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## COUNCIL OF GLOBAL UNIONS STATEMENT TO THE GLOBAL FORUM ON MIGRATION AND DEVELOPMENT AND THE CIVIL SOCIETY DAY OF THE FORUM BRUSSELS, 9-11 JULY 2007

### ***SOCIAL DIALOGUE AND A RIGHTS-BASED FRAMEWORK – AT THE HEART OF MIGRATION POLICY***

## INTRODUCTION

### **Shaping sustainable migration policies – the challenge of our times**

1. Addressing labour migration has undoubtedly become a pressing issue not only for governments, but also for a broad range of societal actors in the north as well as the south: private sector entities, trade unions, migrant and diaspora associations, and intergovernmental bodies. It is clearly one of the global issues of our time. The weakening of labour markets of the south with the onset of globalization and rising unemployment are important push factors fuelling both north/south and south/south migration. Ageing and declining populations and the need to fill labour market shortages in various sectors constitute some of the pull factors in receiving countries. While in 1970 there were 82 million international migrants (counting people who had lived outside of their country of origin for more than one year), this figure rose to 175 million in 2000; and currently, there are close to 200 million migrants in the world. Almost half of these migrants are women, and Europe, Asia and North America are the most popular destinations for migrants.

2. A look at global unemployment figures is instructive in coming to grips with the scale of the migration for labour phenomenon. The Director General of the ILO talks of a veritable jobs crisis, and estimates that the global economy needs to create 400 million jobs within the next ten years, otherwise the push factors motivating economic migration will most probably intensify. The international community is faced with the challenge of figuring out how to shape a policy environment that facilitates orderly migration with positive outcomes for sending and receiving countries, and for migrants themselves. As representatives of all workers including migrants, and as defenders of their rights and interests, the International Trade Union Confederation (ITUC) and the Global Union Federations (GUFs), must be an integral part of that policy dialogue. It is for this reason that the Council of Global Unions welcomes the decision of the Belgian government to host the first Global Forum on Migration and Development (GFMD) as a follow-up of the decision of the UN High Level Dialogue of September 2006, along with the Civil Society Day on 9 July, just prior to the Forum.



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## Social dialogue and a rights-based approach – the corner stones for migration policy

3. Trade unions are concerned, however, at the limited opportunities provided for their engagement with governments present at the GFMD on the critical issues of labour migration which they will be discussing under the following three broad headings:

- Human capital development and labour mobility
- Increasing the net volume and value of remittances and other diaspora resources
- Enhancing policy coherence and promoting partnerships

4. Of equal cause for concern is the lack of emphasis on a rights-based approach to migration, as evidenced in the sub-themes selected for discussion at the Forum. It is also clear from the preparatory work of the Forum that the “migration and development” nexus is being defined almost exclusively in terms of the positive impacts for the development of sending countries of remittances and other diaspora resources. Important dimensions such as brain drain and the effects of uneven development on migration flows and on the “migration by necessity” syndrome, these are given scant attention in current policy debates. This Statement seeks to address these policy deficits in the discourse on migration and development, and to bring trade union concerns to the discussion table of the Civil Society day. In so doing, it is our hope that our proposals to overcome these glaring deficits will be fully reflected in the Civil Society Conclusions which will be presented to governments participating in the GFMD.



## DEFINING THE MIGRATION/DEVELOPMENT NEXUS

### Towards a comprehensive treatment of rights and development

5. Much of the policy debate on migration and development focuses on the positive contributions of migrants to development through remittance transfers and reinvestment of human and financial capital back into the country of origin. While these processes are valuable and in need of sustained policy support, the evidence suggests that the real intent of proponents of this approach is to promote narrowly oriented, temporary labour migration schemes geared to filling labour market shortages in sending developed countries. Such narrowly conceived approaches avoid issues of permanent settlement of migrants, family unity, the protection of migrants’ rights, and their entitlement to decent jobs and quality of life. In short, they fail to incorporate a social dimension in migration policies. This narrow self-serving vision would help to explain the limited scope of the sub-themes on labour mobility for the Forum, dealing exclusively with temporary forms of migration, either highly-skilled or low-skilled workers, and exploring the option of circular migration. These are presented as favourable for development, since they avoid problems of permanent brain drain, and enhance the contributions of migrants to their communities of origin through knowledge transfer, remittances, and other forms of reinvestment.

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6. Trade unions have called into question these forms of migration, and insist that receiving country governments and employers should be ready to shoulder the social and rights responsibilities that go with their demand for migrants to fill labour market shortages in various sectors. This means governments should set up regulatory frameworks that respect fundamental principles of human rights as enshrined in the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and enforce ILO Conventions on migrant workers, as well as ensure that core labour standards provisions are extended to migrant workers. Oftentimes, migrant workers in temporary contracts are not allowed the option of family reunification, training opportunities, immigration rights, incentives to integration and basic social rights. They are difficult to organize and are often hesitant to join trade unions for fear of their employers' threats not to guarantee their employment and residency status. Such conditions also result in the exclusion of migrants from society, and contribute to discrimination, racism and xenophobia. Incorporating a social dimension involves the setting up of partnership agreements between governments, employers and trade unions as representatives of migrant workers, to ensure fair contract arrangements and recourse to complaints procedures in case of violation of rights.

## A Normative Framework for Global Migration Policy

7. Trade unions insist on a gender-sensitive, rights-based approach which should be at the heart of all migration policies. Such policies should therefore be underpinned by a normative framework informed, in the first instance by the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights. In addition, such a framework should contain:

- The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), and Convention on the Rights of the Child (CRC);
- The ILO Conventions on Migrant Workers, C97 and C143;
- The ILO Declaration on Fundamental Principles and Rights At Work and its follow-up;
- The ILO Multilateral Framework on Labour Migration;
- The Durban Declaration and Programme of Action of the 2001 UN World Conference Against Racism.

## Migration policies must not compromise the attainment of the Millennium Development Goals (MDGs)

8. A comprehensive approach to migration and development would look at reciprocal causation, that is, not just the impacts of migration on development, but also the impacts of development or uneven development on migration. In other words, it would also look at the root causes or push factors driving migration and work on measures to address them. Such an approach is essential for framing an



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adequate policy response on migration and development. It should therefore be the starting point for the policy debate. Policy analysts should be asking the question: how is globalization and the attendant integration of markets affecting economic growth, development, and labour market growth in sending countries? And how are these in turn affecting migration trends and flows? Are these processes favourable to development, defined in terms of robust economic growth that generates decent jobs, ensures access to adequately funded public services and builds capacity to achieve the MDGs and other internationally agreed goals?

9. Adopting this series of questions and the underlying causal sequence as the conceptual starting point is important, as it will help to ensure that migration policies genuinely reinforce rather than undermine development efforts. Nor are the concerns about the undermining of development efforts far-fetched. The World Health Organization's 2006 Report draws attention to the disruptive effects of substantial exits from the health sector of many sending countries, especially in sub-Saharan Africa, and highlights the importance of managing those exits with the aim of maintaining optimal performance of this sector that is so vital for development. The Report cautions that: "When a country has a fragile health system, the loss of its workforce can bring the whole system close to collapse and the consequences can be measured in lives lost. In these circumstances, the calculus of international migration shifts from brain drain or gain to 'fatal flows'".

## Towards a Co-Development Framework for Migration Policy

10. Ensuring that migration and development policies reinforce each other while eliminating the risks of 'fatal flows' and maximizing positive benefits to sending and receiving countries and to migrants themselves, these are some core principles that should underpin the formulation of migration and development policies. Adopting the Co-Development approach to such policy formulation (as recommended by the UN Secretary General's Report to the High Level Dialogue of 2006), provides a framework for achieving this. Using pre- and post-impact assessments, Co-Development partners should evaluate migration schemes for consistency with a series of migration and development goals emanating from the principles outlined above.

11. Identifying these migration and development goals would constitute an important area for policy work. Agreement on these goals would have to be situation-specific among Co-development partners, but a number of goals, consistent with international commitments already made by governments, are recommended here for inclusion in a Co-Development framework:

- Co-Development must be strongly founded on the principles of human rights;
- Policies on the management of migration and the integration of migrants into host countries must go hand in hand with employment and decent work policies in home and host countries, with a strong focus on the provision of decent jobs in sending, developing and transition countries;
- A priority should be placed on the provision of adequately funded quality public services, particularly in education and health, and social protections, with a view to ensuring decent work and decent life, stemming the brain drain, and achieving the MDGs and other internationally agreed goals.





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- Recognizing that the decent work deficit in developing countries and the failure of the global economy to create jobs where people live, are critical push factors in the “migration by necessity” syndrome, emphasize support policies to strengthen labour markets and create decent work that provides a living wage for people in their home communities.
- Incorporate the ILO’s Decent Work Agenda into PRSP’s and other Development Frameworks at national level in sending developing countries;
- In keeping with a development approach to migration policy, avoid treating remittances as an external development financing mechanism on par with Official Development Assistance (ODA) and Foreign Direct Investment (FDI). Rather, support the incorporation of schemes into development frameworks, for reinvestment of remittances and other Diaspora resources into local remittance beneficiary communities, while leveraging ODA resources to complement such schemes.
- At the level of host Co-Development partners, ensure that ODA commitments are met, and timetables respected for reaching the UN target of 0.7% of GNP to ODA.
- At the level of source Co-Development partners, address the push factors related to “migration by necessity” by providing adequate funding for quality public services and support for the decent work agenda;
- In keeping with commitments to integrate a rights-based approach to development (2005 World Summit Outcome Document; 2006 ECOSOC Ministerial Declaration on Decent Work), work towards ratification and full implementation of UN Covenants and Conventions and ILO Conventions covering the human, economic, civic and employment rights of migrants.



## ACHIEVING POLICY COHERENCE

12. The GFMD will be focusing some of its discussion on ways to enhance coordination and coherence in the formulation and implementation of migration policies. To achieve policy coherence, it is firstly necessary to identify where the deficits in policy coherence lie, with respect to migration. The discussion in the foregoing section highlights the tendency among policy practitioners to take migration as a given, and to define the scope of policy formulation within the narrow context of filling labour market gaps in receiving countries. Given this approach, the development goals and commitments agreed by governments and their human and labour rights obligations are not prioritized, and are poorly integrated into migration policy if at all. Exacerbating the deficit is the fact that migration and development policy actors largely operate in separate policy arenas. There is a lack of institutional arrangements to ensure that migration policies reinforce development efforts and remain consistent with human and labour rights obligations.

13. To achieve policy coherence at national level, frameworks should be set up to engage all relevant ministries (economic planning and population, cooperation for development, interior, labour) on migration and development policies. Frameworks at international level could serve to strengthen coordination among

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agencies and entities with an economic, development, social, labour, and human rights mandate (ECOSOC, World Bank, ILO, OHCHR, HCR, UNDP, UNIFEM, UNFPA, Human Rights Council, IOM) to enhance policy coherence on issues related to global migration policy and development, and in support of corresponding national-level policy agendas, including decent work and achievement of the MDGs.

14. At both global and national levels, consultative arrangements should be agreed to involve the private sector, trade unions, organizations of migrants and other civil society actors in discussions to enhance policy coherence around a comprehensive set of normative values and goals.

15. Any global effort to tackle migration and development should be undertaken within the framework of the UN Charter, which safeguards obligations to human rights.

## INCORPORATING A GENDER DIMENSION INTO MIGRATION POLICIES

16. Ensuring that gender dimensions are incorporated into migration policy and regulatory frameworks is a priority for trade unions. Women now make up almost half of all migrants, and are more numerous than male migrants in developed countries. Increasingly, they are traveling as migrant workers in their own right, independently of spouses or for family reunification reasons. Regardless of their status, their full human and trade union rights must be recognized and upheld. Younger women often find themselves at risk of exploitation and gender-based violence, especially in the entertainment sector, and as domestic workers. They also comprise the vast majority of trafficked victims. In advocacy work and through partnership agreements, trade unions must insist that legislative frameworks make adequate provision for the protection of the rights of migrant women, and that enforcement mechanisms are in place to ensure compliance by recruiters and employers. Equally important is the recognition of women migrants as “economic and social change agents” (not just as victims), provided they are fully empowered and accorded space to genuinely participate in decision-making processes in trade unions, at the workplace, and in society.

## SOCIAL DIALOGUE AND PARTNERSHIPS

### The ILO Tripartite Model of Consultations

17. Given the multiplicity of interests and actors involved, the formulation of sustainable migration policies and practice requires cooperation at several levels: global, regional, national, cross-sectoral; and among several groups of actors: governments, local authorities, private sector entities, trade unions, migrant and diaspora associations, NGOs. The ILO’s Tripartite model for consultations offers an appropriate and workable institutional framework for developing partnership agreements at a bilateral or regional level as well as for national level concertation



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on issues related to migrant workers. For example, in receiving countries, agreements could be reached to strengthen labour inspectorates and establish new mandates to inspect the employment and living conditions of migrants, to ensure employers' compliance with non-discrimination and equal pay provisions in labour codes, and to address complaints of workplace abuses. This framework could be used for promoting Corporate Social Responsibility (CSR), and monitoring compliance of the private sector (employers and recruiters) with agreed ethical codes of practice that ensure the protection of migrant workers' rights. Agreements could be reached to extend union membership and protections to migrant workers, and to use collective bargaining as an instrument to ensure equal rights and treatment of migrants with nationals.

18. Increasingly, trade unions are seeking to promote or strengthen such frameworks. As receiving countries of migrants, Costa Rica and Ireland offer examples where the establishment of such tripartite mechanisms has led to the development of strategic agendas on migrant workers. Through this approach, the partners in Ireland (the government, employers, trade unions, farming bodies and community representatives) have committed to systematic consultations at the national level to deal with issues such as residency status and work permits and developing a code of practice against racism in the workplace. ( Source: ILO Tripartite Framework on Labour Migration).

## Union to Union Partnerships

19. Another model of partnerships that offer great potential for upholding migrant workers' rights is union to union partnerships involving sending and receiving countries. Building Workers International (BWI) has established such partnerships in the construction sector. Public Services International (PSI), has established bilateral partnerships between member unions in sending and receiving countries in defending better pay and working conditions for migrant health care workers and advocating for the adoption of a WHO Code of Practice in the ethical international recruitment of health workers. The ITUC has set up an Interdepartmental Working Group on Migration. It serves as a focal point at global level, allowing affiliates the opportunity to harmonize policy and explore good practice in the field of migration. Its broad objectives include the mainstreaming of migrant worker issues into all trade union policies/activities, as well as into tripartite consultations and collective bargaining negotiations. In this regard, an important focus is decent work, equal treatment, access to public services for migrants and their families, and the elimination of all forms of discrimination.

20. As a starting point for best practice, the ITUC has established three Partnership Agreements between affiliates in sending and receiving countries of migrants, as follows: Indonesia with Malaysia, Senegal with Mauritania, and Nicaragua with Costa Rica. MTUC, Malaysia has set up a Migrant Center, and affiliates from the other two receiving countries (Mauritania and Costa Rica) will be following suit, with the aim of supporting the integration of migrants in the workplace and in their communities. Trade unions in EU countries and in North America have long-standing projects and trade union organizing drives, with the aim of ensuring the full integration of migrant workers and their families.



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Migrants in Hong Kong have set up their own union which is affiliated to the HKCTU.

## CONCLUSIONS – Returning to the UN as the locus for policy and norm-setting on migration

21. Trade unions will bring such examples of best practice forward for discussion at the Civil Society Day of the GFMD. Given the unsatisfactory level of participation of trade unions in the GFMD, it becomes very important to make the point that an approach which seeks to keep trade unions and CSOs at bay is ill advised and counterproductive. Policy formulation and implementation have little chance of succeeding without the participation of those directly concerned, namely trade unions and migrant workers' associations as representatives of migrant workers. Trade unions intend to bring this message loud and clear to the GFMD.

22. Moreover, the Council of Global Unions maintains that at the global level, the United Nations is the most logical place for hosting an annual global Forum of this nature. We are concerned at the fact that UN Member States failed to agree last September during the High-level Dialogue on Migration and Development to anchor this annual meeting within the UN, where a rights-based framework, as set out in para 7 above, could have provided adequate guarantees on the protection of migrant workers' rights. We urge Member States to return to the UN for the continuation of this Global Consultative Forum. Also, the consultative frameworks of ECOSOC and the ILO afford trade unions a place in the policy dialogue, a place that is now denied, in the context of the GFMD, held at the initiative of individual Member States. This situation calls for urgent redress.




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Chair



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Secretary