



Conferencia Regional sobre Migración
Regional Conference on Migration



**Regional Conference
on Migration 2022**
El Salvador • Presidency Pro-Tempore



Forum on Labor Mobility Programs:

Achievements and challenges in labor mobility from the perspective of workers, employers and governments

May 26-27, 2022
El Salvador, San Salvador

Concept Note

CONTEXT AND BACKGROUND

Migration for work reasons continues to be one of the migratory dynamics at the international level. International migrant workers make up 5 percent of the global workforce and are an integral part of the world economy. Labor migration benefits migrant workers, the communities of which they are a part, and their countries of origin¹.

However, the benefits of labor migration are less when migration policies are not based on evidence and are not sufficiently articulated with employment policies. Harnessing the potential of labor migration to advance development requires policymaking with a pan-government and pan social approach based on evidence and enduring partnerships.

The 2030 Agenda for Sustainable Development recognizes migration as an essential aspect of development, urging governments to “facilitate orderly, safe, regular and responsible migration and mobility of people, including the implementation of planned and well-managed migration policies” (goal 10.7) and to “protect labor rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment” (goal 8.8).

Aligned with the goals of the 2030 Agenda, the Global Compact for Orderly, Safe, and Regular Migration² poses as part of its strategic objectives: to increase the availability and flexibility of regular migration channels (objective 5), to facilitate fair and ethical hiring and safeguard the conditions that guarantee decent work (objective 6), to empower migrants and societies to achieve full inclusion and social cohesion (objective 16), to invest in skills development and facilitate mutual recognition of skills, qualifications and competences (objective 17), and to promote faster, safer and cheaper transfers of remittances and encourage financial inclusion of migrants (objective 20).

In labor migration, the potential of bilateral cooperation is recognized in the good governance of migratory flows, the cross-border movement of migrant workers, the guarantee for the protection of their labor rights, the dynamics of the labor market, and the regional integration. These can be called bilateral agreements, memorandums of understanding, framework agreements, protocols, among others.

¹ OIT (2021). *ILO global estimates of migrant workers. Results and methodology*, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_808941.pdf

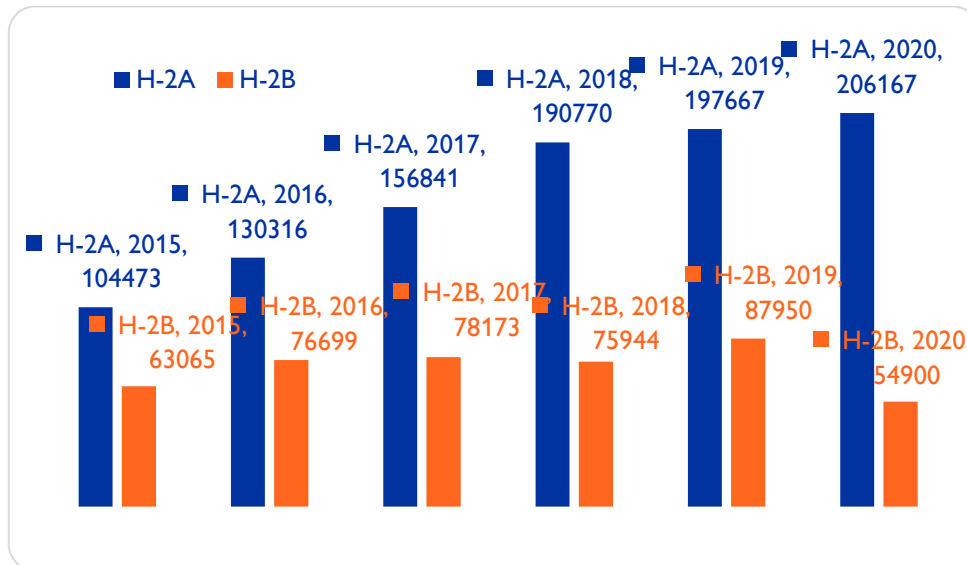
² More information about the Compact can be found at the following link: <https://www.un.org/es/conf/migration/global-compact-for-safe-orderly-regular-migration.shtml>



In this context, these instruments seek to prevent flows of irregular migration by channeling flows of migrant workers through legal and regular mechanisms.

The importance of labor migration at the international level is also palpable in Mesoamerica and the Caribbean. One of the most widely used mechanisms in the region is the H-2A (temporary agricultural workers) and the H-2B (temporary non-agricultural workers) work visas issued by the United States to nationals of Central America, North America, and the Caribbean³. As shown in Chart 1 below, in the last five years, the number of work visas assigned to nationals from Central America, the Caribbean, and North America has grown constantly, only affected by the closure of borders as a result of the COVID-19 pandemic in the case of H-2B visas.

Chart 1: H-2A (temporary agricultural workers) and H-2B (temporary non-agricultural workers) work visas issued to Central American, North American, and Caribbean nationals (by fiscal year)



Source: Bureau of Consular Affairs (U.S. Department of State), [Monthly Nonimmigrant Visa Issuance Statistics](#), s.f. [26 oct. 2021].

Likewise, about 104,000 work permits were emitted under Canada's Temporary Foreign Worker Program (TFWP). 32% of these permits were granted to migrant workers from Mexico (32,940) and 15% from Guatemala (15,445)⁴.

³ Information on visas can be consulted at: <https://www.uscis.gov/es/formularios/explorar-mis-opciones/visas-h-2a-h-2b-y-h-3>. An analysis of this mechanism can be found in IOM (2021). *Mecanismos sobre Migración Laboral en Mesoamérica*, available at: <https://publications.iom.int/system/files/pdf/mecanismos-sobre-migracion.pdf>

⁴ Information on work permits granted under the Temporary Foreign Work Program and Canada's International Mobility Program can be accessed at <https://open.canada.ca/data/en/dataset/360024f2-17e9-4558-bfc1-3616485d65b9>.



At the national level, employment services play a fundamental role in the effective and efficient organization of the labor market in order to achieve the goal of full productive and freely chosen employment. They are offered by both governments through ministries of labor and private employment agencies.

The Public Employment Services plan and implement labor market policies, within their responsibilities they:

- Provide accurate information on the labor market;
- Assist in job search and offer placement services;
- Administer unemployment insurance benefits;
- Administer a range of labor market programs;
- Oversee the activities of private recruitment agencies and enforce regulations.

A strong and functional public employment service, combined with networks involving private and non-governmental providers, can help ensure decent work for national workers and migrant workers alike. It is also a useful means of promoting equal access to the labor market and of protecting the situation of those who would otherwise be disadvantaged.

Private Employment Agencies can also play an important role in the labor market. They offer an alternative means, by providing services in order to equalize labor supply and demand; they also provide training and further training for workers with the aim of meeting the needs of employers.

Since 1997, there has been an evolution of the regulatory approach to private employment agencies, resulting in the Private Employment Agencies Convention, 1997 (No. 181) and the Private Employment Agencies Recommendation, 1997 (No. 188), both from the International Labor Organization. Recognizing the role that private employment agencies can play in the proper functioning of the labor market, establishing general parameters for the current laws, regulation, placement and conditions of employment of workers hired by these agencies, promoting the protection of those who use these services to obtain employment.

JUSTIFICATION

Good migration governance and related policies (e.g., an employment policy) should promote the socioeconomic well-being of migrants and society. To this end, actors in the world of work must adhere to international standards and respect the rights of migrants. Protecting the rights of migrants includes combating xenophobia, racism, and discrimination, ensuring adherence to the principles of equality and non-discrimination, and access to protection.

Pathways for labor migration are relevant elements in national and regional migration governance structures. However, according to the IOM study on mechanisms for labor migration in Mesoamerica (IOM, 2021), challenges remain, especially in terms of incorporating mechanisms as part of comprehensive labor migration policies to respond to these flows in a way that addresses the changing needs of labor markets and ensures the protection of the migrant worker population. In addition, migrant workers often have difficulty finding reliable information on these processes and still face various risks in the phases of their migratory cycle, which are not usually covered or mitigated as part of established labor migration mechanisms.



IOM's study confirms that the most used labor migration mechanisms in the area have the United States of America and Canada as their destination countries. Of 25 labor migration mechanisms identified, 14 were subscribed bilaterally; 56% of the total mechanisms identified were classified as temporary work schemes; 45% of the mechanisms are oriented to the primary sector, where low-skilled migrant labor is required and agriculture and construction activities stand out. In general, labor migration mechanisms in the region have a relative impact on labor migration flows since many migrant workers still use alternative or irregular means to work abroad⁵.

From the perspective of employers' organizations, a challenge is the complexity of some migration processes, which leads to many migrants opting to use the services of intermediaries operating outside the legal framework to hire foreign labor. The guidelines that regulate these mechanisms are often unclear on the applicable legislation regarding the rights and obligations of migrant workers and employers. Furthermore, there is little formal coordination between governments and the employer sector. From the perspective of migrant workers, the portability of pension or other social security benefits is a critical area for improvement since it is not covered by almost any of the mechanisms identified. Likewise, the consideration of relevant aspects for the return and reintegration of migrant workers is limited.

The "Regional Study on the definition of hiring commissions and related expenses: The Americas" prepared by the ILO indicates that the hiring process implies aligning the skills of a worker and the job offer of the employer. Both workers and employers carry out certain activities and assume certain costs in order to establish an employment relationship, most of the time by signing an employment contract. In practice, workers must have the required experience or qualifications and relevant certifications expected by the employer, meet mandatory medical criteria, and in some cases cover the transportation costs of attending an interview, testing, or training, specifically required by the employer.

Employers identify the experience and knowledge they require from a worker and carry out, directly or with the help of a third party (either a Public Employment Service PES or a Private Employment Agency PEA), the hiring process. This process includes advertising the vacancy, pre-selection, conducting interviews and tests, selecting the candidate, issuing a contract and enabling access to the social protection system in accordance with national legislation. It is the responsibility of governments to protect job seekers and workers, this objective can be achieved through laws and labor legislation and proper monitoring and enforcement. Within the region, employment conditions are usually covered by Labor Codes, while the regulation of labor intermediation tends to be covered by national legislation that clarifies the operation of PES and PEA.

Proper management of labor migration is a fundamental element of the public policy to advance a faster and more sustained economic recovery after the COVID-19 crisis, ensuring ethical and equitable

⁵ OIM (2021). *Mechanisms on Labor Migration in Mesoamerica*, available at:
<https://publications.iom.int/system/files/pdf/mecanismos-sobre-migracion.pdf>



recruitment and the protection of the rights of migrant workers, including populations that are subjects of international protection and/or returned migrants.⁶

Such management requires the existence, implementation, and adequate follow-up of various mechanisms to facilitate labor mobility throughout the region, particularly for countries of origin, transit, and destination. In response to this requirement, the Presidency Pro-Témpore of the RCM, with the support of the IOM and the ILO proposes the "Forum on Labor Mobility Programs: Achievements and Challenges in Labor Mobility from the Perspective of Workers, Employers and Governments" as part the Working Group on Labor Migration.

OBJECTIVES

General objectives of the Forum

To promote regional cooperation actions that contribute to orderly, safe, and regular labor mobility for the benefit of the communities of origin, transit, and destination.

Specific objectives

1. Exchange information on good practices and lessons learned in the negotiation, implementation, monitoring, and evaluation of labor migration mechanisms from the perspective of governments, workers, and employers.
2. Analyze the current situation of existing mechanisms in the region to facilitate labor migration and their effects on migration dynamics.
3. To incorporate the priorities and expectations of the various actors in the world of work (governments, employers, and workers' organizations) in labor migration management.

METHODOLOGY

The "Forum on Labor Mobility Programs: Achievements and Challenges in Labor Mobility from the Perspective of Workers, Employers and Governments" will be held in person in San Salvador, El Salvador, and will use a combination of various activities, such as presentations by experts, dialogue spaces, and presentations by representatives of the invited countries. Before the exchange, participants will be sent the materials and inputs for the activities. The IOM and the ILO will facilitate the spaces for dialogue.

⁶ IOM (2021) Labour Mobility and Skills in Response, Recovery and Post Covid-19 Pandemic. Policy Brief. Available at: https://www.iom.int/sites/g/files/tmzbd1486/files/documents/policy_brief_labour_mobility_and_skills_in_covid_time_final_final_0.pdf



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GOBIERNO DE
EL SALVADOR

PARTICIPANT PROFILE

The recommendation is to invite **two representatives** per country to the exchange (ideally at the level of Departmental Directorates in the case of the public sector), with the following distribution:

- One representative of the ministries of labor (labor migration departments, national employment service and/or departments responsible for regulating recruiting agencies),
- One representative of the ministries of foreign affairs.



AGENDA

Session 1: Progress and opportunities to improve labor mobility programmes May 27, 2022		
Time (GMT-6)	Activity	Facilitates
09:00-09:15	<p>Welcome remarks</p> <ul style="list-style-type: none"> • Cindy Mariella Portal, Vice Minister of Diaspora and Human Mobility, Presidency Pro-Témpore of the RCM. • Michele Klein-Solomon, IOM Regional Director for Central America, North America, and the Caribbean. • Elena Montobbio, Director of the ILO Office for Central America, Haiti, Panama, and the Dominican Republic. 	Executive Secretariat RCM
09:15-10:15	Presentation: "Labor Migration Trends in Mesoamerica and the Caribbean".	IOM (Trends) ILO (Estimates)
10:15-10:30	Q & A	Executive Secretariat RCM
10:30-12:00	<p>Panel with representatives of Member Countries: "The implementation of labor mobility programs: progress and opportunities for improvement".</p> <ul style="list-style-type: none"> • El Salvador • Guatemala • Mexico • Dominican Republic 	Michela Macchiavello, IOM
12:00-13:30	Lunch	
13:30-15:00	Forum: "Enhancing the benefits of labor mobility programs: the perspective of employers' organizations"	ILO
15:00- 15:20	Recess	
15:20- 17:00	Global Guide to Bilateral Labor Migration Agreements: Practical Application in the Countries	Fiorella Vargas, IOM
17:00	Closing of session 1	



Session 2: Experiences and lessons learned from labor mobility initiatives		
May 28, 2022		
Hora (GMT-6)	Activity	Facilitates
09:00-09:15	Session 1 summary	Executive Secretariat RCM
09:15-10:15	Presentation of successful practices: <ul style="list-style-type: none">• GIZ – Mexico (Skills mobility partnerships) / Testimonials from beneficiaries	Fabio Jiménez, LHD, IOM
10:15-12:00	Panel with employers, workers, recruitment agencies: multisectoral articulation for labor mobility.	Noor Denkers, ILO
12:00-13:30	Lunch	
13:30-16:30	Panel about the Labor Mobility Program in El Salvador: The perspectives of employers, migrant workers (and their families) and governments	PPT
16:30-17:00	Closing of session 2	Executive Secretariat RCM