

LABOUR MIGRATION MANAGEMENT ASSESSMENT: UGANDA



International Organization for Migration (IOM)



GOVERNMENT OF UGANDA

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Publisher: International Organization for Migration
17 route des Morillons
P.O. Box 17
1211 Geneva 19
Switzerland
Tel: +41 22 717 9111
Fax: +41 22 798 6150
E-mail: hq@iom.int
Website: www.iom.int

Ministry of Gender Labour and Social Development
Government of Uganda
Plot 2, Simbamanyo House
P.O. Box 7136 George Street
Kampala, Uganda
Tel.: +256 41 4347854

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LABOUR MIGRATION MANAGEMENT ASSESSMENT: UGANDA

Marius Olivier (Consultant)

Director, Institute for Social Law and Policy

Extraordinary Professor, Faculty of Law, Northwest University,
Potchefstroom, South Africa

Adjunct Professor, Faculty of Law, University of Western Australia, Perth, Australia

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GOVERNMENT OF UGANDA

Foreword

The movement of people across national boundaries for the purpose of employment is a quintessential component of globalization and regional integration. Increasingly, Ugandans are tapping into the opportunities that regional and international labour markets offer. It is estimated that the Ugandan diaspora, which includes migrant workers who have been residing outside the country for at least six months, send close to USD 1 billion dollars in remittances every year. This amount is larger than the annual earnings from any single one of Uganda's exports. Concomitantly, migrant workers in Uganda are playing an increasingly active role in its economy.

Cognizant of the benefits that migration can bring to the country, the Government of Uganda has undertaken several measures to manage labour migration and protect migrant workers. These include the creation of an External Employment Unit within the Ministry of Gender, Labour and Social Development, as well as the development of several laws and policies on labour migration and diaspora engagement. Today, the externalization of labour is a clear policy choice to combat unemployment, particularly among Ugandan youth. Important steps are also being taken to implement Annex II of the East African Community's (EAC) Common Market Protocol Regulations on the Free Movement of Workers.

This assessment provides an in-depth analysis, the first of its kind, of the national policies, practices, structures and legislation governing labour migration in Uganda. It aims to assist the Government of Uganda in better regulating, managing and monitoring labour migration by identifying gaps and proposing recommendations. Given the importance of regional integration for Uganda, it places special emphasis on the free movement of workers within the EAC.

It is our hope that this assessment will assist government and non-governmental stakeholders involved in the various aspects of labour migration. This publication will also serve the needs of a growing number of academics who are interested in studying the impact of labour migration on the political, economic and

social landscape of Uganda and the East African region. This assessment could potentially be replicated in other countries within the EAC region and ultimately foster enhanced coordination, collaboration and consultation.

We are grateful for the financial support of the IOM Development Fund for financing this assessment and to IOM's Regional Office for their support. Thanks also go to the Steering Committee of the project "Strengthening Labour Migration Management and Productivity" for their technical input and guidance.



Mr Pius Bigirmana
Permanent Secretary
Ministry of Gender, Labour and
Social Development (MGLSD)

Acronyms

AUMPF	Migration Policy Framework (African Union)
BLA(s)	Bilateral labour agreement(s)
BOU	Bank of Uganda
CIETT	Confederation of Private Employment Agencies
COMESA	Common Market for Eastern and Southern Africa
DSD	Diaspora Services Department (Ministry of Foreign Affairs)
EAC	East African Community
EEU	External Employment Unit (Ministry of Gender, Labour and Social Development)
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IOM	International Organization for Migration
LMIS	Labour market information system
MEACA	Ministry of East African Community Affairs
MGLSD	Ministry of Gender, Labour and Social Development
NDSB	National Diaspora Services Board
UBOS	Uganda Bureau of Statistics
UAERA	UGANDA Association for External Recruiting Agencies
UIA	Uganda Investment Authority

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Executive Summary

Labour migration is a reality in Uganda shaped by a range of socioeconomic, political and historical factors. Labour externalization constitutes a deliberate policy choice, but appears to be insufficiently supported by the data and by institutional and legal regimes. Data collection and analysis in the area of labour migration are characterized by a lack of up-to-date and appropriate statistics, while the management of statistical information is weak. In addition, data obtained are often incompatible. With the exception of one on migration and remittances, no household survey focuses exclusively on migration. There is, therefore, a need to:

- a. Enhance migration-related data in census and household surveys;
- b. Align the labour migration data framework with international and regional approaches;
- c. Expedite the development of a well-constructed labour market information system and the conduct of the envisaged “Manpower Survey”;
- d. Mainstream labour migration data in national and sectoral, as well as regional, migration management and development planning;
- e. Share and disseminate collected and analysed labour migration data in a user-friendly format to inform decision-taking and direction;
- f. Develop impact indicators;
- g. Enhance the data capacities of the Uganda Bureau of Statistics and line ministries;
- h. Enable the Ministry of Gender, Labour and Social Development (MGLSD) to fulfil a lead and coordinating role;
- i. Promote interaction of foreign missions with the diaspora, for purposes of diaspora data collection and analysis;
- j. Conduct training workshops on labour migration and migration and development to strengthen capacities in data collection, analysis and dissemination.

The institutional structure and inter-institutional collaboration in Uganda in relation to labour migration are informed by a fragmented framework; serious capacity concerns exist as regards the External Employment Unit (EEU) of the MGLSD; and services are not provided by any institution. Therefore, there is a need to:

- a. Strengthen the capacity of the EEU;
- b. Extend and coordinate service delivery to migrant workers and business people at the pre-departure stage, while in transit, during the period of residence abroad, and upon return;
- c. Streamline the coordination of service delivery and provide a one-stop facility through a centralized institutional structure and/or enhanced formalized collaborative structures;
- d. Establish and utilize public–private partnerships that involve, among others, private recruitment agencies and social partners, namely, the apex employer and trade union bodies.

As regards the national legal basis and international norms, the inadequacy of the existing labour law and social security legal framework (among other constraints), as they apply to immigrant workers, has to be noted. In addition, regulations concerning the recruitment of Ugandans are seen as offering only weak protection when viewed from an institutional perspective. As such, there is a need for the Ugandan Government to play a facilitative and promotive role in developing and concluding appropriate labour and social security agreements, as well as to assume greater responsibility for the protection of migrants. Welfare and legal protection should be extended to migrant workers overseas, and a supportive framework for the mobility of business owners and professionals has to be developed. In addition, there is a need to undertake a comprehensive analysis of Uganda’s concrete adherence to international commitments.

Migrant labour recruitment and support services for migrant workers are important labour migration issues in Uganda, as there often are problems encountered with each of the different recruitment modalities. Typical problems include high costs for migrant workers, incomplete supervision of recruitment agencies and inadequate pre-departure orientation. The following measures, therefore, need to be taken:

- a. A review of the regulatory environment, not only from a national (in particular the country’s 2005 (recruitment) Regulations and the 2013 (recruitment) Guidelines, but also from a regional perspective;
- b. Promotion of ethical recruitment;
- c. Assessment of the contractual framework applicable to migrant workers, as well as the prevailing context (especially as regards working conditions and the existing labour, welfare and social security systems) in countries of destination;

- d. Exploration of employment opportunities, in an effort to also combat youth unemployment in a proactive manner and to address gaps in the provision of reintegration services to returning migrant workers;
- e. A dedicated and enhanced public employment service framework.

In the area of remittances, steps need to be taken to address the problem of high transfer costs, in order to harness the potential of these cash inflows for socioeconomic development, and to utilize them to provide or enhance social security coverage. Towards this end, enhanced use can be made of modern, innovative and inexpensive transfer mechanisms. There may also be a need for a remittance policy supported by policy dialogue with affected stakeholders.

A labour migration assessment of Uganda must be informed by the regional context, given Uganda's close association with and involvement in several regional regimes, notably the East African Community (EAC). It is necessary to:

- a. Align labour migration from a Ugandan perspective with African Union instruments, as well as with EAC instruments and priorities;
- b. Consider the impact of other regional frameworks on Uganda's labour migration framework;
- c. Foster concrete collaboration between EAC Partner States in the vast areas under labour (and skills) migration.

It is recommended that there be an overarching labour migration policy in Uganda that underpins and gives clear direction to the development of a suitable labour migration regime. The policy should be the outcome of consultation with all relevant stakeholders, country-specific and context-sensitive, and aligned with international standards, continental frameworks, regional instruments and best practices.

1. Background of the Report

1.1 INTRODUCTION

The overall objective of this assessment is to assist the Government of Uganda in better regulating, managing and monitoring labour migration – by identifying gaps in the institutional framework, legislation, data and policies – and to propose recommendations.

In accordance with its terms of reference, the specific objectives of this assessment are as follows:

- a. Conduct an in-depth analysis of existing legislation, policies, institutional structures and coordination mechanisms pertaining to labour migration in Uganda, and to provide recommendations in line with international good practices;
- b. Identify and assess recruitment centres, recruitment practices and related support services in Uganda, as well as point out any deficiencies in relation to international best practices;
- c. Consider the flow of remittances to Uganda and provide recommendations for their increased utilization for development purposes.

It needs to be emphasized that a labour migration policy for Uganda does not yet exist, although a number of draft policies in related areas, such as a draft national diaspora policy, have been developed.

1.2 METHODOLOGY AND APPROACH

The methodology applied for the purposes of this report consists of consultations with a range of stakeholder institutions and a desktop review of available resources, in particular, (selected) policy documents, legislative instruments and related sources. In addition, literature was consulted, to the extent required, and the

inputs and recommendations made by Mr Jo Rispoli (the IOM Regional Specialist on Labour Migration and Development) and by stakeholder representatives prior, during and subsequent to the stakeholder validation meeting of the draft version of this report (which took place on 23 June 2014) were considered.

The institutions consulted in the course of the Author's week-long consultative visit (24 to 28 February 2014) to Uganda include the EEU, the Federation of Uganda Employers, the Ministry of Internal Affairs,¹ the Diaspora Services Department of the Ministry of Foreign Affairs (MoFA), the Ministry of East African Community Affairs (MEACA), the Bank of Uganda (BOU), the multi-stakeholder Steering Committee of the Project on Strengthening Labour Migration Management and Productivity in Uganda, the National Social Security Fund, the Uganda Bureau of Statistics (UBOS), the International Labour Organization (ILO), Security Link (a recruitment agency) and the East African Forum for Migrant Rights. A meeting arranged with the National Organisation of Trade Unions, however, did not materialize. The Author was requested to make a presentation on the project at the third meeting of the project steering committee, which took place on 27 February 2014.

Valuable consultations were also held with the Chief of Mission, Mr Gerard Waite, and the Programme Coordinator, Ms Mariela Guajardo, of IOM Uganda. Much appreciated support was provided by Ms Pooja Pokhrel and Ms Jean Byamugisha, both of the same office.

A wide range of policy, legislative and other documents, including relevant reports, were obtained from the aforementioned consulted institutions. IOM Rwanda and IOM Kenya provided valuable material on labour migration management in these countries, which the Author also consulted.

The structure of this report parallels the various issues that its terms of reference require to be addressed. As such, it comprises the following main components:

- Background to the report
- The Ugandan migration context
- Data collection and analysis
- Institutional structures and inter-institutional collaboration
- National legislative basis and international norms
- Recruitment and support services
- Remittances
- Regional context

¹ Three meetings took place: with the Coordinator of the Anti-Human Trafficking National Task Force; with the Directorate of Citizenship and Immigration Control; and with the Immigration Control Commissioner.

2. The Ugandan Migration Context

There are several factors which impact migration from and to Uganda. Historically, periods of civil war, ethnic strife and political turmoil have prompted various migration streams for much of the period starting from the country's independence until 1986, when the current government assumed power. In addition, endemic poverty and a weak economy have for long been part of the socioeconomic landscape. Some of these factors have changed: For some years until the global financial crisis, for example, Uganda registered an economic growth rate of 8 per cent. Yet for some 31 per cent of its estimated population of 36.3 million, life below the poverty line is still a daily reality. The country's annual per capita income was USD 506 in 2012, placing it 161st among 187 countries on the Human Development Index. The population is notably young, with 78 per cent below 30 years of age (IOM, 2013a, pp. 15–17). Yet the youth face particular problems when it comes to employment. They constitute 64 per cent of the total unemployed population and frequent the ranks of the self-employed (where 57% of them can be found) and the informally employed (in 2011, 95% of employed youths in non-farm agricultural enterprises were in informal employment) (UBOS, 2012, pp. iv, viii and 37).

These considerations have all played their role as far as the emigration picture is concerned. Although no reliable national statistics on emigration are available, estimates by the United Nations indicate a migrant stock of approximately 629,000 Ugandans, most of whom were living in Kenya, Rwanda and South Sudan in 2013 (UN DESA, 2013). Other estimates, however, suggest a figure of around 527,000 Ugandans in the diaspora.² Labour externalization and diaspora engagement have been a deliberate government goal during the last 10 years, fuelled by dramatic increases in remittance income. It is estimated that around 40,000 Ugandans have sought work abroad under the framework created for labour externalization – it must be noted, however, that the official number of

² Information provided by Mr Job Elogu of the Diaspora Services Department (under the Ministry of Foreign Affairs), through an e-mail dated 3 July 2014, with reference to the figures obtained from the World Bank's Migration and Remittance Factbook 2011.

those migrating to other countries for the purpose of employment cannot be verified in the absence of reliable data sources. Even so, it has been estimated that the exportable labour pool is more than twice the current stock of Ugandan emigrants (Bakunda, 2009). On the other hand, there were approximately 531,000 foreign-born persons, that is, immigrants, in Uganda in 2013.

As a founding member of the East African Community (EAC), Uganda has been a participant in the regional integration agenda. Based on the provisions of the EAC Treaty, the Common Market Protocol and its accompanying annexes, citizens of EAC Partner States should enjoy freedom of movement, residence and employment within the community. As far as labour migration is concerned, Kenya tops the list of destination countries; reciprocally, the majority of foreigners in Uganda are from Kenya.

Migration is an area of growing interest for the Government of Uganda. This much appears from several recent policy documents, including the draft National Diaspora Policy and the draft National Migration Policy, indicating a desire to leverage migration for the development of the country. Managing labour migration should, therefore, become an important part of the migration and development edifice in Uganda. However, this is seriously hampered by inadequate collection of data and shortcomings in the analysis thereof, while the roles of institutional structures, inter-institutional collaboration, national legislation and international norms need to be considered as well. In addition, given their crucial roles, recruitment and support services, as well as remittances, need to be investigated. Finally, the developing regional agenda calls for a more thorough understanding of the regional migration framework.

3. Data Collection and Analysis

3.1 ISSUES FOR CONSIDERATION

The aim of this section of the assessment is to:

- a. Identify and take stock of available sources of data on labour migration from internal sources in Uganda, as well as from the EAC;
- b. Analyse the data collected to gauge the coherence and compatibility and give a better overview of the current situation of labour migration to and from Uganda;
- c. Assess the availability of data and data sources, as well as the credibility of existing data. The purpose of this (among others) is to ascertain whether national labour migration databases exist for the placement of Ugandan workers in the labour markets of EAC Partner States, and whether appropriate skills matching is taking place to support their placement in EAC labour markets.

3.2 ANALYSIS

It is noted in the recently released Uganda Migration Profile that the measurement of migration in Uganda is characterized by a lack of regular statistics and weak management of administrative data sources (IOM, 2013a, p. 19). The data sources used are weak, and the data they generated are often non-comparable and/or incompatible with data from other sources. Annex I of the Uganda Migration Profile enumerates the data that are not available but are nevertheless essential in measuring migration trends and migrants' characteristics (IOM, 2013a, pp. 75–76):

Table 1: Annex I: List of unavailable data that are essential in measuring migration trends and migrants' characteristics

Indicator	
Foreign and foreign-born population	
Naturalization (flow)	Data was collected but not systematically.
Long-term immigrants (stocks)	Censuses and household surveys do not collect this data.
Short-term immigrants (flows)	Data was collected, but there was not sufficient time for analysis; data could be derived from records of special passes offered.
Estimates of irregularly residing foreigners (stocks)	Censuses and household surveys do not collect this data.
Estimates of individuals with double nationality	Data was collected but not systematically.
Immigration for employment	
Size of the employed foreign population, measured as an absolute number and as a percentage of the total employed population (stocks)	Censuses and household surveys do not collect this data.
Number of valid work permit-holders (stocks)	Censuses and household surveys do not collect this data.
Estimated number of foreign workers with irregular status (stocks)	Censuses and household surveys do not collect this data.
Immigration for study purposes	
Number of foreigners studying in educational institutions (stocks)	Data was collected but was not assessed.
Number of foreigners who have finished studies/graduated from educational institutions (flows)	Data was not collected.
Number of foreign trainees (flows)	Data was collected, but there was not sufficient time for analysis.

Citizens residing abroad and emigration	
Number of citizens on long-term emigration (flows)	Censuses do not collect this data.
Temporarily absent population (stocks)	Censuses do not collect this data.
Citizenship renunciation (flow)	Data was no longer collected when double citizenship was introduced.
Emigration for study purposes	
Citizens departing to study abroad (flows)	Data was collected but was not assessed.
Involuntary emigration	
Estimated number of citizens who emigrated for environment-related reasons (stocks)	Census and household surveys do not collect this data.
Irregular migration	
Foreigners refused entry at external borders (flows)	Data was collected but was not assessed.
Foreigners who have committed administrative violations (flows)	Data was collected but not systematically.
Foreigners who have committed crimes (flows)	Data was collected but was not assessed.
Return migration	
Citizens who have returned after residing abroad (stocks)	Data was not collected.

The relevant data sources have been summarized as follows in Annex II of the Uganda Migration Profile (IOM, 2013a).³

³ Mention should also be made of, as indicated below, the limited relevance for labour migration purposes of labour force survey data. See, also, the Uganda Bureau of Statistics (UBOS) National Labour Force Survey Report (2013) and the sectoral reports, in particular the UBOS National Labour Force and Child Activities Survey 2011/2012: Youth Employment Report (2012). Reference should also be made to a sector-focused labour market needs assessment currently undertaken by IOM (I. Martin, Labour Market Needs Assessment in Uganda: Results from Two Pilot Labour Market Needs Assessment Surveys in the Hotel and Food Processing Sectors (draft), IOM, 2014).

Table 2: Annex II: National data sources

Data Source	Responsible agency(ies)	Level of computerization	Type(s) of data captured	Other relevant information
Census	Department of Migration, Uganda Bureau of Statistics (UBOS)	Partially automated, since statistics are sourced from the Ministry of Internal Affairs, which mainly uses paper records.	International migration Internal migration	Censuses do not collect information on emigration. Few indicators on migration are considered.
Surveys	UBOS and Bank of Uganda (BOU)	Not fully automated.	Remittances flows Foreign direct investments (FDI)	The BOU and UBOS provide international statistical bodies (e.g. the United Nations Statistics Division) with national data.
	Population Secretariat	Not fully automated.	Gross primary enrolment rate Gross secondary enrolment rate	Migration is not given priority in the State of Uganda Population Report.
Administrative records/ registers	Ministry of Internal Affairs/ Directorate of Citizenship and Immigration Control	Keeps paper records and has low computerization levels.	Student passes Work permits Irregular migrants	Statistics are published in ministerial policy statements, which are not easily accessed by the public.
	Ministry of Gender Labour and Social Development	Keeps paper records and has low computerization levels.	Citizens departing for employment	Statistics collected are specific to new destinations of Uganda labour emigrants.
	IOM Uganda	Data on internal trafficking is automated.	Return migration Internal migration Irregular migration	Data on internal migration covers a specific category of people and from specific regions (e.g. children from Karamoja).

Despite the evident magnitude and importance of emigration data for Uganda, the 2002 census did not collect any. Due to the census' limited scope and orientation, the data collected at border crossing points does not address this shortcoming. In addition, the EEU only captures data in relation to those who leave to take up employment abroad – excluding those moving to other EAC Partner States – and only capture those who register with the EEU or who are employed through a

recruitment agency.⁴ In addition, the data so captured by the EEU is typically administrative in nature, covering fiscal years and not calendar years,⁵ and, while disaggregated by sex, suffers from other deficiencies (to be described in succeeding paragraphs). Furthermore, consular offices do not gather statistical data in relation to the diaspora. The lack of reliable administrative data from abroad is an impediment to understanding the emigration patterns of Ugandans (IOM, 2013).

Reliance, therefore, has to be placed on non-national data sources to obtain some picture of the extent of emigration, even this approach leads to some inconsistencies. According to the 2013 report of the United National Department of Economic and Social Affairs entitled *Trends in International Migrant Stock: Migrants by Destination and Origin* (UN DESA, 2013), there were 628,845 Ugandans residing abroad in 2013 – mostly in Kenya (271,149), South Sudan (120,808), Rwanda (106,501) and the United Kingdom and Northern Ireland (64,223). However, according to a household survey on migration and remittances conducted in Uganda in 2008, 42 per cent of Ugandans had a family member living abroad, implying that approximately 3 million Ugandans live in the diaspora (Orozco, 2008).

Similarly, the estimates of remittance transfers differ widely. While the most recent (2012) UBOS Inward Personal Transfers Report indicates a total personal transfer figure (in cash and in kind) of USD 910.3 million (UBOS, 2013a), which constitutes 4.3 per cent of the GDP, other sources quote a figure of about USD 1 billion, which corresponds to as high as 17 per cent of the GDP (GoU, 2013a). It is evident that such huge discrepancies in data outcomes negatively impact migration planning. Such a situation thus requires the development of reliable and standardized statistical data collection frameworks aligned with both regional (i.e. EAC) and international frameworks.

Immigration data collected via the 2002 census is also limited. Immigration data was captured with reference to only two indicators: “place of birth” and “place of previous residence.” On the basis of these indicators, the total number of immigrants stood at 333,000 in 2002 (UBOS, 2006). However, relevant (additional) indicators in the questionnaire for the 2014 census – measured through questions on citizenship, ethnicity and length of stay in the district – may assist in capturing enhanced immigration data. There is, however, no question on the length of stay in the country or on work permit status. A question on the receipt of remittances over the past 12 months, and specifically where the remittances originated from, is also included.

Skills data is lacking in crucial respects and generally inadequate. There is no official skills inventory in Uganda: The last manpower survey was undertaken in

⁴ Interview with the External Employment Unit (EEU) of the Ministry of Gender, Labour and Social Development, 24 February 2014.

⁵ The EEU, however, has expressed that the data can be analysed in any period desired.

1989, while the next one is due in 2016. Labour market data, captured via labour force surveys, at best gives a picture of available supply-side information regarding the labour market. Comprehensive demand-side information is similarly lacking.

Despite an evident mismatch between available and needed skills in Uganda, skills matching, both within Uganda and with EAC Partner States, is not possible (Walusimbi-Mpanga and Bakunda, 2013a). Employers are faced with the difficult task of proving the non-availability of a Ugandan to fill a position for which a work permit is sought in relation to a person who is not a citizen of an EAC Partner State.⁶ In fact, as indicated by ILO and UBOS (2012), the apparent mismatch is largely due to the absence of alignment between, on the one hand, training and educational systems and, on the other hand, the requirements of the labour market (UBOS, 2012, p. 47).

Generally speaking, limited but insufficient migration-related data is captured via labour force surveys. Relevant indicators relate to a migrant's country of birth, the country where the migrant lived five years ago, the duration of stay in the current location, the country of stay before the current residence, whether the previous place of residence was urban or rural, and the main reason for moving to the current country of residence.⁷

A labour market information system (LMIS) is largely non-existent, although steps are being taken to develop one. Apparently, some attempt has been made by the MGLSD, with the assistance of South Korean expertise, towards this end.⁸ ILO and IOM are also working with the MGLSD to develop a functioning labour market information system for Uganda. IOM recently undertook a pilot labour market needs assessment in the hotel and food processing sectors. This provides a basis for further developing a comprehensive labour market information system, to be complemented by a nationwide manpower survey.⁹

Some of the available data on migration is of an administrative nature. As indicated in the Uganda Migration Profile, administrative data has several limitations: "Firstly, it captures fiscal years and not calendar years. Secondly, not all the data collected is digitalized, centralized or available for analysis. Finally, most administrative data is not disaggregated by sex or age" (IOM, 2013). This is largely true of the essentially manual capturing of work permit data by the Ministry of Internal Affairs¹⁰: In the case of data on the externalization of labour by the EEU, all information regarding migrant workers deployed abroad through the EEU is stored in a static database, and there is no website or a virtual platform to store and share data publicly (IOM and GoU, 2014, p. 10).

⁶ Interview with the Federation of Uganda Employers, 24 February 2014.

⁷ Interview with the Uganda Bureau of Statistics, 27 February 2014.

⁸ Interview with the External Employment Unit of the Ministry of Gender, Labour and Social Development, 24 February 2014. See also IOM and GoU, 2014, p. 11.

⁹ I. Martin, Labour Market Needs Assessment in Uganda: Results from Two Pilot Labour Market Needs Assessment Surveys in the Hotel and Food Processing Sectors (draft), IOM, 2014.

¹⁰ Interview with the Ministry of Internal Affairs, 28 February 2014.

In sum: With the exception of the collection of remittance data, no household surveys exclusively focusing on migration have been conducted in Uganda. This is also reflected in the sectoral context: Health management, human resource, education management and environment management information systems do not include migration indicators, making it difficult to measure the impact of migration in these sectors (IOM, 2013a).

Regarding the regional dimension, with specific reference to the EAC context, it is not possible to comment specifically on the means and functioning of national labour migration databases of the other EAC Partner States and the possibility of the placement in and matching of Ugandan workers with the labour markets of those countries, as these pieces of information were not available to the Author at the time of this report's writing.¹¹ Nevertheless, the following comments can be made: First, the EAC Common Market Protocol provides, in Article 41 (on cooperation in statistics), for the requirement for Partner States to cooperate to ensure the availability of relevant, timely and reliable statistical data to aid in:

- a. Describing, monitoring and evaluating all aspects of the Common Market;
- b. Sound decision-making and effective service delivery in the Common Market (EAC, 2009a).

For this purpose, the Partner States must undertake to develop and adopt harmonized statistical methods, concepts, definitions and classifications for organizing statistical work while duly observing internationally adhered-to best practices. Directives to give effect to this provision may be issued by the EAC Council of Ministers.

There is no dedicated EAC data collection and analysis framework yet, although a multi-topic template for EAC, targeted at specified sectoral areas (notably labour and education), is available. Migration indicators, however, are not specifically included.¹² Yet at least four labour migration areas covered in this report are affected by the operation of Article 41:

- a. On the basis of the instruction contained in Annex II of the East African Community Common Market (Free Movement of Workers) Regulations of 2009 (EAC, 2009b), and in accordance with an EAC directive to this effect, the conduct of manpower surveys has to be fast-tracked in partner countries. Funding for this comes partly from the African Development Bank and the EAC Secretariat, and partly

¹¹ Requests for data in this regard made via the IOM Office in Pretoria did not result in this specific data becoming available.

¹² Interview with the Uganda Bureau of Statistics (UBOS), 27 February 2014.

through the respective governments. Kenya¹³ and Rwanda have already implemented their surveys while the United Republic of Tanzania is in a pilot phase. In Uganda, a questionnaire has been developed and was due to be piloted in April 2014. The survey outputs will result in a database of skilled manpower in the EAC region, and will give some indication of productivity. The manpower surveys will include both supply- and demand-side data and indicate labour market shortage.¹⁴

- b. As far as remittance data is concerned, a workshop under the auspices of the Bank of Uganda was held in August 2012 to deliberate on the harmonization of personal transfer data collection and compilation methodologies in the EAC region (UBOS, 2013a). The workshop recommended Partner States to use both survey and non-survey data collection methods; harmonize definitions and terminology, to be in line with the sixth edition of the *Balance of Payments Manual and the International Transactions in Remittances Guide for Compilers and Users*, among others. As has been noted, if implemented, these recommendations will go a long way to provide comparable statistics on personal transfers for the EAC region (UBOS, 2013a).
- c. As regards labour market information systems, Annex II of the East African Community Common Market (Free Movement of Workers) Regulations of 2009 stipulates that the Partner States shall endeavour to collect and disseminate information on job vacancies and put in place labour market information systems to facilitate access to employment opportunities by the citizens throughout the Community. The Secretariat is required to collaborate with the competent authority of the Partner State to share and exchange information concerning job opportunities, employment statistics and other labour matters (EAC, 2009b).
- d. Skills matching and mutual skills recognition are important for the accommodation of Ugandan workers in EAC labour markets. However, data to inform skills matching and skills recognition is sorely lacking.¹⁵

The final issue relates to the way forward, as far as the preferred location and custodianship of labour migration data is concerned. The interviewed stakeholders seemed to agree that this should be vested in the MGLSD, which has the clear mandate in the area of labour migration. Data collection, however,

¹³ According to information provided by IOM Kenya (through an e-mail from D. Williams dated 20 May 2014), Kenya has already completed its National Manpower Survey, pending the official report launch, when the results will be revealed. Several detailed questionnaires informed the survey, namely, a Diaspora Questionnaire, Employees' Questionnaire, Employers' Questionnaire, Informal Sector Questionnaire, Education/Training Institution Questionnaire. The conduct of the survey was supported by an associated Supervisor's Manual and an Enumerator's Manual.

¹⁴ Interview with the Ministry of East African Community Affairs (MEACA), 28 February 2014.

¹⁵ This also applies to the actual mutual recognition of skills. For some professions, there exist mutual recognition agreements for academic and professional qualifications (including, apparently, engineers, architects and accountants). As regards non-collegiate qualifications, a vocational qualifications framework is recognized in Uganda. However, not all Partner States have recognized this framework. (This information is based on an interview with the Ministry of East African Community Affairs, 28 February 2014.)

would need to be supported by UBOS assistance and technical expertise. It has been indicated that that this could be channelled through the Plan for National Statistical Development, the key strategy for data collection coordinated by UBOS. This strategy takes responsibility for data quality control, standard-setting and the overall data collection methodology.¹⁶

3.3 RECOMMENDATIONS

In order to enhance the collection, analysis, management and use of data (also with reference to the availability of suitable data sources), the following recommendations are made:

- a. Enhance migration-related data in census and household surveys. Through UBOS's assistance, responsible data-collecting government institutions could improve data collection and utilization through the inclusion of standardized migration-related questions/indicators in relevant census and household surveys, including labour force and sectoral surveys. There should be a focus on publishing cross-tabulations of migration-related data so-obtained between age, sex and educational attainment, exploiting administrative data sources.
- b. Align the labour migration data collection framework. There is a need to align the labour migration data collection framework in Uganda with international and regional approaches, in connection with, among others, definitions, methodologies and standards. Priority should be given to harmonization within the EAC context, given the requirements imposed on Partner States through the provisions in Annex II of the East African Community Common Market (Free Movement of Workers) Regulations of 2009 and subsequent EAC directives and decisions. To the extent that standardized frameworks in this regard may be required, notice could be taken of the immigrant and emigrant data variables recommended by the United Nations Statistics Commission. Again, to the extent required, regard may be had to the Statistics Division of the United Nations Department of Economic and Social Affairs (UN DESA), Eurostat, the ILO Database of Labour Statistics, the OECD's International Migration Outlook and World Bank remittance data to compare approaches and collected data.
- c. Expedite LMIS development and the envisaged manpower survey. There is an evident need for a well-constructed LMIS framework in Uganda and to conduct a manpower survey, also in view of the EAC imperative, in this regard. These two initiatives should be expedited – as they would both inform proper manpower planning and have a logical impact on skills matching, within the contexts of both Uganda's and the regional (EAC) labour markets.

¹⁶ Interview with the Uganda Bureau of Statistics, 27 February 2014.

- d. Mainstream labour migration data. Flowing from the previous point, there is a need to mainstream labour migration data in national (including sectoral) and regional migration management and development planning.
- e. Collect labour market data from major destination countries. It is necessary to collect labour market intelligence from major countries of destination, in order to identify job opportunities for Ugandan workers.
- f. Share and disseminate data. The collected and analysed labour migration data needs to be shared with relevant public and private sector role-players and presented in a user-friendly format, in order to inform decision-taking and direction. Public awareness of available data should also be ensured. In this regard, there is a need to ensure that data is sufficiently disaggregated, to support functions such as skills matching.
- g. Develop impact indicators. The Bureau of Statistics could develop impact indicators at the micro, meso and macro levels to measure the impacts of migration initiatives, for example, the short-term return of diaspora professionals and other migrant workers.
- h. Enhance the technical capacity of UBOS. UBOS plays a central role providing technical assistance to various public institutions/ departments as regards the compilation of migration data. It is, therefore, key to labour migration data management to capacitate UBOS to the extent required. There may be a need to specifically equip UBOS personnel in relation to knowledge of contemporary labour migration issues, including the relationship between migration and development. In this latter regard, personnel may benefit from technical tools for the analysis of migration dynamics and development impacts.¹⁷
- i. Enhance the capacity of line ministries. The Bureau of Statistics should assist line ministries to move from a paper-based system based on individual files to a digitalized and standardized system of data collection, and provide appropriate data templates for use by the statistics sections of relevant data-collecting line ministries. These ministries should ensure that the migration data supplied by, for example, recruitment agencies, is in the appropriate format for analysis.
- j. Enable the MGLSD to fulfil a thematic lead, as well as a coordinating function. As it is assumed that the MGLSD would be the focal point and custodian of labour migration data, the department should be enabled, through human and technical capacity-building, to undertake this function.

¹⁷ One such tool is the so-called “T21 Model,” a technical simulation tool developed by the Millennium Institute. It is designed to support national development planning and facilitates a comprehensive analysis of migration dynamics and their development impacts. It also allows the facilitation of appropriate policy choices in determining how migration and remittances can make a difference on the impact of migration on Uganda’s socioeconomic development. Visit www.millennium-institute.org/integrated_planning/tools/T21 for details.

- k. Enhance interaction of Uganda foreign missions with the diaspora. Uganda embassies and consular offices are in a position to collect data on the diaspora. For example, with assistance from UBOS, they can undertake surveys of the diaspora in key host countries, identifying skills, entrepreneurial activities, impediments to home country contributions and key incentives for removing obstacles.

Invest in training. It may be necessary to impart knowledge on labour migration and migration and development themes by producing regular policy briefs, organizing national and regional workshops and exchanging best practices on various issues, such as the migration of low-skilled workers and its impact on development; general migration trends; migrant human rights in home and host countries; and policies supporting transnational entrepreneurship and investment. Regional workshops, in particular, could be used to provide training in relation to labour migration to relevant ministries in all of the five EAC Partner States.



4. Institutional Structures and Inter-institutional Collaboration

4.1 ISSUES FOR CONSIDERATION

This part of the report:

- a. Analyses the roles and responsibilities of existing institutional structures responsible for managing labour migration in Uganda, including the scope and functioning of interministerial and inter-institutional collaboration;
- b. Provides recommendations on how to improve these structures and coordination mechanisms.

4.2 ANALYSIS

The Uganda Migration Profile contains the following diagram of the migration institutional framework in Uganda (IOM, 2013a, pp. 65–68). For the purposes of this report, the focus is on key institutions in the domain of labour migration management, and primarily on the role of national institutional partners. We will, therefore, exclude international partners, except to the extent that their support to the national institutions has to be considered. We will also exclude national stakeholders that are not directly involved in labour migration management.

Table 3: Migration Institutional Framework in Uganda

Institution	Mandate
National Citizenship and Immigration Board	<p>The Board is established by the Constitution and consists of one chairperson and not more than six other persons appointed by the President and approved by Parliament. The Directorate of Citizenship and Immigration Control is the Secretariat of the Board. The functions of the board are:</p> <ol style="list-style-type: none"> Registering and issuing national identity cards to citizens of Uganda; Issuing Uganda passports and other travel documents; Granting and cancelling citizenship by registration and naturalization; Registering and issuing identity cards to aliens; Performing any other function determined by the Minister of Internal Affairs.
Ministry of Internal Affairs – Department of Citizenship and Immigration Control (DCIC)	<ol style="list-style-type: none"> Carries out the decision of the National Citizenship and Immigration Board; Facilitates the legal and orderly movement of persons to and from Uganda; Processes and verifies Uganda citizenship, and registers all Uganda citizens and resident aliens and issues them with national and alien identity cards, respectively; Regulates the issuance of national passports and travel documents; Facilitates and provides a conducive immigration environment for foreign investment in Uganda; Enforces national and regional immigration laws for the security and development of Uganda. <p>The DCIC is also responsible for border management, as well as migration-related inspections, investigations, prosecution and removal of irregular migrants (“undesirable immigrants,” as referred to to Ugandan legislation) from Uganda.</p>
Ministry of Foreign Affairs – Diaspora Services Department (DSD)	<p>The mandate of DSD is to manage DSD policy within the Ministry of Foreign Affairs (MoFA). This entails:</p> <ol style="list-style-type: none"> Driving the development, management and implementation of the National Diaspora Policy; Promoting, nurturing and sustaining a mutually beneficial relationship between the Government and overseas Ugandans. <p>The DSD aims to position itself as the one-stop centre for the diaspora community. The DSD also seeks to:</p> <ol style="list-style-type: none"> Establish and maintain a database on the identities, locations and skills of the Ugandan diaspora; Structure information and channels of communication with the diaspora; Identify and disseminate information on relevant opportunities for the diaspora community; Mobilize resources for diaspora programmes; Assist with overall integration of diaspora in the development process of Uganda through structuring programmes to enable the diaspora to invest in Uganda; Participate in national and international diaspora initiatives; Coordinate diaspora interests to ensure that they receive the desired attention.

Institution	Mandate
<p>Ministry of Foreign Affairs – Diaspora Services Department (DSD)</p>	<p>According to the DSD work plan, the services expected to be provided include the following:</p> <ol style="list-style-type: none"> a. Establishing a Web-based database for the registration of Ugandans in the Diaspora, in recognition of their existence; b. Liaising with the Bank of Uganda (BOU) and the financial services sector to find means for the safe, reliable and affordable remittance of funds by the diaspora; c. In cooperation with relevant ministries, departments and agencies (MDAs), identifying and promoting investment opportunities to attract the diaspora to invest in Uganda; d. Working with urban and district local authorities in identifying land for development and/or settlement by the diaspora; e. Facilitating access to accurate and reliable information on all aspects of Uganda’s development, including social, economic and political life, to promote participation by the diaspora in nation-building activities and deepening democratic systems; f. Coordinating with the Ministry of Internal Affairs to streamline immigration and citizenship procedures; and with the Electoral Commission (EC), for the registration of the diaspora for participation in civic and electoral processes and activities; g. Cooperating with host governments to address the concerns of the diaspora; h. Generally coordinating with stakeholders in the delivery of services to the diaspora; i. Facilitating national awareness, among home-based Ugandans, of the opportunities for mutually beneficial linkages with the diaspora, as well as the challenges entailed in sustaining these linkages.
<p>Ministry of Gender, Labour and Social Development (MGLSD)</p>	<ol style="list-style-type: none"> a. Oversees all labour matters and is mandated to empower communities to harness their potentials through cultural growth, skills development and labour productivity, for sustainable and gender-responsive development; b. Manage issues of labour externalization, including the licensing and supervision of recruitment agencies, and the accreditation of foreign employers (through the External Employment Unit (EEU)).
<p>Ministry of Health (MoH)</p>	<p>According to the Health Sector Strategic Plan (HSSP) III, the Ministry of Health provides leadership for the health sector: It plays a lead role and responsibility in the delivery of curative, preventive, promotive, palliative and rehabilitative services to the people of Uganda. It is within this broader mandate that migration health is conceptualized and implemented.</p>
<p>Ministry of Education and Sports</p>	<p>Provides technical support, guidance, coordination, regulation and promotes quality education, training and sports to all persons in Uganda for national integration, development and individual advancement.</p>
<p>Ministry of Finance, Planning and Economic Development (MFPED)</p>	<p>MFPED works in partnership with ministry departments to plan and finance migration and development activities.</p>

Ministry of East African Community Affairs (MEACA)	MEACA was established in 2006, in accordance with Article 8 of the EAC Treaty, to coordinate the EAC agenda in Uganda, in this case the implementation of the Common Market Protocol, under which free movement of persons in the EAC falls. MEACA has developed a Common Market Implementation Plan and established a National Implementation Committee for the Common Market Protocol, as well as a sub-committee responsible for the free movement of persons, labour, and the rights of establishment and residence, among others.
Uganda Bureau of Statistics (UBOS)	<ol style="list-style-type: none"> Provides technical assistance to develop tools, collect and analyse disaggregated data on population issues; Undertakes studies to determine demographic patterns and trends to provide data for planning; Manages population and migration statistics; Undertakes household surveys, including a survey on remittance uses.
National Planning Authority	<ol style="list-style-type: none"> Integrates population policy issues into the National Development Plan; Guides on the formulation of strategies for implementation of the National Development Plan.
Uganda Investment Authority (UIA)	<p>The UIA is a semi-autonomous government agency that was established under the Investment Code Act to promote and facilitate private sector investment in Uganda. The UIA was the first institution to recognize the importance of the diaspora and has been engaging with them since 2003 through the “Home is Best” summits. The key objectives of UIA engagement were:</p> <ol style="list-style-type: none"> Create awareness among the diaspora about investment opportunities available in Uganda; Establish the investment needs of the diaspora; Build confidence among the diaspora; Direct remittances away from consumption spending towards productive economic activity; Interventions to address challenges include: <ol style="list-style-type: none"> The “Home is Best” summit, whose primary objective is to provide information on investment opportunities in Uganda; Confidence-building by participating in diaspora forums; Business development support; Promoting investment in value addition projects. <p>It is important to note that the UIA has been identified as a key partner in the project on strengthening capacities for diaspora resource mobilization and utilization. The UIA has been tasked to develop a compendium of investment opportunities (the compendium has been developed).</p>
Bank of Uganda (BOU)	BOU undertakes remittance surveys and investigates remittance products; together with UBOS, BOU provides international statistical divisions like the United Nations Statistics Division with national data.

<p>International Organization for Migration (IOM)</p>	<p>Established in 1951, IOM is the leading intergovernmental organization in the field of migration that works closely with governmental, intergovernmental and non-governmental partners. IOM works to help ensure the orderly and humane management of migration; promote international cooperation on migration issues; assist in the search for practical solutions to migration problems; and provide humanitarian assistance to migrants in need, including refugees and internally displaced people. In Uganda, IOM works in the following areas:</p> <ol style="list-style-type: none"> a. Migrant assistance, with a focus on victims of trafficking in persons and vulnerable Ugandans stranded abroad; b. Migration health; c. Refugee resettlement; d. Humanitarian assistance to refugees and extremely vulnerable returnees; e. Labour migration and development; f. Migration policy and research.
<p>United Nations Development Programme (UNDP)</p>	<p>Since 1966, UNDP has been partnering with people at all levels of society to help build nations that can withstand crisis and drive and sustain the kind of growth that improves the quality of life for everyone. In Uganda, UNDP has provided capacity-building support to the Ministry of Foreign Affairs that focuses on the following six areas:</p> <ol style="list-style-type: none"> a. Development of a diaspora information management system/web portal; b. Development of a diaspora policy; c. Revising Uganda's foreign policy; d. Development of a compendium of investment opportunities; e. A feasibility study for the establishment of an international diaspora bond. <p>(Rutegea et al., 2012)</p>

To the above could be added that the Anti-Human Trafficking National Task Force operates within the framework of the Ministry of Internal Affairs. Also, although not directly involved in labour migration management, mention could be made of the East African Forum for Migrant Rights.¹⁸

There are also several interministerial and inter-institutional arrangements in place, some formal and some informal. In some cases, the arrangement amounts to a mere referral for the exercise of a particular function; in other cases,

¹⁸ See IOM (2013), p. 68: "EAFMR [East African Forum for Migrant Rights] is a non-governmental organization based in Uganda. It is the only NGO [non-governmental organization] focused on the rights of migrants in the country and derives its mandate from the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. It focuses on:

- a. Protection of rights of migrants;
- b. Partnership with ministries and other government departments;
- c. Promotion of effective and efficient integration of migrants into host communities;
- d. Initiating and undertaking research in areas covering migrant rights;
- e. Providing a platform to mobilise diaspora in national development.

more substantive collaboration is at play. The following could be highlighted in particular:

- a. In the event of a person desiring to be employed abroad, the candidate first has to be screened and vetted by the Joint Intelligence Committee. In addition, an applicant for work abroad has to present clearances from local council levels I and III, and from their parents and/or spouse. (MGLSD, 2013)
- b. Similarly, a person so desiring to be employed abroad has to obtain not only the necessary police clearance, but also a letter of recommendation from MGLSD, which must be presented to immigration authorities at the port of exit, the airport or at the border. (MGLSD, 2013)
- c. An issue affecting a Ugandan citizen abroad may attract consular attention; however, there may be a need to liaise with the EEU where the issue, for example, concerns a contractual dispute with the foreign employer and the relevant recruitment agency may have to be involved as well.¹⁹
- d. The multi-stakeholder Steering Committee of the Project on Strengthening Labour Migration Management and Productivity was established and entrusted with overseeing several labour migration-related initiatives and projects of common concern to different stakeholders and ensuring that coordination takes place. The committee comprises representatives from several government ministries, other public institutions (such as UBOS) and development partners (in particular, IOM and the ILO).
- e. As previously mentioned, a multi-stakeholder Anti-Human Trafficking National Task Force exists, with the task of coordinating activities aimed at combatting trafficking in persons in Uganda.
- f. An ad hoc interministerial diaspora working committee, composed of technical staff from key stakeholder ministries, departments and agencies, and under the leadership of the Department of Diaspora Services of the Ministry of Foreign Affairs, provides services to the diaspora.
- g. The National Citizenship and Immigration Board, established according to the provisions of the Constitution,²⁰ consists of a chairperson and not more than six²¹ other persons appointed by the President, with such appointment approved by Parliament. (GoU, 2009)

Private recruitment agencies have established among themselves an association which aims to set common standards and enhance cooperation with each other and with the Ugandan Government. Named “Uganda Association for External Recruiting Agencies” (UAERA), it was registered as an association in 2013 and as

¹⁹ Interview with the Diaspora Services Department of the Ministry of Foreign Affairs, 26 February 2014.

²⁰ Specifically, Section 16 of the Constitution of the Republic of Uganda (2005).

²¹ According to Section 16(2) of the Constitution, there has to be no less than four other persons (other than the chairperson).

a “company limited by guarantee” in 2014. The association developed a code of conduct prescribing a range of ethical and professional norms and standards and providing for a monitoring mechanism. (Kameraho, 2014)

One is left with several impressions when considering the existing institutional framework:

Fragmented and overlapping framework. The current framework is fragmented, if viewed from the perspective of a person intent on moving abroad or of one moving to Uganda to work or start a business. As will be discussed in more detail in the next component of this report, there is little policy or operational support in Uganda for persons wanting to commence business activities in, for example, other EAC Partner Countries. From a pre-departure perspective, it might be advisable to have a one-stop facility in place, to provide streamlined services to would-be migrant workers or business persons. Similarly, a person wanting to establish him- or herself in Uganda is exposed to a myriad of procedures and requirements emanating from various institutions. Also, in such a case a one-stop facility would facilitate the immigration process. Apparently, such an arrangement is already in place in Rwanda, in the sense that a centralized institution has been created to bring together eight different institutions fulfilling various migration roles.

It should be noted that the final draft of the National Diaspora Policy envisages, as a preferred option, the establishment of a National Diaspora Services Board (NDSB). This option is preferred to institutionalizing the ad hoc interministerial diaspora working committee. According to the policy, this board should fulfil, among others, the function of serving as a one-stop centre for diaspora services both in Uganda (at the diaspora secretariat) and at the country’s embassies and consulates, thereby combining all work related to diaspora engagement (GoU, 2013a).

It should also be noted that in the area of dealing with the context of Ugandans working in foreign countries, a clear overlap and even duplication of functions are discernible. For example, overseeing the contact between private recruitment agencies and Ugandan workers in foreign countries is a task entrusted to the EEU; the Diaspora Services Department (DSD) liaises simultaneously with these Ugandan workers.

EEU capacity concerns. Capacity is a real concern, particularly as far as the EEU within the MGLSD is concerned. Initially meant to be served by three staff members, the current structure designates only one staff member to manage the unit; however, this position is not filled. Currently, two officials, who have other duties assigned to them, such as having to take care of the government’s full labour externalization portfolio, which includes labour market information collection, inspection and training of recruitment agencies, liaising with destination

countries, providing requisite training, among others.²² Budgetary support for the portfolio is wholly inadequate, as it forms part of the departmental budget, which is set at a mere USD 6,000 every quarter. Technical support is equally inadequate, with only one computer and one printer assigned to the unit, a static database, and no website or virtual platform to store or share data publicly. There is no local area network or computer connectivity between departments or within the ministry; sharing of data occurs via site visits, telephone calls, e-mail and reports. In addition, office space is insufficient. It has been suggested that to be fully functional, the unit would have to be a separate department with sufficient autonomy, with 17 staff members and a proposed annual budget of USD 200,000 (IOM and GoU, 2014, pp. 8–12). The current state of the EEU needs to be compared with the fairly well-endowed DSD, which constitutes a separate department within the Ministry of Foreign Affairs (established seven years ago) and has six staff members.²³

Composition of and representation in governance bodies. It has to be noted that MGLSD is not a member of the National Citizenship and Immigration Board. Also, as suggested by a recruitment agency, the recruitment industry should be represented in the Steering Committee of the Project on Strengthening Labour Migration Management and Productivity.²⁴ However, it might be difficult to envisage that the industry should be so represented, given the fact that it is subject to regulation and monitoring. Perhaps a framework aimed at formal engagement with the relevant ministry (such as the MGLSD) might make more sense.

Other services not being provided by any institution. As appears from the discussion in the next component of this report, there are several services which should be in place, particularly as far as the externalization of labour is concerned, but which are currently not provided. These relate, among others, to the protection of the rights and interests of migrant workers abroad and the reintegration of Ugandan returnees. It is important to have a holistic view of the needs of migrant workers, whether they move abroad for the long term or on a temporary basis. Appropriate supporting arrangements need to be put in place prior to migrants' departure, during their employment abroad and upon their return. Ideally, the provision of services at these different stages should either be vested in one institution, or rendered by several on a properly coordinated basis. A coordinated arrangement should observe a team approach whereby different ministries and public institutions work closely together to serve the interests of the migrant workers concerned, and also via the posting of labour attachés and other support staff to foreign missions in countries with a sizeable number of Ugandan citizens. The coordinated service provided by the Philippine

²² Interview with the External Employment Unit of the Ministry of Gender, Labour and Social Development, 24 February 2014.

²³ Interview with the Diaspora Services Department of the Ministry of Foreign Affairs, 26 February 2014. See also: G. Walusimbi-Mpanga and Bakunda, 2013b, pp. 55–57.

²⁴ Interview with Security Link, 25 February 2014.

Government and several other public institutions – the Philippine Overseas Employment Administration (support on recruitment matters), the Department of Labor and Employment, the Department of Foreign Affairs (consular and legal support) and the Overseas Workers Welfare Administration (welfare support) – to the large number of overseas Filipinos may be cited as a best practice example. (Ofreneo and Sale, 2014; Walusimbi-Mpanga and Bakunda, 2013b, pp. 23–26)

4.3 RECOMMENDATIONS

In addition to the proposals made under the previous component of this report in relation to institutional arrangements for data collection, analysis and dissemination, the following could be remarked:

- a. **Strengthen the capacity of the EEU.** As the externalization of labour is viewed as an important developmental initiative by the Government of Uganda, and in view of the myriad functions of the EEU, as well as the high-level nature of many of its functions, it is recommended that the unit be converted into a separate department within the ministry (as is the case with DSD within the Ministry of Foreign Affairs), with sufficient staff complement and budgetary allocation. EEU staff should have the capacity to conduct international labour market information intelligence, liaise with Ugandan embassies, monitor recruitment agencies and provide various services to Ugandan migrant workers before departure and upon return.
- b. **Extend and coordinate service delivery.** There is ample scope, and indeed a crucial need, for extended services to be rendered to migrant workers and their families – as well as to business people – at the pre-departure stage, while in transit, during the period of residence abroad and upon return. The extended service delivery and the holistic approach suggested require careful and detailed planning, as well as revised job descriptions for the individuals and revised plans of action for the institutions so involved. There also are requisite human resources and technical and budgetary support to make this possible. The posting of additional government personnel (including labour attachés) in overseas locations where sizeable numbers of Ugandans are working may also be necessary.
- c. **Streamline coordination and provide a one-stop facility.** Streamlined service delivery is evidently required and will go a long way towards facilitating emigration, sojourn in the host country and return. It will also serve the interests of immigrants in a structured manner. Several institutional models for streamlined service delivery present themselves. A centralized institutional structure could be established, or an existing one (such as the EEU, or the envisaged NDSB) may be assigned to fulfil this purpose; personnel from other ministries could then be posted at this entity to render support. On the other hand, a

formal collaborative structure, where various government and other public institutions work closely together to render services both within Uganda and abroad, may be established. The emphasis should be on eradicating fragmentation and possible duplication, in order to render efficient service and to fill the main gaps in the range of services not currently available but nevertheless needed. There is a need to clarify and provide a proper framework for the respective roles of the stakeholders involved. This applies, in particular, to the extent that the functions of the EEU and the DSD (including the envisaged NDSB) seemingly overlap. It would be preferable if a clarifying and mandating legal framework were provided to deal with this.

- d. Establish and utilize public–private partnerships. Considerable scope exists for establishing and utilizing public–private partnerships for the benefit of labour migration. For example, in the area of remittances, collaboration between and commitments made by financial institutions and government may help to reduce the costs of personal transfers and to develop appropriate remittance products. There could also be closer collaboration between government and private recruitment agencies, with government taking on a more pertinent role – as discussed later in this report. In fact, the Uganda Association for External Recruiting Agencies (UAERA) has suggested that as UAERA members strengthen youth employment by exporting labour, there would be a need to partner with government as regards youth programmes and initiatives that would ease the burden on the youth – for example, through a “youth fund” mechanism (Kameraho, 2014). Also, in more general terms, but evidently of critical importance, is the need to ensure extensive collaboration with two of the main affected actors in the area of labour migration, that is, being the apex employers’ association and trade union federation bodies in Uganda (i.e. the Federation of Uganda Employers, or FUE, and the National Organisation of Trade Unions, or NOTU).

5. National Legislative Basis and International Norms

5.1 ISSUES FOR CONSIDERATION

In this part of the report we attempt to:

- a. Analyse current national legislation regarding labour migration and identify potential gaps;
- b. Examine existing bilateral and multilateral labour agreements that Uganda participates in and to what extent such agreements are being implemented in an effective manner;
- c. Ascertain the extent to which legal provisions prescribed in international conventions are in place and functioning.²⁵

5.2 ANALYSIS

Focus in this part of the report will be placed on potential gaps emanating from existing national legislation on labour and social security, as well as from Employment Regulations No. 62 of 2005 (Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad), hereafter the “2005 Regulations” and its recently released (December 2013) attendant Guidelines on Recruitment and Placement of Ugandan Migrant Workers Abroad, hereafter the “2013 Guidelines.” Thereafter, the issue of bilateral and multilateral labour agreements will be addressed. Finally, some remarks will be made concerning international legal frameworks. Matters pertaining to obstacles from an EAC perspective will be consigned largely to the last part of this report.

²⁵The terms of reference for this assignment also included the following: “... and where ratification has not taken place, assess the obstacles and requirements for ratification. In particular, focus on any obstacles in the national legislation preventing access to employment within the context of the EAC Common Market Protocol.” Due to the lack of available data, it was not possible in the course of this assignment to ascertain the (domestic) obstacles and requirements for ratification. Access to employment within the EAC context is considered within the framework of the final part of this report, which deals with the regional context.

5.2.1 Current labour and social security laws

The National Employment Policy for Uganda: (a) regards the externalization of labour as a priority area; (b) suggests that the MGLSD should be involved in ensuring that the rights of Ugandans working abroad are protected; (c) envisages the conclusion of bilateral agreements with receiving countries; and (d) foresees, among others, the establishment of a revolving fund to facilitate Ugandans' employment abroad (MGLSD, 2011). Yet the Employment Act of 2006 makes no mention at all of this policy priority area; in fact, Section 3(5) essentially restricts the geographic scope of the act to Uganda (unless otherwise indicated). Strictly speaking, it would be difficult, as a rule, to foresee how the labour rights provided by Ugandan law would apply to workers employed outside the country; nevertheless, providing a formal legislative basis for the externalization of labour, beyond the adoption of regulations, would be helpful in emphasizing the importance of this area.

The provisions in Uganda's labour law regarding the treatment of immigrant workers also reveal certain shortcomings. As a matter of fact, most protections for these workers are contained not in the labour law, but in other laws – that is, those which impact Uganda's international legal obligations – discussed below.

- a. The Employment Act of 2006 does not include nationality or citizenship as a prohibited discrimination ground (Section 6(3)). Nevertheless, Section 6(5) of the act imposes an obligation on the relevant minister, a labour officer and the Industrial Court to promote and guarantee equality of opportunity for migrant workers and their family members who are legally residing in Uganda.
- b. As discussed in Chapter 5.2.4, the Citizenship and Immigration Control Act of 1998 contains several provisions which may need to be revisited, bearing in mind Uganda's international commitments under binding ILO conventions and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. These relate to certain restrictions on foreigners in respect of the exercise of freedom of movement, freedom of association and industrial action rights.
- c. Also, as regards the protection of migrant workers in Uganda under the labour law, several areas of concern provided for in the international instruments mentioned in (b) are not explicitly provided for in the Ugandan legislative framework. These areas relate in particular to the wide range of specific social protections and employment guarantees and protections embedded in the two conventions.²⁶

²⁶ See, among others, Articles 43 and 54 of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which regulate social protection and employment rights, respectively, of documented migrants.

- d. In addition, the supporting national policy framework, required by ILO Convention 143 of 1975 (Migrant Workers (Supplementary Provisions) Convention) is not in place.²⁷
- e. Finally, a recent ILO labour administration and inspection audit noted with concern the practice of utilizing labour inspectors to enforce immigration laws.²⁸

The current social security legal dispensation also displays several gaps and leaves migrant workers to and from Uganda without sufficient protection. This appears to be the position, despite the emphasis that the diaspora policy places on welfare protection and the portability of social security benefits for Ugandans working abroad, on the basis of bilateral social security agreements. (GoU, 2013a)

- a. The National Social Security Fund Act of 1985 makes limited reference to the possibility of reciprocal agreements (GoU, 1985, Section 51), but does not contain any provision which potentially extends protection to Ugandans who work abroad, who may not be covered by the social security scheme of the destination country. The act, however, provides for the payment of an emigration grant to a member of the National Social Security Fund who emigrates permanently to a country with which no reciprocal arrangement has been made. If the member has been contributing for less than four years, he or she would only receive the contributions he or she has paid into the fund; if he/she has been contributing for at least four years, he or she would receive the full balance of his or her account in the fund (GoU, 1985, Section 23).²⁹ While this provision applies to both migrant and non-migrant workers, it is clear that, given the limited duration generally applicable to work permits, migrant workers (as a group) are in particular negatively affected, and, as such, this effectively constitutes a form of indirect

²⁷ Article 10 of ILO Convention 143 (Migrant Workers (Supplementary Provisions) Convention) stipulates: “Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights, and of individual and collective freedoms for persons who, as migrant workers or as members of their families, are lawfully within its territory.”

²⁸ The audit noted: “Labour inspection visits are mostly carried out in response to complaints, although the officers said they do carry out labour inspection campaigns, noting that in 2011, there was a campaign to verify the permits of foreign workers employed in companies. The mission team made the point that inspecting permits for migrant workers is an issue more appropriate for immigration officials and that, according to Convention No. 81, any additional duties entrusted to labour inspectors should not interfere with the effective discharge of their primary duties, which are enforcement and improvement of the legislation on legal provisions relating to conditions of work and the protection of workers while engaged in their work. The CEACR [Committee of Experts on the Application of Conventions and Recommendations] recalled in its General Survey of 2006 that the primary duty of labour inspectors is to protect workers and not to enforce immigration law. In some cases, the Committee has noted that a large proportion of inspection activities are spent on verifying the legality of the immigration status. Since the human and other resources available to labour inspectorates are not unlimited, this would appear to entail a proportionate decrease in [the] inspection of conditions of work.” (ILO, 2013, p. 19)

²⁹ The same restriction applies with regards to eligibility for a withdrawal benefit (Section 21(2)).

discrimination.³⁰ An employment period shorter than four years, therefore, disadvantages the migrant worker; nevertheless, neither he or she, nor his or her employer, is exonerated from the obligation to contribute to the fund.

- b. A more explicit, direct form of nationality discrimination stems from the provisions of Section 13 of the National Social Security Fund Act, which requires every employer to pay, on a monthly basis, into the reserve account of the Fund a special contribution of 10 per cent of the total wages payable to a non-resident employee.³¹ Similarly, the draft Retirement Benefits Sector Liberalisation Bill of 2011 contains a provision which also effectively discriminates against short-term migrant workers (GoU, 2011a, clauses 27(1) & (2)). A person who permanently emigrates from Uganda to a country with which Uganda does not have a reciprocal agreement, but who has been contributing to a retirement benefits scheme for less than three years, shall not receive the full value of his/her accrued benefits, nor the interest arising from the accrued benefits as an emigration grant: He or she will only be entitled to a value equivalent to his or her contributions. Citizens of other EAC Partner States would likewise not benefit to the same extent as Ugandan citizens: While they would receive the full value of their accrued benefits when permanently emigrating, no mention is made of an entitlement to any interest arising from their accrued benefits.³² To complicate matters even more, this bill, which has apparently been referred back for further review, foresees a liberalized environment based on a privatized concept of social security provisioning. However, this would be incompatible with the public contributory social security schemes adopted by some EAC Partner States, and would make it extremely difficult, if not impossible, to harmonize national social security laws in the EAC.
- c. It is noteworthy that the Uganda Retirement Benefits Regulatory Authority Act of 2011 contains no provision, whatsoever, regulating any of these matters.

³⁰ Indirect discrimination may occur when laws, policies and programmes are based on seemingly neutral criteria, which in their actual effect have a detrimental impact on a particular group of persons (e.g. migrant workers). See the definition of "indirect discrimination," in Collins English Dictionary, accessed at www.collinsdictionary.com/dictionary/english/indirect-discrimination: "Discrimination by means of rules, regulations or procedures that may appear to be neutral, but which actually discriminate against certain groups of people."

³¹ A "non-resident employee" is principally defined as "an employee not ordinarily resident in Uganda who is to be employed in Uganda for a continuous period of not more than three years or such longer period as is allowed in any particular case by the managing director" by Section 1 of the National Social Security Fund Act.

³² Clause 27(3) stipulates that citizens of other EAC Partner States will be entitled to "the full value of his or her accrued benefits as an emigration grant."

How can these gaps be addressed?

It is often said that bilateral social security treaties (in particular when supported by an overarching multilateral agreement) constitute universal worldwide best practices.³³ These agreements focus on appropriate social security arrangements for migrant workers, as bilateral labour agreements (BLAs) usually only make partial provisions for such arrangements.

The agreements generally provide for the aggregation of insurance periods (in that all periods taken into account by the various national laws are aggregated for the purpose of acquiring and maintaining entitlement to benefits and of calculating such benefits), and the payment of benefits, irrespective of the country in which the beneficiary resides (the “(ex)portability” principle).

Extending social security coverage unilaterally to citizens living and working abroad provides another avenue for countries of origin. Given the lack of social security coordination arrangements between many migrant-sending countries of the global South and host countries, and the absence of sufficient (social security) protection and coverage from the latter, some migrant-sending countries in Asia and elsewhere in the developing world have taken stock of the vulnerable social and economic position of their citizens living and working in other countries. As a result, they have sought to extend some form of protection (in terms of social security) to their citizens employed as migrant workers and also created a supportive framework for the employment of these workers in host countries.

These countries of origin seek to protect the rights and interests of migrant workers abroad through specific interventions. The interventions are guided either by the countries’ respective Constitutions or a statutory framework providing for such protection. The extension of protection of migrant workers abroad via unilateral arrangements has been achieved through, among others:³⁴

- a. The adoption of constitutional guarantees and statutory frameworks facilitating the protection of migrant workers abroad, for example, the 1987 Constitution of the Philippines,³⁵ the Migrant Workers and Overseas Filipinos Act of 1995, and the Constitution of Ecuador.³⁶

³³ See Holzmann and Chernetsky, 2005, p. 32, where they remark: “The administrative approach to achieve the portability for both pension and health care benefits seems to be reasonable cost-effective after a bilateral or multilateral agreement has been successfully concluded.”

³⁴ See also the contribution by R. Ofreneo and J. Sale (2014) on the Philippines in this report.

³⁵ As has been remarked (see Olivier, 2010, paras 489–491): “The 1987 Constitution of the Republic of the Philippines lays down the basic policy framework. It requires the State to provide full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.” (Constitution of the Republic of the Philippines, 1987, Article XIII, section. 3: see Ofreneo and Sale, 2014.)

³⁶ It has been noted: “Ecuador has taken the initiative of the protection of its citizens abroad a step further by advocating for a ‘universal citizenship’ irrespective of where a person may reside. The recently adopted Constitution of Ecuador provides that every person is equal and shall possess the same rights, duties and opportunities, and nobody shall be discriminated against on any grounds, including his/her migratory condition (Constitution of the Republic of Ecuador, 2008, Article 11(2)). The Constitution states that the State of Ecuador fights for the principle of universal citizenship, for the free mobility of every inhabitant of the planet earth, for the gradual demise of the condition of alien as a transforming element of the unequal relationships between countries, with especial respect to the North–South divide. It demands [the] respect of human rights, with special regard to migrating persons (Articles 416(6) and (7)). The Constitution provides for a ‘right to migrate,’ a right to asylum and a right against displacement. Article 40 provides that: ‘Every

- b. Comprehensive migration laws and regulations, which include those governing the entry, stay and transit of foreigners, and the exit and return of nationals, with clear provisions on migrants' rights. An example is Mexico's migration law and its accompanying regulations. Article 2 of the law, for example, sets guidelines for the formulation of migration policy, including: (i) respect for the rights of both Mexican and foreign migrants; (ii) facilitation of international mobility; (iii) complementarity of labour markets with countries in the region; and (iv) full equality between nationals and foreigners, particularly as it relates to civil liberties.
- c. Provisions in bilateral social security treaties providing for continued coverage of certain categories of migrant workers in the social security system of the labour-exporting country, for example, the Indian–Belgian agreement of 2009, which requires that posted workers be covered by the social security legislation of their country of origin and that they pay social security contributions to their country of origin's social security system, as long as the period of posting does not exceed five years.³⁷
- d. State governments establishing special overseas workers' welfare funds by national and even (as in the case of India) extending protection to workers and, at times, also their families (as in the case of India, the Philippines and Sri Lanka). (Hall, 2011; ILO; 2008; and Ruiz, 2008)
- e. Voluntary affiliation in national social insurance schemes, for example, those of Albania, Jordan, Mexico, Mozambique, the Philippines and the Republic of Korea.
- f. Measures and schemes aimed at supporting the flow of remittances and social insurance contributions to the sending country.
- g. Exportability of social security benefits and the provision of related services (e.g. medical care) abroad.³⁸

The unilateral measures are of relatively recent origin, but seem to be growing in extent and popularity. They cover sizeable numbers of migrant workers – in the case of the Philippines, 8 million, and in the case of Sri Lanka, 2 million. International

person is acknowledged the right to migrate. No human being shall be identified, nor regarded as illegal, as a result of their migratory conditions. The State, through its dedicated institutions, shall develop the following actions – among others – for Ecuadorian persons' rights to be exercised overseas, whatever their migratory condition: 1) Shall provide assistance to them and their families, whether residing overseas or in the country; 2) Shall provide attention, counselling services and thorough protection, for them to be able to freely exercise their rights; 3) Shall protect their rights if, for whatever reason, they are deprived of their freedom overseas; 4) Shall promote their ties with Ecuador, facilitate family reunion and stimulate return on a voluntary basis; 5) shall safeguard the privacy of their personal information within the archives of Ecuadorian institutions overseas; 6) Shall protect transnational families and their members' rights.' The constitutional imperative to protect Ecuadorians abroad is further reflected in the country's policies. The National Plan of Foreign Policy (Plan Nacional de Política Exterior) 2006–2020 establishes 'protection to emigrants' as one of the priority axes of Ecuadorian foreign policy. It also puts an emphasis on the development of 'economic and cultural ties' between expatriates and their motherland."

³⁷ Agreement on social security between the Kingdom of Belgium and the Republic of India, 2009, Article 8.

³⁸ The legislation of countries, especially countries that conclude bilateral social security agreements, often regulates the exportability of social security benefits. For example, in the case of South Africa, workmen's compensation and social assistance legislation provides for this.

standards and instruments do not regulate this particular phenomenon; yet it is interesting to note that reference to this is increasingly being made in what can be regarded as soft law and explanatory and implementing instruments, for example, the 2008 UN General Comment No. 19 on the right to social security (in relation to the UN International Covenant on Economic, Social and Cultural Rights) and the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Of particular relevance, also, is the ILO Multilateral Framework on Labour Migration (ILO, 2006), which provides a comprehensive overview of principles and guidelines on how labour protection for such migrant workers can be improved.

5.2.2 Regulations concerning the recruitment of Ugandan migrant workers abroad

Regulation 2 of the 2005 Regulations enumerates the overall objectives of the regulations, namely, to:

- a. Promote full employment and equality of employment opportunities for all and to uphold the dignity and rights of Ugandan migrant workers;
- b. Allow deployment of Ugandans to countries which have existing labour and social laws or are signatories to international agreements protecting the rights of migrants;
- c. Protect every Ugandan desiring to work abroad by securing the best possible terms and conditions of employment;
- d. Provide a mechanism for issuing licenses to recruitment agencies.

Upon analysis of the 2005 Regulations, and viewed from a high-level perspective, one could say that they provide for weak institutional protection. While the regulations provide for improved supervision and regulation of recruitment agencies involved in externalizing labour, they place the primary responsibility of identification, external employment opportunities, recruitment and deployment, and the welfare of migrant workers, either on the recruitment agencies or the migrant workers themselves. Given that the protection of their migrants' rights is the ultimate responsibilities of States, the responsibility to "ensure that workers deployed overseas are amply protected and their interest and well-being promoted" (GoU, 2005, regulation 69(1)) should be vested in a ministry of the Government of Uganda. The following responsibilities also given to recruitment agencies do not fall within the scope of work of private institutions: foreign employers' liability for violations of their employment contract by foreign employers (GoU, 2005, regulation 69(2)); attending to the living conditions of workers (GoU, 2013b, par. 16.1.1), by ensuring foreign employers' compliance with the labour and social legislation of both Uganda and the concerned country of destination (GoU, 2013b, par. 19.1)³⁹; management and supervision of migrant

³⁹ See also Regulation 7(2)(g) of the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005.

workers throughout the validity of their employment contracts in the destination countries (GoU, 2013b, par. 23.1.1); and being subject to sanctions imposed by the MGS LD in the event that they have not provided welfare assistance to migrant workers in other countries (GoU, 2013b, par. 32.1). These activities, difficult as they are to comply with and enforce, contribute significantly to recruitment costs currently borne by workers themselves. One would have thought that these are typically the (primary) responsibilities of government, acting through its official representative structures in the country of destination. The same applies to migrant worker returnee arrangements: as indicated below, aside from the (envisaged) involvement of government in the economic reintegration of returning migrant workers, reintegration is, for all practical purposes, left to be taken care of by civil society (e.g. associations of returnee migrants).

Consequently, as has been noted, the 2005 Regulations do not seem to provide for a facilitative or promotional role for government. Also, sanctions – and the circumstances under which penalties may be imposed – are not adequately provided for. In addition, a code of conduct for recruitment agencies has not yet been put in place (Walusimbi-Mpanga and Bakunda, 2013b, p. 54)⁴⁰ – a regional good practice example in this regard is the Code of Conduct for Private Employment Agencies developed by the Kenya Association of Private Employment Agencies (KAPEA). Furthermore, the 2005 Regulations essentially provide for migrant workers. However, they make no provisions – and, in fact, no statutory framework – for facilitating the movement abroad, even to other EAC Partner Countries, of people with business skills. Yet, both at the EAC and GATTs levels, allowance is made for trade in services, allowing higher-skilled people to move particularly as self-employed people and establish business operations abroad (Walusimbi-Mpanga and Bakunda, 2013b, p. 54–55). It was recently noted by UAERA that jobs for professionals could potentially be lobbied for only with the help of Government (Kameraho, 2014).

Other problems with the regulations and their attendant guidelines are addressed as part of the next component of this report, which deals with recruitment and support services.

5.2.3 Bilateral and multilateral labour agreements

An agreement apparently exists between Uganda South Sudan for the placement of public servants in the latter country, through which 60 public servants have been deployed. No information about the implementation of this agreement has to date been obtained. Similarly, Trinidad and Tobago has approached Uganda with a request for medical personnel, and a large number of Ugandans work abroad, particularly in Middle Eastern countries, often recruited by licensed recruitment agencies. Uganda intends to conclude bilateral agreements with some of these countries to streamline the recruitment process and formalize the

⁴⁰ The 2013 guidelines would hardly qualify as a code of conduct.

flow of migrant labour. A draft of the standard agreement has been attached to the 2013 Guidelines and appears as Appendix (Bilateral Agreement on Employment) to this report. Some comments are made concerning the draft agreement at the end of this section.

What are the guiding principles informing an evaluation of BLAs? Under the influence of the widely recognized core labour rights developed under the auspices of the ILO, recent BLAs often effectively endorse the notion of extending core protection in labour law terms to at least lawfully employed migrants. In addition, modern agreements regulating the export of migrant labour to countries in search or need of certain categories of skilled and unskilled labour, invariably contain explicit guarantees of migrant workers' labour rights in the host country. While there are different kinds of BLAs, with varying objectives, it has been suggested that the following 25 core elements are invariably provided for or covered in these agreements:⁴¹

- a. The competent government authority;
- b. Exchange of information;
- c. Migrants in an irregular situation;
- d. Notification of job opportunities;
- e. Drawing up of a list of candidates;
- f. Pre-selection of candidates;
- g. Final selection of candidates;
- h. Nomination of candidates by employers (possibility for the employer to directly provide the name of a person to be hired);
- i. Medical examination;
- j. Entry documents;
- k. Residence and work permits;
- l. Transportation to migrant workers' country of destination;
- m. Employment contract;
- n. Employment conditions;
- o. Conflict resolution mechanisms;
- p. The role of trade unions and collective bargaining;
- q. Social security;
- r. Remittances;
- s. Provision of accommodation;
- t. Family reunification;
- u. Return and reintegration;
- v. Activities of social and religious organizations;

⁴¹ See: J. Rispoli, "Bilateral Labour Agreements," IOM training workshop on labour migration and labour market information systems, Kampala, Uganda, 16–18 July 2013; ILO, IOM and OSCE, "24 Basic Elements of a Bilateral Temporary Labour Agreement" in Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination (Geneva and Austria, 2007), available from www.osce.org/eea/19242?download=true; ILO, IOM and OSCE, Compendium of Good Practice Policy Elements in Bilateral Temporary Labour Arrangements (2008), available from www.unhcr.org/50aa5cfc9.pdf.

- w. Establishment of a joint commission (to monitor the agreement's implementation);
- x. Validity and renewal of the agreement;
- y. Applicable jurisdiction.

According to Rispoli (2013), these 25 core elements can be grouped into these five main areas:

- a. Admission;
- b. Recruitment and departure;
- c. Employment contract and other provisions concerning the migrant's legal status in the destination country;
- d. Return to the country of origin;
- e. Administration of the agreement and its implementation.

As has been remarked, the primary aim of BLAs, as far as destination countries are concerned, is to ensure that they address the skill gaps in the local labour market, be they in seasonal work or low-skilled labour or in higher-skilled work in sectors such as health and information technology. For sending countries, BLAs can be "a means to increase the access of their workers to international labour markets and to promote the development of their human capital through the acquisition of occupational skills." Agreements can also ensure that workers who have acquired new skills actually return to their country of origin, avoiding "brain drain." Sending countries can use BLAs to secure the rights and welfare of their workers abroad (Martin, 2011). These agreements can promote an orderly migration process, thereby curbing reliance on irregular migration. There are, of course, challenges with BLAs:

- a. It often requires a lengthy and time-consuming process to reach a BLA.
- b. Some migrant-receiving countries have little interest in concluding BLAs.
- c. Funding for and institutional capacity-building of institutions and agencies in the sending countries are required, in addition to the acquisition of know-how to negotiate and conclude such an agreement.
- d. There may be a need for the development and implementation of databases for the effective implementation of BLAs (e.g. for pre-selection purposes and monitoring).
- e. Follow-up on migrant workers after their arrival in the host country require additional human resources.
- f. Indicators have to be developed for the monitoring and evaluation of the implementation and performance of BLAs.
- g. Specific efforts and capacity are needed to integrate return migrants after the expiration of their contracts.

(Martin, 2011)

Rispoli further indicates that the successful implementation of BLAs requires that:

- a. They target specific sectors in a destination country with severe labour shortage;
- b. There is a quota or ceiling;
- c. Recruitment is organized;
- d. Institutional coordination is ensured and employers in the destination country are engaged;
- e. The implementation phase of the BLA is organized with sufficient flexibility.⁴²

In general, the following remarks can be made regarding the draft (standard) agreement, which provides for some of the issues previously mentioned:

- a. The limited range of issues covered in the draft agreement can benefit from the more extensive framework of matters generally included in BLAs (i.e. the 25 core elements enumerated on pages 29–30 above).
- b. The draft agreement can also benefit from experiences elsewhere in the EAC region. There may be a need, for example, to include more specific and elaborate provisions regarding the recruitment process and conditions and measures to support the flow of remittances – as provided for in the draft memorandum of understanding between Kenya and Jordan.⁴³
- c. No provision is made for the review of the agreement.
- d. An (joint) institutional structure to oversee implementation of the agreement would have added to the value of the agreement.
- e. Read with the 2005 Regulations, insufficient provisions were made for the reintegration of returnees.
- f. There is a need to ensure the proper protection of migrant workers during all four phases of migration: (i) pre-departure, (ii) in transit, (iii) while residing and working in the country of destination, and (iv) upon return.

⁴² J. Rispoli, “Bilateral Labour Agreements,” IOM training workshop on labour migration and labour market information systems, Kampala, Uganda, 16–18 July 2013.

⁴³ The Memorandum of Understanding between the Government of the Hashemite Kingdom of Jordan and the Government of the Republic of Kenya on Employment of Kenyan Workers.

5.2.4 International agreements

As indicated in the recent Uganda Migration Profile, Uganda has been progressive in committing itself towards the respect of internationally recognized human rights through the ratification of several international and regional regulations to govern migration issues. Table 4 lists the international and regional human rights instruments that have been ratified or adopted (IOM, 2013a).

Table 4: Ratified international and regional human rights instruments governing migration issues

Regulation	Year of ratification or accession
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000)	June 2002
UN Convention on the Rights of the Child, CRC (1989)	September 1990
Convention of Elimination of All Forms of Discrimination Against Women, CEDAW (1979)	August 1985
Convention relating to the Status of Refugees, CRSR (1951)	September 1976
ILO Employment Policy Convention, 1964 (No. 122)	June 1967
The International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (“UN Migrant Workers Convention”) (1990)	November 2001
Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)	May 1964
ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	March 1978
International Covenant on Civil and Political Rights, ICCPR	September 1995
International Covenant on Economic, Social and Cultural Rights, ICESCR	April 1987
International Covenant on the Elimination of All Forms of Racial Discrimination (1965)	December 1980
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, OP–SCCPCP (2001)	January 2002
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977	March 1991
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977	March 1991
Convention and Protocol relating to the Status of Refugees	September 1976

Regulation	Year of ratification or accession
ILO Discrimination (Employment and Occupation) Convention Recommendation, 1958 (No. 111)	June 2005
ILO Protocol and Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 2000 (No. 182)	June 2001
United Nations Hyogo Framework for Action (HFA) on Disaster Risk Reduction 2005–2015	
United Nations Guiding Principles on Internal Displacement and the African Charter (“Banjul Charter”) on Human and Peoples’ Rights (1991)	
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (“Kampala Convention”) (2009)	January 2010
The African Charter on the Rights and Welfare of the Child	August 1994
The Ouagadougou Declaration and Plan of Action on Employment and Poverty Alleviation in Africa (2004)	
African Union Regional Strategy for Disaster Risk Reduction (2004)	
African Union Migration Policy Framework for Africa (2006)	
Pact on Security, Stability and Development in the Great Lakes Region (2006)	December 2006
East African Community Treaty (2000), which provides for an integrated approach to employment strategies (Article 104)	
East African Common Market Protocol and the Free Movement of Persons Regulations	July 2010

Uganda’s adherence to international legal norms and standards is informed not only by its obligations flowing from, among others, ratified international agreements, but also the provisions of the Ugandan Constitution of 1995. In the part of the Constitution which concerns national objectives and directives of state policy, in particular foreign policy objectives, it is specifically stated that the foreign policy objective of Uganda shall be based on the principles of, among others, respect for international law and treaty obligations (GoU, 1995). Uganda has ratified several international instruments relating to migration.⁴⁴ Chief among these are the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), also known as the “UN Migrant Workers Convention,” and ILO Convention 143 of 1975 (Migrant Workers (Supplementary Provisions) Convention). Uganda has signed, but has yet to ratify, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

While the scope of this document does not warrant a comprehensive analysis of the state of play regarding Uganda’s implementation of, in particular, the 1975 ILO and the 1990 UN Conventions, a preliminary investigation reveals several

⁴⁴ See Table 4: Ratified international and regional human rights instruments governing migration issues; IOM, 2013a.

indications of non-compliance. In addition, non-coverage in the legislative realm and policy sphere of a range of issues which the Conventions require should be provided for, raises questions with regard to the state of compliance. To illustrate these, the following examples relating to immigrant workers may suffice.

In the field of labour law, attention should be drawn to the provisions of the Citizenship and Immigration Control Act of 1998, which contains a prohibition foreigners from becoming trade union executive committee members;⁴⁵ the far-reaching prohibition on the promotion or attempted promotion of industrial action;⁴⁶ and the restriction (by ministerial regulation) on the freedom of movement of foreigners.⁴⁷ It could indeed be argued that the two mentioned prohibitions constitute an infringement of the extended notion of the right to form associations and trade unions in the State of employment, guaranteed by Article 40 of the UN Migrant Workers Convention.⁴⁸ While it may be suggested that the restriction on the freedom of movement of foreigners on the grounds indicated in the Citizenship and Immigration Control Act of 1998 is justified on the basis of the provisions of Article 39(2) of the UN Migrant Workers Convention,⁴⁹ it is unlikely that this restriction is aligned with Uganda's obligations regarding the freedom of movement of persons, and, thus, of workers, as provided for in the EAC Common Market Protocol. For the rest, as indicated before and based on a preliminary investigation, the explicit provisions of Ugandan labour laws seemingly do not infringe Uganda's international law commitments. In addition to the general equal treatment clause contained in the Employment Act of 2006 (already discussed), mention could be made of Section 37 of the same Act. This provision, which prohibits the support of illicit or clandestine movement of migrants for employment purposes, and the employment of a person whose presence in Uganda is unlawful, seems to be aligned with international law norms.

However, a more detailed and comprehensive enquiry is needed to determine whether several other matters regulated by the terms of the UN Migrant Workers and the ILO Migrant Workers (Supplementary Provisions) Conventions are indeed

⁴⁵ Uganda Citizenship and Immigration Control Act, 1998, Section 76.

⁴⁶ *Ibid.*, Section 77(2), which stipulates: "If any alien promotes or attempts to promote industrial unrest in any industry in which he or she has not been bona fide engaged for at least two years immediately preceding in Uganda, he or she commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding five years or both."

⁴⁷ *Ibid.*, Section 82(2), which provides that the Minister may, by regulation, "prohibit aliens from residing or remaining in any specified areas if the prohibition is in the interests of public health or public safety." Article 39(1) of the UN Migrant Workers Convention stipulates that migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

⁴⁸ Article 40(1) of the UN Migrant Workers Convention provides: "Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests."

⁴⁹ According to Article 39(2), the rights mentioned in Article 39(1) "shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention."

provided for in the case of migrant workers in Uganda, as there appears to be no explicit provision for these matters.

- a. From an overall perspective, as mentioned, a supporting national policy framework, as required by the ILO Migrant Workers (Supplementary Provisions) Convention, is not in place.⁵⁰
- b. It is likewise not evident that Ugandan legal and policy domain and administrative practice are in accord with the requirement, contained in both the 1975 ILO Convention⁵¹ and the UN Migrant Workers Convention,⁵² that a migrant worker who has resided lawfully in the country of destination for the purpose of employment, should not be regarded as being in an illegal or irregular situation by the mere fact of the loss of his or her employment, and that such loss of employment shall not in itself imply the withdrawal of his or her authorization of residence or, as the case may be, work permit.
- c. More generally, it needs to be established whether migrant workers in Uganda enjoy equality of treatment with nationals “in respect in particular of guarantees of [the] security of [their] employment, the provision of alternative employment, relief work and retraining,”⁵³ and in respect of the vast range of social protections and employment rights foreseen by the UN Migrant Workers Convention.⁵⁴
- d. More specifically, it has to be determined whether, as required by the UN Migrant Workers Convention, the existing rights of expelled migrant workers are affected by the expulsion,⁵⁵ whether migrant workers and their family members are indeed entitled to urgent medical care,⁵⁶ regardless of whether they are lawfully staying or working in Uganda, and whether sufficient arrangement has been made for family reunification.⁵⁷

The discriminatory provisions and the social security laws listed above may possibly be regarded as infringements of the UN Migrant Workers Convention.⁵⁸

As regards Ugandan workers residing outside the country, issues of compliance and alignment with international norms also arise. Due to existing statutory provisions, in particular Sections 19(1) and (2) of the Electoral Commission Act of 1997,⁵⁹ it would appear that Ugandans residing in other countries may not be able to vote in elections, unless (as a rule) they vote in Uganda. This would be contrary

⁵⁰ ILO Migrant Workers (Supplementary Provisions) Convention, Article 10.

⁵¹ *Ibid.*, Article 8(1).

⁵² UN Migrant Workers Convention, Article 49(2).

⁵³ ILO Migrant Workers (Supplementary Provisions) Convention, Article 8(2).

⁵⁴ UN Migrant Workers Convention, Articles 43 and 54, among others.

⁵⁵ *Ibid.*, Articles 22(6) to (9).

⁵⁶ *Ibid.*, Article 28.

⁵⁷ *Ibid.*, Article 44(2).

⁵⁸ See Article 7, read with Article 27.

⁵⁹ Read with Section 59 of the Constitution.

to the requirements of Article 41 of the UN Migrant Workers Convention.⁶⁰ Also, as discussed later in this report, much can be gained from the alignment with recruitment standards and guidelines contained, respectively, in the ILO Convention 181 of 1997 (Private Employment Agencies Convention) and the recently announced International Recruitment Integrity System (IRIS).⁶¹

Finally, note should be taken of the specific issues on which the United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families has requested reporting by Uganda, which appears in Uganda's initial periodic report to the Committee.⁶² These issues include, among others:

- a. Information on detention centres and the conditions of detained migrant workers;
- b. Detailed information on measures taken by Uganda, in law and in practice, to ensure that all migrant workers and their families, including those in an irregular situation, have adequate access to basic services such as urgent medical care and education;
- c. Information on the measures taken, including legislative amendments, to guarantee that migrant workers and members of their families have the right to form, and to form part of the leadership of, associations and unions;
- d. Information on the measures taken by the State party to review its legal framework, as well as on other steps taken to facilitate the exercise of voting rights of migrant workers residing abroad;
- e. Whether measures have been taken to ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or with a person with whom they have a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor, dependant, unmarried children.

5.3 RECOMMENDATIONS

Extend legal and welfare protection to migrant workers. From the analysis undertaken in Chapter 4, it is clear that the current policy and legal dispensation in relation to migrant workers to and from Uganda falls short of international benchmarks. Steps to extend protection need to be taken in the areas mentioned. These steps include the amendment of a range of legal provisions that either

⁶⁰ Article 41 of the UN Migrant Workers Convention stipulates: "1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation. 2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights."

⁶¹ See <http://iris.iom.int/about-iris> for more information.

⁶² That is, the "List of issues prior to the submission of the initial periodic report of Uganda" (CMW/C/UGA/QPR/1, 29 July 2013), prepared by the United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families.

conflict with international obligations or do not provide sufficiently (or at all) for the various matters to be regulated in accordance with various international legal instruments. In addition, national policy direction is absent in key areas – in particular, labour law and social security protection. There is also a need to review administrative (State) practice, to ensure that the treatment of migrant workers and their family members is, in concrete terms, in accordance with Uganda’s international commitments. Labour law protection, social security benefits (including the portability thereof) and the reintegration of migrant returnees are but three of the areas that are currently largely ignored.

Provide a facilitative framework for persons moving with their business skills. There is ample scope for – and need – to develop an appropriate supportive framework for people who move to other countries with their business skills. The current legal, policy and institutional framework makes inadequate provisions for the needs of Ugandans in this category. It is suggested that a policy framework, aligned with international norms and best practices, should inform direction in this regard, and that a separate legal instrument be developed to regulate, streamline and facilitate this very important area of migratory skills, services and investment flows for the benefit of development in Uganda. This is an area which requires active government intervention, as recruitment agencies do not tap into this market effectively.⁶³ (Kameraho, 2014)

Align the legal and policy framework. As mentioned in the analysis, certain provisions in the immigration, electoral, labour and social security legal and policy framework fall short of and need to be aligned with international standards and benchmarks. This applies particularly to discriminatory provisioning.

Develop and conclude appropriate labour and social security agreements. As these agreements could provide one of the best ways to protect migrant workers, care should be taken to develop these agreements with this in mind. This may require capacity-building, to equip those involved to negotiate and conclude such agreements. The shortcomings of the current model BLA need to be addressed.

Undertake a comprehensive analysis of Uganda’s adherence to international commitments. This report’s limited analysis of existing arrangements indicates a glaring need for a full-scale analysis of the legal and policy framework, as well as the existing administrative practice, to evaluate the extent to which Uganda is complying with its international obligations. While a similar exercise has been undertaken in relation to the alignment of Uganda’s legal framework with its obligations under the EAC Common Market Protocol (discussed in the last part of this report), this enquiry should be extended to other (binding) international legal instruments, as well as to the Ugandan policy domain and administrative practice.

⁶³ Also, refer back to Chapter 5.2.2.

6. Recruitment and Support Services

6.1 ISSUES FOR CONSIDERATION

It falls within the scope of this part of the report to:

- a. Identify and examine current recruitment practices, in particular, how they are being undertaken; what gaps and potential remedies exist; and to what extent licensing and monitoring of private and public recruitment entities is taking place;
- b. Examine recruitment practices in Uganda within the context of facilitating free movement within the EAC;
- c. Examine candidate profiling and recruitment procedures, in particular those of potential migrant workers from Uganda departing for EAC Partner States;
- d. Examine the types of services and support mechanisms which are currently in place for departing migrants, including (legal) counselling and information provided prior to departure, training and re-training, and other similar services, with particular focus on pertinent youth employment and migration issues;
- e. Analyse the social security provisions and mechanisms currently in place in Uganda, with particular emphasis on the social protection of migrant workers, as well as portability of social security and other benefits.

6.2 ANALYSIS

Some of the issues indicated above have already been raised in the previous component, Chapter 5: National Legislative Basis and International Norms (see in particular the discussion concerning social protection for migrant workers, as

well as the portability of social security and other benefits). The discussion here will therefore focus on the matters relating to current recruitment practices, the licensing and monitoring of recruitment entities, recruitment practices and procedures in relation to the EAC context, and available services and support mechanisms (including in relation to youth employment and migration).

It is necessary to consider that there are three ways in which a person seeking work abroad may be channelled to a destination country. First, the person may be recruited via a recruitment agency. Second, the person may be placed directly by the EEU, primarily through a government-to-government arrangement – such as the current agreement with the Government of South Sudan. Third, the person can make his/her own arrangements (i.e. “self-recruitment”). The 2005 Regulations, and also, in particular, the attendant 2013 Guidelines, attempt to make the general regulatory regime applicable to both the first and the third categories mentioned above. Regardless of category, workers who have secured employment abroad are required to receive clearance from the EEU prior to their departure.

Only limited provision is made in the 2005 Regulations and the 2013 Guidelines for the channelling of workers to a destination country through direct government-to-government arrangements. In addition, it needs to be said that this particular regime is not applied in the case of persons departing for work in other EAC Partner States, given the principle of free movement of workers.⁶⁴ In fact, one is left with the clear impression that there is no operational framework in place to channel Ugandans to work in other EAC Partner States, an issue which this assessment will analyse in another section.

The process involving private recruitment agencies has been summarized as follows:⁶⁵

“Recruitment of Ugandan workers [for employment] abroad is mostly done by private recruitment agencies. In order to operate, recruitment agencies must first obtain a license from the EEU. The fee for obtaining the license is UGX 100,000 (USD 40).⁶⁶ Only agencies that are able to meet the minimum financial requirements set by the EEU are eligible to receive [the] license.

Upon receiving demand for workers from receiving countries, the recruitment agencies advertise the vacancies on local and national newspapers and on

⁶⁴ Article 10 of the EAC Common Market Protocol guarantees the free movement of workers, and the right to apply for work and accept offers of work, and to move freely within the territories of Partner States for purposes of employment. See also Annex II of the East African Community Common Market (Free Movement of Workers) Regulations of 2009.

⁶⁵ See also: A.T. Kameraho, “Uganda Memorandum of the Uganda Association for External Recruiting Agencies (UAERA) – curbing unemployment,” presentation made to stakeholders on anti-trafficking, 25 June 2014.

⁶⁶ However, in a subsequent e-mail correspondence received from Mr Milton Turyasiima of the MGLSD (dated 21 June 2014), it was indicated that the amount of UGX 100,000 (USD 40) is the cost for the application form. According to the MGLSD, the cost for the license is UGX 500,000 (USD 200).

radio. After receiving the applications, workers are screened for skills before they can be signed up for employment.

Recruitment costs can be high for workers. Regulations state that the fee charged by the recruitment agency shall not exceed UGX 50,000 (USD 20) for recruitment and deployment services. However, there is no legal ceiling for placement fees set by the EEU. Those migrant workers who pass the skills testing are required to sign employment contracts and pay administrative fees of UGX 50,000 (USD 25) on average to the recruitment agencies. Workers are then required to go through medical exams and medical fees which can cost up to UGX 150,000 (USD 60). Recruitment agencies can also charge extra fees to workers to cover pre-departure training and orientation,⁶⁷ skills testing and so on. Therefore, actual costs that migrant workers have to pay, including medical fees, training and air tickets can range from UGX 2.5 to 3 million (USD 1,000 to 1,200).

The recruitment agencies are required to submit the names and signed contracts of the migrant workers who have passed skills and medical tests to the EEU. The EEU then examines the migrant workers against any criminal backgrounds and communicates the information with the recruitment agencies.

The workers then go through pre-departure training conducted by the recruitment agencies before departing for foreign employment. It is mandatory for recruitment agencies to submit a report to the EEU on the number of migrant workers who have undergone pre-departure training on a monthly basis.” (IOM and GoU, 2014, pp. 5–6)

Before reflecting on certain issues appearing from the above context, it is necessary to mention that the private recruitment agencies have, over the years, played an important role in the externalization of labour. In a recent presentation, UAERA noted the following achievements:

- a. Over the past over 50,000 Ugandans have been assisted to secure employment abroad. However, these jobs are for semi-skilled Ugandans. Government assistance would be needed to access the many jobs in foreign labour markets for professionals.
- b. Ugandans have been enabled in acquiring skills, through training both locally and at duty stations.
- c. Ugandans have been enabled to acquire assets, for example, they have bought land and set up businesses.
- d. Remittances have contributed to the economy of Uganda, given the impact on foreign exchange. Jobs in foreign countries “have translated

⁶⁷ However, in a subsequent e-mail correspondence (dated 21 June 2014), Mr Milton Turyasiima of the MGSLD indicated that pre-departure orientation is free of charge.

into home ownerships, budding businesses, paid school fees for siblings, acquired properties and such like.” (Kameraho, 2014)

Some of the issues in relation to recruitment practices and candidate profiling include the following:

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- a. **Costs.** Recruitment agencies are allowed to charge the permitted UGX 50,000 (USD 25) as administrative fee. However, this does not cover the various placement fees which have not been capped by regulation, even though Regulation 29 allows for these to be prescribed. These aggregate fees, which include, among others, a guarantee payment demanded by the foreign employer or its appointed agent, to ensure that a reliable worker will be found, medical screening, attestation of educational certificates and the foreign agent’s fees (which could be as much as USD 700 to 1,000), together with the flight ticket and passport costs, could amount to as much as USD 2,000 (for work in Abu Dhabi) or USD 1,500 (Dubai) (Kameraho, 2014).⁶⁸ It has also been noted that foreign agents, and at times foreign employers as well, may demand to be paid for visits to Uganda to procure workers.⁶⁹ These costs are effectively recouped from the applicant. In fact, the 2005 Regulations and 2013 Guidelines appear to endorse the notion that recruitment costs are ultimately the responsibility of the (would-be) migrant workers themselves.⁷⁰ By any measure, the placement costs must be regarded as high; there may be a need to specifically regulate the same, in particular the costs charged by foreign agents. Other alternatives may also exist, as discussed in the next section. It must also be noted that in some cases the local agency is appointed as the agent of the foreign employer – not only does this potentially cause a conflict of interest, but also stresses the need for better regulation.
- b. **Licensing and supervision.** According to the EEU, 31 agencies have valid licenses, and inspection is supposed to be done regularly. However, presumably due to the manpower constraints, by the end of May 2013, only eight agencies have been inspected; it was envisaged that for the year 2013/2014, 20 agencies would be monitored (GoU, 2013c). It is evident that stringent and regular inspection and monitoring would be required to enforce the standards set by law. Also, the format for reporting by recruitment agencies to the MGSLD places a heavy emphasis on statistical information;⁷¹ there is little indication of a reflection on substantive issues – such as the nature and content of pre-departure training provided since the previous reporting cycle.

⁶⁸ The extraordinarily high fees payable by migrant workers suggests that one of the challenges facing recruitment agencies is the failure of candidates to travel due to financial constraints.

⁶⁹ Interview with Security Link, 25 February 2014.

⁷⁰ See, for example, Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005, Regulations 28 and 29.

⁷¹ See Annexure III to the 2013 Guidelines.

- c. **Pre-departure training/orientation.** This task is largely left to the recruitment agencies themselves. A standardized framework, to be adjusted for particular country and occupational contexts, appears to be absent. The suggested training scope, contained in the 2013 Guidelines, could serve as a helpful guide in this regard.⁷² Apparently, little use is made of experienced and skilled trainers. Also, the practice of providing one day of pre-departure training falls far short of the three days required by the Guidelines.
- d. **Competition, standard-setting and liaison with Government.** The industry has been organizing itself into a registered association (the Uganda Association for External Recruiting Agencies, UAERA), as provided for in the 2013 Guidelines (GoU, 2013b, par. 29.2). As previously indicated, UAERA developed a Code of Conduct, which contains a range of ethical and professional norms and standards and provides for a monitoring mechanism (Kameraho, 2014). This would help to strengthen common standards and enhance cooperation among agencies and with Government. Membership in the association could be made a prerequisite for licensing. However, while self-regulation may play a helpful role, it could not and should not replace external regulation.
- e. **Youth employment.** Despite the current profile of youth unemployment in Uganda and the focus of the Government on supporting youth to find employment, there is scant evidence of an operational drive, via the various recruitment channels, to utilize the externalization of labour as an active and dedicated vehicle to help address this. There is a need to develop specific interventions in this regard and to take note of proposals already made.⁷³
- f. **Other support services, protection abroad and integration of returning migrants.** There is little indication of other support services being available to migrant workers prior to departure, or being provided on an organized basis. As previously indicated, welfare support abroad may be lacking. Support services to be provided by the agencies while workers are abroad may be an attempt to shift government responsibility, but is unrealistic in practice. In particular, one could question the advisability, practicality and enforceability of rendering agencies liable for any and all violations of the employment contract by the foreign employer – as envisaged in Regulation 69 and indicated in Chapter 5.2.2. Provisions regarding reintegration upon return are largely restricted to economic reintegration (including advice on financial products); as for other

⁷² Paragraph 21 of the 2013 Guidelines foresees legal orientation; orientation as regards rights and obligations of the worker, the employer and the agency; cultural and social orientation; psychosocial orientation; and orientation as regards linguistics.

⁷³ See the proposal by UAERA for a public–private partnership with the Government of Uganda to support youth employment by enabling the youth to participate in labour externalization programmes (see Recommendation (d) in Chapter 4.3 of this report).

forms of integration, the responsibility is placed on civil society (e.g. associations of returnee migrants).⁷⁴

- g. **Duplication and discrepancies.** The 2005 Regulations and the 2013 Guidelines. Large parts of the 2013 Guidelines merely repeat what is already contained in the 2005 Regulations. Yet discrepancies are evident in several respects – for example, in relation to the documents to be submitted by an applicant for registration as a recruitment agency,⁷⁵ and the minimum standards or requirements to be contained in employment contracts with a foreign employer.⁷⁶

6.3 RECOMMENDATIONS

Revise and standardize, from a regional perspective, the regulatory environment.

It is clear that a revision of several recruitment contexts is needed, in order to strengthen the protection of work-seekers and workers, and curb possible abuses by agencies, foreign agents and foreign employers. Costs, particularly as far as placement services are concerned, is one such issue in need of stringent regulation. Training and orientation is another. Enhanced enforcement and sanctions may yet be another. The 2005 Regulations would have to be revised, to capture the experience of the last 10 years and ensure that the provisions match the objectives set out in the Regulations. Other matters arising from the analysis above and the recommendations below (if adopted) may also have to find their way into the 2005 Regulations. Also, there is a need to standardize the regulatory framework for recruitment within the EAC context. It has been suggested that there is a surprisingly high number of Ugandan-run employment agencies in Kenya, in view of the less stringent requirements applicable to recruitment agencies in Kenya, in comparison to Uganda.⁷⁷ There is also anecdotal evidence that Ugandan migrant workers cross the border into Kenya before proceeding to a destination country,

Promote ethical recruitment. It might, indeed, be time to revisit the regulatory basis for the recruitment of workers from Uganda, and link this to international standards and guidelines and regional best practices. It may be prudent in this regard to consider:

- a. The provisions of ILO Convention 181 of 1997 (Private Employment Agencies Convention), which, among others, stipulate that private employment agencies shall not, as a rule, charge directly or indirectly, in whole or in part, any fees or costs to workers;
- b. The recently announced International Recruitment Integrity System (IRIS),⁷⁸ spearheaded by IOM. IRIS will effectively provide a platform for

⁷⁴ See Paragraphs 28 and 29 of the 2013 Guidelines for detailed information.

⁷⁵ Compare Regulation 7 of the 2005 Regulations and paragraph 7.3 of the 2013 Guidelines.

⁷⁶ See Regulation 67 of the 2005 Regulations and paragraph 15.2.1 of the 2013 Guidelines.

⁷⁷ Information provided by IOM Kenya through an e-mail correspondence from D. Williams, 20 May 2014.

⁷⁸ See <http://iris.iom.int/about-iris> for more information about IRIS.

addressing unfair recruitment and bridge international regulatory gaps governing labour recruitment in countries of origin and destination. It will develop a voluntary accreditation framework so that its members can be recognized as bona fide fair recruiters and distinguish themselves from unscrupulous intermediaries. Accreditation will be based on adherence to common principles for ethical recruitment and a code of conduct that will include the following policies:

- i. No fee charged to job-seekers;
- ii. No retention of workers' passports and other identity documents;
- iii. A requirement for transparency in their labour supply chain.

IRIS will also provide an information portal and a publicly available roster of accredited IRIS members around the world, and will administer a complaints and referral mechanism to assist victims of unethical or illegal recruiters with filing grievances with the appropriate authorities.

- d. The Code of Conduct developed by the Confederation of Private Employment Agencies (CIETT)⁷⁹ is of particular importance. The CIETT Code of Conduct contains 10 key principles, namely:⁸⁰
 - i. Respect for ethical and professional conduct;
 - ii. Respect for laws;
 - iii. Respect for transparency of terms of engagement;
 - iv. Respect for free of charge provision of services to job-seekers;
 - v. Respect for safety at work;
 - vi. Respect for diversity (i. e. working practices that safeguard against any unlawful or unethical discrimination);
 - vii. Respect for workers' rights;
 - viii. Respect for confidentiality;
 - ix. Respect for professional knowledge and quality of service;
 - x. Respect for fair competition.

⁷⁹ The CIETT (Confederation of Private Employment Agencies) is the authoritative voice representing the interests of agency work businesses. Founded in 1967, CIETT consists of 40 national federations of private employment agencies and 6 of the largest staffing companies worldwide. Its main objective is to help its members conduct their businesses in a legal and regulatory environment that is positive and supportive. Its headquarters for the secretariat are in Brussels, Belgium (see www.ciett.org for more information).

⁸⁰ Private employment agencies that are CEITT members agree to recognize, through the CIETT Charter of Private Employment Agencies, that (see: A. Kimani, Role of Private Employment Agencies in Preventing Labour-Related Trafficking: Promoting Best Practices of Private Employment Agencies (PEAs) in Kenya, IOM, Nairobi, 27 September 2011:

- a. Employment through private agencies should respect the international and national principles of non-discrimination on all issues linked to working conditions.
- b. Private employment agencies should not charge directly or indirectly any fees or costs to workers for job-finding services.
- c. Private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on a strike.
- d. Private employment agency should facilitate access to training for the agency workers, to ensure they are in tune with international guidelines.
- e. Social dialogue and collective labour bargaining should be seen as an appropriate means to organize the private employment agency industry whenever relevant and fitting.

- k. Much could be learned from the Kenyan regulation on the charging of fees by private recruitment agencies, which requires, as a rule, that “all costs relating to placements are to be met by the employer.” In exceptional cases, a minimal fee may be charged by the agency. (MLSSS–NEA, 2013)

Investigate the contractual framework and beyond, as well as the prevailing context in the destination country. Several matters need to be raised:

- a. Both the 2005 Regulations and the 2013 Guidelines prescribe the minimum provisions that a contract between the worker and the foreign employer must contain. At any rate, there sometimes are provisions contained in the employment contract regarded as unacceptable. Two such provisions in example contracts submitted to the Author of this report may be mentioned: (i) the retention of the worker’s passport for the duration of employment; and (ii) no payment during training and induction, that is, the first seven days.
- b. It may also be that the contract termination provisions of some of these contracts do not match the provisions of the 2013 Guidelines in this regard.
- c. More importantly, it may be necessary to have a sense of the actual working conditions to which the worker will be, or is exposed.
- d. Finally, the prevailing labour, welfare and social security systems and the occupational environment in the destination country may need to be investigated, to gain a sense of the legal boundaries of the protection applicable to the worker concerned. This may help to inform the nature and scope of support in this regard which the worker may need, both while abroad and upon return.

Seek employment opportunities abroad in a proactive manner and address gaps in provision. It appears that more needs to be done to explore specific job opportunities in labour markets abroad other than to rely primarily on letters of demand coming from foreign employers. This would be quite helpful in finding suitable candidates in Uganda and encouraging young work-seekers, in particular, to become involved. Also, as already discussed, there is a need for enhanced protection while workers are abroad and for dedicated reintegration measures and mechanisms, which go beyond economic reintegration, when they return.

Create a dedicated and enhanced public employment service framework. There is considerable scope and need for enhanced public employment service intervention as regards the externalization of labour in Uganda. As already suggested, government should be seen to play a more active and promotional role. In particular, care should be taken to ensure that an appropriate facilitative and supportive framework is in place for persons departing for work in other EAC Partner States who go out on their own or under government-to-government agreements.

7. Remittances

7.1 ISSUES FOR CONSIDERATION

The purpose of this part of the report is to provide high-level information on remittances to Uganda, including volume, channels, challenges and uses.

7.2 ANALYSIS

The UBOS's report, *Inward Personal Transfers 2012*, reveals that there was an increase of 12 per cent in personal transfers received in Uganda, from USD 812.9 million in 2011 to USD 901.3 million in 2012 (UBOS, 2013a). According to the report as well, remittances constituted 4.3 per cent of GDP in 2012. The draft National Diaspora Policy, however, quotes a figure of about USD 1 billion in 2012, constituting as high as 17 per cent of GDP (GoU, 2013a, pp. 4 and 8). World Bank data, on the other hand, reports remittance inflows of USD 910 million and USD 1,042 million in 2012 and 2013, respectively, the latter constituting 4.6 per cent of GDP for that year (World Bank, 2014a).

The relative growth of remittances in Uganda, and East Africa in general, and the particular importance of remittance inflows for sub-Saharan African countries, are highlighted in the same publication:

“After remaining broadly unchanged in 2012, remittances to sub-Saharan Africa grew by 3.5 per cent in 2013 to reach USD 32 billion. Flows are forecast to rise to USD 41 billion in 2016. According to available official data, Nigeria remains the largest recipient by far, with migrants sending about USD 21 billion in 2013. *Remittances to countries in East Africa continued to grow robustly last year, by 10 per cent to Kenya and 15 per cent to Uganda.* In contrast, West African countries, such as Côte d’Ivoire and Senegal, saw only modest increases in 2013, after a slowdown in 2012. Sub-Saharan Africa is one of the few regions in the world where official development assistance is larger than remittances, and both are much more stable than either foreign direct investment or private financing flows. Many countries in the region have large diasporas overseas, with substantial diaspora savings that could be mobilized for development financing” (World Bank, 2014b).

However, the cost of remitting cash transfers to and especially within Africa is prohibitively high. The World Bank notes that the figure hovers around 12 per cent of the amount sent (World Bank, 2014c). This high cost has been noted with concern in Uganda. It has been suggested that Government should lower the cost of remittance transfers and ease the transaction process of remittance transfers for the use of migrant earnings for development purposes back home. Furthermore, it has been noted that the M-PESA system for transferring money via mobile phones without the rigidities inherent to formal banking systems, has reached rural communities and ensured their financial inclusion and created local jobs in Kenya. It has therefore been suggested that M-PESA Uganda should be encouraged to provide an alternative facility for Uganda migrant workers to transfer their remittances to their households and families (GoU, 2013b, par. 28.2.1). Recent regional and national initiatives could assist with achieving the objective of reducing remittance transfer costs. A recent World Bank report noted that the establishment of two regional payment systems, the COMESA Regional Payment and Settlement System and the East African Cross Border System, is expected to facilitate cross-border payments within these two regional economic communities (World Bank, 2014c). The same report also noted that Uganda had (recently) issued new regulations under which mobile network operators have to partner with a bank (World Bank, 2014c).

Based on data obtained from financial institutions and a household survey done annually by UBOS, the report found that personal transfers to Uganda are used mostly for general household expenditure, education, business and health expenses. Remitters are young, educated and mostly male. Personal transfers are sent mostly through international MTOs (money transfer operators). Increasingly, use is made of mobile money transfer channels. Transfers are mainly from Europe and Africa, as well as (in descending order) North America, Australasia and the Middle East. (UBOS, 2013a)

It has been reported that (in the East African context) remittances are mainly used for “non-productive” purposes, primarily in the household support sense of the word. Channelling remittances into income-generating activities and investment products, which would more closely correlate with national development, is still limited. At the macro level, however, remittances are considered to be a significant source of foreign exchange (Rutaremwya, 2013) – as is likewise apparent from the Bank of Uganda’s interest and involvement in this area (see the discussion earlier in this report). Decisions on the use of remittances at the household level in Uganda, as is the case with the decision to move abroad for employment purposes, are essentially extended household decisions. These decisions are economically motivated, as an investment strategy in human capital, partly to finance education or family reunion (i.e. extending transnational networks) (Mushomi and Rutaremwya, forthcoming). However, there is some evidence that

remittances are not a predictor of school attendance – even though a positive correlation between remittance transfers by male household heads and young household heads (younger than 20 years) on the one hand, and school attendance on the other, has been indicated (Mushomi et al., forthcoming).

7.3 RECOMMENDATIONS

Transfer costs. High remittance costs remain a burning issue. Transaction costs can easily reach to 12 per cent of a remitted amount of USD 200. Steps to address this could include the promotion of competition among financial institutions, including money transfer operators; capping charges on the Ugandan side; promoting cheaper avenues such as Postbank (which has reportedly developed a dedicated diaspora account product, which can be managed from anywhere in the world) and mobile money transfers. The regional initiatives and new partnering regulations reported earlier should assist significantly to lower transaction costs. Also, it is recommended that remittance stakeholders in Uganda should liaise closely with and make use of the variety of transfer knowledge services provided by the African Union’s African Institute for Remittances, headquartered in Nairobi, Kenya.⁸¹

Harnessing remittances for socioeconomic development in Uganda.⁸² Several recent policies (including the National Diaspora Policy) emphasize the importance of remittances for the development of Uganda. The possibility of creating a Diaspora Investment Bond was investigated. Given the high percentage of remittances still being spent on household consumption (leaving only 24 per cent for investment), it was found not too feasible at that stage, and focus should still be concentrated on encouraging investment in government securities.⁸³ Given the positive experience in this regard from countries around the globe, for example, in the Philippines,⁸⁴ more could be done to enhance the use of remittances for developmental purposes. A good practice is the initiative by the Uganda Investment Authority (UIA), which reportedly provides investment incentives to the diaspora on the same basis as for Ugandans within the country. The UIA also developed, with the Diaspora Services Department, a compendium on business opportunities for the Diaspora. The diaspora could also be involved in specific development projects financed through remittances; transparency and accountability as regards development projects financed in this way should be promoted. Matching programmes, such as partial financing through government funds or on the basis of public–private partnerships, could be promoted. Lessons

⁸¹ See the African Institute for Remittances (AIR) Project webpage, at <http://pages.au.int/remittance/about> for more information.

⁸² See paragraphs 28.3 and 32.16 of the 2013 Guidelines specific suggestions.

⁸³ Interview with the Diaspora Services Department of the Ministry of Foreign Affairs, 26 February 2014.

⁸⁴ It has been reported that remittance spending in the Philippines is “what keeps the big service industries such as retail, education, real estate...growing despite the sluggish performance of domestic industry and agriculture. The Philippines has become a service-led economy without going through an industrial revolution.” (Ofreneo and Sale, 2014, p. 167)

could be drawn from the Mexican 4x1 programme, whereby the government matches collective remittances sent home by migrant workers abroad.

Utilizing remittances to provide or enhance social security coverage. Appropriate social security coverage may not be available in several of the countries, in particular those in the Gulf and Asia, where the diaspora are working. Consideration should therefore be given to enable Ugandans working abroad to contribute to social security arrangements/products set up by either private and/or, preferably, public institutions, such as public social security schemes in Uganda. In this way they could provide for their (and their family's) coverage, also when they retire in Uganda. As mentioned in Chapter 5.2.1 ("Current labour and social security laws"), the National Social Security Fund Act of 1985 does not contain any provision which extends protection to Ugandans who are working abroad and may not be covered by a social security scheme of the destination country. It is therefore recommended that a dedicated legislative provision and an appropriate operational framework be developed to allow and operationalize the use of remittances for purposes of social security contributions.

Remittance policy and policy dialogue. Given the challenges faced by the transfer of remittances and the developmental impact of remittances in Uganda, it is recommended that a distinct remittance policy be developed by the Government of Uganda; all relevant stakeholders need to be involved in the dialogue informing the development of this policy.

8. Regional Context

8.1 ISSUES FOR CONSIDERATION

In accordance with the terms of reference for this assignment, in this section an attempt is made to:

- a. Examine good practices and lessons learned vis-à-vis labour migration in other countries in East and Southern Africa that have drafted labour migration policies (e.g. Zimbabwe), as well as those farther afield (e.g. the Philippines and Sri Lanka) and assess their applicability to the specific context in Uganda.
- b. Analyse good practices in labour migration within the EAC context, with particular focus on free movement and regional integration.
- c. Explore the extent to which labour migration policies, practices, structures and legislation in Uganda are in line with relevant EAC policy frameworks (e.g. the Protocol on the Establishment of the EAC Common Market), as well as the African Union's broader continental framework (e.g. AU Migration Policy Framework and Common Position on Migration and Development), and make recommendations accordingly.
- d. Analyse the extent to which the relevant EAC provisions on free movement of workers/labour is being implemented in Uganda.

8.2 ANALYSIS

In several parts of this report, some of the matters indicated above have, to some extent, already been addressed. Also, sufficient data to reflect authoritatively on the position in other EAC Partner States has not been readily accessible. Furthermore, labour migration policies of, for example, Zimbabwe, may not have been formally adopted, and therefore not yet implemented. In the following paragraphs, therefore, attention will be paid to some outstanding matters.

The EAC regional integration agenda is, indeed, of paramount importance for the further development of Uganda's labour migration framework.⁸⁵ Several of the rights and freedoms guaranteed by the Treaty Establishing the East African Community and the Common Market Protocol, including the freedom of movement of persons, workers and services, are of significant importance. Adjustments to national laws and policies are required, but may take time to implement. Uganda embarked on a process of approximation and harmonization of its laws, in view of the Protocol; 58 laws in need of harmonization have been identified, and principles for approximation have been developed in respect of seven of these laws. Gradual approximation will take place, per law and per sector.⁸⁶

One of the seven laws is the Uganda Citizenship and Immigration Control Act of 2009. Earlier this year, Cabinet approved the principles for amendments to this law. One such amendment pertains to the process by which citizens of EAC Partner States who desire to work in Uganda could enter Uganda and apply for work permits within 15 working days from the date of entry or conclusion of the contract of employment; similarly, a citizen of an EAC Partner State who intends to undertake economic activity may apply for a work permit within 30 days of entry into the country (GoU, 2014a). More recently, it was announced that, in keeping with similar steps taken by Rwanda and Kenya, work permit fees would be scrapped in the case of citizens of EAC Partner States (Kabeera, 2014). However, it is clear that other laws still need to be approximated – with reference to the discussion earlier in this report, other provisions of the Citizenship and Immigration Control Act, the Electoral Commission Act and the National Social Security Fund Act serve as particular examples.

Mention should also be made of the development of a National Policy on EAC Integration, currently being prepared by MEACA. The policy highlights the various priority areas in need of alignment with the EAC regional integration agenda, with specific reference to the Protocol and its annexes. It provides an overarching framework that will guide the participation of Uganda in the EAC regional integration agenda and highlights the priority sector's specific policy objectives that Uganda will put emphasis on (MEACA, 2014).

One of the criticisms lodged by some stakeholders against the Ugandan work permit regime, as far as it relates to citizens of EAC Partner States, is that it does not provide for lower-skilled workers from other EAC Partner States to be issued with work permits.⁸⁷ Apparently, the same restriction is imposed on some of the other EAC Partner States. Based on the provisions of Annex II of the Protocol, certain occupations have been listed by Uganda as occupations in respect of which EAC workers who are citizens of other EAC Partner States

⁸⁵ Information contained in the paragraphs immediately below was obtained largely in the course of, and subsequent to an interview with MEACA, 28 February 2014.

⁸⁶ See LDRC, 2013.

⁸⁷ Interview with the Federation of Uganda Employers (FUE), 24 February 2014.

could be accommodated. However, the list prioritizes skilled, in particular highly-skilled, workers. The problem, however, appears to originate from Annex II itself. Whereas the Protocol does not restrict the free movement of workers in its Article 10, the list attached to Annex II displays a clear bias in favour of highly qualified professionals (Walusimbi-Mpanga and Bakunda, 2013a).

The outcomes of the recent meeting of Senior Officials of Kenya, Rwanda and Uganda, tasked (among others) to look into strategies to remove barriers to the free movement of labour and services and the movement of foreigners legally residing in the three Partner States should be noted, in particular in relation to labour migration (GoU, 2014b). The meeting:

- a. Discussed the need for preferential treatment of foreigners legally residing in Partner States within the territory of the Partner States;
- b. Recognized the need to harmonize the labour laws of Partner States to allow free movement of labour and services with the three Partner States, and recommended that the process of harmonization commence and progress be reported at the next meeting;
- c. Identified the barriers to the movement of labour and discussed and recommended strategies to address them, within the framework of Annex II of the Common Market Protocol, through:
 - i. Introducing appropriate measures (including confidence-building mechanisms and the strengthening of monitoring mechanisms) to deal with labour caging (ring fencing, discrimination and selective recruitment);
 - ii. Standardizing the procedures and requirements in relation to the issuing of work permits, in order to deal with disparities in these procedures and requirements;
 - iii. Harmonizing and communicating the turnaround time for the issuing of work permits (a 10-day period was proposed);
 - iv. Mutual recognition and harmonisation of academic certification/ equalization in view of the current lack of mutual recognition;
 - v. Removing restrictive employment practices applicable to migrant workers who are nationals of these Partner States, given stringent contractual terms and expectations, and other restrictive conditions;
 - vi. Making an inventory of existing administrative practices and procedures that hinder full implementation of committed sectors, and setting a time frame for their abolishment;
 - vii. Conducting sensitization workshops/seminars on free movement of persons and labour for specified implementing agencies;
 - viii. Removing (within six months) shareholder restrictions on setting up businesses;
 - ix. Strengthening and streamlining the labour market information system;

- x. Fast-tracking the implementation of commitments made under the Common Market Protocol and making additional commitments to liberalize the labour sector;
 - xi. Encouraging the ratification of international labour conventions;
 - xii. Expediting the manpower survey to indicate the skills gap within the Partner States;
 - xiii. Developing a framework for additional labour commitments within a specific period of time;
 - xiv. Fully implementing the provisions of the Common Market Protocol on the harmonization of work permits (given the lack of uniform classification of workers);
 - xv. Putting in place a framework that allows portability of benefits;
- d. Identified the barriers to the movement of services and discussed and recommended strategies to address them, within the framework of Annex III of the Common Market Protocol, through, among others:
- i. Bringing forward the implementation date as regards the implementation of the seven committed sectors from 2015 to December 2014;
 - ii. Developing a regulatory framework and commitments to cater to the free movement of natural persons and workers – given the need to link free movement of natural persons as service providers to the free movement of workers;
 - iii. Making an inventory of restrictions on the free movement of services, contained in existing laws and policies, and setting a time frame for their abolishment;
 - iv. Applying the national treatment (non-discrimination treatment) principle, as a result of the unequal treatment of service providers and consumers within Partner States;
 - v. Developing a framework for additional service commitments within a specific period of time;
 - vi. Harmonizing procedures for securing operating licenses;
 - vii. Identifying other barriers after consulting other sectors.

More recently, further directives were issued by the Heads of State (including the five EAC Partner States, as well as South Sudan) during the Fifth Northern Corridor Integration Project Summit, held in Nairobi, Kenya on 2 May 2014 (GoK, 2014), and actions subsequently agreed on by the cluster ministerial meeting held in Kigali, Rwanda on 28 May 2014 (GoR, 2014). The Summit directives relate to, among others, the implementation of inter-State passes by 1 July 2014, the operationalization of “one-stop border posts” along common borders, the establishment of an electronic e-visa, and the need for ministries of labour, trade and to propose clear timelines for implementing strategies to remove barriers on the movement of labour and services. These and other matters were deliberated by the cluster Ministerial meeting, where follow-up recommendations regarding

a range of detailed interventions and envisaged memorandums of understanding were made. In particular:

- a. It was agreed that total liberalization of the movement of labour and services would have to be implemented by the end of December 2014.
- b. Furthermore, the procedures and requirements for the issuing of work permits had to be standardized.
- c. Comprehensive arrangements to address the lack of mutual recognition of academic qualifications were to be implemented, namely: (i) mutual recognition agreements by professional bodies and regulatory authorities by 1 August 2014; (ii) national qualifications frameworks by October 2014; (iii) a regional qualifications framework by December 2014; and (iv) harmonization of regional curricula and programmes within six months from December 2014.
- d. By 1 September 2014, all countries should have removed a restriction that discriminates against expatriates from other Partner States.
- e. The process of the harmonization of labour laws, policies and regulations had to be expedited over a six months period – to support free movement of labour.
- f. Labour market information systems have to be built at national level, respecting common standards, by December 2014, while an integrated regional labour market information system must be in place by June 2015.
- g. The manpower surveys to identify the skills gap in the Partner States have to be expedited.
- h. By 1 July 2015 a memorandum of understanding had to be concluded to negotiate and establish the transferability (portability) of social security benefits.
- i. Specific steps have to be taken to remove barriers on the free movement of services:
 - i. Removal of restrictions (i.e. local partner requirements) to setting up businesses, by the end December 2014;
 - ii. Elimination of existing restrictions under Partner States' laws and policies in relation to the movement of services, by, end December 2014;
 - iii. Removal of all legal and policy-based discrimination against service providers and consumers of Partner States by 1 August 2014;
 - iv. Harmonization of procedures for the issuance of business registration/operating licenses for citizens from Partner States, by December 2014.

The African Union's Migration Policy Framework (AUMPF) (2006), as is the case with IGAD's Regional Migration Policy Framework, which largely parallels the AUMPF, is an important guiding document, including as regards labour migration.

The same applies to the AU Position on Migration and Development (2006), which largely reiterates the thematic areas covered by the AUMPF. Reference could be made to some of the provisions of this document, which actually speaks about many of the issues covered earlier in this report. The following examples should suffice:⁸⁸

- a. Enhance data collection, analysis and exchange on labour needs and supply in States of origin and destination in order to match labour skills with labour demand through comprehensive regional approaches.
- b. Maintain open and continued contact and communication between States of origin and destination in order to ensure, for example, adequate work conditions for nationals working abroad.
- c. Enhance national and regional labour migration data collection, analysis and exchange to document, among others, the conditions and needs of migrant workers and their families.
- d. Incorporate mechanisms that monitor the provision of decent work for migrants and, enable them to access legal provisions for social protection.
- e. Provide social protection and social security benefits, particularly unemployment insurance, compensation for employment injury and old age pension for labour migrants while working abroad and/or upon their return.
- f. Ensure that indigent regular migrants who may lose their job should not be returned to their State of origin unless there is an interstate agreement to this effect and s/he shall not have her/his right of residence and work permit withdrawn. These people should receive equality of treatment regarding security of employment, alternative employment, relief work and returning.

8.3 RECOMMENDATIONS

Align labour migration with EAC instruments and priorities and with AU instruments. As already indicated the EAC regional integration agenda and, more specifically, its instruments, including the EAC Treaty and EAC Common Market Protocol, serve as the yardstick for the Uganda national legal and policy domain. This also applies to the broad area of labour migration. It is incumbent to ensure that the policies and laws related to labour migration, as already mentioned elsewhere in this report, are appropriately aligned with the EAC requirements, through harmonization and approximation. Similarly, there is considerable value in appreciating the leading AU instruments in this regard. Areas that may, in particular, benefit from the AUMPF recommendations in relation to labour migration, include:

⁸⁸ Refer to the AU Migration Policy Framework (2006), paragraphs 1.1 and 1.2, from where these provisions were taken.

- a. Monitoring and researching the working conditions of migrant workers;
- b. Streamlining data collection, analysis and sharing processes in order to be able to undertake skills matching on a regional basis, from the perspective of available skills and skills gap;
- c. Enhancing the welfare and social security protection of migrant workers.

Consider the impact of other regional frameworks on Uganda’s labour migration framework. It has to be indicated that Uganda is a member not only of the EAC, but also of COMESA and IGAD. The implications of Uganda’s membership in these regional economic communities on its labour migration framework have not yet been considered in any significant way. It is recommended that an investigation of such implications be undertaken, to enable Uganda to comply with its obligations within these regional contexts and to use labour migration as regards these regions, including for the development of Uganda and towards regional integration.⁸⁹ In a similar vein, the close trade relationships with countries of the Great Lakes region needs to be considered from the perspective of its impact on the movement of business people and workers.

Foster collaboration between EAC Partner States. It is clear from the discussion in this part of and the rest of this report that there is an evident need for close collaboration between EAC Partner States in the vast areas covered by labour (and skills) migration, that go beyond directives issued, plans of action agreed upon, and country reports presented during meetings of heads of State, ministry clusters and senior officials. In particular, it is recommended that dedicated cross-country task teams be set up to systematically and thoroughly deal with the various sub-themes forming part of the labour migration agenda indicated by the directives, decisions and recommendations of the various EAC instruments and meetings.

⁸⁹ See, to similar effect, Ministry of Internal Affairs’ National Migration Policy for Uganda (draft) (June 2012), p. 10.

9. Conclusion

Some progress has been made in certain labour migration areas covered by this assessment, such as the development of draft sectoral policies and engagement with the Ugandan diaspora. Nevertheless, it is evident that significant challenges remain and considerable work needs to be done in all these areas. Data collection and analysis is generally weakly developed; regular and reliable statistics are not available or are incomplete, and much can be done to enhance the management of statistical information. International and regional benchmarks in terms of applicable data management standards and standardized frameworks, approaches and collaboration are available and need to be utilized, not only to enhance the quality, availability and accessibility of labour migration-related data, but also to foster regional integration and streamline the importation and exportation of labour. This requires, among others, in-depth systems improvement and extensive human capacity-building.

From an institutional perspective, significant scope exists for streamlining, liaison and collaboration. Much can be gained from good practice examples, including in the EAC context, as far as the development of one-stop channels and synergized approaches are concerned. Fragmentation and duplication in labour migration management need to be dealt with appropriately, including in accordance with concrete systems and institutional interfacing and coordination. This goal requires more than building the capacity of government institutions (such as the EEU); private sector institutions have an explicit role to play, in particular via public–private partnerships.

Compliance with international norms and standards appears to be weak in many respects, impacting on both immigrant workers in Uganda and Ugandan workers employed abroad. Adverse effects include deficient labour and social security protection, and the inability of Ugandans residing abroad to vote in elections. The Government of Uganda should be seen to assume a greater responsibility for the protection of migrant workers and their families abroad, also through the conclusion of appropriate labour and social security agreements. Government

should further adopt measures to develop a supportive framework for the mobility of business professionals and owners.

Recruitment and support services are important labour migration issues in Uganda. However, several problems exist, such as those relating to high costs for migrant workers; incomplete supervision of recruitment agencies; inadequate pre-departure orientation; and the absence of return and reintegration measures. The 2005 (recruitment) Regulations are in need of thorough revision and alignment with international standards and best practice, including regional best practice. In the area of remittances, steps need to be taken to address the high transfer costs, including through utilizing innovative and inexpensive mobile and financial transfer options, to harness remittances for socioeconomic development and utilize remittances in order to provide or enhance social security coverage.

Uganda is strongly embedded in the regional context. It is, therefore, necessary to align its labour migration framework with EAC instruments and standards. Directives issued, interventions agreed on, decisions taken and reports submitted at regional (in particular the EAC and the Northern Corridor) summits of heads of States, as well as meetings of ministerial clusters and senior officials, are indicative of an appreciation of not only the myriad challenges and demands, but also opportunities provided by the regional integration and mobility agendas. And yet one is left with the impression that steps taken at the domestic level, as regards Uganda, need to be accelerated if the objective of the Common Market Protocol are to be met and the directives issued and decisions taken at the apex political level are to be executed. It is also necessary to consider the impact of other regional frameworks on the Ugandan labour migration context, and Uganda's membership of overlapping regional institutions.

Finally, it is recommended that there is a need in Uganda for an overarching policy framework that would underpin and give clear direction to the unfolding of a suitable labour migration regime. This could best be achieved through the careful development, in consultation with all relevant stakeholders, of a country-specific and context-sensitive labour migration policy that is appropriately aligned with international standards, continental frameworks and regional instruments and best practices.

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International and regional instruments and national legislation

- Agreement on Social Security between the Kingdom of Belgium and the Republic of India, 2009
- Bilateral Agreement on Employment (Uganda, draft)
- Constitution of the Republic of Ecuador, 2008
- Constitution of the Republic of the Philippines, 1987
- Constitution of the Republic of Uganda, 1995
- East African Community Common Market (Free Movement of Workers) Regulations of 2009
- East African Community Protocol on the Establishment of the East African Community Common Market (2009)
- Electoral Commission Act (Uganda), 1997
- Employment Act (Uganda), 2006
- Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 (Statutory Instrument No. 62 of 2005)
- ILO Convention 143 of 1975 (Migrant Workers (Supplementary Provisions) Convention)
- Memorandum of Understanding between the Government of the Hashemite Kingdom of Jordan and the Government of the Republic of Kenya on Employment of Kenyan Workers.
- National Social Security Fund Act, 1985 (Cap 222) (Uganda)
- Retirement Benefits Sector Liberalisation Bill (Uganda), 2011
- Treaty Establishing the East African Community
- Uganda Citizenship and Immigration Control Act, 2009
- Uganda Retirement Benefits Regulatory Authority Act, 2011
- UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

Appendix

BILATERAL AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF UGANDA

AND

THE GOVERNMENT OF.....

CONCERNING THE RECRUITMENT AND EMPLOYMENT OF
UGANDAN MIGRANT WORKERS

PREAMBLE

Whereas the Government of the Republic of Uganda (hereinafter referred to as “the state of origin” is desirous of entering into agreement with the Government of (hereinafter referred to as “the state of Employment”) regarding employment of its nationals (hereinafter jointly referred to as the “Parties” and in singular as “Party”).

TAKING into account the principles embodied in the basic instruments of the United Nations concerning human rights, Decent Work and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organization;

REALISING the importance and extent the phenomenon of migration of workers; **AWARE** of the impact of the phenomena of migrant workers on the social, economic and political development of both the State of Origin and the State of Employment;

AWARE of the need to have an orderly, well organised, streamlined and transparent mechanism of handling migration of labour;

CONSIDERING that migrant workers who are not documented or in an irregular situation are frequently employed under less favorable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition at the workers' expenses;

RECOGNIZING the need to ensure that migrant workers are employed in decent, humane and safe conditions;

RECOGNIZING the significance of this Agreement in respect to the socio-economic development of countries and their citizens;

NOW IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement the following terms:

- a. **“Uganda migrant worker** means a Ugandan citizen who is to be engaged, or has been engaged in remunerated activity in the State of Employment.
- b. **“documented migrant worker”** or **“migrant worker in a regular situation”** means that migrant worker who is authorised to enter, to stay and engage in remunerated activity in the State of Employment pursuant to this Agreement.

ARTICLE 2

Scope of the Agreement

- 2.1 The Agreement is applicable to all Ugandan migrant workers without distinction of any kind based on ethnicity, origin, sex, religion, economic position, colour, marital status and other status.
- 2.2 Agreement shall apply during the training process, recruitment, migration and employment of migrant workers which comprises of preparation for migration, departure, transit and entire period of stay and remunerated activity in the State of Employment as well as return to the State of Origin.

COLLECTIVE STATES' OBLIGATIONS

ARTICLE 3

Control Authority

3. Each party shall designate and regulate a public authority to control all activities related to the migrant workers including:
 - a. collecting, updating and furnishing the other party with the latest information from their labour information centres and data banks or the equivalent, concerning the availability of employment opportunities and labour as the case may be;
 - b. facilitating the workers in terms of provision and acquisition of legal migration and settlement documents;
 - c. monitoring the effectiveness of the recruitment and employment exercises of the preceding year and if necessary, determine what changes should be made in the plan of operations;
 - d. ensuring that the migrant workers have access to social services and other services;
 - e. periodically reviewing and evaluating, and where necessary, revising the entire social policy in respect to the migrant workers; and
 - f. examining complaints by the migrant workers and securing their correction by conciliation or by alternative dispute resolutions.

ARTICLE 4

- 4.1 The parties shall take all necessary measures to offer relevant training to the migrant workers so that they are equipped with the required occupational skills and qualifications.
- 4.2 The parties shall take the necessary measures to develop National Qualifications Frameworks to facilitate verification of the skills of the migrant workers.
- 4.3 The parties shall take the necessary measures to introduce the migrant workers to the language as well as the economic, social and cultural environment of the State of Employment before their departure from the State of Origin.
- 4.4 The parties shall promote the migrants' adaptation and integration to society of the State of Employment and assist and encourage the efforts of migrant workers to preserve their national and ethnic identity and cultural ties with the State of Origin.
- 4.5 The parties shall facilitate migrant workers to transfer their earnings and savings from the State of Employment to the State of Origin.
- 4.6 The parties shall permit and encourage organisations and associations of migrant workers for the exchange of information and experience.

OBLIGATIONS OF THE STATE OF ORIGIN

- 4.7 The State of Origin shall provide orientation; requisite skills and knowledge to enable the migrant workers take up employment in the state of employment.
- 4.8 The State of Origin shall take measures to vet and confirm that the conduct of the workers is good in accordance with the standards required by the state of employment.
- 4.9 The State of Origin shall ensure that the workers have appropriate passports, visas and travel documents.
- 4.10 The State of Origin shall take measures to ensure that recruitment of migrant workers is transparent.

OBLIGATIONS OF THE STATE OF EMPLOYMENT

ARTICLE 5

Equality of Opportunity and Treatment

7. The State of Employment guarantees that migrant workers shall enjoy equality of opportunity and treatment with its nationals in respect of:
 - a. access to vocational guidance and placement services;
 - b. access to vocational training and employment;
 - c. security of employment, the provision of alternative employment, relief worker and retraining;
 - d. advancement in accordance with their individual character, experience, ability and diligence;
 - e. remuneration for work of equal value;
 - f. conditions of work, including hours of work, rest period, annual holiday with pay, safety and health measures, welfare facilities and benefits provided in connection with employment;
 - g. membership to trade unions and exercise of trade union rights;
 - h. conditions of life, including housing and benefits of social services and educational and health facilities.

ARTICLE 6

Protection of the Health of Migrant Workers

- 6.1 It shall be the overall objective of the State of Employment to ensure that migrant workers are accorded full protection from bodily harm, mistreatment, exploitative employment, discrimination, harassment and abuses of all forms

- 6.2 The State of Employment shall take all appropriate measures to prevent any special health risks to which migrant workers may be exposed.
- 6.3 The State of Employment shall ensure that:
- a. migrant workers receive training in occupational safety and health in connection with their practical training or other work preparation and be provided with sufficient information on essential elements of laws and regulations concerning protection of workers as well as safety and health regulations and procedures;
 - b. the employer takes all possible measures to ensure that migrant workers fully understand instructions, warnings, symbols and other signs related to safety and hazards at work.

ARTICLE 7

Workers Compensation for Accident

- 7.1 The State of Employment undertakes to grant the same treatment to the migrant workers who may suffer personal injury due to industrial accidents as it grants its own nationals.
- 7.2 Compensation for industrial accidents happening to migrant workers shall be governed by the laws of the State of Employment.

MISCELLANEOUS PROVISIONS

ARTICLE 8

Reunification of Families

Both parties shall facilitate the reunification.

ARTICLE 9

Employment and Residence

- 9.1 The State of Employment shall not withdraw authorisation of residence from a migrant worker who loses his or her employment on account of his or her employer's lack of means to provide employment or owing to redundancy of the employer.
- 9.2 A migrant worker who has lost his or her employment shall be allowed sufficient time to find alternative employment and the authorisation of residence shall be extended accordingly.
- 9.3 A migrant worker who has lost his or her employment shall be entitled to unemployment benefits as prevailing in the State of Employment.

- 9.4 A migrant worker who has lodged an appeal against the termination of his or her employment or who is the object of an expulsion order, under such procedure as may be available, shall be allowed sufficient time to obtain a final decision thereon.
- 9.5 If it is established that the termination of employment was not justified, the migrant worker shall be entitled, on the same terms as the national worker, to reinstatement or to compensation for loss of wages or of other payment, or to access to a new job with a right to indemnification and shall be allowed sufficient time to find alternative employment.
- 9.6 Where any claim under this Article is in dispute, the migrant worker shall have his or her interest presented before a competent body and enjoy equal treatment in regard to legal assistance.
- 9.7 Upon termination of the contract of employment, a migrant worker shall be free to enter the State of Origin and be admitted to employment in accordance with the national laws and regulations.

ARTICLE 10

Return to State of Origin

- 10.1 The State of Employment shall guarantee that a migrant worker who returns to the State of Origin shall be entitled:
- a. to any outstanding remuneration for work performed, including any severance payment due;
 - b. to benefits which may be due in respect of any employment injury suffered;
 - c. access to any social security benefits.

ARTICLE 11

Settlement of Disputes

- 11.1 If any dispute arises between the parties relating to the interpretation or application of this Agreement, the parties shall in the first place endeavour to settle such dispute amicably.
- 11.2 If the parties fail to reach an agreement in accordance with paragraph 11.1 above, the dispute shall at the request of either party, be submitted for arbitration in accordance with the United Nations Commission on International Trade Law (UNITRAL) within thirty (30) days.
- 11.3 The parties shall comply with any decision given under 11.2 of this Article.

ARTICLE 12

Amendments

12. The parties may by mutual consent amend this Agreement and any such amendment shall be by exchange of notes.

ARTICLE 13

Termination

13. Either of the parties may withdraw from this Agreement after providing the other party with a one (1) year notice of intention to withdraw in writing and such action shall not relieve the withdrawing party from the obligations assumed herein prior to the effective date of withdrawal.

ARTICLE 14

Duration and Renewal

14. This Agreement shall be for a period of years and migrant workers per year will be permitted.

14.1 This Agreement may be renewed at the instance of either party.

ARTICLE 15

Entry into Force

15. This Agreement shall enter into force upon signature of both parties.

IN WITNESS whereof the undersigned, duly authorised by their respective Governments have signed this Agreement on the date below mentioned.

SIGNED at _____ this day of _____ in the year _____

In _____ language(s), both texts being equally authentic.

FOR
THE GOVERNMENT OF THE
REPUBLIC OF UGANDA

FOR
THE GOVERNMENT OF

International Organization for Migration
17 route des Morillons
P.O. Box 17
1211 Geneva 19
Switzerland
Tel: +41 22 717 9111
Fax: +41 22 798 6150
E-mail: hq@iom.int
Website: www.iom.int

Ministry of Gender Labour and Social Development
Government of Uganda
Plot 2, Simbamanyo House
P.O. Box 7136 George Street
Kampala, Uganda
Tel.: +256 41 4347854