelines for Skills Modules in Bilateral Labour Migration Agreements;
[Directives relatives aux modules de compétences dans le cadre des accords bilatéraux sur les migrations de main-d'oeuvre \(ilo.org\)](#)
4. ILO: **Training Manual on the ILO Guidelines for Skills Modules in Bilateral Labour Migration Agreements;**
5. IOM: **Regional BLA Guideline for SADC Member States;**
6. IOM: **The Regional South South Labour Mobility Guide;**
7. IOM: **Bilateral Labour Migration Agreements in Two SADC Corridors.**
8. ILO-IOM **Towards Comprehensive Global Guidance on Developing and implementing Bilateral Labour Migration Agreements: Unpacking Key Obstacles to Implementation in the African Region (ilo.org)**
9. ILO-IOM **Bilateral Labour Migration Agreements in African Union Member States: Taking Stock and the Way Forward (ilo.org)**
10. ILO-IOM **Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region**
[Élaboration et mise en œuvre d'accords bilatéraux en matière d'emploi en Afrique | ITCILO](#)





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