Migration and Labour
Section 2.6

Topics:
- Labour Migration
- Issues and Policy for Receiving Countries
- Issues and Policy for Sending Countries
- Inter-State Cooperation
This Section reviews the relationship between migration policy and labour market policies. Topic One discusses the categorization of migrant workers and the causes and impacts of labour migration. Topic Two discusses issues and policy related to labour migration management from the perspective of receiving countries. Topic Three discusses issues and policy from the perspective of sending countries. Topic Four discusses forms of inter-State cooperation.

Learning Objectives
- understand the main components of labour migration
- better understand the role of labour migration in shaping migration policy
- increase your ability to develop migration policy that responds to labour market needs

Background
Approximately 60 to 65 million migrant workers, accompanied by as many dependants, are working in a State other than their own.

The last decade has seen an increase in the number of countries experiencing labour migration and a growing tendency for many countries to be both countries of origin and destination. A number of factors suggest that labour migration will be an increasingly important aspect of globalization, posing new challenges and opportunities for policy makers in terms of management of migratory flows.

For many people, the rights provided under international law for an individual to leave and return to his or her country of origin in order to work abroad may be the only basis for a livelihood strategy.
The decision to migrate for economic reasons can have both positive and negative consequences. Migrants may secure a better income, have access to better social services, and be able to provide a better education for their children or benefit from the enrichment of becoming a member of a transnational community at ease in different cultures. However, migration may also cause family disruption when family members have to stay behind, and may involve sacrificing a familiar lifestyle and becoming a “stranger” in a new country.

Labour migration is a trans-national process, and inter-State cooperation is essential for managing labour migration. The success of the migratory experience will depend partly on the migrant’s capacity to face the challenges of his or her new situation, but most of what the labour migrant will be able to achieve will depend on the approaches taken in the management of labour migration by both sending and receiving countries.

Labour migration policies differ from other migration policies directed at migration flows that may also have an impact on labour markets, for example refugee and family reunification, in the sense that they do not have humanitarian objectives but apply economic criteria with a view to responding to labour market needs. Governments at all points on the migration spectrum increasingly recognize the potential of regulatory mechanisms to maximize the positive impact of labour migration. Many sending and receiving countries are developing their regulatory capacities to manage labour mobility by considering the interests of respective governments, societies, and the migrant.

Countries have developed various types of admission policies to meet their labour market needs and priorities. These usually distinguish between several categories of workers according to the duration of their stay, their skills, and their legal status.

While demand for labour in receiving countries largely determines overall patterns of migration, sending states have adopted various approaches to foreign employment ranging from laissez faire to extensive involvement in the process. The rationale for state intervention and adoption of a foreign employment policy is usually to manage recruitment activities, to ensure that the rights and interests of migrant workers are respected, and to maximize the benefits for the economy from labour migration.

**Guiding Questions**

1. Where does your State fit on the continuum of sending and receiving countries?
2 Are current or planned migration policies appropriate for the issues facing your State’s labour market now and in the near term?

3 Is your State making the most of the opportunities offered by bilateral, regional, or multilateral mechanisms for cooperation in ensuring orderly migration of labour?

**Key Message**

Labour migration is a trans-national process and neither sending nor receiving countries are in a position to resolve all the issues alone. Inter-State cooperation in managing labour migration is essential and involves three levels: bilateral, regional, and multilateral.

Governments at all points on the migration spectrum increasingly recognize the potential of regulatory mechanisms to maximize the positive impact of labour migration. Many sending and receiving countries are developing their regulatory capacities to manage labour mobility by considering the interests of respective governments, societies, and the migrant.

**Terms and Concepts**

**Business travellers**
Foreigners admitted temporarily for the purpose of exercising an economic activity that is remunerated from outside the country of admission

**Contract migrant workers**
Persons working in a country other than their own under contractual arrangements that set limits on the period of employment and on the specific job held by the migrant. Once admitted, contract migrant workers are not allowed to change jobs, and are expected to leave the country of employment upon completion of their contract, irrespective of whether the work they do continues or not. Although contract renewal is sometimes possible, departure from the country of employment may be mandatory before the contract can be renewed.
Established migrant workers
Migrant workers who, after staying some years in the country of employment, have been granted permission to reside indefinitely and to work without major limitations in that country. Established migrant workers need not leave the country of employment when unemployed and are usually granted the right of being joined by their immediate family members, provided certain conditions regarding employment and housing are met.

Highly skilled migrant workers
Migrant workers whose skills subject them to preferential treatment regarding admission to a country other than their own, and therefore subject them to fewer restrictions regarding length of stay, change of employment, and family reunification.

Immigrating investors
Foreigners granted the right to long-term residence on the condition they invest a minimum amount in the country of destination or start a business employing a minimum number of persons in the country of destination.

Project-tied workers
Migrant workers admitted to the State of employment for a defined period of time to work solely on a specific project carried out in that State by the migrant workers’ employer. The employer is responsible for providing the resources needed to complete the project. The employer or an agent who may have acted as an intermediary must ensure that project-tied migrant workers leave the country of employment once the work is completed.

Seasonal migrant workers
Persons employed in a State other than their own for only part of a year because the work they perform depends on seasonal conditions.

Temporary migrant workers
Persons admitted by a country other than their own to work for a limited period in a particular occupation or a specified job. Temporary migrant workers may change employers and have their work permit renewed without having to leave the country of employment.
Labour Migration

Labour migration is generally defined as a cross-border movement for purposes of employment in a foreign country. However, there is no universally accepted definition of labour migration.

The term “economic migrant” is sometimes used as an equivalent to the term labour migrant or migrant worker. However, the two concepts may cover different categories. The term “labour migrant” can be used restrictively to only cover movement for the purpose of employment, while “economic migrant” can be used either in a narrow sense, which includes only movement for the purpose of employment, or in a broader sense that includes persons entering a State to perform other types of economic activities such as investors or business travellers.

Classification of labour migration is usually based on the duration of activities, as well as on the distinctions made by receiving countries in their regulatory framework where conditions of admission and stay are established.

Depending on the category, procedures of admission can be more or less cumbersome and conditions of stay more or less generous. Persons entering a country for job training are included in some labour migration classifications but excluded from others. Although the purpose of a trainee’s movement is not employment, some consider that these schemes should be included, because they are employment-based and can have important labour market implications.

The following “important points” and “need to know” points describe issues surrounding the causes and impacts of labour migration, the categorization of labour migrants, and international efforts to cooperate.

Important Points

1. International instruments such as the UN and International Labour Organization (ILO) Conventions use different definitions.

According to the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, a migrant worker is a person who is to be engaged, is engaged, or has been
engaged in a remunerated activity in a State of which he or she is not a citizen. A “migrant worker” is defined in the ILO instruments as a person who migrates from one country to another (or who has migrated from one country to another) with a view to being employed otherwise than on his own account, and includes any person regularly admitted as a migrant for employment.

While in the *United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* self-employed workers are included, they are not covered by the ILO instruments related to migrant workers’ protection.

2 The concept and definition of labour migration often reflects current national policy perspectives and varies between countries and over time. One reason for confusion about who falls under the category of “migrant worker” results from ambiguous definitions of “employment” or “remunerated activity” in the receiving country.

3 The *United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* simply refers to remunerated activity in a foreign country without specifying the source of remuneration. However, more restrictive stipulations are sometimes used. For example, the 1997 *UN World Population Report* states that the activities must be remunerated within the host country. This effectively excludes business visitors, treaty traders, or seconded foreign workers who continue to be paid in their country of origin.

4 The *General Agreement on Trade in Services* (GATS) does not consider the movement of service providers as labour migration. The distinction made in this international agreement is based on the fact that service providers do not compete for jobs in the labour market and do not hold a worker-employer relationship with the service importer in the receiving countries. Indeed, their relations are defined not by an employment contract but by a contract to deliver specific services.

Section 2.4, *Migration and Trade*, discusses the GATS.
What You Need To Know About...

The Causes and Impacts of Labour Migration

While the liberalization of international flows of goods, capital, and information is well underway, progress toward the freer movement of persons is harder to achieve. Indeed, the impact of migration on countries of origin and destination is more controversial, and States are more concerned about losing their sovereignty in this matter.

Labour emigration will continue and increase due to:

- differences in employment opportunities and living standards between countries
- increased education and broader access to information on living conditions and employment opportunities abroad
- established inter-country networks based on family, culture, and history.

On the demand side, changing demographics and labour market needs in many industrialized countries will put pressure on many governments to consider more open approaches to labour migration.

The impact of labour migration varies from country to country. Economic migration can have different effects resulting from the volume, composition, and characteristics of the migratory flows as well as the context in which the flows take place.

Impacts will also vary depending on the skill level, geographical source, employment situation, age, and gender of the migrants. Other variables are the duration of stay, the organized or spontaneous nature of the movements, their legal or irregular character as well as the stages of development, and the demographic and labour market conditions in both sending and receiving countries.

Labour migration may have enormous potential for countries at both ends of the migration spectrum. For countries of origin, in addition to the possibility of providing some relief from unemployment and absorbing an increase in the labour force, it can provide a form of developmental support, especially through remittances, transfer of know-how, and creation of business and trade networks. For receiving countries facing labour shortages, immigration can alleviate labour scarcity, facilitate occupational mobility, and add to the human capital stock of the receiving countries. In the context of demographic changes, labour migration can help receiving countries to maintain workforce levels.

Section 2.3, Migration and Development, discusses migration and development.
Apply What You Have Learned

1. What are the different categories of migrant workers identified in the admission policy of your State?

2. Are different admission criteria applied to different categories of labour migrants in your State?

3. Based on your country’s experience, what are the positive and negative aspects of labour migration?

4. What positive potential does labour migration offer to your State?
Topic Two

**Issues and Policy for Receiving Countries**

On the demand side, i.e., in receiving countries, changing demographics and labour market needs in many industrialized countries will put pressure on many governments to consider more open approaches to labour migration. The key issues for receiving countries to consider are revealed by these questions:

- How will the need for foreign labour and protection of the local workforce be determined?
- What type of admission and post admission policies should be in place?
- What rights should be provided to foreign workers who are admitted into the country, and how can the integration of newcomers be achieved?
- How can irregular migration in response to the demand for labour be avoided?

The “important points” and “need to know” points that follow address each of these issues.

**Important Points**

1. Immigration is one of a number of mechanisms available to policy makers to respond to potential labour shortages. The decision to recruit migrant workers is usually a response to an assessment that the resident labour reserve is insufficient, lacking in skills, or simply not easy to rapidly mobilize to meet labour demand.

2. Additional responses to potential labour shortages include:
   - increasing the participation in the labour market of specific groups, including women and immigrants
   - shifting the retirement age
   - encouraging geographic mobility.

3. Labour shortages are difficult to measure, and it seems that demand for foreign workers is rarely established on the basis of projections, but rather on the basis of current reported difficulties in filling labour market needs (employers’ surveys, vacancy tests, etc.). Yet, however imperfect employ-
ment projections may be, projections of mid-term and long-term labour market needs can be useful for immigration policy makers as well as for countries of origin seeking to respond to the international labour market demand.

What You Need To Know About...

*Regulating the Number of Foreign Workers and Protecting the Local Workforce*

Some countries have adopted a laissez-faire approach by which the inflow of foreign workers is largely determined by employers’ demand for foreign workers. Others have introduced instruments to regulate the number of foreign workers.

The goal of regulations on the number of foreign workers is usually twofold: to meet labour market needs while avoiding unemployment among labour migrants as well as avoiding negative impacts on the local workforce.

The three main mechanisms, sometimes used in combination, are quota and ceilings, labour market tests, and special fees. The difference between quotas and ceilings is that ceilings are indicators that describe a desirable target, but do not necessarily need to be met as is the case for quotas. Some countries, for example, Canada, have worked with more flexible terms like “indicative levels”.

*Quotas* can be set for the country as a whole, for the country’s regions or administrative districts, for certain sectors of the economy, for specified occupations, and/or for individual employers or enterprises.

The main advantage of quotas is the establishment of a clear framework that also reassures public opinion. However, quotas can sometimes be too rigid. This is especially true when overall quota levels are set in Immigration Legislation with no possibility for fluctuations to reflect inevitable changes in the labour market. Similarly, when quotas are set annually, they may be out of step with actual labour market needs at the time of their implementation.

The level of quotas is decided by public authorities through a process that also takes political considerations into account. Quotas can be established in consultation with stakeholders that include trade union representatives, employers associations, or regional administrations. Quotas can be based on rational criteria, for example, the general employment situation or labour shortage estimates in
In labour market test procedures, the petitioner, normally the prospective employer, is required to demonstrate to the government that no eligible workers are available for the job. Eligible workers are usually citizens, but some States also give preference to foreign residents or to citizens of certain countries, for example, from one particular region. The employer can be required to publish a job vacancy and demonstrate that after a certain period of time no suitable application has been received.

Labour market tests may be used at the individual level, or on regional or State levels.

One way of selecting foreign workers while also protecting the local labour force is to test each application against the available pool of eligible workers interested in the job opening. The value and efficiency of processes that rely on case-by-case assessments have been questioned in terms of methodology and administrative cumbersomeness.

Some countries have decided to establish State or regional level occupation lists for which the authorities have determined that there are insufficient eligible workers able, willing, qualified, or available for employment. This procedure removes or alleviates the individual test requirements for such categories.

### Example

In labour market test procedures, the petitioner, normally the prospective employer, is required to demonstrate to the government that no eligible workers are available for the job. Eligible workers are usually citizens, but some States also give preference to foreign residents or to citizens of certain countries, for example, from one particular region. The employer can be required to publish a job vacancy and demonstrate that after a certain period of time no suitable application has been received.

Some countries also require the employer to show that the recruitment of the foreign citizen will not depress the wages and working conditions of other workers in similar jobs.

Governments can consider imposing a fee on employers for each foreign worker employed as a test of the real need to recruit a foreigner over a local person. This would be in addition to any fee covering administrative costs. This increase in the cost for employers of recruiting foreigners is supposed to act as a disincentive and to protect local workers. Such fees can apply to the recruitment of all foreign workers, or to certain categories (unskilled workers, etc), or to certain sectors or regions. The revenues thus accrued are sometimes dedicated to training the local workforce.
A policy to protect the local workforce may include legislative provisions that ensure that migrant workers are employed under the same conditions as domestic workers in terms of working conditions, remuneration, and social security.

What You Need To Know About...

Admission and Post Admission Policies in Respect of Migrant Workers

States have developed labour migration systems that can be broadly categorized as demand driven or supply driven.

In demand-driven systems, employers request permission to hire the foreign workers, thereby triggering a decision to admit the migrant.

In supply-driven systems, the migrants themselves launch the admission process and can apply without necessarily having a job offer.

Example

An example of a supply-driven admission system is the “point assessment system” where admission is conditional upon attaining a certain number of points gained for qualifications, experience, and personal abilities.

Several States grant certain groups, such as diplomats, journalists, spiritual advisors, and airline crews, the right to enter the country and to work without holding either a work or residence permit. Some States offer the possibility for young persons from selected countries to work while on holidays.

States usually distinguish between several categories of workers according to the duration of the stay, their skills, and their legal status in the admission framework. Authorization to work may be granted for a short duration with the possibility of renewal, for longer periods with the possibility of renewal, or for permanent settlement.

Management of labour migration may make use of three types of authorization: an entry visa, a permit to engage in paid activities, or a permit of stay. National policies may also need to reflect commitments contained in regional agreements.
States are relying more and more on the flexibility provided by temporary admission because future labour market needs are difficult to forecast accurately. This is also seen as a means of containing political, economic, and social difficulties related to integration.

Experience has shown that it is difficult to ensure that temporary migration remains temporary. States increasingly resort to incentives for return such as including reintegration support in the country of origin in temporary migration programmes, or facilitated re-entry to the host country for the purpose of future employment after return.

When the economic demand is long-term, temporary schemes can prove costly both for the employer requesting repeated recruitment and for the public administration managing the temporary admission policies. All these costs, as well as the long-term economic demand, should be taken into consideration when determining the duration of stay granted to migrant workers.

The traditional immigration countries (Australia, Canada, and United States) have long offered the possibility for migrant workers to apply directly for permanent residence. Other countries (notably in Europe) require that labour migrants wishing to stay permanently first apply for temporary status, and later, if they meet the criteria, change to a more permanent status. Temporary admission is thus not necessarily equivalent to temporary stay.

States generally are more reluctant to create opportunities for less skilled workers, and when they do, entry is often limited numerically through quotas/ceilings. The emphasis is on short-term employment, and the conditions offered are less advantageous than those for skilled workers, in terms of entry and legal status.

The highly skilled usually benefit from facilitated entry, the possibility to change status to permanent migration, and family reunification (when these possibilities are not available up front).

Section 2.5, Migration and Family, discusses issues related to family reunification.

It is generally accepted that the economic and social rights of migrant workers can be limited temporarily and according to the length of stay. The rights involved are primarily freedom to choose one’s place of residence and one’s employment, family reunion, and access to social benefits.

Some States tie a temporary work permit to a specific job with a specific employer, or impose geographical restrictions (right to live and work only in a certain area). These restrictions are not generally applied to holders of long-term or permanent status. To be permitted family reunion, migrant workers often need to hold a long-term residence permit. Indeed, seasonal workers, or foreign workers admitted for short-term assignments, usually do not benefit from this right.
What You Need To Know About...

**Integration of Migrant Workers**

Integration of immigrants is not only a question of social cohesion but also of economic efficiency. The admission of migrants for employment requires a substantial strengthening of integration policies for immigrants residing legally on the territory.

Access to social benefits will normally depend on the length of stay and the length of employment of the migrant worker. A minimum contribution to the social security scheme may be required before the migrant worker is entitled to more than basic welfare rights.

Section 3.6, Integration of Migrants, discusses the process and mechanisms of Migrant Integration.

What You Need To Know About...

**The Significance of Irregular Migration for Labour and Labour Markets**

It is difficult to assess whether opening up legal channels for migrant workers helps to stem irregular migration. Where demand for foreign workers is high, and no proper legal channels exist, movements are more likely to occur irregularly.

Left unattended, illegal migration challenges the legitimacy of the government, fuels xenophobia, increases anxiety about foreigners, and undermines the integrity of any immigration regime.

While traditional means of combating irregular migration through entry and border controls continue to be applied, migrant receiving countries are increasingly trying to strengthen the role of countries of origin in decreasing irregular migration by fostering bilateral agreements on return of irregular migrants combined with provision for some access to labour markets.

Sanctions against employers can play an important role in deterring illegal employment of foreigners. Employers are often expected to police the employment sector. However, their willingness to ensure that only authorized persons are employed varies depending on the employment sector, the profitability of the industry as a whole, the profitability of an individual company, and the size and nature of a company. In many cases, employer sanctions have failed because of the lack of political will to enforce them.
Apply What You Have Learned

1. Which of the issues for receiving countries described in this Topic are relevant in your setting?

2. How does your State balance the need to recruit foreign workers and the need to protect local workers?

3. What type of admission policy does your State have for labour migrants? Do you have both temporary and permanent entry channels? Are both skilled and unskilled categories of foreign workers covered?

4. What rights should be provided to foreign workers who are admitted into a country?

5. How can the integration of labour migrants be achieved?

6. What measures are currently implemented in your country to avoid irregular migration?

7. Does your State use ceilings and quotas? If no, would these be options worth considering? If yes, how are they determined in your setting?
Topic Three

Issues and Policy for Sending Countries

The key issues for sending countries to consider are revealed by these questions:

- What type of regulatory framework on emigration should be in place, and what should be the role of the State and of the private sector?
- How should the protection of migrant workers’ rights, especially of particularly vulnerable groups, for example, women, low-skilled workers, and migrants in an irregular situation, be achieved?
- How can the positive impact of migration on the economies of sending countries be maximized?

What You Need To Know About...

Regulating Labour Emigration

Sending countries usually acknowledge the fact that policies aimed at limiting emigration often result in increased irregular migration.

A more efficient approach is to manage emigration in a way that benefits migrants, their families, and the economy alike. While many developing countries have adopted laws and regulations for the recruitment of their nationals for employment abroad, the level of intervention of the State and the role left to the market vary widely.

The International Labour Organization distinguishes three main approaches to intervention. Lack of data impedes the ability to assess the success of these different policy approaches.

1 In a regulated system, the State elaborates legislation and regulations on recruitment for employment abroad and identifies proscribed recruitment practices. While recruitment occurs either directly or via private agencies, the State supervises the process by screening
the job offers, regulating mediation by recruiters, setting up minimum standards for employment contracts, and requesting emigration clearance for certain categories (usually lower skilled workers).

2 In a State-managed system, the State regulates foreign employment and sets up State enterprises to recruit and place workers abroad. The State is involved in human resource development planning that is oriented toward external demand and that actively promotes foreign employment in occupations and countries where conditions of employment are advantageous. The State can also encourage domestic corporations to export labour services or to engage in foreign contracting by means of subsidies such as tax exemption.

3 In a State monopoly system, the State assumes full responsibility for organizing labour migration. Foreign employers have to negotiate the recruitment of workers with a State corporation, which may act either as a contractor for services or as a supplier of labour.

What You Need To Know About...

*The Protection of Migrant Rights and Interests*

Many States direct protection measures to more vulnerable groups, for example, lower skilled workers and women workers. Migrant workers can face a variety of problems during the migratory process. The migration of highly skilled workers is usually considered less problematic because of the types of jobs performed, the more favourable conditions of stay, and the superior education of skilled workers, all of which enables them to deal more successfully with difficulties.

Sending States need to consider, as much as possible, programmes and policies that could benefit the entire community. Compared to other persons in the countries of origin, migrant workers are sometimes seen as better off, and support services offered specifically to them can be perceived as privileged treatments for an already privileged group.

Policy interventions in countries of origin need to consider three broad aspects of labour migration: migrant recruitment, preparation for deployment overseas, and protection issues while citizens are abroad. Sending countries can set up minimum standards, which may not be enforceable in the receiving country but which will assist migrants in assessing the terms of their employment.

Some States have introduced standard/specified model contracts and negotiated with the employing countries to accept these as the minimum for all their workers abroad.
The Standard Employment Contract of the Philippine Overseas Employment Administration (http://www.poea.gov.ph/) illustrates standards that can be negotiated between a sending country and a receiving country. Some of the highlights are:

5. Regular Working Hours: Maximum of 8 hours per day, six days per week.

6. Overtime Pay:

7. Leave with Full Pay:
   a) Vacation Leave:
   b) Sick Leave:

8. Free transportation to the site of employment and in the following cases, free return transportation to the point of origin:
   a) expiration of the contract;
   b) termination of the contract by the employer without just cause;
   c) if the employee is unable to continue to work due to work connected or work aggravated injury or illness;
   d) force majeure; and e) in such other cases when contract of employment is terminated through no fault of the employee.

9. Free food or compensatory allowance of US$__________, free suitable housing.

10. Free emergency medical and dental services and facilities including medicine.

11. Personal life and accident insurance in accordance with host government and/or Philippine government laws without cost to the worker. In addition, for areas declared by the Philippine government as war risk areas, a war risk insurance of not less P100,000 shall be provided by the employer at no cost to the worker.

Philippine Representative
(Licensed Recruitment Agency)

Witness

Witness
Some States require prospective migrants to register their contract as a means to check if conditions are acceptable and meet fixed criteria.

Exit controls are also used to ensure that workers leaving the country have legitimate job offers and fulfil set criteria.

Other strategies include restriction on foreign employment of certain categories of persons, for example restricting women below a certain age from domestic employment.

In order to prevent malpractice in recruitment, standards for international recruitment and penalties as appropriate should be included in national legislation. Other instruments for monitoring the activities of private agents are licences based on a system of guarantees and penalties and regulations limiting recruitment fees that can be levied.

Support services, sometimes financed through a welfare fund paid into by the migrant workers and sometimes by employers as well, usually cover important aspects of labour migration, including:

- lowering the cost of emigration through a system of loan guarantees to broaden access to bank credit
- negotiation of flights and discounts with airlines
- information and counselling prior to departure
- negotiating bilateral agreements with receiving countries on social security and contributions to national schemes
- support to families left behind
- return and reintegration measures.

Protective measures must not inadvertently create incentives for irregular migration by being too lengthy, costly, and complicated.

What You Need To Know About...

*Increasing the Positive Impact of Migration on the Economies of Sending Countries*

An increasing number of developing countries and countries with economies in transition are adopting policies, legislation, and structures to promote the foreign employment of part of their workforce as a way to diminish unemployment and to increase their remittance share. This strategy must be
weighed against national development requirements, the potential benefits from transfer of technologies, and the possible negative impact on the local economy.

Brain drain is one of the major concerns of sending countries. Various approaches are being tried by governments to reduce the potentially negative effects of skilled emigration by focusing on prevention, compensation mechanisms, or mobilization of the diaspora as a development tool.

- Preventive approaches include taking external demand into account in human resource development planning and training more people than needed by the national economy.
- Compensation mechanisms can take the form of countries of destination helping to strengthen the capacity of countries of origin to better plan their labour emigration, and supporting pre-departure training of migrants, including language and skills upgrading, to improve their chances of securing better jobs and earnings.
- Sending countries are elaborating specific programmes to mobilize the human and financial resources of the diaspora for national development.

Section 2.3, Migration and Development, discusses additional measures related to migration and development.

Apply What You Have Learned

1. What approach does your State take to managing labour emigration?

2. What is being done to maximize the positive impact of migration on the economies of sending countries?

3. How is the “brain drain” issue impacting your State? What can sending States do to prevent the negative impact of “brain drain”?

4. How can sending States design successful policies to discourage irregular migration?

5. Which aspect of labour migration: migrant recruitment, preparation for deployment overseas, or protection while citizens are abroad, requires more policy development in your setting? What would you like to see happen?
Labour migration is a trans-national process and neither sending nor receiving countries are in a position to resolve all the issues alone. Inter-State cooperation in managing labour migration is essential and is manifested at three levels: bilateral, regional, and multilateral.

Section 1.7, International Cooperation, discusses international cooperation in several areas of migration management.

Important Points

1. Bilateral labour agreements are the most common mechanisms used to regulate inter-State labour migration. They formalize each side’s commitment to ensure that migration takes place in accordance with agreed principles and procedures. However, bilateral agreements can be difficult to conclude for two main reasons: lack of interest of some receiving countries, and the fear of sending countries that by setting too high a standard of protection, their nationals will be less competitive on the international labour market.

2. Within the framework of regional economic integration processes, migration policy is sometimes linked to economic and trade policy. Depending on the level of economic integration, labour-related movements are more or less facilitated to enhance economic convergence, discourage irregular migration, and regulate migration flows within the region. The difficulties in establishing a regional policy usually arise from the social and economic differences between countries, with countries with strong economies fearing any measures that could lead to an increase of labour migration flows.

Section 2.4, Migration and Trade, discusses these and other issues related to Migration and Trade.

3. At the multilateral level, there is no global agreement or convention in place to manage labour migration flows. However, a limited number of instruments cover specific aspects of cross-border mobility for economic purposes. The supply of services entailing temporary migration of persons, otherwise referred to as Mode 4, is one of the four ways of trading a service under GATS. Many developing countries would like to gain significant liberalization of the movement of natural persons,
especially toward middle- and low-skilled workers for which they have a greater comparative advantage due to the abundance in their labour force. However, the tendency of developed countries is to prefer to limit their multilateral commitments to upper categories such as intra-company transferees, business visitors, and highly qualified migrants.

4. Efforts by the international community to develop norms on labour migration through legally binding conventions have had limited success. The two ILO General Conventions on migrant labour (No.97 and No.143) have been ratified respectively by 42 and 18 States. The UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families came into force in July 2003. This represents a positive move toward greater protection for the rights of migrants, by providing a comprehensive set of standards for migrant workers in a single instrument, and recognizing the needs of undocumented migrants. However, the convention has, as of March 2004, been ratified by 25 countries, among which no major destination country. Ratification by destination countries, where most of the problems occur, is needed for the Convention to have the most impact.

Apply What You Have Learned

1. What bilateral, regional, and international labour agreements has your State ratified?

2. What links between economic integration and labour-related migration are reflected in your State’s policy?

3. How can your State benefit from the opportunities offered by bilateral, regional, or multilateral mechanisms for cooperation in ensuring orderly migration of labour?
Concluding Remarks

This Section examines the relationship between migration policy and the labour market needs and characteristics of sending and receiving countries. While the impacts and causes of labour migration can vary for countries, there are common benefits to be realized from cooperative management practices and international standards. Economic development combined with protection for migrants and disincentives for irregular migration will serve the interests of all States.

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