



International  
Labour  
Office

**Labour Migration Information-sharing  
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# **Global, Regional and SADC frameworks on Labour Migration**

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# Outline

- 1. International Labour Standards and Migration**
- 2. ILO Agendas at Global Level: Decent Work and Fair Migration**
- 3. Regional developments: The AU's MPFA (2006) and the JLMP (2015)**
- 4. SADC's new Labour Migration Policy Framework (2014)**

# 1. ILS AND MIGRATION

## LABOUR MIGRATION

Historical  
mandate of the  
ILO since  
inception (1919);

Instruments specific to  
the Protection of  
Migrant Workers:

- C97 (1949) and R 86 (1949);
- C143 (1975) and R151 (1975);



# 1. ILS AND MIGRATION

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## WHAT ARE INTERNATIONAL STANDARDS FOR MIGRANT WORKERS? HOW WERE THEY MADE?

**ILO Constitution, 1919** (as amended) – principles of social justice protecting all including

“...workers when employed in countries other than their own” and “labour is not a commodity” (Declaration of Philadelphia)

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**International minimum standards** ground and guide formulation of **labour migration policies** at various levels

C97 and R86 (1949)  
C143 and R151 (1975)

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**Monitoring of standards** essential to ensure compliance and improve national law and policy

CEACR; Art. 19

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International labour **standards discussed and agreed by governments, representative workers’ and employers’ organizations (ILO’s tripartite constituents)**

Governing Body

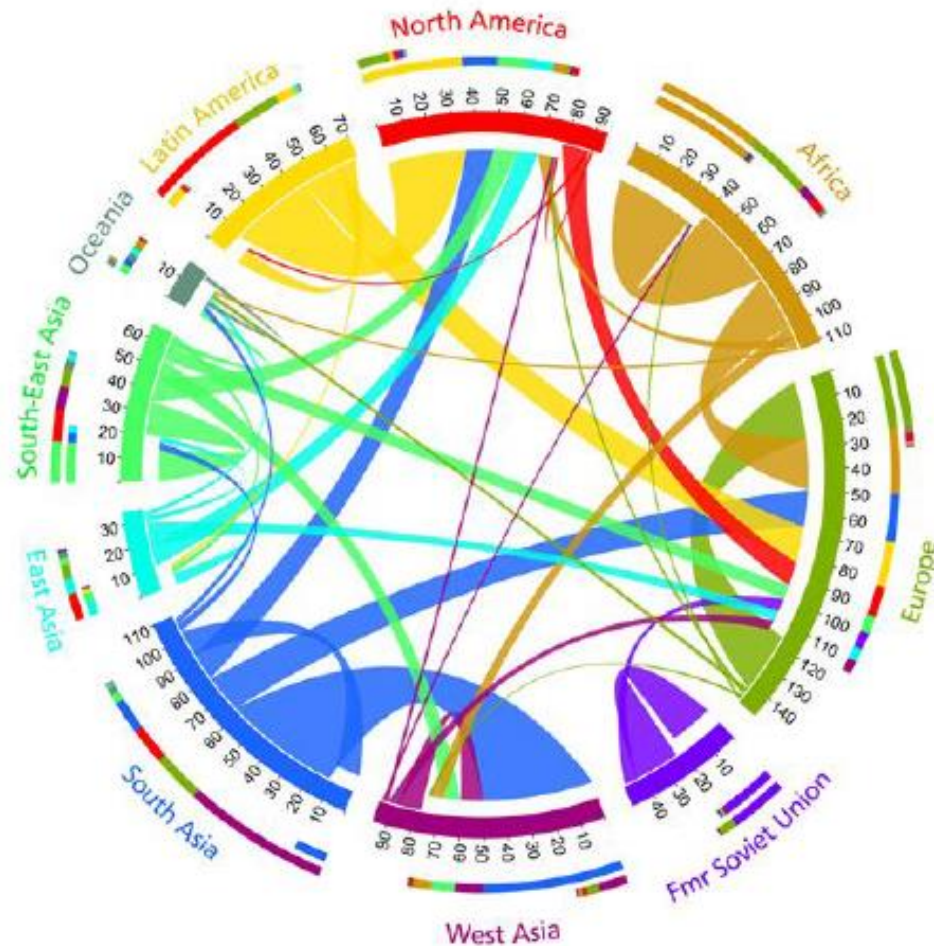
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# 1. ILS AND MIGRATION

**In principle, International Labour Standards cover all workers irrespective of nationality and immigration status unless otherwise stated**

**State prerogative to regulate access to territory and labour market**

## 2. ILO AGENDAS AT GLOBAL LEVEL: DECENT WORK & FAIR MIGRATION



Graphic by Nikola Sander. Data source: G. J. Abel and N. Sander, "Quantifying Global International Migration Flows", in *Science*, Vol. 343, 28 Mar. 2014.

## 2. ILO AGENDAS AT GLOBAL LEVEL: DECENT WORK & FAIR MIGRATION



### DECENT WORK:

- Agenda shaping all ILO interventions (2007);
- Decent Work Country Programmes: tripartite work plans; definition of priorities & objectives usually on 5-year cycle



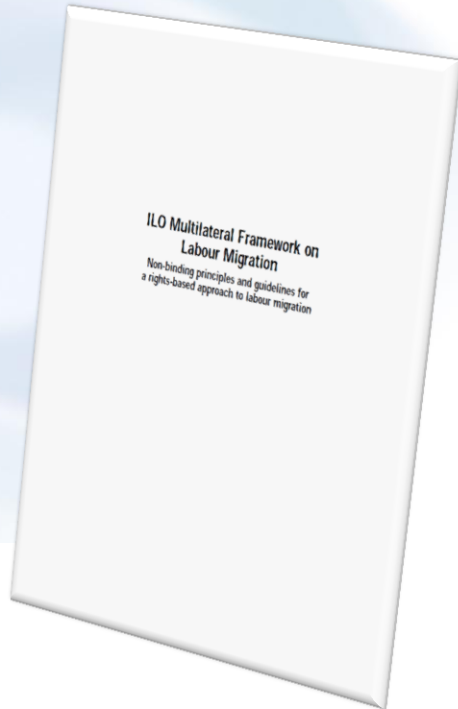
### FAIR MIGRATION:

- Multilateral **Framework** on Labour Migration (2006);
- Tripartite **technical consultation** of 2013;
- Fair Migration **Agenda** of 2014





## 2. ILO AGENDAS AT GLOBAL LEVEL: DECENT WORK & FAIR MIGRATION



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## 2. ILO AGENDAS AT GLOBAL LEVEL: DECENT WORK & FAIR MIGRATION



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## **2. ILO AGENDAS AT GLOBAL LEVEL: DECENT WORK & FAIR MIGRATION**

### **Post-2015 Sustainable Development Goals (SDGs):**

**GOAL 8 – Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all**

**8.8 protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment**

**GOAL 10 – Reduce Inequalities Within and Among Countries**

**10.7 facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies**

### 3. REGIONAL DEVELOPMENTS: THE AU'S MPFA (2006) AND THE JLMP (2015)

#### African Union Migration Policy Framework for Africa (2006)

- National Labour Migration Policies, Structures and Legislation
- Regional Co-operation and Harmonization of Labour Migration Policies
- Labour Movement and Regional Economic Integration

#### Ouaga + 10 Plan of Action (2004-2014): Labour migration (one of the action priorities)

Implementation of the labour migration component of the AU Migration Policy Framework for Africa: The ILO, IOM and UNECA in collaboration with the AUC have developed a **Joint Programme on Labour Migration Governance (JLMP)** adopted at the 24th Summit of Heads of State of the African Union (30-31 January 2015)

### 3. REGIONAL DEVELOPMENTS: THE AU'S MPFA (2006) AND THE JLMP (2015)

24th Summit of Heads of States and Governments: Adoption of AU Declaration on Employment, Poverty eradication, Inclusive development in Africa.  
Doc. Assembly (AU/20/XXIV)

-  12. **IMPLEMENT** the commitments in the present Declaration, its Plan of Action and Follow-Up Mechanisms, as well as **ADOPT** for implementation: (a) the Labour Migration Governance for Development and Integration; (b) and the Public-Private Partnerships Framework for Jobs Creation and Inclusive Development annexed herewith;
-  14. **REQUEST** the Commission in collaboration with the AfDB, ILO, ECA, UNDP and other key international partners to develop a Five Year Priority Programme to ensure the implementation of the Declaration, its Plan of Action and Follow-Up Mechanism, the Labour Migration Governance Strategy with international partners and the Public-Private Partnerships Framework for Jobs Creation and Inclusive Development;

### **3. REGIONAL DEVELOPMENTS: THE AU'S MPFA (2006) AND THE JLMP (2015)**

#### **Recent developments:**

- **March 2015: Kigali Roundtable on Labour Migration and Regional Integration**
  - Technical meeting for definition of RECs' priorities for the JLMP
  
- **April 2015: 1st meeting of the AU- Specialized Technical Committee meeting on Social Development, Labour & Employment**
  - Adoption of First Five Year Priority Programme
  - Adoption of ToRs of Labour Migration Advisory Committee

# 3. REGIONAL DEVELOPMENTS: THE AU'S MPFA (2006) AND THE JLMP (2015)



## 1. Strengthened governance and regulation of labour migration and mobility in Africa

- 1.1 Increased ratification and domestication of key international standards on labour migration
- 1.2 Implementation of free circulation regimes in RECs and adoption of national policy
- 1.3 Expanded engagement of labour institutions and social partners in labour migration governance
- 1.4 Tripartite Policy Dialogue and coordination at national, REC and Continental level

## 2. Operational implementation of law and policy

- 2.1 Decent Work for migrants with effective application of labour standards
- 2.2 Extension of Social Security coverage to migrants
- 2.3 Resolution of skills shortages and increased recognition of qualifications
- 2.4 Obtaining and utilization of relevant and comparable labour migration and labour market data





# 4. SADC frameworks and processes

1. ILO – SADC Decent Work Programme 2013-2019 (2012);
2. SADC Action Plan on Labour Migration (2013);
3. SADC Labour Migration Policy Framework (2014);
4. SADC Employment and Labour Protocol (Art. 3.f and Art.19) (2014)

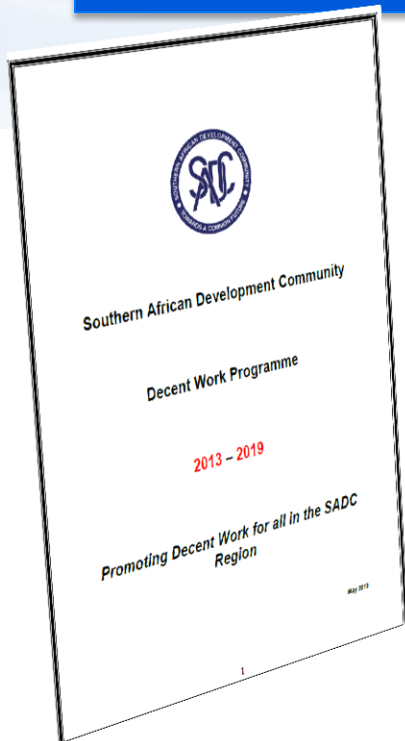
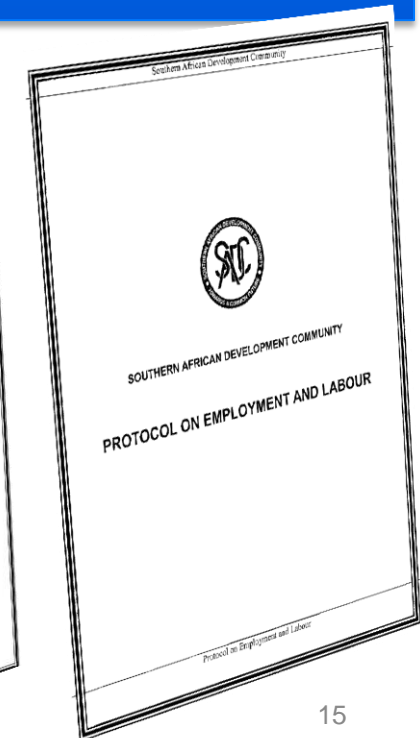


TABLE 2: THE SADC LABOUR MIGRATION ACTION PLAN 2013-2019 IMPLEMENTATION STATUS AS AT FEBRUARY 2015

Goal / Outcome / Objective	Harmonized Regional Labour Migration Policy that Protects and Guarantees Equal Rights and Access to Decent and Productive Work for Migrant Workers	Member States	Activities	Time Frame	Responsible Parties	Status
Outcome 1: Availability of migration LMIS indicators or migration indicators established	1. Identify Labour Migration indicators to be included in the LMIS	Member States / ILO and SADC Secretariat		2013		Indicators have been identified within the context of the work being developed by Member States (update with support from ILO)
Outcome 2: Migrant Workers to have access to Social Benefits and Health Services and completion of data access barriers	2. Develop a standardised template for data collection pertaining to labour migration	Member States		2013		
	3. Produce national reports to be submitted to SADC Secretariat	Member States		2014		
Objective 1: Inter-Regional Referral system established and harmonized	1. Develop a database pertaining to primary health / HIV related ITS and occupational exposures	Member States / ILO		2015		As a result of a series of regional projects to assist in the development of a common regional health and occupational exposure database, the database is supported by the Inter-Regional Referral System (IRRS) and the Inter-Regional Management System (IRMS) developed by the SADC Secretariat. The database has supported a research project on occupational exposures and health outcomes in the region.
	2. National OSH policies in line with the relevant ILO Conventions developed	Member States		2014		





# 4.1 ILO – SADC Decent Work Programme 2013-2019 (2012)

## 1.1.9 Protection of Migrant Workers

The SADC Protocol on the free movement of peoples and goods takes into account the relevant ILO conventions relating to labour migration. SADC should promote the ratification and domestication of the following conventions to better protect migrant workers:

*C97 Migration for Employment Convention (Revised) 1949*

*C143 Migrant Workers (Supplementary Provisions) Convention 1975*

*C 181 Private Employment Agencies Convention, 1997*

### **6 major challenges identified:**

- a. Rapidly changing flows;
- b. Increasing migration pressure to South Africa and Botswana;
- c. Brain drain and skills shortage
- d. Irregular migration and informalisation of labour migration
- e. Migrants' access to social protection
- f. Need for harmonisation of legislations and policies across SADC

# 4.2 SADC Action Plan on Labour Migration (2013)



## 7 major outcome areas

1. Harmonisation and availability of statistical data on LM across SADC member states;
2. Migrant Workers to have access to Social Benefits and Health Services and continuum of care across borders
3. Improved mechanism for remittance transfers across SADC Region
4. **Harmonised labour migration policy and legal framework in SADC**
5. **Fundamental rights of migrant workers harmonised in SADC Member States**
6. Pension and social security in both private and public social security schemes harmonised in the SADC region
7. **Institutional mechanisms for management and coordination and Partnerships on labour migration established**

TABLE 2: THE SADC LABOUR MIGRATION ACTION PLAN 2013-2015 IMPLEMENTATION STATUS AS AT FEBRUARY 2014

Outcome	Activity	Time Frame	Member States / Actors responsible	Status
Outcome 1: Availability of Data and Statistics on Migration among Member States	1. Identify Labour Migration Indicators to be included in the LMS	2013	Botswana Working Group	Indicators have been identified within the context of the draft labour migration protocol developed in December 2013
	2. Develop a standardised template for data collection pertaining to labour migration	2013	Member States / ILO/ IOM and SADC Secretariat	A SADC Labour migration model for labour force survey has been developed by Member States in December 2013
	3. Finalise Biennial reports to be submitted to SADC Secretariat	2014	Member States	A SADC Labour migration model for labour force survey has been developed by Member States facilitate with support from
Outcome 2: Migrant Workers to have access to Social Security and Health Services and continuum of care across borders	1. Develop a database pertaining to primary and occupational exposures	2014	Member States / ILO/ IOM/ SADC Secretariat	An initiative of piloting a regional approach to address TB in countries (South Africa, Lesotho, Swaziland and Mozambique) has been supported by the World Bank and other international development agencies (UNWATS, ILO, and Stop TB Partnership). The initiative has developed a framework for harmonised management guidelines to standardise the treatment, care and service provision for nonworkers in the four Member States.
	2. Finalise relevant ILO Conventions pertaining toOSH	2014	Member States	
Outcome 3: Harmonised Regional Labour Migration Policy that Protects and Guarantees equal Rights and access to Decent and Productive Work	1. Develop a database pertaining to primary and occupational exposures	2014	Member States / ILO/ IOM/ SADC Secretariat	An initiative of piloting a regional approach to address TB in countries (South Africa, Lesotho, Swaziland and Mozambique) has been supported by the World Bank and other international development agencies (UNWATS, ILO, and Stop TB Partnership). The initiative has developed a framework for harmonised management guidelines to standardise the treatment, care and service provision for nonworkers in the four Member States.
	2. Finalise relevant ILO Conventions pertaining toOSH	2014	Member States	

# 4.3 SADC Labour Migration Policy Framework (2014)



## Section 3:

### Objectives

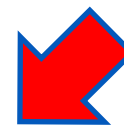
#### 3.1 Development Objective

The policy framework seeks to promote sound management of intra regional labour migration for the benefit of both the sending and receiving countries as well as the migrant workers.

#### 3.2 Specific Objectives

3.2.1 The regional labour migration policy framework seeks to promote:

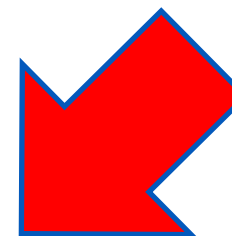
- i. regular migration in the region
- ii. development and implementation of national labour migration policies
- iii. development and conclusion of multilateral and bilateral labour agreements
- iv. Protection of migrant workers rights at the workplaces and in the communities
- v. Harmonisation and standardisation of national labour migration policies
- vi. integration of the intra –regional labour migration data into the SADC LMIS



# 4.3 SADC Labour Migration Policy Framework (2014)

## Section 5

### Policy Areas



#### **5.1 National Labour Migration policies**

5.1.1 Member States should strive to put in place national labour migration policies that are consistent with relevant national policies and legislation as well as the SADC, AU, UN and ILO Instruments.

5.1.2 Member States should strive put in place Labour Migration Policies which should include the following:

#### **5.1.3 Migration and development**

- i. Mainstreaming migration in national policies
- ii. Generating evidence on economic contribution of labour migration
- iii. Incentivising productive investment of remittances in source countries
- iv. Mitigating cost of loss of scarce and critical skills
- v. Promoting transfer of skills, capital and technology by migrant workers

#### **5.1.4 Enabling, facilitating and managing the migration process**

- i. Identification of workers and skills required and available
- ii. Harmonisation and recognition of educational and training qualifications
- iii. Exchange of information, cooperation and coordination between states

## 4.3 SADC Labour Migration Policy Framework (2014)

### **Policy areas:**

5.1 National Labour Migration Policies: Contains 5 sub-sections; rights-based and protection oriented; practical reforms of inspectorates

5.2 Bilateral and Multilateral Agreements: Without derogating to the spirit of the framework; encouraged

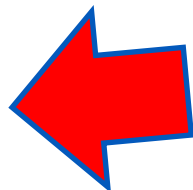
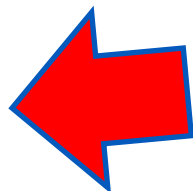
5.3 Migration Data: Creation of National Labour Migration data banks.

## 4.3 SADC Labour Migration Policy Framework (2014)

### Section 6

#### Implementation, Monitoring and Evaluation mechanisms and Roles of Partners

- 6.1 The SADC ELS Committee of Ministers and Social Partners on its own or in a special sitting with the Ministers responsible for Home Affairs should every second year assess the progress towards the achievement of the objectives and realisation of the goals set out in this framework;
- 6.2 Member States and Social Partners (constituents) should provide and allocate resources and expertise to formulate and implement policy and regulatory instruments necessary to implement the SADC Labour Migration Policy Framework;
- 6.3 The Secretariat shall upon request or acting on its own initiative mobilise resources for national and regional programmes aimed at pursuing the goals set out in this framework; and
- 6.4 Development Partners such as the ILO and IOM are expected to provide the technical and financial support as well as capacity building needs to the operationalisation of the SADC Labour Migration Policy Framework.



# 4.4 SADC Protocol on Employment and Labour (2014)

## ARTICLE 3

### GENERAL OBJECTIVES

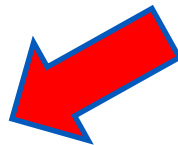
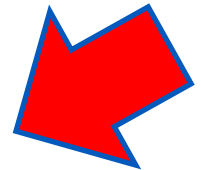
- (f) create a legal and policy framework for labour migration within SADC through harmonised labour and social security legislation, in the context of ILO Conventions on migrant workers and African Union policy documents;

## ARTICLE 19

### LABOUR MIGRATION AND MIGRANT WORKERS

In accordance with African Union and ILO instruments on migration, State Parties shall endeavour to:

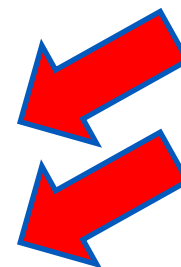
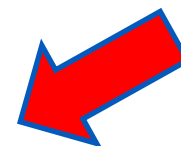
- (a) improve migration management and control, and strengthen mechanisms to combat smuggling and human trafficking;
- (b) create a favourable climate to facilitate and encourage the return to and/or participation of emigrants in the development of the country of origin;
- (c) ensure that fundamental rights are accorded to non-citizens, in particular labour/employment and social protection rights;
- (d) adopt measures to provide for the special needs of migrant women, children and youth;





## 4.4 SADC Protocol on Employment and Labour (2014)

- (e) harmonise national migration legislation and policies; and adopt a regional migration policy in accordance with international conventions to ensure the protection of the rights of migrants;
- (f) adopt measures to facilitate the coordination and portability of social security benefits, especially through the adoption of appropriate bilateral and multilateral agreements providing for equality of treatment of non-citizens, aggregation of insurance periods, maintenance of acquired rights and benefits, exportability of benefits and institutional cooperation;
- (g) develop mechanisms, services and effective financial products to facilitate the transfer of remittances by migrants;
- (h) ensure coherence between labour migration, employment policies and other development strategies within the member states;
- (i) reach an agreement on a common approach towards immigration within the Region;
- (j) establish an autonomous regional agency to address cross-cutting issues pertaining to social protection such as: streamlining and facilitation of portability of social security benefits across borders; stipulating applicable regional minimum standards; and regulating institutional mechanisms that guarantee relevant entitlements, rights and obligations across borders; and
- (k) promote labour migration data collection, analysis and exchange at regional and national levels.



## 4. SADC Member States update

**3.1 IOM-ILO agreement to collaborate on Namibia, Swaziland, Zimbabwe, Lesotho**

**3.2 ILO leading on South Africa: 2 meetings (Jan-Feb 2015)**

**3.3 Need to explore opportunities to create synergies at sub-regional level:  
Botswana, Zambia, Tanzania, Madagascar, Mauritius, Mozambique?**

### **Practical work:**

- **Assess opportunities for LM policy development; alignment to ILS standards and ratification of ILO Conventions;**
- **BLAs:** reviews, updates, alignment to ILS and sub-regional frameworks, particularly in terms of protection of migrant workers whether in-migrants, or out-migrants (LM export policies)
- **Social dialogue: need to mainstream migration in social dialogue mechanisms**
  - Setting up of sub-committees in existing social dialogue labour mechanisms;
  - Or mainstreaming of labour issues within existing immigration policy mechanisms;
  - Or... possibly setting up of new entities: interministerial



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